Planning Commission

Amendments to the Municipal Code Related to Variances and Reasonable Use Exceptions - Briefing

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Title
Amendments to the Municipal Code Related to Variances and Reasonable Use Exceptions - Briefing

Recommended Action
Information only, no action requested at this meeting.

Report
Issue:
Discussion of proposed amendments to the Municipal Code related to Reasonable Use Exceptions, which are a specific type of Variance from Critical Area Regulations. The primary purpose of amendments is to remove ambiguity of code language. Additional changes are proposed that would modify code applicability related to review authority and criteria applicability.

Staff Contact / Presenter:
Nicole Floyd, Principal Planner, Community Planning and Development, 360.570.3768

Background and Analysis:
Sites that are encumbered by critical areas (environmental constraints such as wetlands) are regulated by the Critical Area Ordinance which is a science-based set of regulations that protect environmentally sensitive areas through the use of buffers and similar limitations on development. In some situations, the critical area regulations can eliminate any development potential of a property. In these rare situations, an owner can apply for a Reasonable Use Exception (RUE), which is a type of variance to allow special exception from critical area regulations (usually buffers) so that reasonable economic use of the property can be achieved. Prior to applying for a RUE, all code established buffer modifications must be exhausted and found unworkable. These exceptions are a last resort and only allow minimal development. The code provisions are rarely applicable or used. Recent changes in the housing economy have resulted in increased interest in development of properties encumbered by Critical Areas, leading to increased scrutiny of the RUE provisions.

Some of the criteria for approval of an RUE are difficult to decipher because they are poorly worded, particularly in relationship to groups of parcels in single ownership. The primary purpose of these amendments is to re-word the language related to consolidated ownership as it has proven difficult to understand by applicants and staff alike. Similarly, there is added language to better differentiate

when a variance or RUE would be required. Other related but subsidiary amendments are proposed including:

- Slight relaxation of the consolidated ownership requirements by:
    - Modifying the date from 1985 to 2005, which is consistent with other similar provisions within the Municipal Code.
    - Reducing applicability of the ownership requirements to only those properties requesting buffer reductions of 75% or greater.
- Clarifying language related to how an applicant would demonstrate their project is the minimum necessary to derive economic use.
- Proposal to allow for variance and RUE (less than 75% buffer reduction) related to the construction of a single-family residence to be approved by the Director, reducing processing times by approximately 3 months. Hearing Examiner review would remain applicable and appropriate for all other development types because there are often more subjective criteria to evaluate where a public hearing and third party review authority provides benefit.

Staff will provide a presentation at the briefing. Following the presentation, staff will request feedback from the Planning Commission. Staff will then refine the proposal before a Public Hearing in January.

Neighborhood/Community Interests (if known):
None known. A handful of property owners within the City are interested in this project as it would affect their approach to development of their property.

Options:
Briefing only - no action.

Financial Impact:
None, processing of these amendments is covered by the departments annual budget.

Attachments:
Draft Code Amendments