



Planning Commission Hearing Staff Report Hearing Date: August 28, 2019

***ITEM # 1 The City Council office requests amendments to Section 15.03.035 Provo City Code for clarification of grading permits. City-wide application. PLOTA20190275**

<p>Applicant: Provo City Council Office</p> <p>Staff Coordinator: Dustin Wright</p> <p>Property Owner: N/A Parcel ID#: N/A Acreage: N/A Number of Properties: N/A Number of Lots: N/A</p> <p>Council Action Required: Yes</p> <p><u>ALTERNATIVE ACTIONS</u></p> <p>1. Continue to a future date to obtain additional information or to further consider information presented. <i>The next available meeting date is September 11, 2019 6:00 P.M.</i></p> <p>2. Recommend to deny the requested amendment. <i>This action <u>would not be consistent</u> with the recommendations of the Staff Report. The Planning Commission should <u>state new findings</u>.</i></p>	<p>Current Legal Use: N/A</p> <p>Relevant History: Clarification of the City Code related to grading permits was desired.</p> <p>Neighborhood Issues: No issues on the proposed amendment have been made known to staff.</p> <p>Summary of Key Issues:</p> <ul style="list-style-type: none"> • With the proposed amendment, a project plan approval would be required when cutting is involved in the grading for anything other than one-family dwellings. <p>Staff Recommendation: Recommend approval to the Municipal Council of the requested ordinance amendment. This action <u>would be consistent</u> with the recommendations of the Staff Report.</p>
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OVERVIEW

The Council Office has requested an amendment to Section 15.03.035 of the Provo City Code to require project plan approval when cutting is involved as part of a grading permit except for when the permits related to the development of detached one-family dwellings.

Having a project plan application be required before this type of grading is permitted will help ensure that all necessary departments are aware of grading work and what the purpose is for the request.

The CRC has reviewed the proposed text and grammatical items that were identified have been forwarded on to the applicant.

FINDINGS OF FACT

- The existing ordinance does not require a project plan application for a grading permit to be issued.
- Grading permits are required for filling, cutting, excavation or relocation of material which affects the contour, slope, elevation or drainage features.

APPLICABLE ZONING CODES

Provo City Code 15.03.035

CONCLUSIONS

Staff finds that this amendment will help clarify the scope and utility for this type of grading request within the City which would be helpful especially along the hillsides of Provo or other developmentally sensitive lands.

ATTACHMENTS

1. Proposed Text Amendment

15.03.035 - Grading.

(1) For the purposes of this Section, grading shall be defined as any work including filling, cutting, excavation or relocation of material which affects the contour, slope, elevation or drainage features of a parcel of property, or which involves more than fifty (50) yards of material. Landscape modifications to an individual property involving less than fifty (50) cubic yards of material and which do not affect the contour or slope of a property shall be exempt from the requirements of this Section. No grading, cutting, filling, or excavation as previously defined shall be accomplished without first having obtained a grading permit from the City Engineer pursuant to the provisions of this Section. A grading permit may be obtained at the office of the Provo City Engineer after completion of an application for permit complying with any and all permit requirements.

(2) No grading, cutting, filling, or excavation of any kind shall be accomplished without first having obtained a grading permit from the City Engineer pursuant to the provisions of this Section. A

grading permit may be obtained at the office of the Provo City Engineer after completion of an application for permit complying with any and all permit requirements.

(a) Any grading operation exceeding ten (10) months shall require a new grading permit. If a new grading permit is not granted, all of the conditions of the original grading permit shall be completed no later than twelve (12) months from the original date of issue.

(b) Applicants for grading permits that involve cutting, other than permits related to the development of a detached one-family dwelling, must meet the following requirements in addition to any others required by this Section:

(i) the applicant shall submit a project plan comporting with the requirements of Provo City Code Section 15.03.310;

(ii) the applicant shall submit a revegetation/mitigation plan, which shall show the landscaping necessary to return the property to an undeveloped or improved state if the grading is begun, but then project proposed in the project plan is not completed;

(iii) the applicant shall post a cash bond, which shall be equal to the greater of:

(A) (A) the amount required under Provo City Code 15.03.280; and

(B) (B) an amount reasonably determined by the Department of Development Services to be adequate to cover the costs of the landscaping described in Subsection (2)(b)(ii) of this Section;

(iv) issuance of the grading permit is subject to the review and approval of the project plan and the revegetation/mitigation plan and the posting of the required cash bond.

