



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: July 7, 2016

Staff Contact: Lee Plemel, Community Development Director

Agenda Title: For Possible Action: To adopt Bill No. 110, on second reading, an ordinance amending title 18, Zoning, Chapter 18.02, Administrative Provisions, Section 18.02.045, Notice Of Commission Hearings; Section 18.02.060, Appeals; and Section 18.02.075, Zoning Map Amendments and Zoning Code Amendments, to increase the property owner notice radius for development applications reviewed by the planning commission based on project parcel size.

Staff Summary: The current property owner notification requirement for applications heard by the Planning Commission is 300 feet from the boundaries of the property on which the project is located, regardless of the size of the project. The proposed amendment would increase the property owner notification radius based on the project parcel size, with larger parcels requiring larger notification radii. (Lee Plemel, lplemel@carson.org)

Agenda Action: Ordinance - Second Reading

Time Requested: 5 minutes

Proposed Motion

I move to adopt Bill No. 110, on second reading, Ordinance No. ___, an ordinance amending title 18, Zoning, Chapter 18.02, Administrative Provisions, Section 18.02.045, Notice Of Commission Hearings; Section 18.02.060, Appeals; and Section 18.02.075, Zoning Map Amendments and Zoning Code Amendments, to increase the property owner notice radius for development applications reviewed by the planning commission based on project parcel size.

Board's Strategic Goal

Efficient Government

Previous Action

The Planning Commission recommended approval of the ordinance on May 25, 2016, by a vote of 6-0.

The Board of Supervisors introduced the ordinance on June 16, 2016, by a vote of 5-0.

Background/Issues & Analysis

NRS (Nevada Revised Statutes) 278.260 and 278.315 provide for the notification requirements of various types of planning and development applications that are reviewed by the Planning Commission. These requirements include the notification by mail of all property owners and mobile home park tenants within 300 feet of a proposed project parcel.

Planning Division staff, the Planning Commission, and the Board of Supervisors periodically get requests from Carson City residents to increase this notification radius for larger projects. In the past, it has been the District Attorney's opinion that the City should follow the provisions of NRS exactly when sending out notification and not deviate from that requirement and, therefore, the Board of Supervisors never considered an ordinance to change it. However, recent Nevada "home rule" legislation grants local governments more authority to enact

requirements that may not strictly follow NRS. The District Attorney has confirmed that the City has the authority to increase the required property owner notification boundary.

Contact Lee Plemel at 283-7075 or lplemel@carson.org for any questions regarding this item.

Applicable Statute, Code, Policy, Rule or Regulation

CCMC 18.02.045 (Notice of Commission Hearings), 18.02.060 (Appeals), and 18.02.075 (Zoning Map Amendments)

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number: N/A

Is it currently budgeted? Yes No

Explanation of Fiscal Impact: Planning and zoning matters per NRS 278 are exempt from business impact statements. Any additional costs of notification are borne by the applicant. Additional staff processing time would be minimal, but notification costs to the City would increase for applications submitted by Carson City.

Alternatives

1) Do not introduce the ordinance to change the required notification distance.

Attachments:

1) Ordinance

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

BILL NO. 110

ORDINANCE No. 2016-__

AN ORDINANCE AMENDING TITLE 18, ZONING, CHAPTER 18.02, ADMINISTRATIVE PROVISIONS, SECTION 18.02.045, NOTICE OF COMMISSION HEARINGS; SECTION 18.02.060, APPEALS; AND SECTION 18.02.075, ZONING MAP AMENDMENTS AND ZONING CODE AMENDMENTS, TO INCREASE THE PROPERTY OWNER NOTICE RADIUS FOR DEVELOPMENT APPLICATIONS REVIEWED BY THE PLANNING COMMISSION BASED ON PROJECT PARCEL SIZE.

The Board of Supervisors of Carson City do ordain:

SECTION I:

That Title 18 (Zoning), Chapter 18.02 (Administrative Provisions), Section 18.02.045 (Notice of commission hearings) is hereby amended, in part, as follows (**bold, underlined** text is added, ~~[stricken]~~ text is deleted):

18.02.045 - Notice of commission hearings.

~~[Notice of time and place of commission hearings shall be published in a newspaper of general circulation in Carson City, not less than 10 days prior to the date of such hearing. Upon application for a variance, special use permit, zoning map amendment, tentative map, planned unit development map, master plan amendment (land use map amendment or element text amendment), appeal of administrative decision or administrative permit, the commission shall mail to the applicant, and to all record property owners, as 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 mobilehome 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 10 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 10 days prior to the public hearing date.]~~

1. **The commission shall, in accordance with this section, provide written notice of any public hearing which is scheduled to consider:**
 - a. **An application for a variance, special use permit, zoning map amendment, tentative map, planned unit development map, master plan amendment such as a land use map amendment or element**

text amendment, appeal of administrative decision or commission decision, or appeal of an administrative permit.

