



# 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  
Washoe County Community Services Department  
Planning and Development Division  
775.328.3608  
[kmullin@washoecounty.us](mailto:kmullin@washoecounty.us)

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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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**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:

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Carl R. Webb, Jr. AICP, Secretary

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James Barnes, Chairman

## *Interpretation 96-4*

# **LOCATION OF DETACHED ACCESSORY STRUCTURES AND GARAGES**

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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