



# STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** May 5, 2016

**Staff Contact:** Lee Plemel, Community Development Director (LPlemel@carson.org)

**Agenda Title:** For Possible Action: To appoint Planning Manager Hope Sullivan, AICP, as a Hearing Examiner to review Administrative Permits received by the Community Development Department pursuant to the qualifications outlined in Carson City Municipal Code, Section 18.02.052 and NRS 278.263. (Lee Plemel)

**Staff Summary:** Carson City Municipal Code, Section 18.02.110 (Administrative Permits) authorizes a Hearing Examiner to review and render final decisions on zoning matters and development proposals that are identified as requiring an Administrative Permit. Community Development Director Lee Plemel and former Planning Manager Susan Dorr Pansky are currently the only Hearing Examiners appointed by the Board of Supervisors. Per Carson City Municipal Code Section 18.02.052 (Hearing Examiners), a Hearing Examiner shall be appointed by formal action of the Board and must meet qualifications established in NRS 278.263. These qualifications include being a planner certified by the American Institute of Certified Planners (AICP). Ms. Sullivan meets the qualifications to be a Hearing Examiner and staff requests her appointment to provide another Hearing Examiner within the Community Development Department.

**Agenda Action:** Formal Action/Motion

**Time Requested:** 5 minutes

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## **Proposed Motion**

I move to appoint Planning Manager Hope Sullivan as a Hearing Examiner to review Administrative Permits received by the Community Development Department pursuant to the qualifications outlined in Carson City Municipal Code, Section 18.02.052 and NRS 278.263.

## **Board's Strategic Goal**

Efficient Government

## **Previous Action**

N/A

## **Background/Issues & Analysis**

Currently, Lee Plemel is the only full-time City employee appointed as a Hearing Examiner. Appointing Ms. Sullivan will provide the City with backup for the efficient review of Administrative Permits within the Planning Division.

An Administrative Permit is required in the following cases:

- a. A proposed accessory structure with a total size that is more than 50% and up to 75% of the size of the primary structure. (A Special Use Permit is required for accessory structures more than 75% of the size of the primary structure.)

b. All non-exempt antennas, satellite dishes and wireless telecommunication identified in CCMC 18.15 (Communication Facilities and Equipment) as requiring an Administrative Permit.

c. Restaurant or bank drive-thru windows that face a street or frontage of a parcel.

For more information regarding this item, contact Lee Plemel, Community Development Director, at 283-7075 or lplemel@carson.org.

**Applicable Statute, Code, Policy, Rule or Regulation**

CCMC 18.02.052, 18.02.110 and NRS 278.262 through 265

**Financial Information**

Is there a fiscal impact?  Yes  No

If yes, account name/number:

Is it currently budgeted?  Yes  No

Explanation of Fiscal Impact: N/A

**Alternatives**

Do not appoint Hope Sullivan as a Hearing Examiner

Supporting Material:

- 1) CCMC 18.02.052 (Hearing Examiners)
- 2) CCMC 18.02.110 (Administrative Permits)
- 3) NRS 278.262-265 (Hearing Examiners)

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

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(Vote Recorded By)

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shown on the latest equalized assessment rolls, within 300 feet of the exterior boundaries of the subject property, to all property owners of land within such area proposed for rezoning, and to each tenant of a mobile home park if that park is located within 300 feet of the property in question, written notice of the time, place and date of such hearing and the general location of the property of the addressee with reference to the property proposed for change, not less than ten days prior to the public hearing date. At least 30 unique property owners nearest the subject site must be noticed if there are not 30 unique property owners within 300 feet of the subject site. Upon application for a right-of-way abandonment, the Commission shall notify by certified mail the applicant and all abutting property owners of record as shown on the latest equalized assessment rolls, written notice of the time, place, date of such hearing and the general location of the property of the addressee with reference to the proposed street abandonment, not less than ten days prior to the public hearing date.

