



Planning Commission Staff Report

Meeting Date: June 7, 2016

Subject: Development Code Amendment Case Number DCA16-002

Applicant: Planning and Development Division

Agenda Item Number: 8A

Summary: To amend Washoe County Code, Chapter 110, Development Code at Article 306, *Accessory Uses and Structures*; Article 410, *Parking and Loading*; and Article 902, *Definitions* to clarify when an accessory structure or use may be established on a parcel without an established principal use.

Recommendation: Recommend approval and authorize the Chair to sign the attached resolution

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Washoe County
Commission District: All Commission Districts

Description

Development Code Amendment Case Number DCA16-002 – Hearing, discussion, and possible action to amend Washoe County Code Chapter 110 (Development Code) to clarify when an accessory structure or use may be constructed on a parcel without a main structure or use. The amendment focuses on circumstances where the subject parcel is adjacent to a parcel with an established main structure or use and when both parcels are under the same ownership. The amendment includes updates to the following sections of the Development Code:

- Article 306, Accessory Uses and Structures, Section 110.306.15, *Main Structures Required* – to identify the circumstances under which an accessory structure or use may be established on a parcel without an existing main structure or use.
- Article 410, Parking and Loading, Section 110.410.20, *Location of Required Parking Spaces* – to clarify that a dwelling's required garage may only be located on an adjoining lot if it also meets the requirements of Section 110.306.15.
- Article 902, Definitions, Section 110.902.15, *General Definitions* – to update definitions for "Detached accessory structure," "Lot" and "Parcel of land" to better reflect the clarifications identified above.

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Development Code Amendments

The Washoe County Development Code is Chapter 110 of the Washoe County Code (WCC). The Development Code broadly regulates allowable and permitted land uses, subdivision of land, planning permit requirements and procedures, signage, infrastructure availability, land use development standards, and other related matters. Because the Development Code covers so many varying aspects of land use and development standards, it is expected that from time to time it may be necessary to change or amend one or more portions of the Development Code to keep it up to date with the most current and desirable trends in planning and development.

The Development Code amendment process provides a method of review and analysis for such proposed changes. Development Code amendments may be initiated by the Washoe County Commission, the Washoe County Planning Commission, or an owner of real property. Development Code amendments are initiated by resolution of the Washoe County Commission or the Planning Commission. Real property owners may submit an application to initiate a Development Code amendment.

After initiation, the Planning Commission considers the proposed amendment in a public hearing. The Planning Commission may recommend approval, approval with modifications or denial of the proposed amendment. The Planning Commission records its recommendation by resolution.

The Washoe County Commission hears all amendments recommended for approval, and amendments recommended for denial upon appeal. The County Commission will hold a first reading and introduction of the ordinance (proposed amendment), followed by a second reading and possible ordinance adoption in a public hearing at a second meeting at least two weeks after the first reading. Unless otherwise specified, ordinances are effective 10 days after adoption.

Background on Proposed Amendments

In general, the Development Code does not allow accessory structures or uses on parcels without a main structure or use except under a few specific circumstances. As identified in Interpretation 96-4, *Location of detached accessory structures and garages*, one of those circumstances is when an accessory structure is placed on a vacant parcel adjacent to another parcel with an established principal use, and both parcels are under the same ownership (see Exhibit B). However, allowing the structure to be constructed under these circumstances can later lead to nonconformance and a code violation if either of the parcels is sold – thereby violating the requirement for same ownership established in the interpretation. Such a transaction would create a parcel with an accessory structure but no associated main structure or use on the parcel, which violates WCC Section 110.306.15, *Main Structures Required*.

This Development Code amendment seeks to codify and clarify the contents of Interpretation 96-4 as well as to put in place mechanisms to prevent the potential for the code nonconformance/violation situation identified above.

The proposed amendment modifies Development Code regulations within Article 306, *Accessory Uses and Structures*, Article 410, *Parking and Loading*, and Article 902, *Definitions* and includes the following changes:

1. **Article 306, Accessory Uses and Structures**

Clarify that in order to construct an accessory structure on a parcel without a main structure or use the following requirements must be met: the proposed accessory structure or use must be located on a lot adjacent to another lot that contains an existing main structure or principal use; both lots must be under the same ownership; both lots must have the same regulatory zone; and a deed restriction must have been recorded stipulating that neither lot can be sold until any nonconformance or violation resulting from such a sale has been resolved.

