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## MEMORANDUM

June 17, 2021

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**To:** City Council via Planning Commission  
**From:** Community Development Department  
**Subject:** Effects of Eminent Domain Proceedings CA06012021-0006062  
Amend Title 21, Chapter 2, General Provisions, of  
the Sandy Municipal Code

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**HEARING NOTICE:** *This item has been noticed on public websites, and in the newspaper at least 10 days prior to the Public Hearing.*

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### REQUEST

On behalf of the City, the Public Works Department is proposing to amend Title 21, Chapter 2, General Provisions, of the Sandy Municipal Code. The purpose of the Code Amendment is to provide authority, guidelines, criteria, and procedures for the planning commission to review and grant special exceptions in connection with the city's eminent domain proceedings or negotiations. At times, it is necessary for the city or state to acquire properties in whole, or in part, from landowners through eminent domain proceedings or negotiations. Properties acquired in part result in remainder parcels that, in some cases, become nonconforming with respect to certain provisions of the Land Development Code. The creation of new nonconformities or increases in the degree of nonconformity of existing legal nonconformities, can impose hardships on landowners and to remainder parcels. This would provide relief from those hardships that have been imposed upon the landowners. The full text of the proposed changes is shown in Exhibit "A".

### BACKGROUND

The City has encountered situations involving City initiated road widening projects where a property would become non-conforming in some aspect to accomplish the purpose of the designated road project being done to promote the health safety and welfare of City residents. Some property owners have sought legal means to obtain relief from the impacts created from the city project beyond monetary compensation. The City's legal department was asked to research and explore options to provide an accommodation process outside of a variance procedure to give affected property owners an option to seek relief.

**ANALYSIS**

The impacts of this proposed change are best understood when applied to a particular situation. Staff will use the most common type of scenario that this new regulation would apply: a road project. When eminent domain is needed to allow for a road widening project, there are impacts to the immediately adjacent properties. The taken land often makes the property non-compliant with other city land development code regulations and they become legal, non-conforming in respect to those requirements (i.e., building setback, landscape buffers, signage, parking, etc.). This can create impacts on a property owner regarding property insurance, real estate transfers and financing matters to name a few. Eminent domain requires the city pay fair-market value for the property taken for the use of the road project, but financial compensation may not resolve all impacts created by this action.

The proposed code amendment would provide the city or a property owner another tool to provide legal relief from those impacts by granting a special exception to a particular code requirement if certain criteria is met. This is intended to be applied narrowly to specific code requirements that can no longer be met due to the city's eminent domain actions. If approved, the property could maintain a legal, conforming status rather than being branded legal, non-conforming. There are proposed limits to the long-term impact of these exceptions being granted to ameliorate the non-conformities. The special exceptions would be in effect until such time as the property is further developed, rezoned, or a change of use occurs. At that time, the property would need to be brought into compliance with current standards in place at the time of application.

**NON-CONFORMING USES**

This Code Amendment would not create any non-conforming use situations.

**LAND DEVELOPMENT CODE PURPOSE COMPLIANCE**

The Sandy City Land Development Code in 21-1-3 lists the criteria explaining the intent and purpose of the Ordinance. The purpose is:

**21-1-3 Purpose**

This Code is adopted to implement Sandy City's General Plan and to promote: public health, safety, convenience, aesthetics, welfare; efficient use of land; sustainable land use and building practices; transportation options and accessibility; crime prevention; timely citizen involvement in land use decision making; and efficiency in development review and land use administration. Specifically, this Code is established to promote the following purposes:

**1. General**

- a. To facilitate the orderly growth and development of Sandy City.
- b. To facilitate adequate provision for transportation, water, sewage, schools, parks, and other public requirements.
- c. To stabilize property values.
- d. To enhance the economic well-being of Sandy City and its inhabitants.

**2. Implementation of General Plan**

To coordinate and ensure the implementation of the City's General Plan through effective execution of development review requirements, adequate facility and services review and other goals, policies, or programs contained in the General Plan.

3. **Comprehensive, Consistent and Equitable Regulations**  
To establish a system of fair, comprehensive, consistent and equitable regulations, standards and procedures for review and approval of all proposed land development within the City.
4. **Efficiently and Effectively Managed Procedures**
  - a. To promote fair procedures that are efficient and effective in terms of time and expense.
  - b. To be effective and responsive in terms of the allocation of authority and delegation of powers and duties among ministerial, appointed, and elected officials.
  - c. To foster a positive customer service attitude and to respect the rights of all applicants and affected citizens.

The proposed Code Amendment would promote fair procedures that are efficient and effective. It would also respect the rights of all applicants.

#### **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission forward a positive recommendation amend Title 21, Chapter 2, General Provisions, of the Sandy Municipal Code, as shown in (Exhibit "A") based on the following finding:

1. Compliance with the Purpose of the Land Development Code by creating consistency and equitable standards in Sandy City.

Planner:

Reviewed by:



Mike Wilcox  
Zoning Administrator