Memorandum

January 30, 2014

TO: Sausalito Housing Element Subcommittee

FROM: Geoff I. Bradley, AICP Principal, Metropolitan Planning Group

Dave Javid, AICP, LEED AP, Principal Planner, Metropolitan Planning Group

Karen Warner, AICP, Principal, Karen Warner Associates

SUBJECT: Reasonable Accommodation Ordinance

Sausalito 2009-2014 Housing Element Program #25

BACKGROUND

Sausalito's adopted 2009-2014 Housing Element sets forth Program #25 "Reasonable Accommodation Procedures" to establish specific written procedures for requesting and granting a reasonable accommodation consistent with State and Federal statutes, as summarized below.

Pursuant to the Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act, jurisdictions are required to have in place a process by which persons with disabilities can request reasonable accommodations (modifications or exceptions) to the jurisdiction's codes, rules, policies, practices or services, necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling. Section 804 of the Fair Housing Amendments Act specifically cites a refusal to provide reasonable accommodation through rules, policies, practices, or services as an act of discrimination. These laws prohibit discrimination against individuals with disabilities and eliminate practices that deny housing opportunities to this population.

In order to comply with State and Federal law, the City must amend the Zoning Ordinance and develop procedures for granting reasonable accommodations with respect to zoning, permit processing and building regulations. Procedures must provide clear rules, policies, and procedures for obtaining reasonable accommodation. The implemented ordinance must be monitored to ensure consistent compliance with the previously stated fair housing laws.

PURPOSE

The purpose of the attached draft Reasonable Accommodation Ordinance is to remove potential constraints for persons with disabilities to enjoy equal access to housing by facilitating requests for reasonable accommodation to the City's zoning, permit processing and building regulations. City staff

are currently evaluating where to integrate the Reasonable Accommodation Ordinance within the Municipal Code, and will number the Ordinance accordingly once a determination has been made.

RECOMMENDATION

Provide staff and the consultants with comments on the attached draft <u>Reasonable Accommodation</u> <u>Ordinance</u> for consideration by the Planning Commission in their review of the Ordinance.

Attachments

- 1 Draft Reasonable Accommodation Ordinance
- 2 Application Request Form

Reasonable Accommodation Ordinance

Draft 01.30.14

Purpose.

The purpose of this chapter is to establish a procedure for requesting reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning and building laws and other land use regulations, policies and procedures.

Applicability.

A. Definition of Disability. Under the Federal and State Fair Housing Acts, an individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment. Individuals in recovery from drug or alcohol abuse are protected by federal and state fair housing laws although individuals currently using illegal substances are not protected under the law unless they have a separate disability. This chapter is intended to apply to those persons who are defined as disabled under the Acts.

B. Scope of Accommodation. A request for a reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide an individual with a disability equal opportunity to housing of their choice. Requests for reasonable accommodation shall be made in the manner prescribed by Section X (Application Contents and Submittal). A modification approved under this chapter is considered a personal accommodation for the individual applicant and does not run with the land.

C. Eligibility to Request Accommodation. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.

Notice to the Public of Availability of Accommodation Process.

Notice of the availability of reasonable accommodation shall be displayed at the public information counter in the Community Development Department advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall also be made available.

- **Application Contents and Submittal.** Requests for reasonable accommodation shall be submitted on an application form provided by the Community Development Department and shall contain the following information:
 - 1. The applicant's name, address and telephone number.

- 3. The current existing use of the property.
- 4. The basis for the claim that the individual is considered disabled under the Acts.
- 5. The zoning code provision, regulation or policy from which reasonable accommodation is being requested.
- 6. Reason the requested accommodation many be necessary to make the specific property accessible to the individual.

Authority.

- A. Community Development Director. Requests for reasonable accommodation shall be reviewed by the Director of Community Development (Director), or his/her designee if no approval is sought other than the request for reasonable accommodation.
- B. Other Review Authority. Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority reviewing the discretionary land use application.

Review Procedure.

