

STAFF REPORT FOR PLANNING COMMISSION MEETING OF JANUARY 25, 2017

FILE NO: ZCA-16-199

AGENDA ITEM: F-3

STAFF AUTHOR: Hope Sullivan, Planning Manager

REQUEST: To make a recommendation to the Board of Supervisors regarding an ordinance amending Title 18, Chapter 18.03: Definitions of the Carson City Municipal Code to modify the definition of Dwelling, Single Family to remove references to Group Care Facilities, Residential Care Facilities, and Halfway Houses, and addressing other matters properly relating thereto.

APPLICANT: Carson City Planning Division

RECOMMENDED MOTION: "I move to recommend to the Board of Supervisors approval of ZCA-16-199, an ordinance amending Title 18, Chapter 18.03: Definitions of the Carson City Municipal Code, to modify the definition of Dwelling, Single Family to remove references to group homes, residential care facilities, and halfway houses, and addressing other matters properly relating thereto."

LEGAL REQUIREMENTS: CCMC 18.02.050 (Review); 18.02.075 (Zoning Map Amendments and Zoning Code Amendments); NRS 278.260.

KEY ISSUES:

The proposed ordinance would create consistency with State law, and limit commercial uses in residentially zoned areas consistent with the intent of the Master Plan.

DISCUSSION:

The definition of Single Family Dwelling currently includes group homes residential care facilities and halfway houses. The current definition was expanded to include these types of facilities in 2005. The intent of including these facilities in the definition of Single Family Dwelling was to create consistency with Nevada Revised Statute (NRS) 278.021.

A 2008 federal court case found that the mandated inclusion of these non-residential facilities in the definition of Single Family Dwelling to be unlawful. NRS 278.021 has been repealed, and the provision no longer exists.

The existing definition with revision marks showing proposed changes is as follows.

Single Family Dwelling means:

A building used to house not more than one family or a group of not more than four unrelated persons living together sharing a noncommercial single dwelling unit and common house keeping facilities: or

~~As provided for in NRS 278.021, a residential facility for groups in which 10 or fewer unrelated persons with disabilities reside with house parents or guardians who need not be related to any of the persons with disabilities; and if applicable, additional persons who are related to the house parents or guardians within the third degree of consanguinity or affinity. "Residential facility for groups," has the meaning ascribed to it in NRS 449.017, which means an establishment that furnishes food, shelter, assistance and limited supervision to an aged, infirm, mentally retarded or handicapped person. The term includes, without limitation, an assisted~~

~~living facility. The term does not include an establishment which provides care only during the day; a natural person who provides care for not more than two persons in his own home; a natural person who provides care for one or more persons related to him within the third degree of consanguinity or affinity; a halfway house for recovering alcohol and drug abusers; or a facility funded by a division or program of the Department of Human Resources; or~~

~~As provided for in NRS 278.021, a home for individual residential care and has the meaning ascribed to it in NRS 449.0105, which means a home in which a natural person furnishes food, shelter, assistance and limited supervision, for compensation, to not more than two persons who are aged, infirm, mentally retarded or handicapped, unless the persons receiving those services are related within the third degree of consanguinity or affinity to the person providing those services. The term does not include a halfway house for recovering alcohol and drug abusers; or~~

~~As provided for in NRS 278.021, a halfway house for recovering alcohol and drug abusers and has the meaning ascribed to it in NRS 449.008, which means a residence that provides housing and a living environment for alcohol and drug abusers and is operated to facilitate their reintegration into the community, but does not provide any treatment for alcohol or drug abuse; or~~

~~As provided for in NRS 278.0209, includes factory built housing that has been built in compliance with the standards for single-family residential dwellings of the Building Code most recently adopted by the International Conference of Building Officials and is further defined at NRS 461.080 as a residential building, dwelling unit or habitable room thereof which is either wholly manufactured or is in substantial part manufactured at an off-site location to be wholly or partially assembled on-site in accordance with regulations adopted by the Division, but does not include a mobile home or recreational vehicle park trailer; or~~

~~As provided for in NRS 278.02095, includes a manufactured home, defined at NRS 489.113, as a structure which is built on a permanent chassis and designed to be used with or without a permanent foundation as a dwelling when connected to utilities and transportable in one or more sections and eight feet or more in body width or 40 feet or more in body length when transported, or when erected on site, contains 320 square feet or more and the term includes the plumbing, heating, air-conditioning and electrical systems of the structure. The term includes any structure which meets the requirements of NRS 489.113 with a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § § 5401 et seq, or was built in compliance with the requirements of chapter 461 of NRS. The term does not include a recreational park trailer.~~

Applicable provisions of NRS relative to the definition of residential dwelling unit are 278.0174 and 278.4977 as stated below.

NRS 278.0174 “Residential dwelling unit” defined. “Residential dwelling unit” has the meaning ascribed to it in NRS 278.4977.

NRS 278.4977 “Residential dwelling unit” defined. “Residential dwelling unit” means a building or a portion of a building, planned, designed or used as a residence for one family only, living independently of other families or persons, and having its own bathroom and housekeeping facilities included in the unit.

If the definition of Single Family Dwelling is amended as proposed, staff would interpret group homes, residential care facilities and halfway houses as Congregate Care.

