



# Planning Commission Staff Report

Meeting Date: January 2, 2019

Agenda Item: 9D

STAFF REPORT CASE NUMBER: WDCA18-0007 (Accessory Structures on Nonconforming Lots)

BRIEF SUMMARY OF REQUEST: Amending the Development Code to address lot coverage limitations for accessory structures on nonconforming lots

STAFF PLANNER: Planner's Name: Julee Olander  
Phone Number: 775.328.3627  
E-mail: [jolander@washoecounty.us](mailto:jolander@washoecounty.us)

APPLICANT: Washoe County

## CASE DESCRIPTION

**Development Code Amendment Case Number WDCA18-0007 (Accessory Structures on Nonconforming Lots)** – For possible action, hearing and discussion to initiate an amendment to Washoe County Code Chapter 110 (Development Code) within Article 306, Accessory Uses and Structures, Detached Accessory Structures 110.306.10(a), Lot Coverage, to add a requirement regulating lot coverage limitations for accessory structures, by specifying that on legal non-conforming lots, when the lot size does not meet the minimum lot size for the actual regulatory zone applicable to the lot, the allowed lot coverage for accessory structures will be based on the regulatory zone thresholds for the next densest regulatory zone for which the actual lot size does meet the minimum lot size requirements; 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 and, if 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 WDCA18-0007, recommend approval, and authorize the Chair to sign the attached resolution.

*(Motions with Findings on Pages 5 and 6)*

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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**

Development Code Article 306, *Accessory Uses and Structures*, provides the standards and requirements for accessory structures including maximum lot coverage requirements that are determined by the regulatory zone of a property. These lot coverage standards often result in challenges or restrictions for accessory structures on nonconforming lots that were not anticipated when this provision of the code was adopted. There are numerous nonconforming lots throughout the County where the regulatory zone standards have changed over the years and no longer meet the lot coverage limitation requirements. This situation is particularly prevalent for lots that have been created by means of a common open space development. For such developments, the regulatory zoning is typically not changed for parcels; however the lots are often smaller in size than the regulatory zone requires. For these reasons, Washoe County has many nonconforming lots that do not meet the minimum parcel size requirement for the regulatory zone but are still subject to the lot coverage requirements for the regulatory zone which they are located in.

In order to provide better clarity of this situation it is important to provide an example to illustrate the problem that this code amendment is attempting to resolve. One such example involves a subdivision that was developed in Spanish Springs under a common open space subdivision development application. The subdivision has a regulatory zone of low density suburban (LDS) which has a minimum lot size requirement of 35,000 square feet; however many of the lots are much small (approximately 12,000 s.f.) which is consistent with the medium density suburban (MDS) regulatory zone. The lot coverage requirements per Article 406 of the Development Code restricts the lot coverage within the LDS regulatory zone to only 25 percent of the size of the lot but it allows a maximum lot coverage of 50 percent for lots within the MDS regulatory zone. In this situation, many of the smaller (12,000 s.f.) and LDS lots are unable to place any accessory structures (i.e. sheds) on the property after the main residence has been built. The purpose of this amendment is to allow for the appropriate lot coverage based on the size of the lot rather than the regulatory zone.

Two interpretations, Interpretation 12-1 and Interpretation 18-3 (See Exhibit B) have been written to provide direction for staff concerning nonconforming lots. Interpretation 12-1 signed on March 8, 2012, addresses only lots that have a regulatory zone of General Rural (GR). Interpretation 18-3 was signed on October 18, 2018 and addresses all nonconforming lots, when the lot size does not meet the minimum lot size for the regulatory zone. These interpretations have provided staff direction for lots that do not meet the minimum lot coverage requirements set forth in WCC Table 110.406.05.1, *Density/Intensity Standards or Lot Size*.

## **Amendment Evaluation**

The Interpretations have allowed staff to evaluate lots by size and not by regulatory zones for accessory structure lot coverage limitations. The purpose of this development code amendment is to codify Interpretation 12-1 and Interpretation 18-3. The code amendment will add a specific requirement concerning lot coverage limitations for accessory structures on nonconforming lots.