Note – *to resolve potential nonconformance/violation concerns, property owners would have a wide variety of possible remedies, including, but not limited to: reversion to acreage combining the two lots into one; boundary line adjustment resulting in the main structure (or principal use) and accessory structure being located on the same lot; removing the accessory structure; constructing a main structure or establishing a principal use on the same lot as the accessory structure; converting the accessory structure into a main structure; or bonding for the removal of the accessory structure if the new owner does not establish a main structure or use on the property within a specified period of time.*

2. **Article 410, Parking and Loading**

Clarify that a dwelling's required garage may only be located on an adjoining lot if it also meets the requirements of Section 110.306.15, *Main Structures Required*.

3. **Article 902, Definitions**

Update the definitions of "Detached Accessory Structure," "Lot," and "Parcel of Land" to better reflect the clarifications identified above.

The proposed amendments are attached as Exhibit A-1 to the resolution (Exhibit A).

These amendments were initiated by the Washoe County Planning Commission on March 1, 2016, under Resolution 16-02 and were assigned Development Code Amendment Case Number DCA16-002.

Public Notice

Staff arranged for a public workshop and open house to discuss the proposed amendments and to receive public comment. The workshop was held on May 12, 2016, from 4:30 p.m. to 6:00 p.m. All active Citizen Advisory Board members and citizens signed up for the County's District email notification list were invited to the workshop and open house via email on May 4, 2016. One member of the public attended to inquire about the proposed changes. No other comments or questions were received from the public regarding the amendments.

Pursuant to Washoe County Code Section 110.818.20, notice of this public hearing was published in the newspaper at least 10 days prior to this meeting, and the Chairs and membership of all Citizen Advisory Boards were likewise notified of the public hearing.

Findings

Washoe County Code Section 110.818.15(e) requires the Planning Commission make at least one of the following findings of fact. Staff provides the following evaluation for each of the findings of fact and recommends that the Planning Commission make all four findings in support of the proposed Development Code amendment.

1. **Consistency with Master Plan.** The proposed Development Code amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan.

Staff comment: The Master Plan establishes policies governing uses on properties in Washoe County, which are then regulated through the Development Code. These specific amendments are in alignment with appropriate Master Plan policies and will clarify and refine regulations addressing the establishment of accessory structures and/or uses on vacant land.

2. **Promotes the Purpose of the Development Code.** The proposed Development Code amendment will not adversely impact the public health, safety or welfare, and will promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code.

Staff comment: Interpretation 96-4 is an existing component of the Development Code that clarifies Washoe County practice allows an accessory structure to be placed on vacant land as long as it is adjacent to a parcel with an established main structure or use and is under the same ownership. These amendments codify and clarify that Interpretation and will not adversely impact public health, safety or welfare. In addition, the amendments will put in place mechanisms that help prevent future nonconformance with the Development Code.

3. **Response to Changed Conditions.** The proposed Development Code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones.

Staff comment: The practice of allowing accessory structures on otherwise vacant lots (as long as they're adjacent to a lot with a main structure or use and when both properties are under same ownership) has the potential to lead to code nonconformance or violation situations when one or both properties are later sold to different owners. These amendments put in place mechanisms to prevent the potential for the code nonconformance or violation situation identified above.

4. No Adverse Effects. The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

Staff comment: The amendments relate to the placement of structures and uses accessory to principal structures and uses and do not affect the policies and action programs of the Conservation or Population Elements of the Washoe County Master Plan.

Recommendation

It is recommended that the Washoe County Planning Commission recommend approval of DCA16-002, to amend Washoe County Chapter 110 (Development Code) within Articles 306, 410 and 902. The following motion is provided for your consideration:

Motion

I move that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Planning Commission recommend approval of DCA16-002, to amend Washoe County Code Chapter 110 (Development Code) within Articles 306, 410 and 902 as identified in Exhibit A-1. I further move to authorize the Chair to sign the resolution contained in Exhibit A on behalf of the Washoe County Planning Commission and to direct staff to present a report of this Commission's recommendation to the Washoe County Board of Commissioners within 60 days of today's date. This recommendation for approval is based on all of the following four findings in accordance with Washoe County Code Section 110.818.15(e):

