

**B. Development Code Amendment Case Number WDCA17-0003 (Outdoor Entertainment)**

– For possible action, hearing and discussion to initiate an amendment to Washoe County Code Chapter 110 (Development Code) within *Article 302, Allowed Uses*, to establish the regulatory zones wherein the Outdoor Entertainment commercial use-type is permitted by right or by discretionary action; and, *Article 226, Section 110.22618 Equestrian Uses*, to subject certain activities occurring under the Equestrian Facilities use type to the outdoor entertainment regulations; and, to create a new Article, *Article 338 Outdoor Entertainment*, for establishing the processes, regulations and standards specific to establishing both temporary and permanent outdoor entertainment. The proposed *Article 338, Outdoor Entertainment*, expands the definition of Outdoor Entertainment to include both facilities and events for the assembly of 75 or more people for any purpose in any outdoor location; identifies a wider range of typical outdoor entertainment activities; establishes an administrative review and approval process for activities with an attendance between 75 and 999 people on any one day, and a public hearing review and approval process for activities with 1,000 or more people in attendance on any one day; provides for both temporary and permanent activities; and, provides for certain exemptions for establishing the use-type on Federal land. The Amendment also makes the necessary changes to *Article 304, Use Classification System*, to amend the description of the Outdoor Entertainment use-type to be consistent with the new description found in the proposed *Article 338*, and *Article 310, Temporary Uses*, to establish the criteria for determining when a temporary outdoor entertainment use-type requires a permit.

If the proposed amendment is initiated, public hearing and further possible action to deny or recommend approval of the proposed amendment and, if approval is recommended, to authorize the Chair to sign a resolution to that effect.

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Chair Chvilicek opened the public hearing and called for disclosures from the Commission. Commissioner Horan disclosed that he was a member of the Incline Village General Improvement District and they applied for such things under outdoor entertainment. Commissioner Chesney stated he attended the CAB meeting. Chair Chvilicek called staff forward. Eric Young, Senior Planner, presented the Staff Report.

Chair Chvilicek called for public comment. Linda Harrison, US Highway 395 North, stated she realized that this change was to expand the definition of outdoor entertainment and to allow event preparers more leeway. She said she understood the events mentioned by staff, but she totally disagreed with the whole thing as far as redefining outdoor entertainment. She felt that if the County made the rules too broad there would be abuse. She lived right down the street from the new marijuana superstore and she was sure that was one of the places that would want to have outdoor concerts in their residential area. She wondered who would be putting in the restrictions and the requirements for security, parking, and noise stopping at 10:00 pm and notifying all the neighbors for her area and for other areas where those types of events might take place. She felt the 75 to 999 people in attendance category was too large a difference.

Douglas Studwell, Jr., 315 Sanctuary Way, stated there were other homeowners around him that also agreed this Master Plan Amendment and Old Washoe zoning should not be changed

without more specificity. There needed to be more public input because it was key to maintain the rural setting of Old Washoe City and Washoe Valley and other rural areas in the County. He did not know how they were going to handle the traffic, parking and law enforcement. He believed this should be delayed for more input from citizens and CABs. He said the mega marijuana mall was first approved as medical marijuana and then, because of the vote, it went to recreational marijuana. He said they were looking at future outdoor entertainment; how long before they wanted to make smoking lounges or smoking entertainment areas. He said right now people who bought marijuana were supposed to go home with it and could not smoke in a car or park, but he believed this change was so broad it could eventually be allowed to happen.

William Naylor, 1005 Dunbar Drive, said staff pointed out this change would expand the typical uses under outdoor entertainment, which would include music, venues, theaters, sports activities, race tracks, amusement parks and many diverse activities. He asked the Commission to consider the size of these activities and what they would require. Even for a minor event, 999 people, which probably translated to about 500 vehicles, would be present in a location. He said Hawkins Amphitheater only seated 400 people and had a total capacity of 900. That was a big facility and had a lot of parking and it did not even come up to the top of the minor entertainment activity in this amendment. He did not see how that would fit into their neighborhoods, especially on a permanent basis such a motocross race track, for example. The new regulatory zones would be Low Density Rural-10 acres, Medium Density Rural-5 acres; High Density Rural-2.5 acres; and, Low Density Suburban-1 acre. He did not see how a large event could be comfortably done on small residential parcels like those. Warm Springs equestrian uses specified a parcel minimum of 35 acres and he would like to see that kind of restriction put on these. He thought that the public should have input, because it was not fair to put something in their neighborhood that they were not able to discuss openly. He hoped the Commission would delay this amendment to receive more public input.