- A. Director Review. The Community Development Director, or his/her designee, shall make a written determination within 45 days of submittal of a complete application and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Section X (Findings and Decision). The Director shall mail a notice of a request for reasonable accommodation to contiguous owners of property, as shown on the latest equalized Marin County assessment roll, but may include other property owners as determined by the Director. Said notice shall be mailed at least ten days prior to making a determination.
- B. Other Reviewing Authority. Written determinations on requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be made by the authority responsible for reviewing the discretionary land use application. The written determination to grant or deny the request for reasonable accommodation shall be made in accordance with X (Findings and Decision).
- C. Additional Information. If necessary to reach a determination on the request for reasonable accommodation, the reviewing authority may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the 45 day period to issue a decision is stayed until the applicant responds to the request.

Findings and Decision.

A. Findings. The reasonable accommodation shall be approved, with or without conditions, if the reviewing authority finds, based upon all of the evidence presented, that all of the following findings can be made:

10

14 15 16

> 17 18

> 19

20

21 22 23

24

25

26 27

29 30

31

32

28

33 34 35

36

37

38 39

- 1. The housing, which is the subject of the request, will be occupied by an individual considered disabled under the Acts.
- 2. The requested accommodation is necessary to provide a disabled individual with an equal opportunity to use and enjoy a dwelling.
- 3. The requested accommodation would not impose an undue financial or administrative burden on the City, as defined under the Acts.
- 4. The requested accommodation would not require a fundamental alteration to the City's zoning or building laws, policies, and/or procedures, as defined under the Acts. considering whether the accommodation would require such a fundamental alteration, the reviewing authority may consider, among other factors:
 - i. Whether the requested accommodation would fundamentally alter the character of the neighborhood;
 - ii. Whether the requested accommodation would result in a substantial increase in traffic or insufficient parking; and
 - iii. Whether the requested accommodation would substantially undermine any express purpose of either Sausalito's General Plan or an applicable specific plan.
- B. Conditions of Approval. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Subsection A above. The reviewing authority may approve an alternative reasonable accommodation that provides the applicant an opportunity to use and enjoy a dwelling equivalent to that provided by the specific accommodation requested, where such an alternative accommodation would reduce impacts to neighboring properties or the surrounding area.
- C. Written Decision. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the reviewing authority's findings required by Subsection A above. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below.

Appeals.

A determination by the reviewing authority to grant or deny a request for reasonable accommodation may be appealed within ten days of the decision to the Planning Commission in compliance with Chapter 10.84 (Appeals) of the Sausalito Municipal Code. Appeals shall be submitted on an application form provided by the Community Development Department. If an individual needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure the appeals process is accessible.

APPLICATION FOR REQUEST FOR REASONABLE ACCOMMODATION

NOTE: If you need help in completing this request form, the Department will assist you. Please contact the Community Development Director at 415-289-4133 or help@sausalto.org.

1.	Name of Applicant	Telephone Number
2.	Applicant Address	
3.	Address of housing at which accomm	modation is requested.
4.	Property owner name, address and	telephone number.
	Describe the accommodation you rocedure(s) from which accommodation	are requesting and the specific regulation(s) and/or on is sought.
in		ble accommodation may be necessary for you or the eed to tell us the name or extent of your disability or that
us		quest for reasonable accommodation and you would like with this request, instead of you, please give us that number.

8. Signature of Applicant	Date									
Please attach any documents that support your request for reasonable accommodation and would assist city staff in considering your request.										

NOTICE OF DECISION ON REASONABLE ACCOMMODATION REQUEST

1. Date of Application:
2. Date of Decision:
3. The request for Reasonable Accommodation is: Granted Denied (See Notice below regarding right to appeal decision)
4. The reasons for this decision are as follows:
5. The facts relied on in making this decision:
Signature of Designee Date

NOTICE: If your request for accommodation was denied, you may appeal the reviewing authority's decision to the Planning Commission within ten (10) days of the date of this decision. To file an appeal, complete and file an Appeal of Denial of Reasonable Accommodation Request form with the Department.

APPEAL OF DENIAL OF REASONABLE ACCOMMODATION REQUEST

Date of Adverse Decision:						
2. Date Appeal Filed:						
3. State why you think the denial of you	r request for	accommod	ation was wro	ongly de	ecided:	
4. Provide any new information, faccommodation:	acts or do	cuments t	hat support	your	request	for
5. Signature		Date				

NOTICE: Please attach to this appeal form:

- (1) A copy of your reasonable accommodation request along with any attachments submitted with the request; and
- (2) The notice of the decision denying your accommodation request.