1. Consistency with Master Plan. The proposed Development Code amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan;
2. Promotes the Purpose of the Development Code. The proposed Development Code amendment will not adversely impact the public health, safety or welfare, and will promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code;
3. Response to Changed Conditions. The proposed Development Code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones; and,
4. No Adverse Effects. The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

Appeal Process

An appeal of the Planning Commission's denial of a Development Code amendment may be made to the Washoe County Board of Commissioners within 10 calendar days from the date that the Planning Commission's decision is filed with the Secretary to the Planning Commission, pursuant to Washoe County Code Section 110.818.25 and Washoe County Code Section 110.912.20.

Staff Report and Action Order xc: Dave Solaro, Director, CSD
Nathan Edwards, Deputy District Attorney



RESOLUTION OF THE WASHOE COUNTY PLANNING COMMISSION

RECOMMENDING APPROVAL OF AMENDMENTS (DCA16-002) TO THE WASHOE COUNTY CODE AT CHAPTER 110 (DEVELOPMENT CODE) WITHIN ARTICLE 306, ACCESSORY USES AND STRUCTURES, AT SECTION 110.306.15, MAIN STRUCTURES REQUIRED TO ALLOW AN ACCESSORY STRUCTURE OR USE ON A PARCEL THAT DOES NOT HAVE A MAIN STRUCTURE OR USE, WHEN ADJACENT TO A PARCEL WITH AN MAIN STRUCTURE OR USE AND WHEN BOTH PARCELS ARE UNDER THE SAME OWNERSHIP, SUBJECT TO THE RECORDATION OF A DEED RESTRICTION; WITHIN ARTICLE 410, PARKING AND LOADING AT SECTION 110.410.20(C), LOCATION OF REQUIRED PARKING SPACES TO CLARIFY THAT A GARAGE ON AN ADJACENT LOT MAY ONLY BE USED TO SATISFY A DWELLING'S PARKING REQUIREMENTS IF IT IS ALSO IN COMPLIANCE WITH SECTION 110.306.15; WITHIN ARTICLE 902, DEFINITIONS AT SECTION 110.902.15, GENERAL DEFINITIONS TO UPDATE THE DEFINITIONS OF "DETACHED ACCESSORY STRUCTURE," "LOT" AND "PARCEL OF LAND" TO BETTER REFLECT THE CLARIFICATIONS IDENTIFIED ABOVE.

Resolution Number 16-07

WHEREAS

- A. Development Code Amendment Case Number DCA16-002, came before the Washoe County Planning Commission for a duly noticed public hearing on June 7, 2016; and
- B. The Washoe County Planning Commission heard public comment and input from both staff and the public regarding the proposed Development Code amendment; and
- C. A public workshop was held May 12, 2016 in order to seek feedback from the public regarding the proposed Development Code amendment; and
- D. The Washoe County Planning Commission gave reasoned consideration to the information it received regarding the proposed Development Code amendment; and
- E. Pursuant to Washoe County Code Section 110.818.15(e), the Washoe County Planning Commission made the following findings necessary to support its recommendation for adoption of the proposed Development Code amendment, Case Number DCA16-002:
 - 1. Consistency with Master Plan. The proposed amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan;
 - 2. Promotes the Purpose of the Development Code. The proposed Development Code amendment will not adversely impact the public health, safety or welfare, and will

promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code;

3. Response to Changed Conditions. The proposed Development Code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones; and,
4. No Adverse Effects. The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

NOW, THEREFORE, BE IT RESOLVED that pursuant to Washoe County Code Section 110.818.15(d) and (g):

1. The Washoe County Planning Commission does hereby recommend APPROVAL of DCA16-002, an amendment to the Washoe County Code at Chapter 110 (Development Code) within Article 306, *Accessory Uses and Structures*, at Section 110.306.15, *Main Structures Required* to allow an accessory structure or use on a parcel that does not have a main structure or use, when adjacent to a parcel with an main structure or use and when both parcels are under the same ownership, subject to the recordation of a deed restriction; within Article 410, *Parking and Loading* at Section 110.410.20(c), *Location of Required Parking Spaces* to clarify that a garage on an adjacent lot may only be used to satisfy a dwelling's parking requirements if it is also in compliance with Section 110.306.15; within Article 902, *Definitions* at Section 110.902.15, *General Definitions* to update the definitions of "Detached Accessory Structure," "Lot" and "Parcel of Land" to better reflect the clarifications identified above; and,
2. A report describing this amendment, discussion at this public hearing, this recommendation, and the vote on the recommendation will be forwarded to the Washoe County Board of Commissioners within 60 days of this resolution's adoption date.

