



City Council

Approval of Zoning Code Text Amendments Related to Reasonable Use Exceptions

Agenda Date: 5/9/2023
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Type: ordinance **Version:** 2 **Status:** Passed

Title

Approval of Zoning Code Text Amendments Related to Reasonable Use Exceptions

Recommended Action

Committee Recommendation:

The Land Use and Environment Committee and Planning Commission recommend moving to approve the amendments the Municipal Code related to Reasonable Use Exceptions.

City Manager Recommendation:

Move to approve the amendments to the Municipal Code related to Reasonable Use Exceptions.

Report

Issue:

Whether to approve the amendments to the Municipal Code related to Reasonable Use Exceptions.

Staff Contact:

Nicole Floyd, Principal Planner, Community Planning and Development

Presenter(s):

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Background and Analysis:

Background and analysis have not changed from first to second reading.

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, particularly in relationship to groups of parcels in single ownership.

These amendments are proposed to clarify the RUE provisions, and ensure they adequately consider constitutional property rights. The amendments include re-wording/modification as follows:

- Improved differentiation between variance and RUE applicability.
- Change the consolidated ownership requirements by:
 - Modifying the applicable ownership date from 1985 to 2005, when these provisions in the City's critical areas code were updated. Use of this date 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.

Neighborhood/Community Interests (if known):

A small number of property owners within the City have expressed 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.

Financial Impact:

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

Options:

1. Adopt the draft amendments as proposed.
2. Adopt the draft amendments with revisions.
3. Deny the draft amendments.

Attachments:

Ordinance
Planning Commission Minority Report
Public Comments