

STAFF REPORT FOR PLANNING COMMISSION MEETING OF MARCH 29, 2017

FILE NO: ZCA-17-025

AGENDA ITEM: F-5

STAFF AUTHOR: Hope Sullivan, Planning Manager

REQUEST: To make a recommendation to the Board of Supervisors regarding an ordinance amending Title 18, Zoning, Chapter 18.02, Administrative Provisions, to add a new section concerning the provision of reasonable accommodations consistent with the Federal Fair Housing Act. (Hope Sullivan)

APPLICANT: Carson City Planning Division

RECOMMENDED MOTION: "I move to recommend to the Board of Supervisors approval of ZCA-17-025, an ordinance amending Title 18, Chapter 18.02, Administrative Provisions, to add a new section concerning the provision of reasonable accommodations consistent with the Federal Fair Housing Act, and addressing other matters properly relating thereto."

LEGAL REQUIREMENTS: CCMC 18.02.050 (Review); 18.02.075 (Zoning Map Amendments and Zoning Code Amendments); NRS 278.260.

KEY ISSUES:

The proposed ordinance would create consistency with Federal law.

DISCUSSION:

The Federal Fair Housing Act prohibits the discrimination in housing on the basis of a disability. One type of disability discrimination prohibited by the Act is the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.

A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.

The Act applies to local governments in the implementation of zoning. By way of example, the reasonable accommodation may come into consideration when a home is occupied by a person in a wheelchair. The person may need to make modifications to bathrooms that will require exterior walls to encroach into setbacks. Similarly, the person may need to make exterior modifications to accommodate ramps that may encroach into setbacks. Neither of these requests would meet the findings for a variance.

Local governments include provisions for reasonable accommodation consistent with the Federal Fair Housing Act in their zoning codes. To allow for streamlined decision making and to protect privacy, staff is recommending that the Community Development Director have the authority make a reasonable accommodation upon finding the request to be consistent with the Federal Fair Housing Act. This will include the Director finding that there is a nexus between the requested accommodation and the individual's disability. Decisions of the Director could be appealed to the Planning Commission consistent with the provisions of CCMC 18.02.060.

The following additional text is proposed to be added to the Administrative Provisions (Chapter 18.02) of Title 18: Zoning. (*proposed wording is underlined.*)

18.02.130. Reasonable accommodation.

1. Notwithstanding any other provision of this title, Carson City shall at all times comply with the applicable requirements concerning the granting of reasonable accommodations as set forth in the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq., and any regulations adopted pursuant thereto.
2. A request for a reasonable accommodation made pursuant to subsection 1 must be submitted in writing to the director for approval or denial as an administrative decision. The director:

 - (a) Must issue his or her decision in writing; and
 - (b) May deny a request for a reasonable accommodation only if the denial does not constitute a violation of federal or state law or regulation.

This ordinance will be brought to the Board of Supervisors for consideration concurrent with the ordinance amending the definition of Single Family Dwelling, as previously reviewed by the Planning Commission.

PUBLIC COMMENTS:

Public notice of this proposed Zoning Code Amendment was published in the newspaper and posted on the City's website pursuant to the provisions of NRS and CCMC. As of the writing of this staff report, no public comments were received. Any comments that are received after this report is complete will be submitted prior to or at the Planning Commission meeting, depending on their submittal date to the Planning Division.

FINDINGS:

The Commission, in forwarding a recommendation to the Board for approval of a Zoning Code Amendment, shall make the findings of fact found in CCMC 18.02.075(5). The following findings are recommended by staff:

- 1. That the proposed amendment is in substantial compliance with and supports the goals and policies of the Master Plan.**

The proposed amendment is in substantial compliance with the Master Plan. The proposed amendment does not change land use designations, densities, or policies of the Master Plan. All Master Plan goals and policies will continue to be in effect. The amendment will allow for modification in the land use regulations related to residential uses to allow a person with a disability the full use of their home.

- 2. That the proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.**

The proposed amendment will not change the type of land use permitted per the Zoning Ordinance, therefore it will not create incompatible land uses. Given the nature of anticipated requests, the proposed amendment will not have detrimental impacts on other properties in the vicinity.

3. **That the proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare.**

The proposed amendment will allow a person with a disability the use of the home. The proposed amendment will not adversely impact public services or facilities, nor will it adversely impact public health, safety and welfare.

Attachments:

- 1) Draft ordinance

BILL NO. _____

ORDINANCE NO. 2017 - _____

AN ORDINANCE AMENDING TITLE 18, ZONING, CHAPTER 18.02,
ADMINISTRATIVE PROVISIONS, TO ADD SECTION 18.02.130,
REASONABLE ACCOMMODATION, AND OTHER MATTERS
PROPERLY RELATED THERETO.

The Board of Supervisors of Carson City do ordain:

SECTION I:

That Title 18 (Zoning), Chapter 18.02 (Administrative Provisions) is hereby amended, in part, as follows (**bold, underlined** text is added, ~~stricken~~ text is deleted):

18.02.130. Reasonable accommodation.

1. Notwithstanding any other provision of this title, Carson City shall at all times comply with the applicable requirements concerning the granting of reasonable accommodations as set forth in the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq., and any regulations adopted pursuant thereto.

2. A request for a reasonable accommodation made pursuant to subsection 1 must be submitted in writing to the director for approval or denial as an administrative decision. The director:

(a) Must issue his or her decision in writing; and

(b) May deny a request for a reasonable accommodation only if the denial does not constitute a violation of federal or state law or regulation.

SECTION II:

That no other provisions of Title 18 of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____, 2017.

PROPOSED by _____.

PASSED _____, 2017.

VOTE: AYES: _____

NAYS: _____

ABSENT: _____

ROBERT L. CROWELL, Mayor

ATTEST:

SUSAN MERRIWETHER, Clerk-Recorder

This ordinance shall be in force and effect from and after the _____ day of _____, 2017.