ADOPTED on June 7, 2016.

WASHOE COUNTY PLANNING COMMISSION

ATTEST:

Carl R. Webb, Jr., AICP, Secretary

James Barnes, Chair

WORKING COPY
INFORMATION ONLY

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT: DELETED LANGUAGE~~

BOLD TEXT: NEW LANGUAGE

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040

Summary: *Clarify and codify the contents of Interpretation 96-4 (Location of detached accessory structures) by allowing for an accessory structure or use to be established on vacant land under specific circumstances; put in place mechanisms to prevent the potential for associated code nonconformance situations by requiring the recordation of a deed restriction; clarify when a garage on an adjacent property can be used to satisfy a dwelling's parking requirements; and update associated definitions within the Development Code to reflect these clarifications.*

BILL NO. _____

ORDINANCE NO. _____

An ordinance amending the Washoe County Code at Chapter 110 (Development Code) within Article 306, *Accessory Uses and Structures*, at Section 110.306.15, *Main Structures Required* to allow an accessory structure or use on a parcel that does not have a main structure or use, when adjacent to a parcel with an main structure or use and when both parcels are under the same ownership, subject to the recordation of a deed restriction; within Article 410, *Parking and Loading* at Section 110.410.20(c), *Location of Required Parking Spaces* to clarify that a garage on an adjacent lot may only be used to satisfy a dwelling's parking requirements if it is also in compliance with Section 110.306.15; within Article 902, *Definitions* at Section 110.902.15, *General Definitions* to update the definitions of "Detached Accessory Structure," "Lot" and "Parcel of Land" to better reflect the clarifications identified above.

WHEREAS :

- A. The Washoe County Planning Commission initiated the proposed amendments to Washoe County Code Chapter 110, Development Code, by Resolution Number 16-02 on March 1, 2016; the amendments and this ordinance were drafted by the District Attorney; the Planning Commission held a duly noticed public hearing for DCA16-002 on June 7, 2016, and adopted Resolution Number 16-07 recommending adoption of this ordinance; and,
- C. Following a first reading and publication as required by NRS 244.100 (1), and after a duly noticed public hearing, this Board of County Commissioners desires to adopt this Ordinance; and
- D. This Board of County Commissioners has determined that this ordinance is being adopted pursuant to requirements set forth in Chapter 278 of NRS, therefore is not a "rule" as defined in NRS 237.060 requiring a business impact statement.

THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY DOES HEREBY ORDAIN:

SECTION 1. Section 110.306.15 is hereby amended to read as follows:

Section 110.306.15 Main Structures Required. ~~Except as otherwise provided in Section 110.330.55, Agricultural Buildings, it is unlawful to construct, erect or locate private garages or other accessory structures and/or uses in any Rural, Suburban or Urban Residential Regulatory Zone, including the General Rural Agricultural (GRA) Regulatory Zone, on any lot without an existing main structure and/or existing principal use as provided for under Article 302, Allowed Uses, except under the following circumstances:-~~

- (a) The structure complies with the provisions of Section 110.330.55, Agricultural Buildings;**
or
 - (b) The proposed accessory structure or use is located on a lot adjacent to another lot that contains an existing main structure or principal use, is under the same ownership, has the same regulatory zone**
- and

A deed restriction has been filed with the Washoe County Recorder's Office stipulating that neither lot can be sold separately until the accessory structure or use otherwise allowed under this section is removed, terminated, or any nonconformance resulting from such a sale has been resolved. The deed restriction shall be executed on a form provided by the County through the Planning and Development Division, and the deed restriction shall make the County an intended third party beneficiary with the right, but not the obligation, to enforce its provisions. No accessory structure or use otherwise allowed under this section is allowed until the required deed restriction is executed and recorded

against the property that will contain the accessory structure or use and against any other adjacent parcel under the same ownership that is used to satisfy the provisions of this paragraph, as well as any adjacent parcel under the same ownership that will be served by the accessory structure or use. For the purposes of this section, a parcel is under the same ownership if at least one of the owners of each parcel involved is the same.

