



PLANNING COMMISSION STAFF REPORT

APPLICATION: Ordinance No. 2014-08 **AGENDA ITEM:** PH-4
PREPARED BY: Brian O'Connor **MEETING DATE:** July 9, 2014
Department Assistant

SUBJECT: Ordinance No. 2014-08
Planning Commission Resolution PCR2014-09

REQUEST: Amending Title 2 (Administration and Personnel) establishing powers and Title 17 (Zoning) of the Monrovia Municipal Code establishing a procedure for reasonable accommodations.

APPLICANT: City of Monrovia

ENVIRONMENTAL DETERMINATION: Exempt pursuant to Section 15061(b)(3).

BACKGROUND: The California Department of Housing and Community Development requires that cities adopt a reasonable accommodation procedure as part of the State's Housing Element approval process. Since Monrovia does not have a reasonable accommodation process, the City's recent Housing Element approval was conditional on future adoption. Approval of Ordinance No. 2014-08 would add the reasonable accommodations process to the City's Municipal Code.

DISCUSSION/ANALYSIS: When evaluating modifications to physical structures, such as building setbacks, fence height, and lot coverage, the Zoning Ordinance (Title 17) almost exclusively looks at the numbers. If what is proposed by applicants does not fit within a predetermined range or maximum, the applicant is required to make modifications to their plan to fit within the numbers.

The introduction of a reasonable accommodation process would change this approach. Instead of looking purely at the numbers, the needs of the disabled applicant would be taken into consideration. While the numbers will still play an important part in the review process, the City will have a formal mechanism to give special consideration to land use decisions that fall outside of the existing Zoning Ordinance standards.

Ordinance No. 2014-08 defines reasonable accommodations as "a deviation that provides a disabled person relief from, and flexibility in, the application of the city's zoning, building, and land use laws, regulations, policies or procedures, which is necessary to provide a disabled person an equal opportunity to use and enjoy a dwelling." What this means is that the City will work with disabled persons, as defined by state and Federal laws, to make modifications to their dwellings in a manner not normally available for consideration in the Zoning Ordinance. For example, an applicant may request relief from side yard setback requirements to install a wheelchair ramp. Another possibility is extending the footprint of a dwelling in

relation to its property size in an effort to make the interior accessible to wheelchair users who reside at the home.

In order to introduce a reasonable accommodation ordinance, the following changes are proposed to Title 2 (Administration and Personnel) and Title 17 (Zoning) of the Municipal Code:

Title 2 (Administration and Personnel)

An amendment to Title 2 of the Monrovia Municipal Code is proposed, thereby granting the Development Review Committee (DRC) the power to approve, conditionally approve, or deny reasonable accommodations. DRC is proposed as the review body for the following reasons:

- The DRC is traditionally the first level of formal review and sometimes final level of review in Monrovia. Much like minor exceptions, which are also under the purview of DRC, it is anticipated that these requests will also be “minor” in nature.
- The DRC consists of the Director of Community Development, who also serves as chair, Director of Public Works, Chief of Police, and Fire Chief. As a result, reasonable accommodations can be evaluated from several different perspectives of impact on neighboring properties or the surrounding area. This is in contrast with some municipalities that handle the review process only at the Director of Community Development department level.
- The DRC meets twice monthly. Therefore, applicants can request accommodations and receive feedback within thirty (30) days from the application date. The thirty (30) day timeframe was recommended by a model ordinance provided by the California Department of Housing and Community Development.

Title 17 (Zoning)

The purpose of amending Title 17 is to establish an appropriate review process for making reasonable accommodations in zoning and land use laws, regulations, policies or procedures, when necessary, to afford disabled persons an equal opportunity to use and enjoy a dwelling. Ordinance 2014-08 adds the following definition for reasonable accommodations:

REASONABLE ACCOMMODATION. A deviation that provides a disabled person relief from, and flexibility in, the application of the city’s zoning, building, and land use laws, regulations, policies or procedures, which is necessary to provide a disabled person an equal opportunity to use and enjoy a dwelling.

In the “Application” section of Ordinance 2014-08, Staff has listed each item that applicants must provide in their request. It is through the application process that the applicant must demonstrate a clear connection between the disability and the reasonable accommodation requested.

Staff reached out to several neighboring cities with existing reasonable accommodation processes. Based on those conversations, Staff expects that the overwhelming majority of reasonable accommodation requests will have little negative impact on neighboring properties or the surrounding area. In an effort to minimize the impacts of the accommodation on neighboring properties or the surrounding area, the City may engage in an interactive process with applicants to devise alternatives that provide the applicant an equal opportunity to use and enjoy a dwelling.

