

item # 6A

**City of Carson City  
Agenda Report**

**Date Submitted:** March 6, 2007

**Agenda Date Requested:** March 15, 2007

**Time Requested:** 10 minutes

**To:** Mayor and Board of Supervisors

**From:** Planning Division

**Subject Title:** Action to consider, on first reading, Bill No. \_\_\_\_\_, an ordinance amending the Carson City Municipal Code Title 18, Zoning, Chapter 18.02, Administrative Provisions, Section 18.02.085, Variances, to establish limitations on variances and allowing the director to approve minor variances of less than 10 percent under certain circumstances; amending Section 18.02.100, Major Project Review, to clarify when a major project review is required for additions of 10 percent or more to existing buildings greater than 50,000 square feet; amending Section 18.02.110, Administrative Permits, by deleting minor variances for setbacks and building height as those cases where an administrative permit is required; amending Chapter 18.03, Definitions, Section 18.03.010, Words and Terms Defined, to change the definition of Community/Regional Office/Commercial from 50,000 square feet to 150,000 square feet or larger; amending Chapter 18.05, General Provisions, deleting Section 18.05.070, Community/Regional Commercial/Office, which includes redundant language regarding commercial or office centers in excess of 50,000 square feet or larger; amending Chapter 18.12, Growth Management, Section 18.12.055, Obtaining a Building Permit, to allow the return of growth management fees if a project is abandoned, and amending Chapter 18.16, Development Standards, Section 1.9, Wireless Telecommunication Facilities and Equipment, subsection 1.9.2, Height and Dimensional Standards, by deleting process-oriented standards in conflict with Chapter 18.15, Communication Facilities and Equipment, and other matters properly related thereto. (File ZCA-07-018)

**Staff Summary:** The proposed amendments to the Zoning Ordinance cover four specific areas:

1. Allowing the Planning Director to approve minor variances of less than 10% of zoning requirements under certain circumstances.
2. Increasing the size of commercial development that requires a Special Use Permit in commercial zoning districts from 50,000 square feet cumulative to 150,000 square feet.
3. Allowing the return of Growth Management and utility connection fees associated with obtaining a residential building permit where the permit is withdrawn or expires.
4. Deleting conflicting process-oriented standards regarding cell towers and similar facilities.

**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 February 28, 2007, by a vote of 7 Ayes and 0 nays.

**Recommended Board Action:** I move to approve Zoning Code Amendment ZCA-07-018 making various changes to the Carson City Municipal Code Title 18 , Zoning, relating to minor variances, commercial uses over 50,000 square feet, the refund of growth management allocation fees in certain circumstances, and clarifying process requirements for wireless communication facilities, as specifically published on the agenda, based on the findings 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 18.02.075 (Zoning Code Amendments).

**Fiscal Impact:** N/A

**Explanation of Impact:** N/A

**Funding Source:** N/A

**Alternatives:** 1) Deny the ordinance, 2) Refer the matter back to Planning Commission for further review.

- 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: 3-05-07

  
(Larry Weiser, Development Services Director/City Engineer)

Date: 3/6/07

  
(Linda Ritter, City Manager)

Date: 3-6-07

  
(Edward Oueilhe, Deputy District Attorney)

Date: 3-6-07

**Board Action Taken:**

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

|          |         |
|----------|---------|
| 1) _____ | Aye/Nay |
| 2) _____ | _____   |
|          | _____   |
|          | _____   |
|          | _____   |

\_\_\_\_\_  
(Vote Recorded By)