SECTION 2. Section 110.410.20 is hereby amended to read as follows:

Section 110.410.20 Location of Required Parking Spaces. Required parking spaces shall be located as set forth in this section.

- (a) On Same or Adjacent Lot. For dwellings, motels, automobile-oriented services, and elementary, junior high, and high schools, required parking spaces shall be provided on the same lot as the main building(s) or on an adjoining lot or lots zoned for the main use of the property.
- (b) Other Uses. For uses not listed in Subsection (a) above, required parking spaces shall be located within three hundred (300) feet of the lot on which the main building is located.
- (c) Adjacent and Off-site Lots. If an adjacent or off-site lot is used to satisfy the parking requirements, the lot(s) shall be secured in such a manner that will provide parking for the life of the project. This Requirement does not preclude the use of reciprocal parking agreements, so long as the agreement is in a form acceptable to Washoe County. **A garage on an adjacent lot may only be used to satisfy a dwelling's parking requirements if it also complies with the provisions of Section 110.306.15.**

SECTION 3. The definitions of "Detached Accessory Structure," "Lot" and "Parcel of Land" as found in Section 110.902.15 are hereby amended to read as follows:

Detached Accessory Structure. **Except as provided for under Section 110.306.15,** "Detached accessory structure" means a building or structure on the same lot as the main residential structure and devoted to a use incidental to that main residential structure. A detached accessory structure is not designed, configured, or used for human habitation. The detached accessory structure may be connected to water and wastewater systems subject to the recordation of a deed restriction prohibiting the use of the structure as a dwelling unit. Installation of both a kitchen and a toilet in a detached accessory structure shall render the structure as a dwelling unit and subject to the accessory dwelling unit provisions contained in Article 306, Accessory Uses and Structures. Typical uses include storage buildings, sheds, barns, and detached garages.

Lot. "Lot" means a distinct part or parcel of land divided with the intent to transfer ownership or for building purposes, ~~and~~ which abuts upon a permanent means of access **and is assigned a single parcel number by the Washoe County Assessor's Office.**

Parcel of Land. "Parcel of land" means any unit or contiguous units of land ~~in the possession of or recorded as the property of one person~~ **assigned a single parcel number by the Washoe County Assessor's Office.**

SECTION 4. General Terms.

1. All actions, proceedings, matters and things heretofore taken, had and done by the County and its officers not inconsistent with the provisions of this Ordinance are ratified and approved.
2. The Chairman of the Board and the officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance. The District Attorney is authorized to make non-substantive edits and corrections to this Ordinance.
3. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.
4. Each term and provision of this ordinance shall be valid and shall be enforced to the extent permitted by law. If any term or provision of this ordinance or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then it shall be excised from this ordinance. In any event, the remainder of this ordinance, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

Passage and Effective Date

This ordinance was proposed on _____ by Commissioner _____.

This ordinance was passed on _____.

Those voting "aye" were _____.

Those voting "nay" were _____.

Those absent were _____.

Those abstaining were _____.

This ordinance shall be published and shall be in force and effect immediately upon the date of the second publication as set forth in NRS 244.100.

Kitty Jung, Chair
Washoe County Commission

ATTEST:

Nancy Parent, County Clerk

Interpretation 96-4

LOCATION OF DETACHED ACCESSORY STRUCTURES AND GARAGES

Pursuant to Article 910, Section 110.910.05 of Chapter 110 of the Washoe County Code, the Director of the Department of Development Review has the authority to enforce the provisions of the Development Code. In order to appropriately enforce the Development Code, the Director finds it necessary to provide the following interpretation concerning the location of detached accessory structures and detached garages.

A detached accessory structure must be located either on the same lot as the main structure, or on a lot that is defined as the same parcel of land that the main structure is or is intended to be located. An exception to the detached accessory structure location interpretation is that detached garages associated with a use may be located on an adjacent parcel of land that is zoned for the same uses as the parcel of land on which the main structure is located.

