

BILL NO. 2001-34

ORDINANCE NO. 5320

AN ORDINANCE TO ASSIGN TO THE PLANNING COMMISSION THE CONSIDERATION OF ZONING VARIANCES AND SIMILAR ZONING MATTERS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by:
Councilman Michael Mack

Summary: Assigns to the Planning Commission the consideration of zoning variances and similar zoning matters.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1: Title 2, Chapter 22, Sections 100 to 120, inclusive, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, are hereby repealed in their entirety.

SECTION 2: Subsection 19A.18.010(D)(5) of the Zoning Code of the City of Las Vegas is hereby amended to read as follows:

5. Inadequate Notice. If it is determined that adequate notice has not been provided in accordance with this Section, the Planning Commission [, hearings officer] or City Council may hold the application in abeyance or deny the application.

SECTION 3: Section 19A.18.070(B) of the Zoning Code of the City of Las Vegas is hereby amended to read as follows:

B. Scope and Limitations

Pursuant to NRS Chapter 278 and this subchapter, the Planning Commission [, a hearings officer who has been appointed for that purpose] and the City Council have the authority to act upon Variance applications as set forth in this subchapter and as they deem appropriate. Variance applications shall initially be heard by the Planning Commission. Where a Variance application is proposed in connection with another application to be heard by the Planning Commission, including an application for Special Use Permit, an application for Rezoning, or an application for Site Development Plan Review, the Variance application shall be considered by the Planning Commission, as a separate application, in conjunction with the associated application. [Other Variance applications shall be heard by the Planning Commission or by a hearings officer, according to the type of application as classified by the Director.] A Variance shall not be granted in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.

SECTION 4: Subsection 19A.18.070(D)(3) of the Zoning Code of the City of Las Vegas is hereby amended to read as follows:

3. Withdrawn Without Prejudice. The time periods that are described in Subsection 1 and 2 above, and that otherwise would become effective because of the withdrawal of an application, shall not become effective if, after consideration of the timing and circumstances of the withdrawal, the Planning Commission [, a hearings officer] or the City Council specifically approves the withdrawal without prejudice.

SECTION 5: Section 19A.18.070(E) of the Zoning Code of the City of Las Vegas is hereby amended to read as follows:

E. Request for Abeyance

An applicant who wishes to have an application held in abeyance following the notice and posting of a hearing before the Planning Commission [, a hearings officer] or the City Council shall state good cause for the request. Good cause shall be more than mere inconvenience to the applicant or lack of preparation.

SECTION 6: Section 19A.18.070(G) of the Zoning Code of the City of Las Vegas is hereby amended to read as follows:

G. Public Hearing and Action

1. Hearing. The Planning Commission [or hearings officer, as the case may be,] shall hold a public hearing upon each application for a Variance within 65 days after the application is properly filed.

2. Notice.

a. Notice Provided. Notice of the time, place and purpose of the hearing must be given at least 10 days before the hearing by:

- 1) Publishing the notice in a newspaper of general circulation within the City; and
- 2) Mailing a copy of the notice to:

- a) The applicant;
- b) Each owner of real property located within a minimum of 500 feet of the property described in the application;
- c) Each tenant of any mobile home park that is located within 300 feet of the property described in the application;
- d) Each owner of at least 30 parcels nearest to the property described in the application to the extent this notice does not duplicate the notice otherwise required by this section;
- e) Any advisory board which has been established for the affected area by the City Council ; and
- f) The president or head of any registered local neighborhood organization whose organization boundaries are located within a minimum of one mile of the property described in the application.

b. Names Provided. The Department of Planning and Development shall provide, at the request of the applicant, the name, address and phone number of any person notified pursuant to subparagraph (f) above.

c. Additional Notice. The Department may give additional notice of the hearing by expanding the area of notification or using other means of notification, or both. The Department shall endeavor to provide any additional notice at least 10 days before the date of the hearing.

3. Hearing. The Planning Commission [or hearings officer, as the case may be,] shall conduct a public hearing on the application. As a matter of discretion and for good cause, the Planning Commission [or hearings officer] may hold the application in abeyance for further study. Following the hearing or hearings, the Planning Commission [or hearings officer] shall make a decision to approve, approve with conditions, or deny the Variance application. The decision shall be based upon evidence that makes the grant or denial of the Variance appropriate. The decision shall either be a final decision or a recommendation, as determined in accordance with Section 19A.18.070(J).

4. Conditions of Approval Recommendation. In approving or recommending the approval of a Variance, the Planning Commission [or hearings officer] may impose any conditions,

1 restrictions or limitations as deemed necessary to meet the general purpose and intent of this Title and
2 to ensure that the public health, safety and welfare are being maintained.