A public hearing and noticing of neighbors within 100 feet of the real property is also required for reasonable accommodation requests. This is consistent with City requirements for minor exceptions.

The decision of the DRC to approve, approve with conditions, or deny a request for reasonable accommodation will be based on four findings. All four findings must be made to approve the request for reasonable accommodation. The findings are as follows:

- (1) That the dwelling, which is the subject of the request for reasonable accommodation, shall be used by an individual with a disability who is protected under State or Federal fair housing laws.
- (2) That the requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling.
- (3) That the requested accommodation will not impose an undue financial or administrative burden on the city.
- (4) That the requested accommodation will not require a fundamental alteration to the city's zoning, building, or land use laws, regulations, policies and/or procedures.

Based on these findings, the DRC may approve, approve with conditions, or deny a request for reasonable accommodation. Applicants may appeal the decision to the Planning Commission within ten days of the DRC's decision.

Conclusion

The proposed ordinance is consistent with the objectives, principles, and standards included in the General Plan. The Housing Element of the General Plan adopted a policy and program to promote housing opportunities for persons with disabilities through the adoption and implementation of a reasonable accommodation procedure.

The proposed zoning text amendment has been crafted to serve this purpose and establishes a framework for consistent review for reasonable accommodation requests, as allowed by state law, to ensure that they are appropriate and do not negatively impact their surroundings or sensitive uses within the area.

RECOMMENDATION: Staff recommends approval of Planning Commission Resolution PCR2014-09 recommending approval of Ordinance No. 2014-08. If the Planning Commission concurs with this recommendation then, following the public hearing, the following motion is appropriate:

MOTION:

Close the public hearing and adopt Planning Commission Resolution PCR2014-08

PLANNING COMMISSION RESOLUTION NO. 2014-09

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONROVIA, CALIFORNIA, RECOMMENDING APPROVAL OF ORDINANCE NO. 2014-08 AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL) ESTABLISHING POWERS AND TITLE 17 (ZONING) OF THE MONROVIA MUNICIPAL CODE ESTABLISHING DEFINITIONS, APPROVAL REQUIREMENTS AND DEVELOPMENT STANDARDS FOR REASONABLE ACCOMMODATIONS.

RECITALS

(i) In May 2001, Attorney General Bill Lockyer wrote an open letter to California Mayors urging cities to adopt a reasonable accommodation ordinance. Mr. Lockyer cited the federal Fair Housing Act ("FHA") and the California Fair Employment and Housing Act ("FEHA") in support of his appeal. Both acts impose an affirmative duty on local governments to make reasonable accommodations in their zoning regulations and practices when such accommodations "may be necessary to afford" disabled persons "an equal opportunity to use and enjoy a dwelling." The State of California also requires that cities adopt reasonable accommodation procedures as part of the State's Housing Element requirements. The City's recent Housing Element approval from the California Department of Housing and Community Development was conditioned on the City's adoption of a reasonable accommodation ordinance. Therefore, City Staff has prepared Ordinance No. 2014-08 to amend Title 2 (Administration and Personnel) and Title 17 (Zoning) of the City's Municipal Code.

(ii) On July 9, 2014, the Planning Commission of the City of Monrovia conducted a duly noticed public hearing on Ordinance No. 2014-08. At the hearing, all interested persons were given an opportunity to be heard. The Planning Commission received and considered the staff report and all of the information, evidence, and testimony presented in connection with this Ordinance. Following the close of the public hearing, the Planning Commission adopted Resolution No. PCR2014-09 recommending approval of Ordinance No. 2014-08.

(iii) Environmental Review

Pursuant to the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and the City's local CEQA Guidelines, City Staff has determined that Ordinance 2014-08 is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. City Staff has determined that the adoption of this Ordinance will not have a significant environmental effect and therefore, the Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 CCR § 15061(b)(3)), and independently, the Ordinance is categorically exempt (class 5) pursuant to Section 15305 of the State CEQA Guidelines (14 CCR § 15305). The City Council has reviewed the project and based upon the whole record before it, in the exercise of its independent judgment and analysis, concurs that City staff has correctly concluded that it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment, and independently, that the Ordinance meets the qualifications of a class 5 categorical exemption.

(iv) The custodian of records for all materials that constitute the record of proceeding upon which this decision is based is the Planning Division Manager. Those documents are available for public review in the Planning Division located at 415 South Ivy Avenue, Monrovia,

California 91016.

- (v) All legal prerequisites to the adoption of this Resolution have occurred.

