



MEMO TO: Mayor and Members of the City Council

FROM: Rob Odle, Director, Planning and Community Development

DATE: June 6, 2017

**SUBJECT: Redmond Zoning Code Amendment: Appeals to City Council and
Reclassification of Conditional Use Permits**

I. RECOMMENDED ACTION

No action is necessary. The purpose of the staff report is to briefly review the Planning Commission recommendation and identify issues to discuss at the June 13, 2017, Study Session.

II. DEPARTMENT CONTACTS

Rob Odle, Planning Director,	425-556-2417
Steven Fischer, Manager, Development Review,	425-556-2432
David Lee, Senior Planner,	425-556-2462
Scott Reynolds, Planner,	425-556-2409

III. DESCRIPTION/BACKGROUND

The City of Redmond Zoning Code, Section 21.76 Review Procedures lists the administrative appeal bodies that are appropriate to each permit type.

Currently, City Council is the second appeal body (appeals for Hearing Examiner appeal decision) for Type I and II permit types and for the primary administrative appeal body for Type III permits. A Type I process is an administrative review and decision by the appropriate department. Appeals of Type I decisions are made to the Hearing Examiner. Appeal decisions of the Hearing Examiner may be appealed to the City Council in a closed record appeal proceeding.

A Type II process is an administrative review. Decisions regarding Type II process are made by the Technical Committee. Appeals of Type II decisions are made to the Hearing Examiner. Appeal decisions of the Hearing Examiner may be appealed to the City Council.

A Type III process is a quasi-judicial review. Decisions regarding Type III process is made by the Hearing Examiner. Appeals of Type III decisions are made to the City Council. Appeal decisions of the City Council may be appealed to King County Superior Court. Please see Exhibit D attached to this report for examples of Type III permits.

Please note, all appeals for Shoreline Substantial Development Permits, Shoreline Variances, and Shoreline Conditional Use Permits are appealable directly to the State Shorelines Hearing Board and do not follow the process listed above.

A Type IV process is also a quasi-judicial review. Decisions regarding Type IV process are rendered by the City Council with a recommendation by a Hearing Examiner. Appeals of Type IV decisions are made to the King County Superior Court. Please see Exhibit D attached to this report for examples of Type IV permits.

City Council Members have raised the question periodically of whether they should be the second appeal body for Type I and II permit types and whether they should be the decision maker for Conditional Use Permits given the issues associated with this approach as described below. After further consideration by City Council members at the January 10, 2017, Planning and Public Works meeting recommended the Council consider removing the Council from the Type I and Type II appeals process and also change the CUP process to a Type III process. At the January 17, 2017, City Council meeting, the Council directed staff to proceed with amendments to make this change by a vote of 6 to 1.

The primary issues the Technical Committee considered for this amendment were to allow the Council to be able to engage in discussions with community members throughout the permitting process instead of having to abstain from discussion with community members regarding topics that could be appealed to them, as well as to improve the permit review and appeals process. This amendment also could provide a more rapid final conclusion to the review process by moving the CUP process to a Type III. In addition potential City Council liability exposure may be reduced by removing the City Council from the appeal process. After consideration of the primary issues, the Technical Committee forwarded a recommendation to the Planning Commission which proposed amending the Zoning Code to: 1) remove the City Council as the second administrative appeal body for Type I and Type II permits and 2) classify Conditional Use Permits as a Type III permit instead of a Type IV permit.

The Planning Commission was briefed on the Technical Committee's recommendation on March 15, 2017, and held a Public Hearing and study session on March 22, 2017. The Public Hearing was closed on May 31, 2017.

After discussion and considering public comments, the Planning Commission passed a motion to recommend denial of the proposed Zoning Code amendment based on three primary reasons:

1. Changing the second appeal for Type I and Type II permits to go directly to Superior Court would financially burden appellants, and the anticipated legal costs may discourage applicants from seeking a second appeal;
2. Removing the Council as the second appeal body for these permit types could possible erode the community connection between residents and elected city officials; and
3. The low amount of permits that go on to a second appeal, and therefore no compelling reasons to amend the Zoning Code.

Staff looks forward to reviewing this amendment with Council on June 6, 2017. In order to facilitate Council's study session, staff requests that Council identify the questions and issues that they want to discuss on June 13 in order that any necessary research can be done prior to the Study Session. Following the study session, staff will prepare any necessary material so that the Council, if it desires, can take action on the amendment on July 5, 2017.

IV. PREVIOUS DISCUSSIONS HELD

Date	Action/Committee Presentation
January 10, 2017	Planning & Public Works Committee
January 17, 2017	City Council Meeting – Staff Report
March 15, 2017	Planning Commission
March 22, 2017	Planning Commission – Hearing / Study Session
April 12, 2017	Planning Commission – Hearing / Study Session
May 9, 2017	Planning & Public Works Committee
May 31, 2017	Planning Commission – Report Approval
June 6, 2017	City Council Meeting – Staff Report

V. IMPACT

A. Service/Delivery:

This proposed zoning code text amendments would not reduce service/delivery as the proposed amendments are less impactful to applicants of Type I, Type II, and Conditional Use Permits as there are less potential required processes to reach a final land use decision.

B. Fiscal Note:

This proposed zoning code text amendment would not have a direct fiscal impact as no fee changes for appeals or conditional use permits are not being requested.

VI. ALTERNATIVES TO STAFF RECOMMENDATION

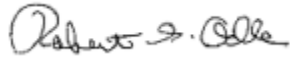
Not applicable.

VII. TIME CONSTRAINTS

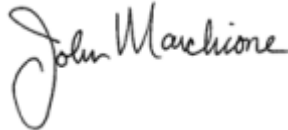
Timely review and decision is recommended.

VIII. LIST OF ATTACHMENTS

- A. Planning Commission Report
- B. Final Planning Commission Issues Matrix
- C. Written Public Testimony
- D. Technical Committee Report
- E. Draft Ordinance
- F. Draft Zoning Code Amendment



Robert G. Odle, Director of Planning and Community Development



Approved for Agenda _____
John Marchione, Mayor