3 **5. Notice of Decision.** The Planning Commission [or hearings officer] shall provide
4 written notice of each decision on a Variance application, which shall include the reasons for the
5 decision and, if the decision is to recommend approval of the Variance, any modifications, conditions
6 or limitations that the Planning Commission [or hearings officer] may impose or recommend to be
7 imposed in connection with the approval. The notice shall be provided to the owner, developer, or
8 agent.

9 SECTION 7: Section 19A.18.070(J) of the Zoning Code of the City of Las Vegas is
10 hereby amended to read as follows:

11 **J. Appeals**

12 **1. Appeal of Denial.** A decision of the Planning Commission [or hearings officer] to
13 deny a Variance application becomes final and effective at the expiration of 10 [day] days after the
14 date of the decision unless, within that period, the applicant appeals the decision by written request
15 filed with the City Clerk.

16 **2. Final Action Concerning Certain Approvals.** A decision by the Planning
17 Commission [or hearings officer] to approve a Variance application regarding a reduction in required
18 parking or an existing structure constitutes a recommendation to the City Council. The City Council
19 shall make the final decision concerning the application. A decision to approve any other type of
20 Variance application becomes final and effective at the expiration of 10 days after the date of the
21 decision unless, within that period, a member of the City Council requests that the item be forwarded
22 to the Council, or an aggrieved person appeals the decision by written request filed with the City
23 Clerk.

24 SECTION 8: Section 19A.18.070(K) of the Zoning Code of the City of Las Vegas
25 is hereby amended to read as follows:

26 **K. City Council Public Hearing and Action**

27 **1. Notice.** The City Council shall conduct a public hearing on any Variance application
28 which is appealed or forwarded to the Council for final action. At least ten days' written notice of the

1 hearing shall be sent to property owners who were sent notice of the public hearing conducted by the
2 Planning Commission. [or hearings officer.]

3 **2. Penalty.** If a structure which is the subject of a Variance application has been or is
4 being constructed without a building permit and is in violation of any of the provisions of this Title,
5 the City Council, in granting the Variance, may impose a penalty in an amount that does not exceed
6 10 percent of the value of the structure as determined in accordance with the City's Administrative
7 Code.

8 **3. City Council Decision.** The City Council may review the Variance application de
9 novo, and has the authority to reverse, modify, or confirm any action of the Planning Commission.
10 [or hearings officer.] In making a decision to approve the proposed Variance, the City Council shall
11 consider the decision of the Planning Commission [or hearings officer] and the evidence presented
12 at the public hearing. Action by the City Council is final.

13 **4. Notice of City Council Decision.** The City Council shall provide written notice of its
14 decision, which shall include the reasons for the decision and, if the decision is to approve the
15 Variance, any modifications, conditions or limitations that the Council may impose. The notice shall
16 be provided to the owner, developer or agent. A copy of the notice shall also be filed with the City
17 Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed with the
18 City Clerk.

19 SECTION 9: Section 19A.18.070(L) of the Zoning Code of the City of Las Vegas is
20 hereby amended to read as follows:

21 **L. Determinations**

22 1. In order to recommend approval of, or to approve a Variance application, the Planning
23 Commission [, hearings officer] or City Council must determine that the [variance] Variance is
24 warranted both under State law and this subchapter. The minimum State law standards are set forth
25 in Subsection (2) below.

26 2. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece
27 of property at the time of the enactment of the regulation, or by reason of exceptional topographic
28 conditions or other extraordinary and exceptional situation or condition of the piece of property, the

1 strict application of any zoning regulation would result in peculiar and exceptional practical
2 difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from
3 that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be
4 granted without substantial detriment to the public good, without substantial impairment of affected
5 natural resources and without substantially impairing the intent and purpose of any ordinance or
6 resolution.

7 SECTION 10: Section 19A.18.100(B) of the Zoning Code of the City of Las Vegas
8 is hereby amended to read as follows:

9 **B. Authority**

10 1. The Director of the Department of Planning and Development shall have the authority
11 to approve, approve with conditions, or deny a Temporary Commercial Permit.

12 2. The Director may at any time refer an application for a Temporary Commercial Permit
13 to [a hearings officer] the Planning Commission for decision.

14 SECTION 11: Section 19A.18.100(E) of the Zoning Code of the City of Las Vegas is
15 hereby amended to read as follows:

16 **E. Appeal**

17 The applicant may appeal a decision of the Director to [a hearings officer] the Planning
18 Commission by filing a written request with the Department of Planning and Development. Any
19 appeal pursuant to this section must be filed within 10 days after the date of the decision that is the
20 subject of the appeal. The decision of the [hearings officer] Planning Commission is final, unless
21 appealed to the City Council as in the case of a Variance.

