

12/1 Item 56 - Compatibility on Corridors
CM Vela Amendment 3 - V2
Planning Commission Waiver

Amend Section 25-2-769.04 to add the following:

- (G) A structure or a portion of a structure may exceed the height limitations in Section 25-2-769.04 (Compatibility and Setback Requirements) if the Land Use Commission approves a waiver under Subsection (H). This section does not prohibit the Board of Zoning Adjustment from granting a variance from a requirement of this article under [Section 25-2-473](#) (*Variance Requirements*).
- (H) The Land Use Commission may approve a waiver of a height restriction imposed by Section 25-2-769.04 (Compatibility and Setback Requirements) only if:
 - (1) there is an existing structure located between the proposed structure and the closest property to the proposed structure that triggers the compatibility standards; or
 - (2) the owner of the corridor site and the triggering property are the same; or
 - (3) the owners of all triggering properties for a corridor site consent to the waiver; or
 - (4) any other unique or atypical characteristics of the corridor site, the triggering properties, or the surrounding area that would materially affect the impact of waiving height limitations for a structure or portion of the structure on a corridor site.
- (I) The notice for a waiver requested under this provision must comply with the notice requirements applied to a waiver under Section 25-2-1081 (*Land Use Commission or Council Waiver*).

Reasoning:

This amendment establishes a framework for the Planning Commission to waive compatibility height limitations in unique or unusual situations where the typical concerns about height are not present, where the surrounding community is in favor and does not object to additional height, or where the community desires to gain community benefits or more affordable housing in exchange for additional height. A property may trigger height limitations even if one foot of empty lot is over the border.

Currently, variances/waivers generally require approval of the Board of Adjustment and mandates the applicant prove hardship, except for certain DMU zoned properties or properties where a structure already exists between the proposed structure and the triggering property. As a matter of code, we cannot always predict what exceptions are necessary. We need a process to allow common sense waivers of compatibility where appropriate, but with clear guidelines on the appropriate factors to be considered.