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 18, ZONING, CHAPTER 18.02, ADMINISTRATIVE PROVISIONS, SECTION 18.02.085, VARIANCES, TO ESTABLISH LIMITATIONS ON VARIANCES AND ALLOWING THE DIRECTOR TO APPROVE MINOR VARIANCES OF LESS THAN 10 PERCENT UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 18.02.100, MAJOR PROJECT REVIEW, TO CLARIFY WHEN A MAJOR PROJECT REVIEW IS REQUIRED FOR ADDITIONS OF 10 PERCENT OR MORE TO EXISTING BUILDINGS GREATER THAN 50,000 SQUARE FEET; AMENDING SECTION 18.02.110, ADMINISTRATIVE PERMITS, BY DELETING MINOR VARIANCES FOR SETBACKS AND BUILDING HEIGHT AS THOSE CASES WHERE AN ADMINISTRATIVE PERMIT IS REQUIRED; AMENDING CHAPTER 18.03, DEFINITIONS, Section 18.03.010, WORDS AND TERMS DEFINED, TO CHANGE THE DEFINITION OF COMMUNITY/REGIONAL OFFICE/COMMERCIAL FROM 50,000 SQUARE FEET TO 150,000 SQUARE FEET OR LARGER; AMENDING CHAPTER 18.05, GENERAL PROVISIONS, DELETING SECTION 18.05.070, COMMUNITY-REGIONAL COMMERCIAL/OFFICE, WHICH INCLUDES REDUNDANT LANGUAGE REGARDING COMMERCIAL OR OFFICE CENTERS IN EXCESS OF 50,000 SQUARE FEET OR LARGER; AMENDING CHAPTER 18.12, GROWTH MANAGEMENT, SECTION 18.12.055, OBTAINING A BUILDING PERMIT, TO ALLOW THE RETURN OF GROWTH MANAGEMENT FEES IF A PROJECT IS ABANDONED, AND AMENDING CHAPTER 18.16, DEVELOPMENT STANDARDS, SECTION 1.9, WIRELESS TELECOMMUNICATION FACILITIES AND EQUIPMENT, SUBSECTION 1.9.2, HEIGHT AND DIMENSIONAL STANDARDS, BY DELETING PROCESS-ORIENTED STANDARDS IN CONFLICT WITH CHAPTER 18.15, COMMUNICATION FACILITIES AND EQUIPMENT, AND OTHER MATTERS PROPERLY RELATED THERETO.

Fiscal effect: None

The Board of Supervisors of Carson City, do ordain:

## SECTION I:

That Section 18.02.085 (Variances) of the Carson City Municipal Code is hereby amended to read as follows (**bold, underlined** text is added):

### 18.02.085 Variances.

1. Authority. The Commission shall have the discretionary authority to approve, conditionally approve, continue within allowed time frames, or deny a Variance.
2. Application Requirements.
  - a. Any person requesting a Variance shall file a complete application signed by at least one owner of record of the subject property with the Planning and Community Development Department. Such application shall include the information, site plans and other materials determined by the Director to be necessary to support the requirements of this Section.
  - b. The applicant for a Variance shall have the burden of proof by a preponderance of the evidence to provide facts supporting the proposed Variance. 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, if on appeal, by 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.
  - c. The Commission and Board shall determine if the information presented by a preponderance of the evidence supports their decisions.
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 hold a public hearing, not later than 65 days after the acceptance of the complete application.
  - b. The Commission shall hear and consider evidence and facts from any person at the public hearing, or shall consider written communication from any person relative to the Variance.
5. Findings.
  - a. That because of special circumstances applicable to the subject property, including shape, size, topography or location of surroundings, the strict application of the zoning ordinance would deprive the subject property of privileges enjoyed by other properties in the vicinity or under identical zone classification;
  - b. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the applicant;
  - c. That the granting of the application will not, under the circumstances of the particular case, adversely affect to a material degree the health or safety of persons residing or working in the neighborhood of the subject property and will not be materially detrimental to the public

welfare or materially injurious to property or improvements in the neighborhood of the subject property.

6. Decision.

- a. Following the public hearing, the Commission shall determine if there is adequate evidence in the record to support the findings required by this Section and shall approve, conditionally approve, modify, continue within allowed time frames, or deny the Variance request.
- b. The applicant may request a continuance of any application for a Variance to a future meeting. A continuance suspends the time lines established in NRS and this code.

7. Conditions of Approval.

- a. The Commission, in approving any Variance, may require conditions under which the lot or parcel may be used or the building constructed which, in such Commission's opinion will prevent material damage or prejudice to adjacent properties. Standard Conditions of Approval are found in section 18.02.105.
- b. Before a Variance shall be granted, the applicant shall sign an agreement to fulfill all conditions established by the City.

8. Expiration.

- a. Where an approved Variance is not developed or exercised within 12 months of the date of approval, then without further action, the permit shall be null and void and such development activity shall not be made of the property except on the granting of a new Variance permit.
- b. In the event that circumstances beyond the control of the applicant result in a failure to complete applicable Variance conditions and construct or commence the project prior to the expiration date, the applicant may request in writing one single extension of the expiration date for a period of not to exceed 12 calendar months from the original date of expiration. The written request for an extension shall be received by the Director 30 days prior to the expiration date. The Director may approve a one year extension with the option of Commission review.

