



# Planning Commission Staff Report

Attachment C

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Meeting Date: January 2, 2019

Agenda Item: 9C

STAFF REPORT CASE NUMBER: WDCA18-0006 (Modification of Special Use Permit)

BRIEF SUMMARY OF REQUEST: Amending the Development Code, Section 110.306.10(a), to change the department name to Planning and Building Division and remove the word "more" and replace with the word "less"

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APPLICANT: Washoe County

## CASE DESCRIPTION

**Development Code Amendment Case Number WDCA18-0006 (Modification of Special Use Permit)** – For possible action, hearing and discussion to initiate an amendment to Washoe County Code Chapter 110 (Development Code) within Section 110.810.60(a)(3)-(4) Modifications of a Special Use Permit, to update the reference to the department name in that section to Planning and Building Division; and to change two of the requirements for the director to approve modifications of approved special use permits that involve "more" than a 10% increase in the floor area covered by existing structures associated with the use, and "more" than a 10% increase in site area covered by the use, by replacing the word "more" with the word "less"; and for other matters necessarily connected therewith and pertaining thereto.

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

- ♦ Location: County wide
- ♦ Dev Code: Authorized in Article 818
- ♦ Comm. District: All Commissioners

## STAFF RECOMMENDATION

INITIATE

**INITIATE AND RECOMMEND APPROVAL**

DO NOT INITIATE

## POSSIBLE 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 initiate Development Code Amendment WDCA18-0006, recommend approval, and authorize the Chair to sign the attached resolution.

*(Motions with Findings on Pages 4 and 5)*

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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 Board of County 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. Real 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**

Washoe County Code (WCC) Article 810, Special Use Permits and WCC Section 110.810.60(a) was last updated in 2015. The department was named Community Development; however the department name was changed to the Planning and Building Division of the Community Services Division in 2017. The wording in subsections 3 & 4 needs updating and clarification to reflect when the Director of the Planning and Building Division can approve modifications to an approved special use permit.

## **Amendment Evaluation**

- To update the Department's name to the Planning and Building Division;
- To clarify the intent of WCC Section 110.810.60 (a)(3), to allow the Director to alter for floor area when the area is less than ten percent; and
- To clarify the intent of WCC Section 110.810.60 (a)(4), to allow the Director to alter the overall site area covered by an existing use when the use is less than ten percent.

## **Proposed Amendment**

Washoe County staff is asking the Planning Commission to initiate and subsequently recommend approval of a code amendment to read as follows:

**Section 110.810.60 Modification of a Special Use Permit.** Proposed modifications of approved special use permits shall be subject to the requirements in this section.

- (a) Required Conditions. The Director of ~~Community Development~~ **the Planning and Building Division** may approve plans for an alteration of the approved use when the alteration complies with all of the following conditions:
- (1) The building or use alteration is incidental to the existing use;
  - (2) The building or use alteration does not result in a change of use;
  - (3) The building alteration involves ~~more~~ **less** than ten (10) percent increase in floor area covered by existing structures associated with the use;
  - (4) The use alteration involves ~~more~~ **less** than ten (10) percent increase in the overall site area covered by the existing use;
  - (5) The building or use alteration, in the opinion of the Director of Community Development, would not have a substantial adverse effect on adjacent property; and
  - (6) The building or use alteration complies with existing requirements of agencies having jurisdiction and any other appropriate regulatory agency as determined by the Director of Community Development.

## **Findings**

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

amendment will update the name of the Department and clarify what the Director of the Planning and Building Division can modify with an approved special use permit.

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: The proposed Development Code amendment updates and clarifies this section of 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 proposed amendment updates the department name to the current name. Using the word “more” did not make sense in the sentence and changing the word “more” to “less” clarifies this section of the Development Code.

4. No Adverse Affects. 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 Conservation Element and the Population element are not impacted by this proposed amendment.

### **Public Notice**

Pursuant to WCC 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. A public workshop was held on November 7, 2018 for this application and for WDCA18-0007 (Accessory Structures on Nonconforming Lots). There was one attendee and he had questions about WDCA18-0007.

### **Recommendation**

It is recommended that the PC initiate and subsequently recommend approval of WDCA18-0006, to amend the Development Code within Article 810, *Special Use Permits*, as described in this staff report. The following motions are provided for the PC's consideration:

### **Motions**

#### **Initiation**

I move that, after giving reasoned consideration to the information contained in the staff report and received during the public hearing, the Washoe County Planning Commission initiate the amendment to Washoe County Code Chapter 110 within Article 810, *Special Use Permits*, as described in the staff report for WDCA18-0006.

#### **Amendment**

I move that, after giving reasoned consideration to the information contained in the staff report and received during the public hearing, the Washoe County Planning Commission recommend approval of WDCA18-0006, to amend Washoe County Code Chapter 110 within Article 810, *Special Use Permits*, as described in the staff report for this matter. I further move to authorize the Chair to sign the resolution contained in Exhibit A on behalf of the 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):

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 Affects. 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 County 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 WCC Sections 110.818.25 and 110.912.20.

xc:           Dave Solaro, Assistant County Manager  
              Nate Edwards, Deputy District Attorney  
              Mojra Hauenstein, Planning and Building Director



## RESOLUTION OF THE WASHOE COUNTY PLANNING COMMISSION

INITIATING AND RECOMMENDING APPROVAL OF AN AMENDMENT TO WASHOE COUNTY CODE CHAPTER 110 (DEVELOPMENT CODE) WITHIN ARTICLE 810, SPECIAL USE PERMITS, SECTION 110.810.60(A)(3)-(4) MODIFICATIONS OF A SPECIAL USE PERMIT, TO UPDATE THE REFERENCE TO THE DEPARTMENT NAME IN THAT SECTION TO PLANNING AND BUILDING DIVISION; AND TO CHANGE TWO OF THE REQUIREMENTS FOR THE DIRECTOR TO APPROVE MODIFICATIONS OF APPROVED SPECIAL USE PERMITS THAT INVOLVE “MORE” THAN A 10% INCREASE IN THE FLOOR AREA COVERED BY EXISTING STRUCTURES ASSOCIATED WITH THE USE, AND “MORE” THAN A 10% INCREASE IN SITE AREA COVERED BY THE USE, BY REPLACING THE WORD “MORE” WITH THE WORD “LESS”; AND FOR OTHER MATTERS NECESSARILY CONNECTED THEREWITH AND PERTAINING THERETO.