(c) All grading permits which involve over twenty-five thousand (25,000) cubic yards of material or are not associated with an approved project plan will be required to submit a request for an administrative ~~hearing~~ review, which must be held in accordance with Provo City Code Section 3.06.010, prior to consideration or issuance of a grading permit.

(ed) All approved development projects, which produce excess excavated material that is to be removed from the project site, shall provide a grading plan for the property where the material will be placed, if said property is within the Provo City limits. An acknowledgment letter from the owner of record of the recipient property shall be required with the grading permit.

(ee) All materials processed upon the project site for reuse shall be subject to the provisions of this Section and shall require approval through the development review process.

(ef) All preliminary street and site grading shall be completed prior to the installation of utilities.

(~~f~~g) Fills in areas intended as structural foundations, including roadways, shall be compacted to at least ninety-five percent (95%) of AASHTO (American Association of State Highway Transportation Officials) T180 density. All other fills shall be compacted to at least ninety percent (90%) of AASHTO T180 density. Compaction test reports verifying compliance with this provision shall be submitted to the City Engineer.

(~~g~~h) Material processing not associated with an approved development plan or capital project will not be issued a grading permit. An applicant may appeal the decision of the City Engineer through a request for administrative review.

(~~h~~i) All cut and fill slopes, and other areas as determined by the City Engineer, shall be reseeded and/or planted with vegetation. A guarantee bond for this work shall be submitted and remain in place until all work has been completed and final inspection made.

(~~i~~j) No person shall be permitted to grade, cut, excavate, fill, or to erect any structure on slopes or undisturbed areas that exceed a slope greater than thirty percent (30%) as determined by the City Engineer.

(~~j~~k) Cleanup of the grading site shall be the responsibility of the party to whom the permit is issued. Measures shall be in place to prevent tracking of material onto adjacent public and private streets or neighboring properties. Any materials which are tracked outside of the project site shall be immediately cleaned up. If the cleanup is not satisfactorily completed, the City may have this work done by City crews or private contractor and the cost for the work be billed to the party to whom the permit was issued.

(~~k~~l) Cut and fill slopes shall be constructed to eliminate sharp angles of intersection with the existing terrain and shall be rounded and contoured as necessary to blend with adjacent property to the maximum extent possible. Where a cut or fill slope occurs between two (2) lots, the slope shall normally be made a part of the lot with the lowest elevation.

(~~l~~m) Sections of the International Building Code regulating excavation and grading shall be complied with, except that decisions described therein to be made by the "building official" may also be made by the City Engineer.

(3) *Engineered Fill.*

(a) A permit may be obtained from the City Engineer to use solid waste or other material as "fill" by doing the following:

(i) By submitting to the City Engineer a grading plan showing the area to be filled and a description of the material which will be used as fill; and

(ii) By using only “engineered fill” as defined herein.

(b) For the purposes of this Section, “engineered fill” means:

(i) Soil and rocks and related materials which are substantially free from asphalt, wood, roots, bark, tree limbs, grass clippings or any other material which decomposes or compresses; and

(ii) Material having such characteristics of composition, size and shape that it will compact readily to a firm, stable base (broken concrete in a size of less than twelve (12) inches square may be considered engineered fill); and

(iii) Material which is nontoxic and not hazardous waste.

(c) It shall be unlawful to do any of the following:

(i) To make a false statement to obtain a permit pursuant to this Section.

(ii) To obtain a permit pursuant to the provisions of this Section and thereafter fill (or cause the filling of) any place in a location or manner not described in the grading plan.

(iii) To use (or cause the use of) materials as fill which are not described in the grading plan.

(4) *Permit Requirements.*

(a) All grading permits shall be subject to any and all conditions of the permit required by the City Engineer including the following:

(i) The work shall be completed by a licensed qualified contractor.

(ii) Payment of all required permit fees and bonds prior to the commencement of any work.

(iii) Compliance with other special conditions required by the City Engineer.

(b) Permit fees are included in the Provo City [Consolidated Fee Schedule](#).

(c) Failure to comply with the terms of the permit will constitute a default of the permit and the permit will be considered null and void upon written notification from the City Engineer.