

City of Carson City
Agenda Report

Item #7A

Date Submitted: March 27, 2007

Agenda Date Requested: April 5, 2007

Time Requested: 3 minutes

To: Mayor and Board of Supervisors

From: Planning Division

Subject Title: Action to adopt Bill No. 107, on second reading, Ordinance 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Management and utility connection fees associated with obtaining a residential building permit where the permit is withdrawn or expires.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 - Second Reading |
| ☐ Formal Action/Motion | ☐ Other (Specify) |

Board of Supervisors Action: March 15, 2007 - 4 Ayes, 0 Nays, 1 Absent

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 adopt Bill No.107, on second reading, Ordinance No. _____ an ordinance amending 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

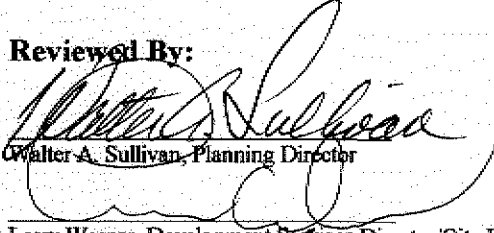
Funding Source: N/A

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

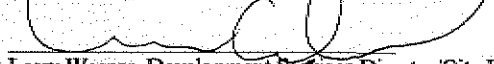
Supporting Material: Ordinance

Prepared By: Donna Fuller, Administrative Services Manager

Reviewed By:


Walter A. Sullivan, Planning Director

Date: 3-26-07


Larry Werner, Development Services Director/City Engineer

Date: 3/26/07


Linda Ritter, City Manager

Date: 3/27/07


Melanie Burkette
District Attorney's Office

Date: 3-27-07

Board Action Taken:

Motion: _____

1) _____
2) _____

Aye/Nay

(Vote Recorded By)

BILL NO. 107

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 CCMC 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%.]~~
 - ~~[c]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 CCMC 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.
 - 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].~~ 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.

The signature page of this document should read as follows:

SECTION VIII:

That no other provisions of Chapter 12.05 of the Carson City Municipal Code are affected by this ordinance.

Proposed on March (month) 15 (day), 2007.

Proposed by Supervisor Richard S. Staub

Passed on _____ (month) _____ (day), 2007.

Vote:

Ayes: Supervisors _____

Nays: Supervisors _____

Absent: Supervisors _____

Attest:

ALAN GLOVER, Clerk/Recorder

MARV TEIXEIRA, Mayor

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