### **18.02.050 Review.**

1. The Board and the Commission in reviewing and judging the merit of a proposal for a Variance, Special Use Permit, Zoning Map Amendment, Master Plan Amendment, Zoning Code Amendment, Master Plan Element or Abandonment shall find that the regulations and standards in this Title or state law are met.
2. The Commission and the Board, after reviewing a proposal and taking public testimony, shall reduce their respective recommendations and decisions to writing and shall include therein the recommendation or decision in a concise and explicit statement of the evidence. A copy of the Commission's and Board recommendation and decision must be mailed by certified mail or hand delivered to the applicant. The applicant must sign the notice of decision and return the notice of decision to the Planning and Community Development Department within 21 working days of receipt. A copy of this recommendation and decision shall be forthwith placed in the Planning and Community Development Department files as a record of the Commission's and Board decisions. Failure of the applicant to return the notice of decision within the required time frame may be cause to place the application on the next Commission agenda for further review.
3. The Board shall have the power to review the recommendations and decisions of the Commission and by majority vote may affirm, deny, modify or return the recommendations or decisions to the Commission for further consideration.

### **18.02.052 Hearing Examiners.**

1. **Appointment.** A Hearing Examiner shall be appointed by formal action of the Board and must meet the qualifications as established in NRS 278.263.
2. **Compensation.** The Hearing Examiner is entitled to no extra compensation for the Hearing Examiner duties.
3. **Powers and duties.** The Hearing Examiner shall have the following power and duty to study, review, approve, disapprove or approve with conditions applications for all proposed work at hearings.

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### 4. Procedure.

- a. All hearings conducted by the Hearing Examiner in Title 18 must be at a meeting for which notice is given in accordance with the state open meeting law contained in NRS.
- b. Notice of a hearing to be sent by U.S. Mail and to be consistent with Title 18 (Notice of Commission Hearings).
- c. An audio recording of the hearing must be made and copies of the tapes must be made available.
- d. The Hearing Examiner shall produce his decision in writing within ten days from the hearing.

5. Decision. Where Title 18 indicates the Hearing Examiner process may be used, the decision of the Hearing Examiner is final unless appealed in accordance with Title 18 (Appeals).

### 18.02.055 Fees and Service Charges.

Before accepting any application required by this Title, fees adopted by the Board, including service charges, shall be charged, collected and deposited with the Planning Division of the Development Service Department. A fee sheet is available to the general public at the main desk of the Planning Division.

#### 1. **Zoning Application Fees.**

Administrative Permit	\$750 + \$60/hr over 10 hours
Appeal	\$250 + \$60/hr over 4 hours
Zoning Map Amendment	\$2,450
Continuance	\$600
Historic Resources Review	No Charge
Major Project Review	No Charge
Master Plan Amendment	\$3,050
Minor Variance	\$500 + \$60/hr over 4 hours
Mobile Home Park Review	\$2,300
Recreational Vehicle Park Review	\$2,300
Special Use Permit - Minor (conditional uses or height use permit within any residential zoning district)	\$2,200

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- e. All other departments' conditions of approval, which are attached, shall be incorporated as conditions of this report.
9. **Abandonment of Public Right-of-Way.**
- a. Prior to the recordation of said abandonment, the applicant shall be responsible for the submittal of all necessary legal documentation and title search material if required by the Planning and Community Development Department in order to fully complete the abandonment process.
  - b. The applicant must sign and return the Notice of Decision for conditions of approval within ten (10) days of receipt of notification. If the Notice of Decision is not signed and returned within ten (10) days, then the item will be rescheduled for the next Planning Commission meeting for further considerations (this Notice of Decision will be mailed to you for your signature after approval by the Board of Supervisors).
  - c. All other departments' conditions of approval, which are attached, shall be incorporated as conditions of this report.
10. **Downtown Design Review.**
- a. All development shall be substantially in accordance with the attached site development plan.
  - b. All on and off-site improvements shall conform to City standards and requirements.
  - c. The use for which this permit is approved shall commence within twelve (12) months of the date of final approval. An extension of time must be requested in writing to the Planning and Community Development Department thirty (30) days prior to the one (1) year expiration date. Should this request not be initiated within one (1) year and no extension granted, the request shall become null and void.
  - d. The applicant must sign and return the Notice of Decision within ten (10) days of receipt of notification. If the Notice of Decision is not signed and returned within ten (10) days, then the item will be rescheduled for the next Downtown Design Review for further considerations.
  - e. All other departments' conditions of approval, which are attached, shall be incorporated as conditions of this report.

### **18.02.110 Administrative Permits.**

1. **Purpose.** The purpose of Administrative Permits is to provide for the method of reviewing proposed uses which possess characteristics that have the potential to adversely affect other land uses, transportation or facilities in the vicinity. The

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Hearing Examiner may require conditions of approval necessary to eliminate or reduce any adverse effects of a use.