RESOLUTION

NOW, THEREFORE, the Planning Commission of the City of Monrovia hereby finds, determines and resolves as follows:

1. The Planning Commission finds that all of the facts set forth in the Recitals of this Resolution are true and correct.
2. Adoption of Ordinance No. 2014-08 will not have a significant effect on the environment.
3. The project is in conformance with the environmental goals and policies adopted by the City.
4. Ordinance No. 2014-08 is consistent and compatible with existing land uses in the environs, in that reasonable accommodations afford persons with disabilities housing opportunities in areas where residential land uses are permitted.
5. Ordinance No. 2014-08 is consistent with and necessary to carry out General Plan goals and policies set forth in the Housing Element and to guide and direct orderly development of the City and the respective neighborhoods. The Housing Element promotes equal housing opportunities by recommending revisions to the Zoning Ordinance to define and establish parameters for providing reasonable accommodations for persons with disabilities. Additionally, the requirements in Ordinance No. 2014-08 are required by and consistent with state Housing Element law and will bring the City into compliance with these regulations.
6. Ordinance No. 2014-08 will not adversely affect the public health, safety, or welfare in that it will provide for orderly and consistent development in the City.
7. Based upon the findings and conclusions set forth above, the Planning Commission hereby recommends approval to the City Council of Ordinance No. 2014-08 as set forth in Exhibit "A" attached hereto and incorporated herein by this reference.

The Secretary of the Planning Commission shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 9th day of July 2014.

Anne McIntosh, Chair
Monrovia Planning Commission

ATTEST:

APPROVED AS TO FORM:

Steve Sizemore, Secretary
Monrovia Planning Commission

Gena Stinnett, Assistant City Attorney
City of Monrovia

ORDINANCE NO. 2014-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL) ESTABLISHING POWERS AND TITLE 17 (ZONING) OF THE MONROVIA MUNICIPAL CODE ESTABLISHING A PROCEDURE FOR REASONABLE ACCOMMODATIONS.

THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1. In May 2001, Attorney General Bill Lockyer wrote an open letter to California Mayors urging cities to adopt a reasonable accommodation ordinance. Mr. Lockyer cited the federal Fair Housing Act ("FHA") and the California Fair Employment and Housing Act ("FEHA") in support of his appeal. Both acts impose an affirmative duty on local governments to make reasonable accommodations in their zoning regulations and practices when such accommodations "may be necessary to afford" disabled persons "an equal opportunity to use and enjoy a dwelling." The State of California also requires that cities adopt reasonable accommodation procedures as part of the State's Housing Element requirements. The City's recent Housing Element approval from the California Department of Housing and Community Development was conditioned on the City's adoption of a reasonable accommodation ordinance. Therefore, City Staff has prepared Ordinance No. 2014-08 to amend Title 2 (Administration and Personnel) and Title 17 (Zoning) of the City's Municipal Code.

SECTION 2. On July 9, 2014, the Planning Commission of the City of Monrovia conducted a duly noticed public hearing on Ordinance No. 2014-08. At the hearing, all interested persons were given an opportunity to be heard. The Planning Commission received and considered the staff report and all of the information, evidence, and testimony presented in connection with this Ordinance. Following the close of the public hearing, the Planning Commission adopted Resolution No. PCR2014-09 recommending approval of Ordinance No. 2014-08.

SECTION 3. On July __, 2014, the City Council of the City of Monrovia conducted a duly noticed public hearing on Ordinance No. 2014-08. At the hearing, all interested persons were given an opportunity to be heard. The City Council received and considered the staff report and all the information, evidence, and testimony presented in connection with this Ordinance.

SECTION 4. Environmental Review

Pursuant to the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and the City's local CEQA Guidelines, City Staff has determined that Ordinance 2014-08 is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. City Staff has determined that the adoption of this Ordinance will not have a significant environmental effect and therefore, the Ordinance is exempt from CEQA pursuant to

Section 15061(b)(3) of the State CEQA Guidelines (14 CCR § 15061(b)(3)), and independently, the Ordinance is categorically exempt (class 5) pursuant to Section 15305 of the State CEQA Guidelines (14 CCR § 15305). The City Council has reviewed the project and based upon the whole record before it, in the exercise of its independent judgment and analysis, concurs that City staff has correctly concluded that it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment, and independently, that the Ordinance meets the qualifications of a class 5 categorical exemption.

SECTION 5. The custodian of records for all materials that constitute the record of proceeding upon which this decision is based is the City Clerk. Those documents are available for public review in the Office of the City Clerk located at 415 South Ivy Avenue, Monrovia, California 91016.

SECTION 6. This Ordinance is consistent with the objectives, principles, and standards included in the General Plan. The Housing Element of the General Plan adopted a policy and program to promote housing opportunities for persons with disabilities through the adoption and implementation of a reasonable accommodation procedure.

