

Item # 80

**City of Carson City
Agenda Report**

Date Submitted: October 9, 2007

Agenda Date Requested: October 18, 2007

Time Requested: 10 minutes

To: Mayor and Board of Supervisors

From: Development Services - Planning Division

Subject Title: Action to introduce, on first reading, Bill No. _____, an ordinance amending Carson City Municipal code Title 18, Zoning, Chapter 18.04, Use Districts, Section 18.04.030.2, Nonconforming Uses - Expansion of a Nonconforming Building, to amend the section addressing expansion of nonconforming buildings to clarify when a special use permit is required, and other matters properly related thereto. (File ZCA-07-133)

Staff Summary: This ordinance would modify the Carson City Municipal Code to clarify when the expansion of a nonconforming building will require Special Use Permit approval. This clarification will assist staff and the general public with these expansions..

Type of Action Requested:

☐ Resolution

☒ Ordinance - First Reading

☐ Formal Action/Motion

☐ Other (Specify)

Does This Action Require A Business Impact Statement: ☐ Yes ☒ No

Planning Commission Action: Recommended approval September 26, 2007, by a vote of 4:0:3

Recommended Board Action: I move to introduce, on first reading, Bill No. _____, an ordinance amending Carson City Municipal code Title 18, Zoning, Chapter 18.04, Use Districts, Section 18.04.030.2, Nonconforming Uses - Expansion of a Nonconforming Building, to amend the section addressing expansion of nonconforming buildings to clarify when a special use permit is required, and other matters properly related thereto, based upon the findings for approval contained in the staff report.

Explanation for Recommended Board Action: The Board of Supervisors, pursuant to Carson City Municipal Code, is required to take final action on all code amendments.

Applicable Statute, Code, Policy, Rule or Regulation: CCMC 18.04 Use Districts, Section 18.04.030.2 Expansion of Nonconforming Building.

Fiscal Impact: N/A

Explanation of Impact: N/A

Funding Source: N/A

Alternatives: 1) Refer the matter back to Planning Commission for further review, or, 2) Deny with appropriate findings.

Supporting Material:

- 1) Ordinance
- 2) Planning Commission Case Record
- 3) Staff Report to Planning Commission

Prepared By: Donna Fuller, Administrative Services Manager

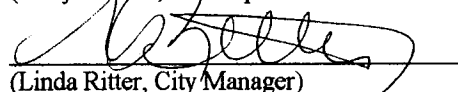
Reviewed By:


(Walter Sullivan, Planning Director)

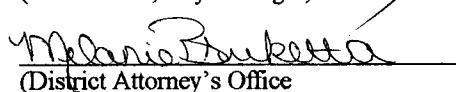
Date: 10-03-07


(Larry Werner, Development Services Director/City Engineer)

Date: 10/8/07


(Linda Ritter, City Manager)

Date: 10-9-07


(District Attorney's Office)

Date: 10-9-07

Board Action Taken:

Motion: _____

1) _____
2) _____

Aye/Nay

(Vote Recorded By)

ORDINANCE NO. 2007-_____

BILL NO. _____

AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 18, ZONING, CHAPTER 18.04, USE DISTRICTS, SECTION 18.04.030.2, NONCONFORMING USES - EXPANSION OF A NONCONFORMING BUILDING, TO AMEND THE SECTION ADDRESSING EXPANSION OF NONCONFORMING BUILDINGS TO CLARIFY WHEN A SPECIAL USE PERMIT IS REQUIRED, AND OTHER MATTERS PROPERLY RELATED THERETO.

Fiscal effect: None

The Board of Supervisors of Carson City, do ordain:

SECTION I:

That Chapter 18.04 (Use Districts), Section 18.04.030.2 (Nonconforming Uses - Expansion of Nonconforming Building) of the Carson City Municipal Code is hereby amended, in part, to modify the text as follows (underlined text is added, stricken text is deleted):

18.04.030 Nonconforming Uses

1. **Continuation of Nonconforming Use.** A lawful use of land or buildings not in conformance with the regulations herein prescribed, legally existing at the time of the adoption of the Carson City Zoning Ordinance, this title, or any amendment hereto, may be continued.
2. **Expansion of Nonconforming Building.**
 - A nonconforming use of land [~~or building~~] shall not be extended or expanded except by Special Use Permit.
 - A nonconforming building may be extended or expanded to the extent that any additions meet current code requirements and that such additions do not increase the parking requirement unless all required parking for the entire building can be provided.
 - A building that is nonconforming in setbacks may be extended or expanded along the existing nonconforming setbacks only upon Special Use Permit approval.