## **Proposed Amendment**

Washoe County staff is asking the Planning Commission to initiate and subsequently recommend approval of a code amendment to read as follows (text in bold is added language):

**WCC Section 110.306.10 Detached Accessory Structures.** Detached accessory structures are defined in Article 304, Use Classification System, under Section 110.304.15, Residential Use Types. The following development requirements shall apply to detached accessory structures:

- (a) Lot Coverage. The establishment of detached accessory structures shall not exceed the following lot coverage limitations:
  - (1) On lots in the High Density Suburban (HDS) and Medium Density Suburban (MDS) Regulatory Zones, the combined area (i.e. square footage) of all

- building footprints on the lot shall not exceed 50 percent of the total lot acreage;
- (2) On lots in the Low Density Suburban (LDS) Regulatory Zones, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 25 percent of the total lot acreage;
  - (3) On lots in the High Density Rural (HDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 20 percent of the total lot acreage;
  - (4) On lots in the Medium Density Rural (MDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 15 percent of the total lot acreage;
  - (5) On lots in the Low Density Rural (LDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 10 percent of the total lot acreage or 80,000 square feet, whichever is less;
  - (6) Exemptions to lot coverage limitations. Parcels 40 acres in size or larger in the General Rural (GR) and General Rural Agricultural (GRA) Regulatory Zones, and all parcels in the Commercial, Industrial, and Urban Regulatory Zones, are exempt from the lot coverage limitations of this section.
  - (7) **On legal non-conforming lots, when the lot size does not meet the minimum lot size for the regulatory zone applicable to the lot, the allowed lot coverage under this section will be based on the regulatory zone thresholds for that regulatory zone, which most closely matches the actual lot size.**

## **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 provide a specific standard for lot coverage limitations for accessory structures on nonconforming lots.

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 for lot coverage limitations for accessory structures on nonconforming lots will not adverse impact public health, safety or welfare. This change will provide fairness for property owners with smaller lot that do not meet the minimum lot size per the regulatory zoning requirement for accessory structures.

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 will sunset two Interpretations and codify lot coverage limitations for accessory structures on nonconforming lots.

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 WDCA18-0006 (Article 810) and there was one attendee. He had questions concerning accessory structures and why lots are considered nonconforming. Also, two phone calls were received asking for an explanation of the proposed code change.

## **Recommendation**

It is recommended that the PC initiate and subsequently recommend approval of WDCA18-0007, to amend the Development Code within Article 306, *Accessory Uses and Structures*, 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 306, *Accessory Uses and Structures*, as described in the staff report for WDCA18-0007.

### ***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 WDCA18-0007, to amend Washoe County Code Chapter 110 within Article 306, *Accessory Uses and Structures*, 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 306, ACCESSORY USES AND STRUCTURES, DETACHED ACCESSORY STRUCTURES 110.306.10(a), LOT COVERAGE, TO ADD A REQUIREMENT REGULATING LOT COVERAGE LIMITATIONS FOR ACCESSORY STRUCTURES, BY SPECIFYING THAT ON LEGAL NON-CONFORMING LOTS, WHEN THE LOT SIZE DOES NOT MEET THE MINIMUM LOT SIZE FOR THE ACTUAL REGULATORY ZONE APPLICABLE TO THE LOT, THE ALLOWED LOT COVERAGE FOR ACCESSORY STRUCTURES WILL BE BASED ON THE REGULATORY ZONE THRESHOLDS FOR THE NEXT DENSEST REGULATORY ZONE FOR WHICH THE ACTUAL LOT SIZE DOES MEET THE MINIMUM LOT SIZE REQUIREMENTS; AND FOR OTHER MATTERS NECESSARILY CONNECTED THEREWITH AND PERTAINING THERETO.

Resolution Number 19-03

### 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 amendments to the Washoe County Code Chapter 110 (Development Code) within Article 306, Accessory Uses and Structures, on January 2, 2019 as fully described in Attachment A-1 to this resolution; and
- C. Development Code Amendment Case Number WDCA18-0007, 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 WDCA18-0007:
  - 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 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

WORKING COPY  
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

**Summary:** Amends the Washoe County Code at Chapter 110 (Development Code) by updating the standards in Section 110.306.10(a) to add a requirement regulating lot coverage limitations for accessory structures on non-conforming lots.