PUBLIC COMMENTS:

Public notice of this proposed Zoning Code Amendment was published in the newspaper and posted on the City's website pursuant to the provisions of NRS and CCMC. As of the writing of this staff report, no public comments were received. Any comments that are received after this report is complete will be submitted prior to or at the Planning Commission meeting, depending on their submittal date to the Planning Division.

FINDINGS:

The Commission, in forwarding a recommendation to the Board for approval of a Zoning Code Amendment, shall make the findings of fact found in CCMC 18.02.075(5). The following findings are recommended by staff:

- 1. That the proposed amendment is in substantial compliance with and supports the goals and policies of the Master Plan.**

The Land Use Plan of the Master Plan identifies five residential use designations. Per the Master Plan, "Residential land use categories are intended to protect the character of established neighborhoods and provide opportunities for new residential neighborhoods. While some complementary uses within the residential land use designations are allowed, and mix of housing types is encouraged in medium and high density residential neighborhoods, these uses are intended to be predominantly residential." The proposed amendment will further limit non-residential uses in the residentially zoned areas consistent with 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.**

The proposed ordinance would limit non-residential land uses in the single family residentially zoned areas, thus improving compatibility with existing adjacent land uses.

- 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.**

The proposed ordinance will result in anticipated land uses, as opposed to non-residential uses in a single family residentially zoned area. Staff finds that this will create improved predictability regarding public services and facilities demands consistent with the associated plans, and will not negatively impact existing or planned services and facilities.

Attachments:

- 1) Draft ordinance

BILL NO. ____

ORDINANCE No. 2017-__

AN ORDINANCE AMENDING TITLE 18, CHAPTER 18.03, DEFINITIONS OF THE CARSON CITY MUNICIPAL CODE, TO MODIFY THE DEFINITION OF DWELLING, SINGLE FAMILY TO REMOVE REFERENCES TO GROUP CARE FACILITIES, RESIDENTIAL CARE FACILITIES, AND HALFWAY HOUSES; AND ADDRESSING OTHER MATTERS PROPERLY RELATING THERETO.

The Board of Supervisors of Carson City do ordain:

SECTION I:

That Title 18, Chapter 18.03: Definitions is hereby amended by removing references to group care facilities, residential care facilities, and halfway houses from the definition of Dwelling, Single Family, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

Single Family Dwelling means:

A building used to house not more than one family or a group of not more than four unrelated persons living together sharing a noncommercial single dwelling unit and common housekeeping facilities; or

~~[As provided for in NRS 278.021, a residential facility for groups in which 10 or fewer unrelated persons with disabilities reside with house parents or guardians who need not be related to any of the persons with disabilities; and if applicable, additional persons who are related to the house parents or guardians within the third degree of consanguinity or affinity. "Residential facility for groups," has the meaning ascribed to it in NRS 449.017, which means an establishment that furnishes food, shelter, assistance and limited supervision to an aged, infirm, mentally retarded or handicapped person. The term includes, without limitation, an assisted living facility. The term does not include an establishment which provides care only during the day; a natural person who provides care for not more than two persons in his own home; a natural person who provides care for one or more persons related to him within the third degree of consanguinity or affinity; a halfway house for recovering alcohol and drug abusers; or a facility funded by a division or program of the Department of Human Resources; or~~

~~As provided for in NRS 278.021, a home for individual residential care and has the meaning ascribed to it in NRS 449.0105, which means a home in which a natural person furnishes food, shelter, assistance and limited supervision, for compensation, to not more than two persons who are aged, infirm, mentally retarded or handicapped, unless the~~

~~persons receiving those services are related within the third degree of consanguinity or affinity to the person providing those services. The term does not include a halfway house for recovering alcohol and drug abusers; or~~

~~As provided for in NRS 278.021, a halfway house for recovering alcohol and drug abusers and has the meaning ascribed to it in NRS 449.008, which means a residence that provides housing and a living environment for alcohol and drug abusers and is operated to facilitate their reintegration into the community, but does not provide any treatment for alcohol or drug abuse; or]~~

As provided for in NRS 278.0209, includes factory built housing that has been built in compliance with the standards for single-family residential dwellings of the Building Code most recently adopted by the International Conference of Building Officials and is further defined at NRS 461.080 as a residential building, dwelling unit or habitable room thereof which is either wholly manufactured or is in substantial part manufactured at an off-site location to be wholly or partially assembled on-site in accordance with regulations adopted by the Division, but does not include a mobile home or recreational vehicle park trailer; or

As provided for in NRS 278.02095, includes a manufactured home, defined at NRS 489.113, as a structure which is built on a permanent chassis and designed to be used with or without a permanent foundation as a dwelling when connected to utilities and transportable in one or more sections and eight feet or more in body width or 40 feet or more in body length when transported, or when erected on site, contains 320 square feet or more and the term includes the plumbing, heating, air-conditioning and electrical systems of the structure. The term includes any structure which meets the requirements of NRS 489.113 with a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § § 5401 et seq, or was built in compliance with the requirements of chapter 461 of NRS. The term does not include a recreational park trailer.

SECTION II:

That no other provisions of Title 18, Chapter 18.03: Definitions, Carson City Municipal Code, are affected by this ordinance.

PROPOSED on _____, 2017.

PROPOSED by _____.

PASSED _____, 2017.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

Susan Merriwether
Clerk/Recorder

This ordinance shall be in force and effect from and after the _____ day of _____, 2017.