Resolution Number 19-02

### WHEREAS

- A. Washoe County Code Section 110.818.05 requires that amendments to Washoe County Code Chapter 110 (Development Code) be initiated by resolution of the Washoe County Board of Commissioners or the Washoe County Planning Commission; and
- B. The Washoe County Planning Commission initiated Development Code Amendment Case Number WDCA18-0006 to the Washoe County Code Chapter 110 (Development Code) Article 810, *Special Use Permits*, Section Modifications of a Special Use Permit 110.810.60(a)(3)(4), on January 2, 2019; and
- C. Development Code Amendment Case Number WDCA18-0006, came before the Washoe County Planning Commission for a duly noticed public hearing on January 2, 2019; and
- D. The Washoe County Planning Commission gave reasoned consideration to the information it received regarding the proposed Development Code Amendment; and
- E. Whereas, 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 WDCA18-0006:
  - 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 Affects. 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 the Washoe County Planning Commission initiates and recommends approval of the ordinance attached hereto as Attachment A-1.

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 County Commissioners within 60 days of this resolution's adoption date.

ADOPTED on January 2, 2019.

WASHOE COUNTY PLANNING COMMISSION

ATTEST:

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Trevor Lloyd, Secretary

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Sarah Chvilicek, Chair

DRAFT: January 2, 2019

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INFORMATION ONLY

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT:~~ DELETE LANGUAGE

**BOLD TEXT: NEW LANGUAGE**

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Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040
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**Summary:** Amends the Washoe County Code at Chapter 110 (Development Code) within Article 810, Special Use Permits, by updating Section 110.810.60(a)(3)(4), by updating the department name to the Planning and Building Division and to replace the word "more" with the word "less."

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

Title:

An ordinance amending the Washoe County Code at Chapter 110 (Development Code) within Article 810, Special Use Permits, Section 110.810.60(a)(3)-(4) Modifications of a Special Use Permit, to update the reference to the department name in that section to Planning and Building Division; and to change two of the requirements for the director to approve modifications of approved special use permits that involve "more" than a 10% increase in the floor area covered by existing structures associated with the use, and "more" than a 10% increase in site area covered by the use, by replacing the word "more" with the word "less"; and for other matters necessarily connected therewith and pertaining thereto.

WHEREAS:

- A. This Commission desires to amend Article 810 of the Washoe County Code at Chapter 110 (Development Code) in order to update the department name to the Planning and Building



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Division and replace the word "more" with the word "less" and,

- B. The Washoe County Planning Commission initiated the proposed amendments to Washoe County Code Chapter 110, Development Code, by Resolution Number 19-02 on January 2, 2019 creating Development Code Amendment Case Number WDCA18-0006; and,
- C. The amendments and this ordinance were drafted in concert with the District Attorney, and the Planning Commission held a duly noticed public hearing for WDCA18-0006 on January 2, 2019, and adopted Resolution Number 19-02 recommending adoption of this ordinance; and,
- D. Following a first reading and publication as required by NRS 244.100 (1), and after a duly noticed public hearing, this Commission desires to adopt this Ordinance; and,
- E. This Commission has determined that this ordinance is being adopted pursuant to requirements set forth in Chapter 278 of NRS, therefore it 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 810.60(a) of the Washoe County Code is hereby amended to read as follows:

**Section 110.810.60 Modification of a Special Use Permit.** Proposed modifications of approved special use permits shall be subject to the requirements in this section.

- (a) Required Conditions. The Director of ~~Community Development~~ **the Planning and Building Division** may approve plans for an alteration of the approved use when the alteration complies with all of the following conditions:
  - (1) The building or use alteration is incidental to the existing use;
  - (2) The building or use alteration does not result in a change of use;
  - (3) The building alteration involves ~~more~~ **less** than ten (10) percent increase in floor area covered by existing structures associated with the use;

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- (4) The use alteration involves ~~more~~ **less** than ten (10) percent increase in the overall site area covered by the existing use;
- (5) The building or use alteration, in the opinion of the Director of Community Development, would not have a substantial adverse effect on adjacent property; and
- (6) The building or use alteration complies with existing requirements of agencies having jurisdiction and any other appropriate regulatory agency as determined by the Director of Community Development.

SECTION 2. 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 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 the offending provision or term 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.

DRAFT: January 2, 2019

Passage and Effective Date

Proposed on \_\_\_\_\_ (month) \_\_\_\_\_ (day), 2018.

Proposed by Commissioner \_\_\_\_\_.

Passed on \_\_\_\_\_ (month) \_\_\_\_\_ (day), 2018.

Vote:

Ayes: Commissioners \_\_\_\_\_

Nays: Commissioners \_\_\_\_\_

Absent: Commissioners \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Marsha Berkbigler, Chair  
Washoe County Commission

This ordinance shall be in force and effect from and after the  
\_\_\_\_\_ day of the month of \_\_\_\_\_ of the year \_\_\_\_\_.