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

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

Title:

An ordinance amending the Washoe County Code at Chapter 110 (Development Code), within Article 306, Accessory Uses and Structures, Detached Accessory Structures 110.306.10(a), Lot Coverage, to add a requirement regulating lot coverage limitations for accessory structures, by specifying that on legal non-conforming lots, when the lot size does not meet the minimum lot size for the actual regulatory zone applicable to the lot, the allowed lot coverage for accessory structures will be based on the regulatory zone thresholds for the next densest regulatory zone for which the actual lot size does meet the minimum lot size requirements; and other matters necessarily connected therewith and pertaining thereto.

WHEREAS:

- A. This Commission desires to amend Article 306 of the Washoe County Code Chapter 110 (Development Code) in order to add a requirement to Section 110.306.10(a) for determining lot coverage Limitations for detached accessory structures on lots which are nonconforming for parcel size; and,

- B. The Washoe County Planning Commission initiated the proposed amendments to Washoe County Code Chapter 110, Development Code, by Resolution Number 19-03 on January 2, 2019 creating Development Code Amendment Case Number WDCA18-0007; 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 WDCA18-0007 on January 2, 2019, and adopted Resolution Number 19-03 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 306.10(a) of the Washoe County Code is hereby amended to read as follows:

WCC Section 110.306.10 Detached Accessory Structures. Detached accessory structures are defined in Article 304, Use Classification System, under Section 110.304.15, Residential Use Types. The following development requirements shall apply to detached accessory structures:

- (a) Lot Coverage. The establishment of detached accessory structures shall not exceed the following lot coverage limitations:
  - (1) On lots in the High Density Suburban (HDS) and Medium Density Suburban (MDS) Regulatory Zones, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 50 percent of the total lot acreage;
  - (2) On lots in the Low Density Suburban (LDS) Regulatory Zones, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 25 percent of the total lot acreage;

- (3) On lots in the High Density Rural (HDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 20 percent of the total lot acreage;
- (4) On lots in the Medium Density Rural (MDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 15 percent of the total lot acreage;
- (5) On lots in the Low Density Rural (LDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 10 percent of the total lot acreage or 80,000 square feet, whichever is less;
- (6) Exemptions to lot coverage limitations. Parcels 40 acres in size or larger in the General Rural (GR) and General Rural Agricultural (GRA) Regulatory Zones, and all parcels in the Commercial, Industrial, and Urban Regulatory Zones, are exempt from the lot coverage limitations of this section.
- (7) **On legal non-conforming lots, when the lot size does not meet the minimum lot size for the regulatory zone applicable to the lot, the allowed lot coverage under this section will be based on the regulatory zone thresholds for that regulatory zone, which most closely matches the actual lot size.**

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

**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 \_\_\_\_\_.

## *Interpretation 12-1*

# **ACCESSORY STRUCTURES IN GENERAL RURAL, LOT COVERAGE AND SIZE LIMITS**

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Washoe County Code Section 110.914.05(c) gives the Director of Community Development the authority "to interpret the provisions of the Development Code."

### **CODE SECTION IN QUESTION**

**Section 110.306.10 Detached Accessory Structures.** Detached accessory structures are defined in Article 304, Use Classification System, under Section 110.304.15, Residential Use Types. The following development requirements shall apply to detached accessory structures:

- (a) Lot Coverage. The establishment of detached accessory structures shall not exceed the following lot coverage limitations:
  - (1) On lots in the High Density Suburban (HDS) and Medium Density Suburban (MDS) Regulatory Zones, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed fifty (50) percent of the total lot acreage;
  - (2) On lots in the Low Density Suburban (LDS) Regulatory Zones, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed twenty-five (25) percent of the total lot acreage;
  - (3) On lots in the High Density Rural (HDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed twenty (20) percent of the total lot acreage;
  - (4) On lots in the Medium Density Rural (MDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed fifteen (15) percent of the total lot acreage;
  - (5) On lots in the Low Density Rural (LDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed ten (10) percent of the total lot acreage or eighty-thousand (80,000) square feet, whichever is less;
  - (6) Exemptions to lot coverage limitations. Parcels forty (40) acres in size or larger in the General Rural (GR) and General Rural Agricultural (GRA) Regulatory Zones, and all parcels in the Commercial, Industrial, and Urban Regulatory Zones, are exempt from the lot coverage limitations of this section.