BACKGROUND

The location of detached accessory structures (which excludes a detached accessory dwelling) and detached garages relative to a main structure is not clearly identified in the Development Code. For example, a detached garage is identified as an example of a detached accessory structure. Yet, when a comparison of the location of detached accessory structures and detached garages relative to the lot that a main building (which is required for both detached uses) occurs, there is a distinction drawn in the Development Code. This interpretation is intended to establish the rule for the location of both types of detached uses.

The definition of a detached accessory structure (110.304.15(3)) states that "A detached accessory structure refers to a building or structure on the same lot as the main residential structure..." Therefore, it is clear from the definition that a detached accessory structure must be located within the same parcel line boundaries as the main structure. The question then is raised whether a detached accessory structure must be within the same boundary lines as a main structure. The answer is no. The reason is found in the definition of Lot (110.902.15). "Lot means a distinct part or *parcel of land* divided with the intent to transfer ownership or for building purposes and which abuts upon a permanent means of access." (*emphasis added*) Parcel of land is defined as "...any unit or *contiguous units of land* in the possession of or recorded as the property of one person." (110.902.15) (*emphasis added*) It is, therefore, possible for a detached accessory structure to be located on land with distinct boundaries separate from the land that the main structure is located, but which is contiguous and is considered as part of a parcel of land on which the main structure is located. The most effective way of determining if a detached accessory building meets the location guidelines is to determine if the main structure and the detached accessory building are located on land with the same parcel number as assigned by the County Assessor's Office.

Although detached garages are defined as an example of a detached accessory structure, separate rules for their location are enumerated in 110.410.20(a). This section states "For dwellings, motels, automobile-oriented services, and elementary, junior high, and high schools, required parking spaces shall be provided on the same lot as the main building(s) or on an adjoining lot or lots zoned for the main use of the property." Unlike the detached accessory

structure's location rules, a detached garage can be located on a separate parcel of land as long as it is adjacent to the main structure's parcel of land and is zoned for the same use as the parcel of land on which the main structure is located.

Limitations of Interpretation

This interpretation shall supersede all previous interpretations of Chapter 110 of the Washoe County Code concerning the above referenced subject and be in effect unless and until a subsequent interpretation concerning the above referenced subject is made by the Director of the Department of Development Review, the interpretation is reversed through a successful appeal pursuant to Article 808, or the Washoe County Code is amended to include the subject matter referenced in this interpretation.

Michael A. Harper, AICP, Director
Department of Development Review

Dated: May 7, 1996



Planning Commission Staff Report

Meeting Date: March 1, 2016

Subject: **Resolution to Initiate Development Code Amendment**

Applicant: Planning and Development Division

Agenda Item Number: 8A

Summary: To consider and adopt a resolution initiating an amendment to Washoe County Code Chapter 110, Development Code, at Article 306, *Accessory Uses and Structures*; Article 410, *Parking*; and Article 902, *Definitions*

Recommendation: Adopt and authorize the Chair to sign the attached resolution

Prepared by: Kelly Mullin, Planner
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Initiation Description

Possible action to adopt a resolution initiating an amendment to Washoe County Code Chapter 110, Development Code, to clarify when a detached accessory structure may be constructed on a parcel without an established principal use. This amendment would focus specifically on circumstances where the subject parcel is adjacent to a parcel with an established principal use and when both parcels are under the same ownership. The amendment would clarify, codify and remove Interpretation 96-4, *Location of detached accessory structures and garages* and would include updates to the following sections of the Development Code:

- Article 306, *Accessory Uses and Structures*, Section 110.306.15 Main Structures Required
- Article 410, *Parking*, Section 110.410.20 Location of Required Parking Spaces – to clarify the circumstances under which a dwelling’s required garage may be located on an adjoining lot
- Article 902, *General Provisions*, Section 110.902.15 General Definitions – to potentially update definitions for the following terms:
 - Detached accessory structure
 - Lot
 - Parcel of land

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Exhibit Contents

Resolution.....Exhibit A

Interpretation 96-4.....Exhibit B

Initiating Development Code Amendments

The Washoe County Development Code is Chapter 110 of the Washoe County Code. The Development Code broadly regulates allowable and permitted land uses, subdivisions of land, planning permit requirements and procedures, signage, infrastructure availability, land use development standards, and other related matters. Because the Development Code covers so many varying aspects of land use and development standards, it is expected that from time to time it may be necessary to change or amend one or more portions of the Development Code to keep it up to date with the most current and desirable trends in planning and development.

