



# Planning Commission Staff Report

Meeting Date: October 3, 2017

Subject: Development Code Amendment Case Number WDCA17-0006

Applicant: Planning and Building Division

**Agenda Item Number: 9D**

Summary: To initiate an amendment and subsequently amend Washoe County Code Section 110.804.35, *Minor Deviations*, to allow the Director to grant minor deviations.

**Recommendation: Initiate the amendment, and recommend approval and authorize the Chair to sign the attached resolution**

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Washoe County  
Commission District: All Commission Districts

## Description

**Development Code Amendment Case Number WDCA17-0006 (Minor Deviations)** – For possible action, hearing and discussion pursuant to NRS 278.319 to initiate an amendment to Washoe County Code Chapter 110 (Development Code) within Article 804, Variances, to add Section 110.804.35 (Minor Deviations) to allow the Director of the Planning and Building Division to grant minor deviations of standards within Chapter 110 of the Washoe County Code for deviations less than 10 percent of the applicable Development Code Standard; to establish an application process for minor deviations; 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.

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**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, 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 denial of the proposed amendment. The PC records its recommendation by resolution.

The Board hears all amendments recommended for approval, and amendments recommended for denial 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. Unless otherwise specified, ordinances are effective 10 days after adoption.

**Background**

Washoe County Code (WCC) 804, Variances, currently allows for the varying of standards with the approval of a variance application which requires noticing, a public hearing and satisfying the required findings for approval. However, pursuant to NRS 278.319, *the governing body (Washoe County) may adopt an ordinance that authorizes the director of planning or another person or agency to grant a deviation of less than 10 percent from requirements for land use established within a zoning district without conducting a hearing. The ordinance must require an applicant for such a deviation to obtain the written consent of the owner of any real property that would be affected by the deviation.*

Washoe County staff is asking the Planning Commission to initiate and subsequently recommend approval of a code amendment to allow the Director of the Planning and Building Division to follow the provisions of NRS 278.319 and grant minor deviations of standards within Washoe County Code (WCC) Chapter 110 (Development Code) for deviations less than 10

percent of the applicable Development Code standard(s). The amendment will further establish the application and review process for minor deviations.

The proposed amendment (see Attachment A-1) will improve customer service by offering a simplified process for individuals to vary code standards that result in a modification that is less than 10 percent of the standard. Such modifications will typically have very minimal impacts to neighboring properties and/or the public. Washoe County staff will review the application and require the written consent of the impacted neighbor(s). The proposed amendment will also require the Director of the Planning and Building Division to find that a proposed minor deviation does not result in a substantial detriment to the public good and does not impair the purpose of the zoning district or any regulations adopted by Washoe County.

### **Proposed Amendment**

As proposed, this Development Code amendment will add a new section to Article 804, *Variances*. The proposed amendment text appears below (note: all text is new text).

**Section 110.804.35 Minor Deviations.** The Director of the Planning and Building Division may grant a minor deviation of standards to this chapter for deviations less than 10 percent of the applicable Development Code standard pursuant NRS 278.319.

- (a) **Application.** The applicant must file a Director's Modification of Standards application, accompanied by the appropriate fee, with the Planning and Building Division, and must clearly describe the extenuating circumstances or unique physical conditions on the project site to justify the need for the requested deviation. The applicant must provide a description of the requested deviation, and how the request will remedy the circumstances and/or conditions. As part of the application submittal, the applicant must provide written consent from the owner(s) of real property that would be affected by the request. At minimum, affected property owners means those owners of parcels that immediately abut the location of the proposed minor deviation. The Director may require the written consent from additional owner(s) of real property if deemed necessary by the Director to provide notice to all owners of affected real property.
- (b) **Director's Decision.** The Director shall provide a written decision on the application for a minor deviation within 15 days of receipt of a completed application. The Director may grant or deny the application, or may determine that the application exceeds the less than 10% threshold and require submission of a Variance application pursuant to this Article. The findings specified in section 804.25 of this Code are not required for minor deviations but the Director must find that the requested minor deviation does not result in a substantial detriment to the public good and does not impair the purpose of the zoning district or any regulations adopted by Washoe County. The Director's decision may be appealed following the provisions of section 804.40 of this Code.

### **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. The proposed amendment does not allow for the modification of allowable uses but rather only the modification of the standards established for the regulatory zone and by the Development Code, and thus complies with the policies 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.

Staff comment: The proposed amendment will provide an option for deviating from development code standards when the deviation is limited to under 10 percent which represents very minimal impacts in most situations. There are no anticipated adverse impacts to public health, safety or welfare.

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 responds to numerous concerns raised by Washoe County residents, and is an initiative by Planning and Building Division staff to codify the provisions of NRS enabling minor deviations in order to improve customer service by providing a process for minor deviations to development code standards.

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 Chair and membership of all Citizen Advisory Boards were likewise notified of the public hearing.

### **Recommendation**

It is recommended that the PC initiate and subsequently recommend approval of WDCA17-0006, to amend the Development Code within Article 804, *Variances*, 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 804, *Variances*, as described in the staff report for WDCA17-0006.

### **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 WDCA17-0006, to amend Washoe County Code Chapter 110 within Article 804, *Variances*, as described in the staff report for this matter. I further move to authorize the Chair to sign the resolution contained in Attachment 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.