- (d) Size. A proposal to establish a detached accessory structure that is larger (i.e. has more square footage or a larger building footprint) than the existing main structure shall require the approval of an Administrative Permit (pursuant to Article 808), to include review of building height and architectural compatibility with surrounding dwellings, prior to the issuance of a building permit. Parcels forty (40) acres in size or larger in the General Rural (GR) and General Rural Agricultural (GRA) Regulatory Zones, and all parcels in the Commercial and Industrial Regulatory Zones, are exempt from this requirement.

## BACKGROUND

Section 110.306.05 of the Development Code allows accessory uses and structures that are "incidental and subordinate to" existing principal uses and established main structures on a property. The construction of a very large detached accessory structure, that often far exceeds the size of the principal main structure on a property, can give the appearance that the accessory structure is no longer "incidental and subordinate to" the main structure on the property. As a result, the public has expressed concern when such structures are built regarding potential impacts to the character of neighborhoods (i.e. residential vs. industrial), property values, scenic degradation, architectural incompatibility, and notice to surrounding property owners of the proposed structure.

The Development Code was amended in 2011 to address these public concerns. The new Code provisions stipulate that detached accessory structures larger than the primary residence require a discretionary permit (i.e. an Administrative Permit pursuant to Article 808), in order to provide notice to adjacent property owners and allow for mitigation of conditions that can be created by the size and location of a very large accessory structure. In addition, maximum lot coverage standards were established for high, medium and low density rural and suburban parcels. The Code also provides that General Rural (GR) lots over 40 acres are exempt from the size limit restrictions on accessory structures. However, the Code does not adequately address large detached accessory structures for GR parcels less than 40 acres in size.

There are a multitude of GR parcels much less than 40 acres in size distributed throughout the unincorporated County. The majority of these smaller parcels are interspersed amongst low, medium and high density rural and suburban lots. Since the intent of the detached accessory structure size limit regulations are to protect the character, density and intensity of residential neighborhoods by providing notice to the neighbors of any proposals to build such a structure, and to allow for the mitigation of any identified adverse impacts through the issuance of a discretionary permit, it is logical that the detached accessory structure size limit regulations should apply to GR parcels less than 40 acres in size.

Washoe County Code Section 110.306.10(a) and (d) regulate the density, intensity and appearance of detached accessory structures on residential lots in high, medium or low density rural and low and medium density suburban lots. Since GR parcels less than 40 acres in size may have similar impact on the surrounding residential areas, those parcels must be treated in a similar manner as similar sized parcels. Therefore, GR parcels less than 40 acres in size will be regulated for detached accessory structures based on the closest comparable minimum lot size as specified on Table 110.406.05.1. For example a 2.5 acre GR parcel would be treated as an HDR parcel, because the minimum required lot size for HDR is two acres. Likewise, the minimum lot size for LDR is 8 acres so, if a GR lot is 8 acres or more, but less than 24 acres it

would be treated the same as an LDR parcel. A GR parcel larger than 24 acres<sup>1</sup>, however, would be closer to the GR designation and therefore would be regulated as if zoned GR and exempted from the size limitations of Section 110.306.10(d).

### LIMITATIONS OF INTERPRETATION

This interpretation shall supersede all previous interpretations of Washoe County Chapter 110 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 Community Development, the interpretation is reversed through a successful appeal pursuant to Article 808, Administrative Permits, the interpretation is otherwise invalidated pursuant to law, or the Washoe County Code is amended to include the subject matter referenced in this interpretation.