22 SECTION 12: Section 19A.18.100(F) of the Zoning Code of the City of Las Vegas is
23 hereby amended to read as follows:

24 **F. Conditions of Approval**

25 In approving a Temporary Commercial Permit, the Director (or, upon appeal, [a hearings
26 officer] the Planning Commission) may impose conditions, stipulations or limitations as are deemed
27 necessary to ensure that the activity will be consistent with Section (D) of this subchapter. Such
28 conditions may include, but are not limited to the following:

1. Provision for temporary parking facilities, including vehicle ingress and egress;
2. Measures to prevent or reduce nuisance factors such as glare, excessive illumination, noise, vibration, smoke, dust, dirt, odors, gases and heat;
3. Regulation of placement, height, size and location of structures, facilities, landscaping and equipment, including provision for buffering and separation;
4. Provision for sanitary facilities and for waste collection and disposal;
5. Measures to promote safety and security;
6. Regulation of signs and other attention-gaining devices;
7. Regulation of operating hours and duration of the temporary commercial use;
8. Compliance with applicable provisions of the Las Vegas Municipal Code;
9. Any other conditions which will ensure the operation of the proposed temporary use is conducted in an orderly, efficient manner and in accordance with the intent and purpose of this subchapter.

SECTION 13: Section 19A.18.110(C) of the Zoning Code of the City of Las Vegas is hereby amended to read as follows:

C. Authority

The Director of Planning and Development or, upon appeal, [a hearings officer,] the Planning Commission, shall have the authority to approve, approve with conditions, or deny a Home Occupation Permit. In approving a Home Occupation application, the Director (or if applicable, [a hearings officer] the Planning Commission) may impose conditions, stipulations or restrictions as are deemed necessary to ensure that the activity will be consistent with the intent of this subchapter.

SECTION 14: Subsection 19A.18.110(G)(1) of the Zoning Code of the City of Las Vegas is hereby amended to read as follows:

1. In order to approve a Home Occupation Permit, the Director (or if appealed, [a hearings officer] the Planning Commission) must be satisfied that the proposed Home Occupation can and will comply with the following operational standards:

a. Only the occupants of the dwelling unit shall be engaged in the business activity approved for the Home Occupation Permit;

- 1 b. No employees shall report to work or be dispatched from the property;
- 2 c. There shall be no transacting of business or offers to transact business with
- 3 customers or clients who have come to the property;
- 4 d. There shall be no signage or other advertising of any kind, whether on the
- 5 property or elsewhere, which advertises the address or physical location of the property or identifies
- 6 the existence of a Home Occupation on the property. A home telephone number or a post office box
- 7 may be advertised by any medium other than on-site signage;
- 8 e. No motor vehicle repair, paint or body work; commercial preparation of food
- 9 for service on the premises; business related to or involving explosives, ammunitions or weapons;
- 10 beauty parlor or barber shop; or ambulance or related emergency services shall be permitted as a
- 11 Home Occupation;
- 12 f. A Home Occupation shall not create pedestrian, automobile or truck traffic in
- 13 excess of the normal amount associated with residential uses in the district;
- 14 g. A Home Occupation shall be conducted exclusively within the main dwelling
- 15 or within an accessory structure which has been approved for the Home Occupation Permit, except
- 16 for horticultural activities;
- 17 h. No more than one vehicle, with a maximum capacity of one-ton, shall be used
- 18 in connection with a Home Occupation Permit;
- 19 i. The number of on-site parking spaces shall not be reduced to less than two;
- 20 j. There shall be no outdoor storage or use of any toxic chemicals or hazardous
- 21 materials of any type or in any amount not normally found in a residential structure;
- 22 k. There shall be no electrical or mechanical equipment which is not normally
- 23 found in a residential structure, and no equipment found on the premises shall cause a change in the
- 24 fire safety or occupancy classification of the dwelling unit; and
- 25 l. No Home Occupation shall create or cause noise, dust, light, vibration, gas,
- 26 fumes, toxic/hazardous materials, smoke, glare, electrical interference or other hazards or nuisances.