**9. Limitations on Variances. No variance shall be granted that allows a land use prohibited in the zoning district in which it is located or that changes any boundary of the district; nor shall any variance be granted that changes the permitted residential density of a zoning district.**

**[9]10. [Administrative] Minor Variances. [Variances of less than 10% in deviation of required setbacks or building height may be reviewed administratively pursuant to the process established in CCME 18.02.110(4).] The Director may grant a deviation of less than 10 percent from the requirements of Title 18 established within a zoning district, subject to the following:**

- a. **The applicant shall submit the request in writing to the Director stating the provision of the zoning ordinance that are proposed to be modified, including the extent of the deviation to the existing zoning provision. The request shall include maps, including**

the relation of the property and deviation to surrounding properties, displays and other materials as necessary for the Director to review the application.

- b. The applicant shall submit the written consent of the owner of any adjacent property that could be affected by the requested deviation. If written consent is not submitted to the satisfaction of the Director, the Director may require the applicant to submit a Variance application, including all Variance submittal requirements and fee, for review by the Planning Commission.
- c. In approving minor variance, the Director shall find that the deviation will not impair the purpose of the zoning district or zoning regulation.
- d. The Director may impose conditions of approval for variances pursuant to CCMC 18.02.105 (Standard Conditions of Approval) and as necessary to meet the required finding.
- e. The director shall render a decision within 30 days of receipt of the request, and shall send written notification of the decision to the applicant.
- f. The Director's decision may be appealed to the Planning Commission pursuant to CCMC 18.02.060 (Appeals).

## SECTION II:

That Section 18.02.100 (Major Project Review) of the Carson City Municipal Code is hereby amended to read as follows (**bold, underlined** text is added):

### 18.02.100 Major Project Review (MPR).

- 1. Purpose. The purpose of the MPR process is to provide a preliminary review of development plans for projects to reduce the need for an applicant to contact individual City departments and other agencies to obtain information relevant to the approval of a project. This review allows an applicant to ascertain what may be required to gain approval for a project during the City's permitting review process. The MPR process is utilized to solicit many of the requirements and recommendations of the various City departments in a coordinated and comprehensive fashion.
- 2. Applicability. A MPR is required for all mobilehome parks, RV parks, campgrounds and multi-family projects, as well as commercial, office and industrial projects and institutional or public uses with building area greater than 50,000 square feet, **and for increases in floor area or number of units/spaces for such uses of 10 percent or more.**

Applicants for smaller projects may make application for MPR on a voluntary basis.

### 3. Process.

- a. The Director, upon submission of a MPR application and required submittal information, will circulate the application to City departments and agencies for review. A MPR meeting will be scheduled by staff within thirty (30) days of submittal. At the meeting, City staff from various City departments will identify design concerns, offer alternative design considerations, identify code deficiencies and other issues as can be determined from the

application materials. Applicants are encouraged to ask staff questions relevant to the project.

- b. A letter is sent to the applicant upon conclusion of the meeting outlining the recommendation and concerns relative to the MPR meeting. The applicant is then able to address the concerns noted at the MPR and may then submit plans for formal project applications and permits.

### SECTION III:

That Section 18.02.110 (Administrative Permits) of the Carson City Municipal Code is hereby amended to read as follows (**bold, underlined** text is added):

#### 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 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 variance to a setback pursuant to Title 18 (Use Districts) if the proposed change varies the standard by not more than 10% and is not self-imposed.]~~
  - ~~[b. An increase in building height pursuant to Title 18 (Use Districts) if the proposed change varies the height standard by not more than 10%.]~~
  - [e]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.
  - [d]b. All non-exempt antennas, satellite dishes and wireless telecommunication identified in CCMC 18.15 (Communication Facilities and Equipment) as requiring an Administrative Permit.
  - [e]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 [~~under subsection 3.b, c, d and e~~], the Hearing Examiner shall make the findings as required by Section 18.02.080 (Special Use Permit). [~~In approving an Administrative Variance, the Hearings Examiner shall make the findings as required by Section 18.02.085 (Variance).~~]
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).