Marilyn Naylor, 1005 Dunbar Drive, stated she had been the Chair of the Spark's Jack's Carnival and that position gave her personal experience of the impact an outdoor entertainment event with attendance of over 500 people had on a neighborhood. After covering all the conditions of approval, informing the police and fire departments of times and dates of their event, addressing all the issues regarding food, water and sanitation, when all was said and done the resulting negative impact on the neighborhood was unavoidable. There was always increased traffic, parking along neighborhood streets, increased noise, litter, lack of public respect for other people's property and the need for more security. Currently, the outdoor entertainment was only permitted in industrial, tourist commercial and parks and recreation. When one chose to live by the inconveniences associated with an outdoor event area, they knew what to expect, but now it was being proposed in all zoning areas. The negative impact on the quality of life and welfare would be substantial. The modification of a development code must meet the requirement that: "promoted health, safety, morals, convenience, property and general welfare of the public as a minimum." This code amendment did not meet that criteria and she did not feel the finding could be met to approve it now.

Karen Critor, 445 Puma Drive, said she was a board member of the Washoe Valley Alliance. She was concerned about the way this proposed amendment had been presented to the public and the lack of public input for an issue that could substantially impact people's quality of life. Only one poorly attended public workshop was held because the information regarding the meeting was received second hand and at the last minute. The draft of the proposed amendment was only presented to two CABs; Warm Springs and South Truckee Meadows Washoe Valley. She said this was an important county-wide issue and should have been formally presented to all CABs. Comments from CAB members and citizens were not included

in the staff report for consideration by the Planning Commission. The South Valleys CAB asked to see a final draft of the amendment before moving on it and that had not been provided. The staff report contained an important note, which stated the Code amendment did not apply to the South Valleys or Warm Springs areas since they did not allow outdoor entertainment; why then was this code amendment only presented to those two CABs. In South Valleys only the Old Washoe City Character Management Area and the Steamboat Rural Transition Mixed Use Character Management Area had special allowed use tables, which prohibited outdoor entertainment. Most of the South Valleys Area would be impacted by the County standard allowed use table. The important note was therefore inaccurate and misleading and may have prevented citizens from expressing concerns. She requested that action on this item be delayed until it could be presented to all CABs so Washoe County citizens could make their concerns known.

J. Edward Parker, 6970 Pah Rah Drive, stated he belonged to the American Radio Relay League and he heard no criteria of who would determine what these events would be. He was also concerned with how the non-profit organizations in the community would be treated with the proposed amendment.

Chair Chvilicek closed public comment and opened questions to the Commission. Commissioner Lawson said Mr. Young mentioned a variety of drafts were prepared and he was wondering if the public had an opportunity to see a final draft and was there feedback. Mr. Young said when staff was presented with something this complex there were always multiple drafts. The original couple of drafts were unrecognizable from what was being presented now, because they took those drafts to reviewing agencies, Reno and Sparks, and then staff took those comments to the drawing board to try again. The draft that was being presented tonight was considered a final draft about two weeks ago, which meant the Deputy District Attorney, managers, Mr. Webb and the directors of the department had a chance to review it and provide their comments, provide all their copy editing and legal editing and then he sat down and put it all together. He said he was not sure which draft was presented to Washoe Valley, but they saw the versions that included the substance that was being presented tonight.

Mr. Webb explained the department policy stated county-wide development code amendments would not be presented to every CAB. This amendment was different because it included specific amendments to the Warm Springs Modifiers and that was why it was presented to the Warm Springs CAB. The presentation to the South Valleys CAB was a courtesy with the understanding the restriction within certain components of the South Valleys Area Plan currently prohibited outdoor entertainment as a permanent use type. There was not enough time in the process to go out to all the CABs and that was why they hosted the CAB workshop. He said there were changes made to the drafts after that workshop, CAB meetings and comments had been received; however, concerned citizens could go on line and get the staff reports and copies and provide input at the Planning Commission meetings if they so desired.

Commissioner Lawson asked if this was the first opportunity staff had to hear comments and potentially investigate their relevancy. He said he appreciated staff had done a thorough job investigating and developing these regulations as best they could, but what he had seen missing in bureaucracy was that when the public had an opportunity for feedback there was not a chance for staff to say that yes maybe that needed to be done. He said he had some concerns about the expanded zoning and the lack of opportunity to go back to the communities and present the final product for additional feedback.

Mr. Webb said that was the Commission's role was to listen to what the public had to say and raise questions to staff and seek those responses. Commissioner Lawson said one of the things he had learned was that he was asked to accept staff's recommendations and then rule on that as if it was completely confirmed. However, he thought there were times staff had not had the opportunity to hear from the public. He said he understood it was the Commissioners' job to do that, but he asked if staff could state in a public forum that they did not incorporate feedback from the public into the final draft.