2. **Applicability.** This Chapter establishes a process that authorizes the Hearing Examiner to review and render final decisions on zoning matters and development proposals identified within this Chapter as requiring an Administrative Permit pursuant to the provisions of CCMC 18.02.052 (Hearing Examiners).
3. **Permit Required.** An Administrative Permit shall be required in the following cases:
  - a. A proposed accessory structure pursuant to Title 18 (General Provisions) with a total size that is more than 50% and up to 75% of the size of the primary structure.
  - b. All non-exempt antennas, satellite dishes and wireless telecommunication identified in CCMC 18.15 (Communication Facilities and Equipment) as requiring an Administrative Permit.
  - c. Restaurant or bank drive-thru windows which face a street or frontage of a parcel.
4. **Process.** Applications for Administrative Permits may be initiated by the property owner or the property owner's authorized agent. Applications shall be filed with the Director. A request for an Administrative Permit shall include a site plan which clearly delineates the location and characteristics of the proposed use. No Administrative Permit shall be processed until the information necessary to review and decide the proposed Administrative Permit is deemed complete by the Director. Noticing requirements shall be consistent with Title 18 (Notice of Commission Hearings).

This Title delegates certain authority for making decisions relating to various development applications, uses and similar approvals to the Hearing Examiner. The Hearing Examiner shall review all complete applications, make necessary findings and render a decision on the application. The Director or Hearing Examiner may refer the application to the Planning Commission for its review and decision prior to rendering a decision on the application.

5. **Findings.** In approving an Administrative Permit, the Hearing Examiner shall make the findings as required by Section 18.02.080 (Special Use Permit).
6. **Notification and Appeal of Decision by Hearing Examiner.** The Hearing Examiner shall notify the applicant within ten days of the decision. The decision of the Hearing Examiner may be appealed to the Commission by the applicant or any aggrieved party pursuant to Title 18 (Appeals).

**NRS 278.262 Hearing examiners: Power of governing body to appoint.** The governing body of any county or city may appoint as many full-time or part-time hearing examiners as are necessary or appropriate to assist the planning commission and the governing body in acting upon proposals for changes in zoning classification, zoning districts, special use permits, variances and other matters affecting zoning.

(Added to NRS by 1973, 337; A 1977, 1017; 1979, 371)

**NRS 278.263 Hearing examiners: Compensation; qualifications; removal.**

1. Hearing examiners appointed under the authority of [NRS 278.262](#) are entitled to receive such compensation as is considered necessary by the governing body and shall possess qualifications similar to those of a licensed architect, attorney, engineer or a member of the American Institute of Certified Planners.

2. Hearing examiners serve at the pleasure of the governing body in accordance with any appropriate personnel ordinance or regulation.

(Added to NRS by 1973, 337; A [1995, 453](#))

**NRS 278.264 Hearing examiners: Rules of procedure.** Upon the determination of any governing body that a hearing examiner is to be employed and before any hearings are conducted utilizing his or her services, an ordinance shall be enacted setting forth rules of procedure for the processing and hearing of applications which are to be considered by a hearing examiner.

(Added to NRS by 1973, 338)

**NRS 278.265 Hearing examiners: Notice and hearing; duties and powers; final action on certain matters; appeal of final action.**

1. Any ordinance enacted pursuant to the provisions of [NRS 278.264](#) must provide, in substance, the same notice of hearing and conduct of hearing safeguards required by [NRS 278.315](#) or [278.480](#), whichever is applicable.

2. The governing body shall, by ordinance, set forth the duties and powers of the hearing examiner, including a statement of whether the hearing examiner may take final action on any matter assigned to the hearing examiner by the governing body.

3. Except as otherwise provided in subsection 4, the governing body may authorize the hearing examiner to take final action on matters relating to a variance, vacation, abandonment, special use permit, conditional use permit and other special exception or application specified in the ordinance.

4. The governing body shall not authorize the hearing examiner to take final action on:

(a) Matters relating to a zoning classification, zoning district or an amendment to a zoning boundary.

(b) An application for a conditional use permit that is filed pursuant to [NRS 278.147](#).

5. An applicant or protestant may appeal any final action taken by the hearing examiner in accordance with the ordinance adopted pursuant to [NRS 278.3195](#).

(Added to NRS by 1973, 338; A [1995, 453](#); [1997, 2422](#); [1999, 1137](#); [2001, 2805](#))