#### SECTION IV:

That Chapter 18.03 (Definitions), Section 18.03.010 (Words and Terms Defined) of the Carson City Municipal Code is hereby amended, in part, to modify the definition of a "Community-Regional Commercial/Office" to read as follows (**bold, underlined** text is added):

##### 18.03.010 Words and Terms Defined.

**Community/Regional Commercial/Office** means a single or combination of buildings owned or managed, in common, oriented to community or regional consumers providing merchandise, activities or services which may or may not be built around one or more department stores or offices and which collectively total [~~50,000~~] **150,000** square feet in gross building area[; and which meet the requirements of CMC 18.05.070 (~~Community/Regional Commercial/Office~~)].

#### SECTION V:

That Section 18.05.070 (Community/Regional Commercial/Office) of the Carson City Municipal Code is hereby deleted, as follows:

##### ~~18.05.070 Community/Regional Commercial/Office.~~

1. ~~Community/Regional Commercial/Office centers in excess of 50,000 square feet as defined in Title 18 (Definitions), shall require a Major Project Review prior to approval of any building permit.~~
2. ~~A Major Project Review shall be required for any commercial/office building which adds ten percent (10%) or more to the square foot area, of an existing Community/Regional Commercial/Office development.]~~

#### SECTION VI:

That Chapter 18.12 (Growth Management), Section 18.12.055 (Obtaining a Building Permit) of the Carson City Municipal Code is hereby amended to read as follows (**bold, underlined** text is added):



### 18.12.055 Obtaining a Building Permit.

1. To construct a residential building subject to the provisions of this Chapter, the following time frames shall apply:
  - a. Beginning on the first city working day in January and concluding on the last city working day in March, the Director shall make available the maximum number of residential building permits for development projects and private property owners in the city. This calendar time frame shall be called "Period 1."
    - (1) For development projects, each project shall be entitled to apply for the maximum number of building permits allocated to the development project category at any time during this period.
    - (2) For general property owners, any property owner may apply for the maximum number of building permits allocated to the general property owner category on a first-come first-served basis until the supply of building permits is exhausted.
  - b. Beginning on the first city working day in April and concluding on the last city working day in June, any building permits remaining from Period 1 to be issued by the city shall be combined into a single category for development projects and general property owners. Any development project shall be entitled, on a first come first served basis, to purchase an additional number of building permits not exceeding 50% above the original maximum number allocated to the specific category and any general category property owner shall be entitled, on a first-come, first-served basis, to purchase an additional number of building permits not exceeding 100% above the original maximum number allocated to the general category property owner in Period 1, whether or not the property owner or development project purchased the maximum number of permits allowed in Period 1. This calendar time frame shall be called "Period 2."
  - c. Beginning on the first city working day in July and concluding on the last city working day in December, any remaining building permits from Periods 1 or 2 shall be available on a first come first served basis whether or not a development project or general property owner has acquired the maximum number of building permits/entitlement certificates permitted in Periods 1 and/or 2. This calendar time frame shall be called "Period 3."
2. Requirements for reserving a building permit application:
  - a. A complete set of building plans as required by the building official, shall be submitted along with the required building permit application forms, proof of property ownership if ownership is different than that shown on the assessor's rolls, and any additional materials normally required for application for a building permit.
  - b. At the time that an application for a building permit is submitted, the applicant shall pay the following fees:
    - (1) The applicable plan review fee(s) as adopted by the Building Code currently adopted by Carson City; and

- (2) A growth management entitlement fee and the utility connection fee(s) may be paid at the building plan submittal date which will reserve a growth management entitlement for the parcel of land for which the building permit is being secured.
  - c. When the building plans have been approved, the applicant must pay the building permit fee(s), a growth management entitlement fee and the utility connection fee(s) if not paid at time of submittal of building plans, and any additional applicable development fees, including the tap and meter fees.
  - d. The payment of the growth management entitlement fee and utility connection fee(s) when the building plans are approved will secure a growth management entitlement on the date the above fees are paid to Carson City; should any entitlements remain for that calendar year.
3. Upon application for a building permit, the department shall issue an entitlement certificate for the specific development project or parcel for which the building permit is sought.
  - a. For development projects, the entitlements certificate may be transferred to any parcel within the development project upon written request and approval by the Director.
  - BOS 12/02/04
  - b. A development project may sell lots to a general property owner with the permit entitlements to be deducted against the maximum number of permits allowed to that general property owner.
  - c. For general property owners, the entitlement certificate shall be assigned to the specific assessor parcel.
  - d. An entitlement certificate shall run with the land.
    - (1) In the event that a property owner does not construct the dwelling for which a building permit was sought, the entitlement certificate shall remain valid even if the building permit expires. Once the building permit application or building permit expires, a future application for a building permit shall not require a new entitlement certificate. Future building plans shall comply with the building code in effect at the time of the future submittal.
    - (2) An entitlement certificate shall not be transferred except as provided in this Chapter.
4. Except as provided in this Chapter, there shall be no ~~[refunds of growth management fees, utility connection fee(s) or] transfer of entitlement certificates~~~~[, even if a building permit application or building permit expires].~~ **If the entitlement certificate holder does not start construction and withdraws the building permit application or the application expires, the growth management fee and utility connection fee(s) may be refunded upon written request to the Building Division, resulting in the applicable entitlement returning to the pool of available entitlements for the year in which it was issued.** Refunds of building permit application or building permit fee(s) shall be based on the provisions of the Building Code currently adopted by Carson City.