The Development Code amendment process provides a method of review and analysis for such proposed changes. Development Code amendments may be initiated by the Washoe County Board of Commissioners (Board), the Washoe County Planning Commission (PC), or an owner of real property. Development Code amendments are initiated by resolution of the Board or the PC. Property owners may submit an application to initiate a Development Code amendment.

After initiation, the PC considers the proposed amendment in a public hearing. The PC may recommend approval, approval with modifications or deny the proposed amendment. The PC records its recommendation or denial by resolution.

The Board hears all amendments recommended for approval, and amendments denied by the PC upon appeal. The Board will hold a first reading and introduction of the ordinance (proposed amendment), followed by a second reading and possible ordinance adoption in a public hearing at a second meeting at least two weeks after the first reading.

Public Notice

There are no public notice requirements established within the Development Code for an initiation of a Development Code amendment.

Background

In general, the Development Code does not allow for detached accessory structures to be placed on parcels without an established principal use except under a few specific

circumstances. As identified in Interpretation 96-4, *Location of detached accessory structures and garages*, one of those circumstances is when a detached accessory structure is placed on a parcel adjacent to another parcel with an established principal use and both parcels are under the same ownership (see Exhibit B). However, allowing the structure to be constructed under these circumstances can later lead to nonconformance if either of the parcels is sold – thereby violating the requirement for same ownership. Such a transaction would create a parcel with a detached accessory structure but no associated principal use on the parcel.

This Development Code amendment seeks to codify and clarify the contents of Interpretation 96-4 as well as to put in place mechanisms to prevent the potential for the code nonconformance situation identified above.

The proposed amendment will modify Development Code regulations within Article 306, *Accessory Uses and Structures*, Article 410, *Parking*, and Article 902, *General Provisions* and may include (but are not limited to) the following changes:

1. Clarify the circumstances under which it may be lawful to construct a detached accessory structure on a parcel that does not have an established principal use (Article 306).
2. Clarify the circumstances under which a dwelling's required garage may be located on an adjoining lot (Article 410).
3. Update the definitions of "Lot," "Parcel of Land" and "Detached Accessory Structure" to better reflect the clarifications identified above (Article 902).

Recommendation

Staff recommends adoption of the attached resolution to initiate an amendment to Article 306, *Accessory Uses and Structures*, Article 410, *Parking*, and Article 902, *General Provisions*. The following motion is provided for your consideration:

Motion

I move that after giving reasoned consideration to the information contained in the staff report, the Planning Commission:

- (1) Adopt the resolution attached at Exhibit A to the staff report to initiate a Development Code amendment to Article 306, *Accessory Uses and Structures*, Article 410, *Parking*, and Article 902, *General Provisions*; and
- (2) Authorize the Chair to sign the resolution on behalf of the Planning Commission.

I further move to direct staff to bring the amendment back to this Commission for a hearing within 125 days of today's date.



RESOLUTION OF THE WASHOE COUNTY PLANNING COMMISSION

INITIATING AN AMENDMENT TO WASHOE COUNTY CODE CHAPTER 110, DEVELOPMENT CODE, AT ARTICLE 306, ACCESSORY USES AND STRUCTURES, ARTICLE 410, PARKING AND ARTICLE 902, GENERAL PROVISIONS CONCERNING THE CONSTRUCTION OF DETACHED ACCESSORY STRUCTURES ON PARCELS WITHOUT AN ESTABLISHED PRINCIPAL USE, BUT WHEN ADJACENT TO A PARCEL WITH AN ESTABLISHED PRINCIPAL USE AND WHEN BOTH PARCELS ARE UNDER THE SAME OWNERSHIP

Resolution Number 16-02

Whereas, Section 110.818.05 of the Development Code requires that amendments to the Development Code be initiated by resolution of the Washoe County Planning Commission; and

Whereas, the Washoe County Planning Commission received a report on March 1, 2016 concerning potential amendments to Washoe County Code Chapter 110, Development Code, at Article 306, *Accessory Uses and Structures*, Article 410, *Parking*, and Article 902, *General Provisions*; and

Whereas, such amendments would focus on, but are not limited to:

1. Clarifying the circumstances under which it may be lawful to construct a detached accessory structure on a parcel that does not have an established principal use, when adjacent to a parcel with an established principal use and when both parcels are under the same ownership.
2. Clarifying the circumstances under which a dwelling's required garage may be located on an adjoining lot.
3. Updating the definitions of "Lot," "Parcel of Land" and "Detached Accessory Structure" to better reflect the clarifications identified above.