Mr. Young stated the public input that was heard tonight was the same public input heard at the CAB meetings. He said there were concerns about the process, which staff typically did not include because it was almost guaranteed there was dissatisfaction with the process. He did not mention the public wanted this to go to all the CABs, because that was not part of the process or policy. He expressed to both CABs that the deadline for his staff report was too soon to incorporate their comments in the draft. What he committed to them was that he would put it in the PowerPoint presentation. He promised he would bring to the Commissioner's attention their concerns about the expansive range of the thresholds and the sanctity of their public meetings, CAB meetings and their ability to go to the Planning Commission and Board of Adjustment to talk things over. Those were the two big things that came out of those meetings and that the proposal was going too far on the administrative approval side and the threshold was too large. He said staff's recommendation of approval was based on the idea that they did their best to incorporate those things. If the Commission decided there was something in the draft that needed to be changed, that's what he expected them to tell him tonight; that they were not going to let this go forward until he went back and changed it. He noted the Commission could decide to move this forward to the Board of County Commissioners (BCC) stating their concerns. He noted the Commission had several options to make sure they felt they responded to what was heard during the public hearing tonight.

Commissioner Donshick asked when staff added all the different parameters of where these events could happen, was there any thought to the size of the land or minimum acreage. Mr. Young stated some of the earlier drafts attempted to do that. The issue was that some events may be perfectly appropriate for a one-acre parcel and some would not be. The community felt this could technically allow some pretty impactful events on a two-acre or five-acre parcel. He said because events were potentially so different they needed to be reviewed individually and independently. Staff was asking the Commission, the community and review agencies to have faith in the ability of the process to not allow irrational decisions of where events would occur.

Commissioner Horan said the challenge he had was why they were leaping to the point where they would allow permanent uses in all the other areas. Mr. Webb stated he had been dealing with the golf tournaments at Montreux every year and it was the same request. They wanted to be a permanent event and his response was they could not do it. They invited more than 1,000 people to participate, but it did not fit into the current definition of outdoor entertainment because it was not principally a spectator event. He said the motocross event in Truckee Canyon at the Lucas Oil facility was a true outdoor entertainment event and was approved through a special use permit in the correct regulatory zone. He went on to discuss commercial stables and equestrian events and how they could only be established as a temporary use under Article 310, because that Article allowed for temporary uses in any regulatory zones for a maximum of 10 consecutive days. What staff did was to use the provision that would allow the use permit process to modify the Code and approve those as permanent uses, such as the Franktown equestrian events. Staff attempted to provide for permanent events that would bring in crowds for a certain number of days on a reoccurring annual basis. Mr. Young's research found this to be the best effort to answer that specific question. They needed to come up with an answer to

allow temporary use and permanent use out of two completely different codes and merge them into one.

Mr. Webb stated there would be several other events that would have 74 people or below in attendance that would be different and handled like a business license. The process for 75 people or more in attendance would still require public notice. He said they wanted to make sure the public was noticed and would have the opportunity to provide input. He noted they would take another process from the business license codes and the required components for review and put them inside the development code.

Mr. Webb reported to the Commission the administrative permit and administrative review processes. He discussed the differences between attendance, requirements for review, standards, hours of operation, who was responsible for the review, suspension and revocation, and what was in the Business License Code that would work in this Code amendment. He said if the Commission went with this amendment, all of that would be laid out; the process that could be used and the mechanism to review an event that was not meeting the pre-event, during-event and post-event conditions. He said those conditions came out of the Business License Code and would be reviewed on a case-by-case basis; whether it was a temporary use or a permanent use.

Vice Chair Chesney said he felt the CABs were satisfied and understood the different types of events, but he had concerns with Warm Springs being singled out because they fought hard for the Area Plan. He concluded it appeared that some of those regulations were written in this new Code and he did not see this as objectionable. Mr. Webb stated one of the changes was to make sure that the Modifiers in Warm Springs remained as they were. He said an equestrian event in that Area would have to get a special use permit, but under this proposal they could get whatever was required.

Commissioner Horan asked what the remedy would be if staff approved something for an area that should not have been approved. Mr. Webb explained how complaints would go through the Code compliance process and how citizen's issues would go through the BCC. He informed the Commission of the various actions that were available, including the licensee's ability to appeal to the BCC when action was taken on their business license. He noted if a decision made by the Director could be appealed through the Board of Adjustment, the BCC or ultimately to a court.

Chair Chvilicek stated blending in the Business License component created specifications for traffic, for use, etc., and the applicant was told what they could and could not do. Mr. Young stated that was correct. He went on to explain the review agency checklist, staff's responsibilities regarding the checklist, the different types of agencies such as federal, state, water, wildlife, fire and all the internal review agencies. He noted the different agencies requirements for the number of days to respond and comments, which would become part of the Conditions of Approval or denial. If there was a reason for denial, they would work with the applicant as much as they could to get them on track. Most of the time what they were working with was Conditions of Approval and those conditions were adopted by either the Director or the BCC and whatever those agencies required, had to happen. He said a Planner would visit the site as would the Health Department, Fire Department and other agencies to ensure those conditions were being met. He noted once those conditions were adopted, the applicant was stuck with them. He said the new Code would provide for staff to shut an event down, stop it from occurring the next year, or work with the event to bring it into conformance.