- b. An application for a right-of-way abandonment.
- c. An appeal of a decision pursuant to section 18.02.060.

2. Every notice required by this section must:

- a. Indicate the date, time, location and purpose of the public hearing;
- b. Indicate, whenever applicable, the existing zoning designation of the application property and the proposed zoning change;
- c. Include a description of the general location of the property that is owned by the person to whom the notice is delivered;
- d. Include a reference to the application property or the proposed right-of-way abandonment, as applicable; and
- e. Not less than 10 days before the date of the hearing, be published in a newspaper of general circulation in Carson City and delivered by regular first class mail to the persons described in subsection 3 or 4, as applicable.

3. A notice required by paragraph (a) or (c) of subsection 1 must be provided to:

- a. The applicant or the appellant, as applicable.
- b. The following persons, as shown on the most recent equalized assessment rolls whose properties are located within the applicable radius as measured from the perimeter boundaries of the application property:
 - (1) If the application property is one acre or less in size, every owner of record of property and every tenant of a mobile home park which is located within 300 feet of the application property;
 - (2) If the application property is larger than one acre and less than 40 acres in size, every owner of record of property and every tenant of a mobile home park which is located within 600 feet of the application property;
 - (3) If the application property is 40 acres or larger in size, every owner of record of property and every tenant of a mobile home park which is located within 900 feet of the application property; and

(4) If the owners of record of the properties described in subparagraphs (1), (2) and (3) of this paragraph comprise less than 30 unique property owners, such additional owners of record of properties that are located nearest in proximity to the application property as are necessary to comprise 30 unique property owners.

4. A notice required by paragraph (b) of subsection 1 must be provided to:

a. The applicant.

b. Every owner of record of property that abuts upon the proposed right-of-way abandonment which is the subject of the application to be considered at the public hearing.

5. As used in this section, “application property” means property, other than a proposed right-of-way abandonment, that is the subject of an application to be considered at a public hearing of the commission.

SECTION II:

That Title 18 (Zoning), Chapter 18.02 (Administrative Provisions), Section 18.02.060 (Appeals) is hereby amended, in part, as follows (**bold, underlined** text is added, ~~stricken~~ text is deleted):

18.02.060 - Appeals.

1. Appeals of Staff Decisions. An administrative decision of the director may be appealed by the applicant or any aggrieved party to the commission following the procedures in subsection 4 of this section within ten days of the date of the decision. The commission may affirm, modify or reverse the decision.
2. Appeals of Commission, Hearing Examiner or Historic Resources Commission (HRC). Any decision of the commission, hearing examiner or the HRC may be appealed to the board by the applicant, any aggrieved party, or any member of the board by following the procedures in subsection 4 of this section within 10 days of the date of the decision. The board may affirm, modify or reverse the decision. In reviewing the decision, the board shall be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020.
3. Appeals of Board Decisions. A decision of the board is final. Any appeal of its decision shall be in a court of competent jurisdiction within the time frames established by the NRS.
4. Procedures for Filing an Appeal.
 - a. Standing for filing an appeal. Any project applicant or any aggrieved party may file an appeal as specified in this section provided that the appellant has participated in the administrative process prior to filing the appeal.

- b. Issues for an Appeal. Issues not addressed in the public hearing stage of the administrative process for a project which is being appealed may not be raised as a basis for the appeal unless there is substantial new evidence which has become available accompanied by proof that the evidence was not available at the time of the public hearing. If new information is submitted to the board, the application shall be referred back to the commission for further appeal, review and action.
- c. Appeal Application. All appeal applications shall be filed in writing with a letter of appeal to the director.
 - (1) The letter of appeal and application shall be submitted within ten days of the date of the staff or commission decision for which an appeal is requested.
 - (2) The appeal letter shall include the appellant's name, mailing address, daytime phone number and shall be accompanied by the appropriate fee.
 - (3) The letter shall specify the project or decision for which the appeal is being requested. The letter shall indicate which aspects of the decision are being appealed. No other aspect of the appealed decision shall be heard.
 - (4) The letter shall provide the necessary facts or other information that support the appellant's contention that the staff or commission erred in its consideration or findings supporting its decision.
- d. Decision. The commission or board, whichever has jurisdiction over the appeal, shall render its decision on the appeal within 60 days of the submittal of a complete appeal application.
- e. Notice of Appeals. ~~[Notice of time and place of appeal hearings shall be published in a newspaper of general circulation in Carson City, not less than 10 days prior to the date of such hearing. Upon application for an appeal, the city shall mail to the applicant, to all property owners of record, as shown on the latest equalized assessment rolls, within 300 feet of the exterior boundaries of the subject property, to all unique property owners of land within such area proposed for rezoning, and to each tenant of a mobilehome 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 10 days prior to the public hearing date. At least 30 property owners nearest the subject site must be noticed if there are not 30 properties within 300 feet of the subject site.]~~ **Notice of an appeal hearing shall be provided in accordance with section 18.02.045.**

SECTION III:

That Title 18 (Zoning), Chapter 18.02 (Administrative Provisions), Section 18.02.075 (Zoning map amendments and zoning code amendments) is hereby amended, in part, as follows (**bold, underlined** text is added, ~~stricken~~ text is deleted):

18.02.075 - Zoning map amendments and zoning code amendments.