27 SECTION 15: Section 19A.18.110(H) of the Zoning Code of the City of Las Vegas

28 is hereby amended to read as follows:

1 **H. Appeal of Director's Action**

2 If the applicant is aggrieved by the Director's decision, or any conditions attached
3 thereto, the applicant may appeal the decision to [a hearings officer] the Planning Commission by
4 written request within 10 days after the date of decision by the Director. The appeal must be filed in
5 the Department of Planning and Development. The appeal hearing shall be scheduled as soon as is
6 reasonably possible, and appropriate notice of the hearing shall be provided. The [hearings officer]
7 Planning Commission may affirm, reverse or modify the Director's decision. Notice of the [hearings
8 officer's] Planning Commission's decision shall be provided to the applicant or the applicant's agent,
9 and the date of the notice shall be deemed to be the date notice of the decision is filed with the City
10 Clerk.

11 SECTION 16: Section 19A.18.110(I) of the Zoning Code of the City of Las Vegas is
12 hereby amended to read as follows:

13 **I. Optional Treatment of Appeal**

14 The Director or [hearings officer] Planning Commission may require that an appeal filed
15 pursuant to Section (H) be heard as a public hearing item. The requirement for a public hearing must
16 be based upon a determination that, in the instance of that particular application, the public interest
17 will best be served by providing notice and an opportunity to be heard to surrounding property owners.
18 In such event, the Director shall process the application in accordance with the standards and
19 procedures for Special Use Permit applications.

20 SECTION 17: Section 19A.18.110(L) of the Zoning Code of the City of Las Vegas is
21 hereby amended to read as follows:

22 **L. Revocation or Modification**

23 **1. Notice and Hearing.** Upon proper notice to, and an opportunity to be heard by, the
24 permit holder, the Director may revoke or modify a Home Occupation permit if the Director
25 determines one or more of the following:

26 a. That the Home Occupation is not in compliance with one or more of the
27 Operational Standards of this subchapter;

28 b. That the Home Occupation Permit was obtained by misrepresentation or fraud;

1 c. That the Home Occupation is being conducted in violation of any statute,
2 ordinance, law or regulation.

3 **2. Appeal and Notice of Decision.** The Director's decision may be appealed in the same
4 manner as the initial denial of a Home Occupation Permit, in accordance with Section (H). The
5 provisions of Section (I) shall not apply to the appeal, except that the Director [and the hearings
6 officer] or the Planning Commission may provide notice and opportunity to be heard to surrounding
7 property owners.

8 SECTION 18: Section 19A.20.020 of the Zoning Code of the City of Las Vegas is
9 hereby amended by deleting the term "Hearings Officer" and its corresponding definition.

10 SECTION 19: Section 19A.20.020 of the Zoning Code of the City of Las Vegas is
11 hereby amended by amending the respective definitions of the terms "Review Authority" and
12 "Standard Conditions" to read as follows:

13 **Review Authority**

14 The authority responsible for the review and final action on an application filed under this
15 Title, such as the City Council, Planning Commission[, a hearings officer] or the Director.

16 **Standard Conditions**

17 Conditions which have been approved by the Planning Commission [, a hearings officer] or
18 the City Council and which are designed to be imposed as a matter of course, where applicable, on
19 the approval of development applications.

20 SECTION 20: This Ordinance shall become effective 10 days after its adoption.
21 Except as otherwise determined by the Director in his sole discretion:

22 (A) Applications which were filed on or after the effective date of this Ordinance shall be
23 processed in accordance with this Ordinance.

24 (B) Applications which were pending or on file before that date shall be processed in
25 accordance with the provisions in effect prior to the adoption of this Ordinance.

26 SECTION 21: If any section, subsection, subdivision, paragraph, sentence, clause or
27 phrase in this ordinance or any part thereof, is for any reason held to be unconstitutional, or invalid
28 or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or

1 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
2 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
3 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
4 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
5 invalid or ineffective.

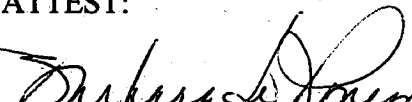
6 SECTION 22: All ordinances or parts of ordinances or sections, subsections, phrases,
7 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
8 1983 Edition, in conflict herewith are hereby repealed.

