



Planning Commission Staff Report

January 23, 2013
Item 6.d.

SUBJECT: P13-0005

APPLICANT: City of Pleasanton

PURPOSE: City initiated application to amend Title 18 of the Pleasanton Municipal Code by adding a new Chapter 18.86 (Reasonable Accommodation) to comply with fair housing laws regarding requests for reasonable accommodation.

GENERAL PLAN: Housing Element Policy 41, Program 41.10

ZONING: Various

LOCATION: Citywide

EXHIBITS: A. Proposed Code Amendment
B. Comment letter from CRIL, January 14, 2013, annotated with staff responses

BACKGROUND

The subject application is a City-initiated amendment to the Pleasanton Municipal Code. The purpose of the amendment is to implement the Pleasanton Housing Element and state and federal laws by establishing a process for requesting reasonable accommodation when the strict application of the zoning regulations act as a barrier for persons with disabilities who are seeking fair access to housing.

A typical example of reasonable accommodation is modification of a front, side or rear yard requirement so that a wheelchair ramp may be constructed.

The Pleasanton Housing Element was adopted on February 13, 2012, and includes Policy 41 and program 41.10, as follows:

Policy 41: Provide for the special-housing needs of large households, the elderly, persons with disabilities, extremely low income households, the homeless, farm-workers, and families with single-parent heads of households.

Program 41.10: Adopt a reasonable accommodation ordinance to permit modifications of zoning provisions for housing intended to be occupied by persons with disabilities.

The Americans With Disabilities Act and the Fair Housing Amendments Act of 1988 mandate that municipalities provide “reasonable accommodation” in the application and enforcement of zoning regulations when necessary to afford equal opportunity to the disabled in housing. Furthermore, California State Government Code Section 65583 requires local governments to provide reasonable accommodation procedures through the administration of their housing elements, as follows:

Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

DISCUSSION

The proposed amendment would establish a procedure for requesting reasonable accommodation in the application of zoning laws and other land use regulations, policies and procedures. It would also establish procedures for review and decisions on such request. The draft amendment is based upon a model ordinance provided by the California Department of Housing and Community Development.

Summary of proposed amendment

- Persons with a disability would be able to request reasonable accommodation for modification or exception to the rules, standards and practices for siting, development, and use of housing or housing related facilities.
- Decisions on requests for reasonable accommodation would be made by the Director of Community Development or designee unless the request is submitted with another land use application. In that case the request would be reviewed concurrently and decided by the review authority for the discretionary application.
- The decision would be based on consideration of a set of prescribed factors, as follows:
 1. Whether the housing, which is the subject of the request, will be used by an individual who is considered disabled under the Fair Housing Laws.
 2. Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability.
 3. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City.

4. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.
 5. Potential impact on surrounding uses.
 6. Physical attributes of the property and structures.
 7. Alternative reasonable accommodations which may provide an equivalent level of benefit.
- Reasonable conditions of approval may be imposed on the granting of a request, including a condition to rescind or establish an automatic expiration date under appropriate circumstances. For example, removal of a wheelchair ramp may be required upon sale of property if it is not needed by the new owner.
 - If there is a decision to deny a request, the Director would be required to discuss an alternative accommodation that would address the applicant's needs.
 - Decisions on requests for reasonable accommodations would be appealable.

OUTREACH AND PUBLIC NOTICE

Community Resources for Independent Living (CRIL) reviewed the draft ordinance and provided comments. CRIL's comment letter and staff responses are attached as Exhibit B. The letter expressed appreciation for Pleasanton's work toward becoming an accessible city.

Some of CRIL's comments were seeking an expansion of the proposed ordinance beyond what is required of a reasonable accommodation ordinance. The letter suggests that any individual, disabled or not, be able to request reasonable accommodation for any property so that, in time, more properties may become accessible to disabled individuals and those who wish to age in place.

Reasonable accommodation ordinances are intended to establish exceptions or modifications to regulations, policies and procedures on a case-by-case basis in order to enable a disabled individual equal access to the housing of their choice. The modification needed by one disabled individual may be different than what is required by another disabled individual. Reasonable accommodation procedures offer a disabled individual an alternative to seeking a variance. However, the existing variance process is available to anyone seeking exception to zoning regulations. Also, the Community Development Department is currently working on universal design requirements which will serve to broaden the accessibility of newly constructed housing, beyond what is required by state and federal accessibility standards. The objective for broader accessibility will be better addressed through new universal design requirements. Staff will be asking for CRIL's input on a draft proposal as soon as it is available.

CRIL also provides a recommended set of nine principles for the City to consider. All of these principles are addressed through policies and programs within the Pleasanton

General Plan and through established or proposed regulations and procedures (see Exhibit B).

A notice regarding the proposed code amendment and related Planning Commission public hearing were published in The Valley Times on January 13, 2013.

ENVIRONMENTAL ASSESSMENT

The adoption of the 2012 Housing Element was part of the project which was described in the Supplemental Environmental Impact Report certified by the City Council on January 4, 2012. The proposed amendment to the Pleasanton Municipal Code shown in Exhibit A constitutes implementation of Program 41.10 of the Housing Element and is therefore consistent with the Housing Element project as described and analyzed in the certified SEIR. Therefore, no further environmental assessment need be conducted to adopt this code amendment.

CONCLUSION

The proposed text amendment addresses the need to establish a process for requests for reasonable accommodation. This modification to the Pleasanton Municipal Code will implement Program 41.10 of the Pleasanton Housing Element and relevant provisions of federal and state fair housing laws.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt a resolution recommending approval of P13-0005 to the City Council.

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