1. Amendments. This title and land use map incorporated herein may be amended, repealed or supplemented by the board.
2. Application Requirements. Amendments to this title or the city's official zoning district map may be initiated by the commission, the board, or an owner of a lot or parcel, by filing with the director a signed and complete application, accompanied by the necessary fee, and application materials including all evidence and facts required under this section.
3. Investigation. The director shall investigate each application to assure that the proposal is consistent with the requirements of this title.
4. Hearing.
 - a. The commission shall first hold a public hearing on all proposed amendments.
 - b. Such hearings shall be held within sixty-five (65) days following the acceptance of a complete application.
 - c. When the commission deems it proper, it may consider other property for change in addition to that sought in the application; provided, that proper notice has been given pursuant to this subchapter.
5. Findings. The applicant for a zoning map amendment or zoning code amendment shall have the burden of proof to provide facts supporting the proposed zoning map amendment or zoning code amendment. For purposes of legal clarity, this shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the commission and the board. Additionally, the applicant shall provide adequate information in the application and on the site plan to substantiate the findings required in this section. The commission and board shall determine if the information presented is adequate to support their decisions.
 - a. Before a zoning map amendment may be recommended for approval, the applicant shall provide evidence to the commission and board concerning the physical use of land and zoning currently existing in the general vicinity, and which have occurred in the previous five (5) year time period, and describe:
 - (1) How the proposal will impact the immediate vicinity,

- (2) How the proposal supports the goals, objectives and recommendations of the master plan concerning land use and related policies for the neighborhood where the subject project is situated,
 - (3) If the proposed amendment will impact properties within that use district,
 - (4) Any impacts on public services and facilities.
 - b. The commission, in forwarding a recommendation to the board for approval of a zoning map amendment or zoning code amendment shall make the following findings of fact:
 - (1) That the proposed amendment is in substantial compliance with and supports the goals and policies of the master plan,
 - (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,
 - (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.
6. Decision.
- a. Following the public hearing, the commission shall determine if there is adequate evidence in the record to support the facts and findings required by this section and shall approve or deny the request for the zoning map amendment or zoning code amendment.
 - b. The applicant may request a continuance of any application for a zoning map amendment or zoning code amendment to a future meeting. A continuance suspends the time lines established in NRS and this code.
7. Notice. ~~[Notice of time and place of commission hearings shall be published in a newspaper of general circulation in Carson City, not less than ten days prior to the date of such hearing. Upon application for a variance, special use permit, zoning map amendment, tentative map, planned unit development map, master plan amendment (land use map amendment or element text amendment), appeal of administrative decision or administrative permit, the commission shall mail to the applicant, and to all record property owners, as shown on the latest equalized assessment rolls, within three hundred feet (300') 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 mobilehome park if that park is located within three hundred feet (300') 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 thirty (30) unique property owners nearest the subject site must be noticed if there are not thirty (30) unique~~

~~property owners within three hundred feet (300') 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.]~~ **Notice of an appeal hearing shall be provided in accordance with section 18.02.045.**

8. Report to the board.
 - a. After the hearing of the commission, the commission shall make a recommendation on the application to the board.
 - b. The commission shall also forward to the board a copy of its decision and findings in accordance with this section recommending approval, modification or denial of the proposed zoning map amendment or zoning code amendment.
 - c. Failure of the commission to report within thirty (30) days of the date of its hearing, unless the hearing date has been continued with the applicant's concurrence, shall be deemed a recommendation of approval.
 - d. The applicant or the commission with the applicant's concurrence, may continue any application for a zoning map amendment or zoning code amendment to a future meeting in order to ensure that the applicant has adequate time to present required information or other materials needed for consideration of the decision. A continuance, when approved with applicant concurrence, suspends the time lines established in NRS and this code.

9. Action by Board. The board shall consider the evidence relating to the zoning map amendment or zoning code amendment and may approve or deny the recommendation of the commission.

SECTION IV:

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

PROPOSED on _____, 2016.

PROPOSED by _____.

PASSED _____, 2016.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

SUE MERRIWETHER
CLERK/RECORDER

This ordinance shall be in force and effect from and after the _____ day of _____, 2016.