SECTION VII:

That Chapter 18.16 (Development Standards), Division 1.9 (Wireless Telecommunication Facilities and Equipment), subsection 1.9.2 (Height and Dimensional Standards) of the Carson City Municipal Code is hereby amended to read as follows:

2. *Height and dimensional standards.*

a. The height of the facility shall include any antenna, array or other appurtenances.

~~[b. Facilities co-located on an existing structure that exceed the upper elevation of the structure by more than 10 feet require approval of a Special Use Permit subject to the provisions of the Carson City Municipal Code (CCMC) Section 18.02 (Special Use Permit). Facilities co-located on an existing structure that do not exceed the upper elevation of the structure by more than 10 feet require approval of an Administrative Use Permit subject to the provisions of CCMC Section 18.02 (Administrative Permits).]~~

~~[c. Ground mounted facilities that exceed the maximum permitted height of the zoning district in which it is proposed require approval of a Special Use Permit subject to the provisions of CCMC Section 18.02 (Special Use Permit). Ground mounted facilities that do not exceed the maximum permitted height and meet the minimum setbacks of the zoning district in which it is proposed require approval of an Administrative Use Permit subject to the provisions of CCMC Section 18.02 (Administrative Permits).]~~

~~[d].~~ **[d]b.** Facilities shall not exceed 120 feet in height above grade. The applicant must provide a written justification for the proposed use and adequately demonstrate that the proposed height is necessary, including co-location opportunities. The applicant shall submit a report from an independent, accredited source providing justification for the proposed height or an alternative lower height.



**STAFF REPORT FOR PLANNING COMMISSION MEETING OF FEBRUARY 28, 2007**

**FILE NO: ZCA-07-018**

**AGENDA ITEM: F-5**

**STAFF AUTHOR:** Lee Plemel, AICP, Principal Planner

**REQUEST:** A Zoning Code Amendment making various changes relating to minor variances, "Community/Regional Commercial/Office" uses, return of Growth Management allocation fees, and wireless communication facilities process requirements.

**APPLICANT:** Carson City Development Services Department, Planning Division

**RECOMMENDED MOTION:** "I move to recommend to the Board of Supervisors approval of Zoning Code Amendment ZCA-07-018 making various changes to the Carson City Municipal Code Title 18, Zoning, relating to minor variances, commercial uses over 50,000 square feet, the refund of growth management allocation fees in certain circumstances, and clarifying process requirements for wireless communication facilities, as stated on the agenda, based on the findings contained in the staff report."

**DISCUSSION**

The attached draft ordinance for this Zoning Code Amendment includes proposed modifications to the Carson City Municipal Code, Title 18 (Zoning), summarized as follows.

1. Allowing the Planning Director to approve minor variances for deviations from the requirements of Title 18 of less than 10 percent under certain circumstances, pursuant to the provisions of NRS for such variances. Presently, an Administrative Permit, requiring a public hearing, may be requested and obtained for variances of less than 10 percent of required setbacks or building height.
2. Changing the definition of "Community/Regional Commercial/Office" to increase the size of buildings that meet the definition from 50,000 square feet of collective building area to 150,000 square feet. Development meeting this definition requires approval of a Special Use Permit in commercial zoning districts.
3. Changing the provisions for returning Growth Management residential allocation and utility connection fees to allow the fees to be returned after an applicant has applied for a building permit if the permit is withdrawn or expires.
4. Deleting process-oriented language from the Development Standards that are in conflict with the process requirements of Chapter 18.15 regarding Wireless Communication Facilities.

