



## Planning Commission

### Zoning Code Text Amendments Related to Reasonable Use Exceptions - Hearing

**Agenda Date:** 1/9/2023  
**Agenda Item Number:** 6.A  
**File Number:** 23-0015

---

**Type:** public hearing **Version:** 1 **Status:** Filed

---

#### Title

Zoning Code Text Amendments Related to Reasonable Use Exceptions - Hearing

#### Recommended Action

Hold a public hearing on proposed changes and if the Commission has sufficient information, deliberate and formulate a recommendation to the City Council.

#### Report

##### Issue:

The City is required to have the Planning Commission review and hold a public hearing on all zoning code amendments. The Planning Commission is being asked to recommend that City Council adopt the proposed amendments proposed. 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 RUE exception is in the code to address constitutional property rights and 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 which has prompted these proposed amendments.

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 hearing and solicit feedback from the Commission. Deliberations can occur the same night or be postponed to another meeting at the discretion of the Commission.

**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.

**Climate Analysis:**

The project is unlikely to appreciably affect greenhouse gas emissions as revisions would continue to allow development as well as critical area protections as contemplated in the Comprehensive Plan.

**Equity Analysis:**

This proposal primarily affects those community members who typically own multiple properties. Demographically these are relatively affluent white middle-aged people. The proposed amendments are unlikely to have meaningful impact on issues related to equity. Costs associated with development of these properties will often be cost prohibitive.

**Options:**

1. Recommend adoption of the draft amendments to City Council as proposed.
2. Recommend adoption of the draft amendments to City Council with revisions.
3. Recommend denial of the draft amendments to City Council.

**Financial Impact:**

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

**Attachments:**

Draft Code Amendments

