



## Land Use & Environment Committee

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

**Agenda Date:** 2/23/2023  
**Agenda Item Number:** 6.B  
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#### **Title**

Zoning Code Text Amendments Related to Reasonable Use Exceptions

#### **Recommended Action**

##### **Committee Recommendation:**

The Planning Commission recommends moving to approve the recommendation to amend the Municipal Code related to Reasonable Use Exceptions and forward to Council for consideration

##### **City Manager Recommendation:**

Move to approve the Planning Commission's recommendation for Reasonable Use Exception Code Amendments and forward to Council for consideration.

#### **Report**

##### **Issue:**

Whether to amend the Municipal Code related to Reasonable Use Exception criteria as recommended by the Planning Commission.

##### **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 areas using buffers and other 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), to allow special exception from critical area 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. They are rarely applicable but when used, the code language can be challenging to decipher because of ambiguous wording.

These amendments include re-wording / modification as follows:

- Improved differentiation between variance and RUE applicability;

- 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.
  - Reduce applicability of the ownership requirements to only those properties requesting buffer reductions of 75% or greater.
- Clarify language related to how an applicant would demonstrate their project is the minimum necessary to derive economic use.
- Allow for some RUE and associated variances to be approved by the Director rather than Hearing Examiner.

These amendments are recommended by the Planning Commission. Staff will provide a presentation at the meeting and solicit feedback from the committee.

**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 to late aged people. The proposed amendments are unlikely to have meaningful impact on issues related to equity. Costs associated with development of these properties often outweighs financial benefits.

**Options:**

1. Recommend Council adopt the draft amendments as proposed.
2. Recommend Council adopt the draft amendments with revisions.
3. Recommend Council deny the draft amendments.

**Financial Impact:**

None, processing of these amendments is covered by the department's annual budget.

**Attachments:**

Draft Code Amendments  
Planning Commission Minority Report  
Public Comments