These amendments represent separate issues identified by the Development Services Department as needing to be addressed. More detail on each item and the purpose of each amendment is further discussed below.

• **Minor Variances**

The current Carson City Municipal Code (CCMC) requires variances to be reviewed by the Planning Commission (CCMC 18.02.085, Variances). Variances include deviations from the minimum standards of Title 18 includes those related to setbacks, which is most common. The

code also provides that deviations of up to 10 percent of zoning requirements can be approved through an Administrative Permit process, which is a public hearing conducted by a staff "hearings examiner" (CCMC 18.02.110). The Administrative Permit process requires notification of surrounding property owners in the same manner as Planning Commission hearings.

NRS 278.319 expressly allows the Planning Director to grant minor deviations of the zoning code of less than 10 percent of the requirements under certain circumstances. NRS 278.319 reads as follows, in its entirety:

**NRS 278.319 Granting of minor deviations without hearing; appeal.**

1. The governing body may adopt an ordinance that authorizes the director of planning or another person or agency to grant a deviation of less than 10 percent from requirements for land use established within a zoning district without conducting a hearing. The ordinance must require an applicant for such a deviation to obtain the written consent of the owner of any real property that would be affected by the deviation.

2. If the director of planning or other authorized person or agency grants a deviation in accordance with its authority delegated pursuant to subsection 1, the director of planning or other authorized person or agency shall ensure that the deviation will not impair the purpose of the zoning district or any regulations adopted by the governing body pursuant to NRS 278.250.

3. An applicant or other aggrieved person may appeal the decision of the director of planning or other authorized person or agency in accordance with the ordinance adopted pursuant to NRS 278.3195.

Of particular note is the requirement to obtain the written consent of any affected property owner. This requirement removes any controversy from the decision process on these minor deviations to the code. If such consent is not or cannot be obtained, an applicant would be required to submit a normal Variance application for review by the Planning Commission, where any issues would be addressed.

The minor variance issues are addressed in Sections I and III of the attached draft ordinance. CCMC Section 18.02.085 (Variances) is amended to allow minor variance approvals by the director. Section 18.02.110 (Administrative Permits) is amended to delete minor variances from requiring an Administrative Permit.

Staff believes that the proposed amendment results in a more efficient use of staff (city) time and resources, limiting unnecessary work in processing permits for non-controversial minor variances. This also limits unnecessary development delays where issues can easily be worked out at the staff level. The code includes sufficient safeguards to ensure that the public process is not circumvented in instances where it is appropriate.

Additionally, the proposed ordinance language on "Limitations on Variances" (proposed 18.02.085[9]) further limits the Director's and Planning Commission's ability to grant variances for uses or residential density.

- **"Community/Regional Commercial Office" Uses Greater Than 50,000 square feet**  
"Community/Regional Commercial/Office" is defined in CCMC 18.03.010 (Definitions) as "a single or combination of buildings owned or managed, in common, oriented to community or regional consumers providing merchandise, activities or services which may or may not be built around one or more department stores or offices and which collectively total 50,000 square feet

*in gross building area.*” Such development requires approval of a Special Use Permit prior to construction in all commercial zoning districts. It is a primary permitted use in industrial zoning districts, requiring only a building permit subject to other applicable development standards. The proposed amendment would change the definition from 50,000 square feet to 150,000 square feet, thereby increasing the size of development that would require a Special Use Permit, accordingly.

The subject definition and special requirements for commercial centers 50,000 square feet or larger dates back to approximately 1994 in the Municipal Code. Since that time, the City has adopted new Development Standards for all commercial uses (circa 2000) and requires minimum setbacks where non-residential uses abut a residential zoning district.

Staff believes that existing standards in the code are adequate to address the issues that arise through a Special Use Permit process for most development. The 50,000 square feet threshold seems outdated compared to current development trends. A typical commercial development along the commercial corridors of the City can easily exceed 50,000 square feet. It can only be expected that a large commercial site will be developed with buildings that collectively exceed 50,000 square feet of floor area.