Staff Report and Action Order xc: David M. Solaro, Assistant County Manager  
Nathan Edwards, Deputy District Attorney



## RESOLUTION OF THE WASHOE COUNTY PLANNING COMMISSION

PURSUANT TO NRS 278.319, INITIATING AND RECOMMENDING APPROVAL OF AN AMENDMENT TO WASHOE COUNTY CODE CHAPTER 110 (DEVELOPMENT CODE) WITHIN ARTICLE 804, *VARIANCES*, TO ADD SECTION 110.804.35, *MINOR DEVIATIONS*; TO ALLOW THE DIRECTOR OF THE PLANNING AND BUILDING DIVISION TO GRANT MINOR DEVIATIONS OF STANDARDS WITHIN CHAPTER 110 OF THE WASHOE COUNTY CODE FOR DEVIATIONS LESS THAN 10 PERCENT OF THE APPLICABLE DEVELOPMENT CODE STANDARD; TO ESTABLISH AN APPLICATION PROCESS FOR MINOR DEVIATIONS; AND FOR OTHER MATTERS NECESSARILY CONNECTED THEREWITH AND PERTAINING THERETO.

Resolution Number 17-11

### WHEREAS

- A. Washoe County Code Section 110.818.05 requires that amendments to the Washoe County Code Chapter 110 (Development Code) be initiated by resolution of the Washoe County Board of County 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) Article 804, *Variances*, on October 3, 2017 as fully described in Attachment A-1 to this resolution; and
- C. Development Code Amendment Case Number WDCA17-0006, came before the Washoe County Planning Commission for a duly noticed public hearing on October 3, 2017; 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 WDCA17-0006:
  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 pursuant to Washoe County Code Sections 110.818.05(a) and 110.818.15(d) and (g):

- 1) The Washoe County Planning Commission does hereby initiate and recommend approval of WDCA17-0006 as set forth in Attachment A-1 to this resolution to amend Washoe County Code Chapter 110 (Development Code) within Article 804, *Variances*, to establish Section 110.804.35, *Minor Deviations*; and other matters necessarily connected therewith and pertaining thereto. The proposed amendment allows the Director of Planning and Building to grant minor deviations of standards within Chapter 110 of the Washoe County Code for deviations less than 10 percent of the applicable development code standard, and to establish an application process for minor deviations.
- 2) A report describing this amendment, discussion at this public hearing, this recommendation, and the vote on the recommendation will be forwarded to the Washoe County Board of Commissioners within 60 days of this resolution's adoption date.

ADOPTED on October 3, 2017.

WASHOE COUNTY PLANNING COMMISSION

ATTEST:

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Carl R. Webb, Jr., AICP, Secretary

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Sarah Chvilicek, Chair

DRAFT: September 1, 2017

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:** Pursuant to NRS 278.319, amends the Development Code by adding Section 110.804.35 to allow the Director of the Planning and Building Division to grant minor deviations of standards within Chapter 110 of the Washoe County Code for deviations less than 10 percent of the applicable Development Code Standard.

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

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

Title:

Pursuant to NRS 278.319, an ordinance amending the Washoe County Code at Chapter 110 Development Code), of the Washoe County Code within Article 804 (Variances), to add Section 110.804.35 (Minor Deviations to allow the Director of the Planning and Building Division to grant minor deviations of standards within Chapter 110 of the Washoe County Code for deviations less than 10 percent of the applicable Development Code Standard; to establish an application process for minor deviations; and for other matters necessarily connected therewith and pertaining thereto.

WHEREAS:

A. This Commission desires to amend Article 804 of the Washoe County Code Chapter 110 (Development Code) in order to allow the Director of the Planning and Building Division to grant minor deviations of standards within Chapter 110 of the Washoe County Code for deviations less than 10 percent of the



applicable Development Code Standard and to establish an application process for minor deviations and,

- B. The Washoe County Planning Commission initiated the proposed amendments to Washoe County Code Chapter 110 (Development Code) by Resolution Number 17-XX on October 3, 2017; 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 WDCA17-0006 on October 3, 2017, and adopted Resolution Number 17-XX 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 110.804.35 of the Washoe County Code is hereby added to read as follows:

**Section 110.804.35 Minor Deviations.** The Director of the Planning and Building Division may grant a minor deviation of standards to this chapter for deviations less than 10 percent of the applicable Development Code standard pursuant NRS 278.319.

- (a) **Application.** The applicant must file a Director's Modification of Standards application, accompanied by the appropriate fee, with the Planning and Building Division, and must clearly describe the extenuating circumstances or unique physical conditions on the project site to justify the need for the requested deviation. The applicant must provide a description of the requested deviation, and how the request will remedy the circumstances and/or conditions. As part of the application submittal, the applicant must

provide written consent from the owner(s) of real property that would be affected by the request. At minimum, affected property owners means those owners of parcels that immediately abut the location of the proposed minor deviation. The Director may require the written consent from additional owner(s) of real property if deemed necessary by the Director to provide notice to all owners of affected real property.

- (b) Director's Decision. The Director shall provide a written decision on the application for a minor deviation within 15 working days of receipt of a completed application. The Director may grant or deny the application, or may determine that the application exceeds the 10% threshold and require submission of a Variance application pursuant to this Article. The findings specified in section 804.25 of this Code are not required for minor deviations but the Director must find that the requested minor deviation does not result in a substantial detriment to the public good and does not impair the purpose of the zoning district or any regulations adopted by Washoe County. The Director's decision may be appealed following the provisions of section 804.40 of this Code.

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: September 1, 2017**

Passage and Effective Date

Proposed on \_\_\_\_\_ (month) \_\_\_\_\_ (day), 2017.

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

Passed on \_\_\_\_\_ (month) \_\_\_\_\_ (day), 2017.

Vote:

Ayes:

Nays:

Absent:

\_\_\_\_\_  
Robert Lucey, Chair  
County Commission

ATTEST:

\_\_\_\_\_  
Nancy Parent, County Clerk

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