Mr. Webb said the Conditions of Approval stated the BCC or the Director would impose conditions addressing facilities, pre-event, during-event and post-event, which may or may not require inspection. He noted the BCC or the Director may include time frames and a period review of the permit to determine if the existing Conditions of Approval were adequate. If they were not adequate, new conditions may be imposed to ensure public health, safety and welfare. He stated all conditions at a minimum would address police protection, food, water sanitation, garbage disposal, medical services, access, traffic, parking, camping and elimination, hours of operation, fire protection, financial ability to meet those conditions, indemnification and insurance.

Chair Chvilicek asked for a more detailed description of how notification was done, because she was trying to figure out how the community would hear about these types of issues. She said she had asked to receive all CAB notifications, but had not received any. Mr. Webb stated staff had been working on that issue. He said notifications went out to the CAB mailing list and the Development Code Amendments went one step further than the County Code amendments. County Code amendments would be noticed in the newspaper just prior to the public hearings; but Development Code Amendments went a little deeper than that to try to get some sort of public exposure and public notification.

Commissioner Bruce said he appreciated staff's efforts, because this was very complex and difficult, but he did not agree with 100 percent of the amendment. He said Mr. Young indicated the original initiation order on this process had expired. Mr. Young stated that was correct. Commissioner Bruce asked if the Commission could take a little time to make this as transparent as possible, because he felt the amendment affected a lot of people and he had a serious question in terms of the permanency. Mr. Webb stated it was staff's decision to have the Planning Commission initiate and move forward. He said this Commission would have to request to table the item, but he did not recommend taking it off the table completely.

Chair Chvilicek closed the public hearing and brought discussion back to the Commission. She said the options before the Commission were to deny, move forward on the initiation and bring it back for further review, or approve both the initiation and the amendment. DDA Edwards stated the Commission could proceed in that manner or simply initiate and take no action and then it would be brought back. Mr. Webb stated if the Commission determined to do that, to provide staff with firm guidance about what the Commission would like to see changed.

Commissioner Horan stated he thought he could accept the permanency portion because if an event was not working, there would be a review process and ways to appeal. He felt staff's recommendations made a lot of sense and he supported the application as presented.

Commissioner Lawson said he thought the Commission should initiate action and provide direction to staff, but he was not comfortable to approve the amendment as it was presented because he had too many concerns. His chief concern was the lack of opportunity for the community to provide meaningful feedback. He said he thought they could add to the Conditions of Approval, but he thought that was usurping their responsibility to the community to hear what they had to say. He said another concern was the broad inclusion of rural communities and this had gone too far, too fast. His direction would be to initiate, but provide clear direction to hold a public workshop that would be better advertised.

Mr. Young said there was a little bit of a disconnect between establishing it as a permanent use and establishing it as temporary use. Currently, it was only allowed as a permanent use in three regulatory zones: industrial, tourist commercial and parks and recreation. He explained it was

allowed as a temporary use in any regulatory zone given the appropriate review process. Chair Chvilicek discussed the complex tables and how the legend was missing from the table, which did not help them or the public. Mr. Young stated that was his fault, because it should have been included.

Commissioner Bruce asked if the clock would start ticking again if the amendment was initiated. Mr. Young stated the 125-day clock would start.

Chair Chvilicek called for a motion.

Commissioner Lawson moved 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 initiate the amendment of Washoe County Code Chapter 110 within Article 226, Warm Springs, Article 302, Allowed Uses; Article 304, Use Classification System; Article 310, Temporary Uses; and, Article 338, Outdoor Entertainment, as described in the staff report and discussed at the public hearing. Commissioner Horan seconded the motion, which carried unanimously.

Commissioner Horan moved 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 WDCA17-0003, to amend Washoe County Chapter 110 (Development Code) within Article 226, Warm Springs, Article 302, Allowed Uses; Article 304, Use Classification System; Article 310, Temporary Uses; and, Article 338, Outdoor Entertainment. He further moved to authorize the Chair to sign the resolution contained in Attachment 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 County 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). The motion died for a lack of a second.

DDA Edwards explained if the Commission voted to deny the amendment, it would not be brought back for further review.

Chair Chvilicek called for feedback from the Commission for direction to staff. DDA Edwards said he thought staff had been tracking the various points and the Commission was only agendized to move to initiate or not, and to either recommend approval or denial. He said the Commissioners acted to initiate and staff had been tracking the comments and input from the Commission and there would be a video and minutes for their use. He recommended the Commission not take another action, because there was a risk of the way the agenda was written.