- A building that is nonconforming in setbacks may be extended or expanded further into the setbacks only upon approval of both a Special Use Permit and Variance.
 - Minor modifications and maintenance necessary to said continuing condition is permitted.
3. **Abandonment of Nonconforming Use.** A lawful use of nonconforming land or buildings, which is operationally abandoned or discontinued for a period of [twelve {12}] consecutive months or more shall not be resumed.
 4. **Exceptions.** Nonconforming buildings which have been damaged or destroyed by natural calamity may be repaired, reconstructed, moved or altered within one [{1}] year from the date of damage provided the repaired building is proportionate to the previous use.
 5. **Nonconforming Parcels.** All existing legally created parcels of less square footage than required within a use district are considered legal nonconforming parcels but must meet all code requirements in that district.

SECTION II:

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

PROPOSED on _____, 2007.

PROPOSED BY Supervisor _____

PASSED _____, 2007.

VOTE: AYES:

NAYS:

ABSENT:

MARV TEIXEIRA, Mayor

ATTEST:

ALAN GLOVER, Clerk-Recorder

This ordinance shall be in force and effect from and after the _____ day of the month of _____ of the year 2007.

CARSON CITY PLANNING COMMISSION

CASE RECORD

MEETING DATE: September 26, 2007

AGENDA ITEM NO.: H-2

APPLICANT(s) NAME: Carson City
PROPERTY OWNER(s):

FILE NO.: ZCA-07-133

ASSESSOR PARCEL NO(s):
ADDRESS:

APPLICANT'S REQUEST: Action to consider a recommendation to the Board of Supervisors regarding Zoning Code Amendment, ZCA-07-133, an ordinance amending Carson City Municipal Code Title 18, Zoning, Chapter 18.04, Use Districts, Section 18.04.030.2, Expansion of Nonconforming Building, by amending when the "expansion of a nonconforming building/use" will require Special Use Permit approval, and other matters properly related thereto.

COMMISSIONERS PRESENT: ☒ REYNOLDS ☒ VANCE ☐ BISBEE
☐ MULLET ☒ PEERY ☒ KIMBROUGH ☐ WENDELL

STAFF REPORT PRESENTED BY: Heidi Eskew-Hermann
STAFF RECOMMENDATION: ☒ APPROVAL
APPLICANT REPRESENTED BY: N/A

☒ REPORT ATTACHED
☐ DENIAL

 0 PERSONS SPOKE IN FAVOR OF THE PROPOSAL

 0 PERSONS SPOKE IN OPPOSITION OF THE PROPOSAL

DISCUSSION, NOTES, COMMENTS FOR THE RECORD:

APPEAL PROCESS MENTIONED AS PART OF THE RECORD

MOTION WAS MADE TO RECOMMEND APPROVAL

☒ WITH THE FINDINGS AS ENUMERATED ON THE STAFF REPORT

MOVED: Reynolds SECOND: Kimbrough PASSED: 4/AYE 0/NO 3/AB 0/ABSTAIN

SCHEDULED FOR THE BOARD OF SUPERVISORS

DATE: October 18, 2007

STAFF REPORT FOR THE PLANNING COMMISSION MEETING OF SEPTEMBER 26, 2007**FILE NO: ZCA-07-133****STAFF AUTHOR:** Heidi Eskew-Herrmann, AICP, Assistant Planner

REQUEST: An ordinance amending the Carson City Municipal Code Section 18.04.030.2 (Nonconforming Uses - Expansion of Nonconforming Building) to modify the current text to allow nonconforming buildings to be extended or expanded without a Special Use Permit provided the extension or expansion meets current code requirements, and to identify when a Special Use Permit is required.