Following is list of projects exceeding 50,000 square feet, for development size comparison purposes, that have received Special Use Permit approval in the past:

- Wal-Mart, College Parkway: 203,000 s.f.
- Surgical Center, Medical Parkway: 51,500 s.f.
- Carson Tahoe Hospital, Medical Parkway: 300,000+ s.f.
- Carson Quail Commercial Center, South Carson Street: 62,240 s.f.
- Lowe's, Fairview Drive: 163,268 s.f.
- Costco, Clear Creek Road: 148,386 s.f.
- Long's Drugs, Hyw. 50 East: 81,020
- K-Mart, North Carson Street: 169,986 s.f.

Staff does not believe that there is an advantage gained by the City in requiring a Special Use Permit for relatively smaller development projects. The staff time and effort put into a Special Use Permit application to prepare for its review by the Planning Commission is excessive, and the same or similar results can be obtained with a more efficient staff review (subject to the Development Standards that are already in place).

To accomplish this, the following code changes are proposed:

1. Modifying the definition of "Community/Regional Commercial/Office" in CCMC 18.03.010 to increase the size from 50,000 square feet to 150,000 square feet. (Attached ordinance Section IV.)
2. Deleting 18.05.070, general standards for Community/Regional Commercial/Office, which contains only redundant language requiring a Major Project Review (staff review) for all such development. CCMC 18.02.100 already requires all development in excess of 50,000 square feet to have a Major Project Review. (Ordinance Section V.)
3. Adding specific language from the deleted 18.05.070 clarifying that an increase in floor area of more than 10% to an existing development exceeding 50,000 square feet also requires a Major Project Review. (Ordinance Section II.)

### **Growth Management Building Permit Allocation Fees**

Section VI of the attached ordinance includes the proposed amendment to CCMC 18.12.055 (Growth Management, Obtaining a Building Permit) to allow the return of fees associated with obtaining a residential unit Growth Management Allocation. Under the City's current Growth Management program, a residential allocation is granted upon payment of the Growth Management Allocation fee and utility connection fees during building permit processing (assuming an allocation is available). Current code only allows the return of these fees in special hardship circumstances identified in the code. The proposed amendment would allow the return of the fees if the building permit application is withdrawn or expires and construction of the residence has not started.

This amendment is included with the Development Services Department's concurrence at the request of the Builder's Association of Western Nevada (BAWN). With the number of allocations issued in recent years far below the allocations available, there is presently no concern with the possibility of "hoarding" allocations—i.e. obtaining a building permit and allocation while deciding whether or not to start construction. If building permits begin to consistently reach the Growth Management cap, this issue may need to be revisited in the future to ensure that those that fully intend to build a residence have available allocations.

### **Wireless Communication Facilities Processes**

CCMC 18.15.015 (Applicability, Communication Facilities and Equipment) clearly states that process-oriented standards for wireless communication facilities (e.g. cell towers) are contained in Chapter 18.15, and design-oriented standards are contained in the Development Standards. However, Division 1.9 (Wireless Telecommunication Facilities and Equipment) of the Development Standards, subsection 1.9.2 (Height and Dimension Standards) contains process-oriented language that is in direct conflict with Chapter 18.15.

Specifically, 18.15.025 states that communication facilities that meet the height and setback requirements of the zoning district in which they are located require only building permit approval, subject to the design requirements of the Development Standards. The Development Standards 1.9.2 erroneously states that such facilities require an Administrative Permit.

All process-oriented standards for wireless communication facilities are being deleted from the Development Standards. (Ordinance Section VII.)

**FINDINGS:** In approving the Zoning Code Amendment, staff recommends making the following findings as required by the Carson City Municipal Code Section 18.02.075(5).

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

Rationale: The proposed amendment supports the goals and policies of the Master Plan in that it provides for future development in conformance with the Master Plan Land Use Map.

- 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 amendment meets this finding in that current development standards provide for design, setbacks and other site design elements that minimize impacts and provide for compatibility of adjacent developments.

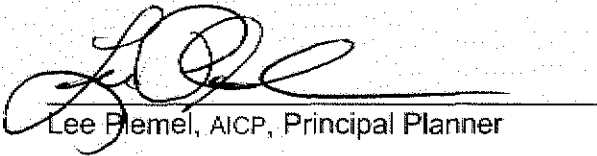


3. ***The proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare.***

Rationale: The proposed amendment would have no impact on existing or planned public services and has no affect on the public health, safety or welfare.

Respectfully submitted,

PLANNING DIVISION



Lee Flemel, AICP, Principal Planner

Attachments:

- 1) Draft Ordinance