9 PASSED, ADOPTED and APPROVED this 18th day of April, 2001.

10 APPROVED:

11 By 
12 OSCAR B. GOODMAN, Mayor

13 ATTEST:

14 
15 BARBARA JO RONEMUS, City Clerk

16 APPROVED AS TO FORM:

17 Val Steed 3-07-01
18 Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on
2 the 21st day of March, 2001, and referred to the following committee composed of
3 Councilmembers Reese and Weekly for recommendation; thereafter the said committee reported
4 favorably on said ordinance on the 18th day of April, 2001, which was a regular meeting of said
5 Council; that at said regular meeting, the proposed ordinance was read by title to the City
6 Council as first introduced and adopted by the following vote:

7 VOTING "AYE": Mayor Goodman and Councilmembers Reese, M. McDonald, Brown,
8 L.B. McDonald, Weekly and Mack

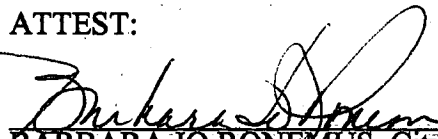
9 VOTING "NAY": None

10 ABSENT: None

11 APPROVED:

12 
13 OSCAR B. GOODMAN, Mayor

14 ATTEST:

15 
16 BARBARA JO RONEMUS, City Clerk
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RECEIVED
CITY CLERK

2001 APR 27 A 10:50

AFFP DISTRICT COURT
Clark County, Nevada

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK)

SS:

Donna Stark, being 1st duly sworn, deposes and says:

That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for,

LV CITY CLERK
1684679

2296311LV

was continuously published in said Las Vegas Review Journal and/or Las Vegas Sun in 1
edition(s) of said newspaper issued from 04/21/01 to 04/21/2001, on
the following days: APRIL 21, 2001

BILL NO. 2001-34
ORDINANCE NO. 5320

AN ORDINANCE TO ASSIGN
TO THE PLANNING COM-
MISSION THE CONSIDERA-
TION OF ZONING VARI-
ANCES AND SIMILAR ZON-
ING MATTERS, AND TO
PROVIDE FOR OTHER RE-
LATED MATTERS.

Sponsored by: Council-
man Michael Mack
Summary: Assigns to the
Planning Commission the
consideration of zoning
variances and similar zon-
ing matters.

The above and foregoing
ordinance was first pro-
posed and read by title to
the City Council on the
21st day of March, 2001,
and referred to the follow-
ing committee composed
of Councilmembers Reese
and Weekly for recom-
mendation; thereafter the
said committee reported
favorably on said ordi-
nance on the 18th day of
April, 2001, which was a
regular meeting of said

City Council; and that at
said regular meeting the
proposed ordinance was
read by title to the City
Council as first introduced
and adopted by the fol-
lowing vote:

VOTING "AYE": Mayor
Goodman and Council-
members Reese, M. McDo-
nald, Brown, L.B. McDo-
nald, Weekly and Mack
VOTING "NAY": NONE
EXCUSED: NONE

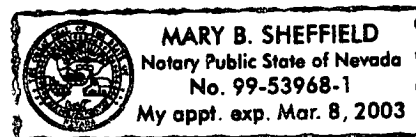
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ORDINANCE ARE AVAILA-
BLE FOR PUBLIC INFORMA-
TION IN THE OFFICE OF
THE CITY CLERK, 1ST
FLOOR, 400 STEWART AVE-
NUE, LAS VEGAS, NEVADA.
PUB: April 21, 2001
LV Review-Journal

Signed: Donna Stark

SUBSCRIBED AND SWORN BEFORE ME THIS THE 23

day of April 2001

Mary B. Sheffield
Notary Public



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CITY CLERK

2001 APR 13 A 10:23

AFFP DISTRICT COURT
Clark County, Nevada

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK)

SS:

Donna Stark, being 1st duly sworn, deposes and says:

That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for,

LV CITY CLERK
1666072

2296311LV

was continuously published in said Las Vegas Review Journal and/or Las Vegas Sun in 1 edition(s) of said newspaper issued from 04/07/01 to 04/07/2001, on the following days: APRIL 7, 2001

Signed: Donna Stark

SUBSCRIBED AND SWORN BEFORE ME THIS THE 9

day of April 2001

Mary B. Sheffield
Notary Public

BILL NO. 2001-34

AN ORDINANCE TO ASSIGN TO THE PLANNING COMMISSION THE CONSIDERATION OF ZONING VARIANCES AND SIMILAR ZONING MATTERS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by:
Councilman Michael Mack
Summary: Assigns to the Planning Commission the consideration of zoning variances and similar zoning matters.

At a City Council meeting
MARCH 21, 2001
BILL NO. 2001-34 WAS
READ BY TITLE AND RE-
FERRED TO RECOMMEND-
ING COMMITTEE
Councilmembers Reese
and Weekly

COPIES OF THE COMPLETE
BILL ARE AVAILABLE FOR
PUBLIC INFORMATION IN
THE OFFICE OF THE CITY
CLERK, 1ST FLOOR, CITY
HALL, 400 STEWART AVE-
NUE, LAS VEGAS, NEVADA.
PUB: April 7, 2001
LV Review-Journal