Now, therefore, be it resolved that pursuant to Washoe County Code Section 110.818.05(a) that an amendment is initiated to the Washoe County Code Chapter 110, Development Code, at Articles 306, 410 and 902 as set forth in the agenda for the March 1, 2016 meeting of the Washoe County Planning Commission, that a public hearing with this Planning Commission on the amendment shall be held within 125 days of this resolution's adoption date, and that this amendment is initiated without prejudice to its final disposition.

ADOPTED on March 1, 2016.

WASHOE COUNTY PLANNING COMMISSION

ATTEST:

Carl R. Webb, Jr. AICP, Secretary

James Barnes, Chairman

Interpretation 96-4

LOCATION OF DETACHED ACCESSORY STRUCTURES AND GARAGES

Pursuant to Article 910, Section 110.910.05 of Chapter 110 of the Washoe County Code, the Director of the Department of Development Review has the authority to enforce the provisions of the Development Code. In order to appropriately enforce the Development Code, the Director finds it necessary to provide the following interpretation concerning the location of detached accessory structures and detached garages.

A detached accessory structure must be located either on the same lot as the main structure, or on a lot that is defined as the same parcel of land that the main structure is or is intended to be located. An exception to the detached accessory structure location interpretation is that detached garages associated with a use may be located on an adjacent parcel of land that is zoned for the same uses as the parcel of land on which the main structure is located.

BACKGROUND

The location of detached accessory structures (which excludes a detached accessory dwelling) and detached garages relative to a main structure is not clearly identified in the Development Code. For example, a detached garage is identified as an example of a detached accessory structure. Yet, when a comparison of the location of detached accessory structures and detached garages relative to the lot that a main building (which is required for both detached uses) occurs, there is a distinction drawn in the Development Code. This interpretation is intended to establish the rule for the location of both types of detached uses.

The definition of a detached accessory structure (110.304.15(3)) states that "A detached accessory structure refers to a building or structure on the same lot as the main residential structure..." Therefore, it is clear from the definition that a detached accessory structure must be located within the same parcel line boundaries as the main structure. The question then is raised whether a detached accessory structure must be within the same boundary lines as a main structure. The answer is no. The reason is found in the definition of Lot (110.902.15). "Lot means a distinct part or *parcel of land* divided with the intent to transfer ownership or for building purposes and which abuts upon a permanent means of access." (*emphasis added*) Parcel of land is defined as "...any unit or *contiguous units of land* in the possession of or recorded as the property of one person." (110.902.15) (*emphasis added*) It is, therefore, possible for a detached accessory structure to be located on land with distinct boundaries separate from the land that the main structure is located, but which is contiguous and is considered as part of a parcel of land on which the main structure is located. The most effective way of determining if a detached accessory building meets the location guidelines is to determine if the main structure and the detached accessory building are located on land with the same parcel number as assigned by the County Assessor's Office.

Although detached garages are defined as an example of a detached accessory structure, separate rules for their location are enumerated in 110.410.20(a). This section states "For dwellings, motels, automobile-oriented services, and elementary, junior high, and high schools, required parking spaces shall be provided on the same lot as the main building(s) or on an adjoining lot or lots zoned for the main use of the property." Unlike the detached accessory

structure's location rules, a detached garage can be located on a separate parcel of land as long as it is adjacent to the main structure's parcel of land and is zoned for the same use as the parcel of land on which the main structure is located.

Limitations of Interpretation

This interpretation shall supersede all previous interpretations of Chapter 110 of the Washoe County Code concerning the above referenced subject and be in effect unless and until a subsequent interpretation concerning the above referenced subject is made by the Director of the Department of Development Review, the interpretation is reversed through a successful appeal pursuant to Article 808, or the Washoe County Code is amended to include the subject matter referenced in this interpretation.

Michael A. Harper, AICP, Director
Department of Development Review

Dated: May 7, 1996