/s/

Bill Whitney, Acting Community Development Director

Dated: March 8, 2012

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<sup>1</sup> 24 acres was based on two factors. First, 24 acres is more than one-half the size required for a GR parcel and over twice as much as required for a LDR parcel. Second, if an accessory building is placed on the center of 24-acre lot, it is likely that no adjacent property owners would be within the 500-foot noticing requirement.

## *Interpretation 18-3*

# **LOT COVERAGE REQUIREMENTS FOR ACCESSORY STRUCTURES IN RESIDENTIAL REGULATORY ZONES**

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Washoe County Code (WCC) Section 110.914.05(c) gives the Director of the Planning and Building Division (Director) the authority "to interpret the provisions of the Development Code." WCC Section 110.304.10(b) further enables the Director to develop and maintain an administrative list of common uses and the use type into which they are classified.

### **CODE SECTION IN QUESTION**

WCC Section 110.306.10 Detached Accessory Structures. Detached accessory structures are defined in Article 304, Use Classification System, under Section 110.304.15, Residential Use Types. The following development requirements shall apply to detached accessory structures:

- (a) Lot Coverage. The establishment of detached accessory structures shall not exceed the following lot coverage limitations:
  - (1) On lots in the High Density Suburban (HDS) and Medium Density Suburban (MDS) Regulatory Zones, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 50 percent of the total lot acreage;
  - (2) On lots in the Low Density Suburban (LDS) Regulatory Zones, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 25 percent of the total lot acreage;
  - (3) On lots in the High Density Rural (HDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 20 percent of the total lot acreage;
  - (4) On lots in the Medium Density Rural (MDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 15 percent of the total lot acreage;
  - (5) On lots in the Low Density Rural (LDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 10 percent of the total lot acreage or 80,000 square feet, whichever is less;
  - (6) Exemptions to lot coverage limitations. Parcels 40 acres in size or larger in the General Rural (GR) and General Rural Agricultural (GRA) Regulatory Zones, and all parcels in the Commercial, Industrial, and Urban Regulatory Zones, are exempt from the lot coverage limitations of this section.

## **BACKGROUND**

WCC Section 110.306.10(a) limits the lot coverage of detached accessory structures depending on the regulatory zoning for the individual lot. However, some lots do not meet the minimum lots size for the regulatory zone within which the lot is located as required pursuant to WCC Table 110.406.05.1, *Density/Intensity Standards or Lot Size*. One example of a lot size and regulatory zone discrepancy occurs within common open space developments, where the overlying regulatory zoning is not changed, but lot sizes are smaller than normally allowed in the regulatory zone. Lots that do not meet the minimum lot coverage requirements set forth in WCC Section 110.306.10(a) are deemed non-conforming. When the lot size does not meet the minimum lot size standard and is non-conforming, the strict application of WCC Section 110.306.10(a) can penalize a property owner and prevent the property owner from adding any accessory structures.

## **INTERPRETATION**

For non-conforming lots, when the lot size does not meet the minimum lot size for the regulatory zone, the lot will be evaluated according to the actual size of the lot when applying WCC Section 110.306.10(a). The actual lots size will be translated into the appropriate regulatory zone and that regulatory zone will dictate the allowed lot coverage.

For example, a property has a regulatory zone of Low Density Suburban (LDS), but the actual lot size is one third of an acre. The lot size translates to the Medium Density Suburban (MDS) regulatory zone. The lot will be evaluated pursuant to WCC Section 110.306.10(a)(1) for the allowed lot coverage.

## **LIMITATIONS OF INTERPRETATION**

This interpretation shall supersede any and all previous interpretations of WCC Chapter 110 (Development Code) concerning the above referenced subject and will remain in effect until one of the following occurs:

1. A subsequent interpretation concerning the above referenced subject is made by the Director of the Planning and Building Division;
2. The interpretation is reversed through a successful appeal pursuant to WCC Chapter 110, Article 912, *Establishment of Commissions, Boards and Hearing Examiners* or Article 914, *Establishment of Department*;
3. The interpretation is otherwise invalidated pursuant to law; or,
4. The Development Code is amended to incorporate the subject matter referenced in this interpretation.



Mojra Hauenstein, Director, Planning & Building Division

Dated: October 18, 2018