APPLICANT: Carson City Planning Division

RECOMMENDED MOTION: "I move to recommend to the Board of Supervisors approval of ZCA-07-133, an ordinance amending a provision of the Carson City Municipal Code, Title 18, Zoning, Chapter 18.04, Use Districts, Section 18.04.030, Nonconforming Uses, to modify the current text to allow nonconforming buildings to be extended or expanded without a Special Use Permit provided the extension or expansion meets current code requirements, and to identify when a Special use Permit is required, as published on the agenda, based upon the findings for approval contained in the staff report.

BACKGROUND:

The proposed amendment is the result of staff discussion regarding the appropriateness of allowing extension or expansion of nonconforming uses without a Special Use Permit provided the extension or expansion meets current code requirements. This amendment will assist staff and the general public by clarifying when a Special Use Permit will be required for the extension or expansion of a nonconforming building. This amendment has been proposed to allow for consistency throughout Carson City with the regulation of Nonconforming Buildings.

Staff is proposing that:

1. A nonconforming building may be extended or expanded provided the extension or expansion meets current code requirements including setbacks and parking.
2. A building that is nonconforming in setbacks may be extended or expanded along the existing nonconforming setback only with Special Use Permit approval.
3. A building that is nonconforming in setbacks may be extended or expanded further into the setbacks only upon approval of both a Special Use Permit and Variance.

DISCUSSION:

Following is a summary of the proposed code amendment as presented by ordinance section in the draft ordinance (Attachment A).

The definition of a Nonconforming Building, per Carson City Municipal Code, Chapter 18.03, Definitions, is a *legally constructed building or structure which does not conform in its construction,*

area, yard, requirements or height to the regulations of the district in which it is located or to the requirement of the Building Code currently adopted by Carson City.

18.04.030 Nonconforming Uses

1. **Continuation of Nonconforming Use.** A lawful use of land or buildings not in conformance with the regulations herein prescribed, legally existing at the time of the adoption of the Carson City Zoning Ordinance, this title, or any amendment hereto, may be continued.
2. **Expansion of Nonconforming Building.**
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3. **Abandonment of Nonconforming Use.** A lawful use of nonconforming land or buildings, which is operationally abandoned or discontinued for a period of twelve (12) consecutive months or more shall not be resumed.
4. **Exceptions.** Nonconforming buildings which have been damaged or destroyed by natural calamity may be repaired, reconstructed, moved or altered within one (1) year from the date of damage provided the repaired building is proportionate to the previous use.
5. **Nonconforming Parcels.** All existing legally created parcels of less square footage than required within a use district are considered legal nonconforming parcels but must meet all code requirements in that district.

The Planning Division has researched this topic with regard to the surrounding counties and the proposed regulation is similar in content.

PUBLIC COMMENTS: Public notices were published in the newspaper for the Zoning Code Amendment in accordance with the provisions of NRS and CCMC 18.02.045. As of September 20, 2007, no written comments have been received either in support or opposition of this

application. Any comments that are received after this report is completed will be submitted prior to or at the Planning Commission meeting, depending on their submittal date to the Planning Division.

OTHER CITY DEPARTMENT OR OUTSIDE AGENCY COMMENTS:

No written comments from any other city department were received.

LEGAL REQUIREMENTS: CCMC 18.02.050 (Review); 18.02.075 (Zoning Code Amendments).

FINDINGS: The following findings for approval are recommended by staff pursuant to the Carson City Municipal Code Section 18.02.075(5), Zoning Code Amendments:

1. ***The proposed amendment is in substantial compliance with the goals, policies and action programs of the Master Plan.***

Rationale: The proposed Zoning Code Amendment is in substantial compliance with the goals, policies and action programs of the Master Plan by amending and clarifying the provisions of the specific section of the code.

2. ***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.***

Rationale: The proposed amendments make no change to the code that would have an impact on permitted uses. The proposed change is for code clarification and is primarily procedural in nature. Therefore, the proposed amendment will have no detrimental impacts to properties within Carson City.

3. ***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.***

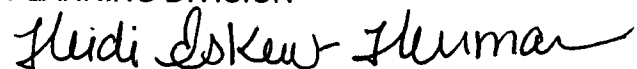
Rationale: The proposed amendment will have no impact on existing or planned public services or facilities since the change is merely administrative in nature and will have no impact on any physical facilities within the city.

Attachments:

- 1) Draft ordinance

Respectfully submitted,

PLANNING DIVISION



Heidi Eskew-Herrmann, AICP
Assistant Planner