



*City of Las Vegas*

Agenda Item No.: 51.

**AGENDA SUMMARY PAGE PLANNING & DEVELOPMENT  
PLANNING COMMISSION MEETING OF: APRIL 22, 2010**

**DEPARTMENT: PLANNING & DEVELOPMENT  
DIRECTOR: M. MARGO WHEELER**

☐ Consent ☒ Discussion

**SUBJECT:**  
EXT-3763 - TEXT AMENDMENT - PUBLIC HEARING - APPLICANT/OWNER: CITY OF LAS VEGAS - Discussion and possible action to amend Table 2 of Title 19.04 and Title 19.20 to modify uses standards for Community Residences (commonly referred to as Group Homes) and similar uses, and other uses. Staff recommends APPROVAL.

**THIS ITEM WILL BE FORWARDED TO CITY COUNCIL IN ORDINANCE FORM**

**PROTESTS RECEIVED BEFORE**

Planning Commission Mtg.

City Council Meeting

**APPROVALS RECEIVED BEFORE:**

Planning Commission Mtg.

City Council Meeting

**RECOMMENDATION:**

Staff recommends APPROVAL.

**BACKUP DOCUMENTATION:**

1. Proposed Amendment and Staff Report
2. Exhibit 1
3. Exhibit 2
4. Submitted after Meeting PowerPoint Presentation by Staff

Motion made by GLENN TROWBRIDGE to Approve

Passed For: 3; Against: 2; Abstain: 0; Did Not Vote: 0; Excused: 2

GLENN TROWBRIDGE, VICKI QUINN, GUS FLANGAS; (Against-RICHARD TRUESDELL, KEEN ELLSWORTH); (Abstain-None); (Did Not Vote-None); (Excused-BYRON GOYNES, STEVEN EVANS)

Minutes:

CHAIR TRUESDELL declared the Public Hearing open.

DEPUTY CITY ATTORNEY JAMES LEWIS reported on the necessity for a text amendment to Title 19 for community residences, more commonly known as Group Homes, by providing a detailed 20-slide PowerPoint presentation, a copy of which is included in the backup.

TODD FARLOW, Las Vegas resident, asked if the proposed changes would affect R-1 zoning, which states that everyone in a house has to be related, if there is a certain square footage required for each person, if traffic was taken into consideration and if there is a distance separation requirement. DEPUTY CITY ATTORNEY LEWIS indicated that the inhabitants do

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not have to be directly related, and the Code is being changed to state specifically who may reside in single-family residences, and that is as many related people, pursuant to the Housing Code, and four or fewer unrelated individuals. There is no limitation on the square footage under the Housing Code, because occupancy is more determined by bedrooms. Regarding distance separation, federal law seems to indicate that there is none, but the City Attorney's Office is trying to find a middle ground – 660 feet.

COMMISSIONER ELLSWORTH verified with DEPUTY CITY ATTORNEY LEWIS that conditional uses are permitted uses as long as they meet all the uses and can be approved by staff after submittal of a conditional use verification form.

COMMISSIONER ELLSWORTH struggled with the idea that any homeowner can rent to ten people in any neighborhood as long as all the conditions are met. DEPUTY CITY ATTORNEY LEWIS explained that the homeowner would have to comply with the new Code for community residences and rent to five to ten disabled individuals. This law's intent is to protect disabled people. The federal government found in municipalities across the country that disabled people were being excluded from places to reside. Consequently, it took most of the discretion away from municipalities. Municipalities have to treat a disabled person who owns a single-family residence the same as one that is not disabled, as well as related disabled individuals.

COMMISSIONER ELLSWORTH insisted that he read the case law and he did not make the same interpretation as DEPUTY CITY ATTORNEY LEWIS, and he did not believe there could not be a body that has the ultimate discretion in these matters.

CHAIR TRUESDELL found it difficult to believe that a community resident would not be allowed a higher standard because of the investment made in a community. DEPUTY CITY ATTORNEY LEWIS indicated that the anti-discrimination ruling body has taken the view that it should be allowed with no regulation in all governmental entities. Although he reassured CHAIR TRUESDELL that he is trying to find some middle ground, the changes are necessary in order to prevent lawsuits that could bring serious consequences.

COMMISSIONER ELLSWORTH persisted that it does not make sense to have this law when he, as a parent, can have a multitude of children but he does not charge them for living in his house, to which DEPUTY CITY ATTORNEY LEWIS replied that by law he could charge them, and that is the same thing that has to be permitted to disabled individuals and alcoholics.

COMMISSIONER QUINN sympathized with disabled children and alcoholics and felt that the County should comply as well, as this is a step forward for more people than her colleagues can imagine.

Regarding the County, DEPUTY CITY ATTORNEY LEWIS indicated that both the City and the County made changes, pursuant to State mandate, but asserted that the County's Code is discriminatory and only in compliance with State law.

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The Counselor indicated that certainly the Commission has the discretion to make its recommendations to the City Council, who will act on those. His intent is to present Code revisions that will bring the City into compliance with the federal law. Complaints regarding dangerous people, such as recovering alcoholics, residing in these homes can be made to an investigating agency that will forward any warranted complaints to the Department of Justice.

As a member of the Planning Commission, CHAIR TRUESDELL indicated that he was appointed to protect neighborhoods, but this finding is bothersome when group homes generating revenue are given the same consideration as homeowners who have made an investment in a community. DEPUTY CITY ATTORNEY LEWIS clarified that, according to federal law, disabled individuals must be allowed to rent as are homeowners.

COMMISSIONER ELLSWORTH said that he would like to meet with DEPUTY CITY ATTORNEY LEWIS to obtain more information, as he could not support this matter, and the Counselor offered to meet with all the commissioners individually.

COMMISSIONER FRANGAS remarked that the line should be drawn between a business owner and an operator offering care to disabled persons. DEPUTY CITY ATTORNEY LEWIS commented that he tried to find a way to differentiate, but could not find a justification. The State regulates conduct, and the City regulates the land use.

CHAIR TRUESDELL and COMMISSIONER ELLSWORTH expressed a desire to have the matter held for 30 days, in which DEPUTY CITY ATTORNEY LEWIS indicated he would not have a problem with holding it, that he could provide more clarification.

COMMISSIONER TROWBRIDGE wondered if the reduced distance separation in these types of matters will open the door to other issues. DEPUTY CITY ATTORNEY LEWIS explained that this change is only to comply with federal law and he could defend other distance separation restrictions in the Municipal Code.

CHAIR TRUESDELL declared the Public Hearing closed.