SECTION 7. All legal prerequisites to the adoption of the Ordinance have occurred.

SECTION 8. Title 2 (Administration and Personnel), Chapter 2.56 (Development Review Committee), Section 2.56.030 (Powers), of the Monrovia Municipal Code is hereby amended by adding subsection 2.56.030 (U) which shall read as follows:

“(U) *Reasonable Accommodation.* The Committee shall have the power to hear and approve, conditionally approve, or deny reasonable accommodations pursuant to Section 17.52.327 of this code.”

SECTION 9. Title 17 (Zoning), Chapter 17.52 (Administration) is hereby amended by adding a new section 17.52.327 titled “Reasonable Accommodations” which shall read as follows:

“17.52.327 Reasonable Accommodations.

(A) *Purpose.* The purpose of this section is to establish an appropriate review process for making reasonable accommodations in zoning and land use laws, regulations, policies or procedures, when necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling, while minimizing potential impacts on neighboring properties.

(B) *Definition.* **REASONABLE ACCOMMODATION.** A deviation that provides a disabled person relief from, and flexibility in, the application of the city’s zoning, building, and land use laws, regulations, policies or procedures, which is necessary to provide a disabled person an equal opportunity to use and enjoy a dwelling.

(C) *Application.*

- (1) Applications for reasonable accommodation shall be made to the Development Review Committee in writing, and shall contain such information as may be specified by the Director.
- (2) A uniform fee set by Council resolution shall be paid to the city upon filing of each application.
- (3) Requests must demonstrate a clear nexus with a disability. It is the applicant's responsibility to describe the connection between the disability and the reasonable accommodation requested by the applicant, and shall provide:
 - (a) The specific code section, regulation, procedure, or policy of the city from which relief is sought;
 - (b) A site plan or illustrative drawing showing the proposed accommodation, if applicable;
 - (c) An explanation of why the specified code section, regulation, procedure, or policy is denying, or will deny a disabled person equal opportunity to use and enjoy the dwelling;
 - (d) The basis for the claim that the fair housing laws apply to the applicant and evidence satisfactory to the city supporting the claim, which may include a letter from a medical doctor or other licensed health care professional, a disabled license, or any other appropriate evidence;
 - (e) A detailed explanation of why the accommodation is reasonable and necessary to afford the disabled person an equal opportunity to use and enjoy the dwelling; and
 - (f) Any other information required to make the findings required by Section 17.52.327(E), consistent with the fair housing laws.
- (4) When an application is made, the city may engage in an interactive process with the applicant to devise alternative accommodations that provide the applicant an opportunity to use and enjoy a dwelling, where such alternative accommodations would reduce impacts to neighboring properties or the surrounding area.

(D) *Public Hearing.* The Committee shall hold a public hearing on the application for a reasonable accommodation. Notice of the public hearing shall be mailed or delivered at least ten days prior to the hearing to all owners of real property, as shown on the latest equalized assessment roll, within 100 feet of

the real property that is the subject of the hearing. In lieu of utilizing the assessment roll, the city may utilize records of the County Assessor or Tax Collector which contain more recent information than the assessment roll.

(E) *Findings.* A request for a reasonable accommodation shall be approved, with or without conditions, if the reviewing authority finds that all of the following findings can be made:

- (1) That the dwelling, which is the subject of the request for reasonable accommodation, shall be used by an individual with a disability who is protected under State or Federal fair housing laws.
- (2) That the requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling.
- (3) That the requested accommodation will not impose an undue financial or administrative burden on the city.
- (4) That the requested accommodation will not require a fundamental alteration to the city's zoning, building, or land use laws, regulations, policies and/or procedures.

(F) *Decision.* The Committee may approve, approve with conditions, or deny a request for reasonable accommodation in accordance with these findings.

- (1) The Committee shall set forth the findings and any conditions of approval in a written decision.
- (2) The decision of the Committee shall be final following a ten-day appeal period, unless appealed to the Planning Commission within ten days of the Committee's decision.
- (3) The use or development to which the reasonable accommodation applies shall begin within one year after its approval or it will expire unless extended by the Committee prior to its expiration."

SECTION 10. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 11. The City Clerk shall certify to the passage of this Ordinance and shall cause same to be published pursuant to state law within fifteen (15) days after its passage, and said Ordinance shall become effective 30 days after its passage.

INTRODUCED this _____ day of _____, 2014.

PASSED, APPROVED, AND ADOPTED this ___ day of _____, 2014.

Mary Ann Lutz, Mayor
City of Monrovia

ATTEST:

APPROVED AS TO FORM:

Alice D. Atkins, CMC, City Clerk
City of Monrovia

Craig A. Steele, City Attorney
City of Monrovia