



Planning Commission Staff Report

Meeting Date: December 6, 2016

Subject: Development Code Amendment Case Number DCA16-007

Applicant: Planning and Development Division

Agenda Item Number: 9E

Summary: To amend Washoe County Code, Chapter 110, Development Code, at Article 324, *Communication Facilities*, to clarify that the placement of a monopole antenna is an allowed use in the General Rural Agricultural regulatory zone with approval of a Special Use Permit.

Recommendation: Recommend approval and authorize the Chair to sign the attached resolution

Prepared by: Chad Giesinger, Senior Planner
Washoe County Community Services Department
Planning and Development Division

Phone: 775.328.3626
E-Mail: cgiesinger@washoecounty.us

Washoe County
Commission District: All Commission Districts

Description

Development Code Amendment Case Number DCA16-007 (Verizon GRA) – Hearing, discussion, and possible action to recommend approval of an amendment to the Washoe County Code at Chapter 110 (Development Code), Article 324 *Communication Facilities* at Section 110.324.50(e), to include the General Rural Agricultural regulatory zone among the regulatory zones where wireless communication facility monopole antennas are allowed with a special use permit; to clarify that all new monopole antennas require the approval of a Special Use Permit; and to replace the master plan designations of Rural Residential, Suburban Residential, and Urban Residential with the corresponding regulatory zones of High Density Rural (HDR), Medium Density Rural (MDR), Low Density Rural (LDR), Low Density Suburban (LDS), Medium Density Suburban (MDS), High Density Suburban (HDS), Low Density Urban (LDU), Medium Density Urban (MDU), and High Density Urban (HDU); and, if approved, to authorize the chair to sign a resolution reflecting these amendments.

Staff Report Contents

Development Code Amendments 2

Background on Proposed Amendments..... 3

Proposed Amendments..... 4

Findings 4

Public Notice 5

Recommendation..... 5

Motion..... 5

Appeal Process..... 6

Attachment Contents

Resolution..... Attachment A

Proposed OrdinanceExhibit A

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 resolution of the Washoe County Board of County Commissioners or the Washoe County Planning Commission. Real property owners may submit an application to initiate a Development Code amendment.

After initiation, the Planning Commission considers the proposed amendment in a public hearing. The Planning Commission may recommend approval, approval with modifications or denial of the proposed amendment. The Planning Commission records its recommendation by resolution.

The Washoe County Board of County Commissioners 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 on Proposed Amendments

In 2011, the Development Code was amended (by Ordinance No. 1475) to change the name of the General Rural Residential (GRR) regulatory zone to General Rural Agricultural (GRA). This change made it necessary to replace all references to GRR in the Development Code with the new GRA nomenclature. It recently came to the attention of staff, however, that a portion of the Development Code had been inadvertently overlooked during this process. Due to a recent application requesting approval of a new cellular facility in the Warm Springs planning area on property zoned GRA, staff realized that GRA had not been included in the regulatory zones referenced in Article 324, *Communication Facilities*. Because of this omission, staff was unable to process the application since new monopole antennas were technically not listed as an allowed use in the GRA regulatory zone. The proposed amendments are intended to rectify this inadvertent omission and clarify that new cellular facilities are an allowed use in the GRA regulatory zone subject to approval of a special use permit.

Federal law prohibits local governments from creating a “barrier to entry” to new wireless communication facilities. Monopole antennas are therefore an allowed use (subject to a special use permit) in all regulatory zones if certain criteria are met. WCC Section 110.324.50(e), *Wireless Communication/Cellular Facilities Placement Standards*, sets forth the criteria for how and where new wireless communication facilities are allowed in every regulatory zone in Washoe County. This section will be amended to add the GRA regulatory zone so that all regulatory zones continue to be referenced in this code section (see the proposed amendment section of this staff report on the next page). The amendment will also make Article 324 consistent with the Commercial Use Type table of uses in Article 302 by adding the GRA regulatory zone to Article 324 (see below graphic).

TABLE OF USES (Commercial Use Types)
(See Sections 110.302.10 and 110.302.15 for explanation)

Commercial Use Types (Section 110.304.25)	LDR	MDR	HDR	LDS/ LDS 2	MDS/ MDS 4	HDS	LDU	MDU	HDU	GC	NC	TC	I	PSP	PR	OS	GR	GRA
Communication Facilities																		
Commercial Antennas	S ₂	S ₂	S ₂	--	--	--	--	--	--	S ₂	S ₂	--	S ₂	S ₂	--	--	S ₂	--
Satellite Dish Antennas	See Article 324																	
Wireless Communication Facilities	See Article 324																	

Staff is proposing to add the GRA regulatory zone to WCC Section 110.324.50(e)(2). This section currently references and sets forth the placement criteria for the General Rural (GR) and Open Space (OS) regulatory zones. Since GRA is nearly identical in functionality to GR, staff believes this is the best location for the proposed amendment. In addition to the applicant’s request, staff is also proposing to “clean” up some of the existing language in WCC Section 110.324.50(e)(1) to remove obsolete references to “land use designations” (which is a term from the previous one map system Washoe County utilized), to make the language throughout the section consistent by removing references to master plan designations and replacing them with the applicable regulatory zones, and to clarify that all new monopole antennas require the approval of a Special Use Permit.

This staff report outlines the specific changes proposed with the code amendments. The proposed amendments are attached as Exhibit A to the resolution (Attachment A) included with this staff report.

Proposed Amendments

The following outlines the specific changes proposed within each ordinance section. ~~Strikeout text~~ represents deleted language and **bold text** represents new language.

1. Section 1, WCC Section 110.324.50(e)(1):

Antennas shall be allowed **with approval of a Special Use Permit** in all ~~Rural Residential~~ **the High Density Rural (HDR), Medium Density Rural (MDR), Low Density Rural (LDR)**, Public/Semi-Public Facilities (PSP), General Commercial (GC), Neighborhood Commercial/Office (NC), Tourist Commercial (TC), Industrial (I), Parks and Recreation (PR), and Specific Plan (SP) regulatory zones. Antennas may be allowed **with approval of a Special Use Permit** in the ~~Urban Residential~~ **Low Density Urban (LDU), Medium Density Urban (MDU), High Density Urban (HDU), and Suburban Residential Low Density Suburban (LDS), Medium Density Suburban (MDS), and High Density Suburban (HDS)** regulatory zones when the antenna is proven by a technical review to be required to fill a "Significant Gap in Coverage" as defined in Section 110.324.55. Antennas shall be limited to the building standard height for an allowed main structure plus up to ten (10) feet above that height.

2. Section 2, WCC Section 110.324.50(e)(2):

Antennas shall be permitted **with approval of a Special Use Permit** in the General Rural (GR), **General Rural Agricultural (GRA)**, and Open Space (OS) ~~land use designations~~ **regulatory zones** (see Open Space limitations within this article) with the placement standards depicted in Table 110.324.50.1, Antenna Placement Standards.

Findings

WCC Section 110.818.15(e) requires the Planning Commission to make at least one of the following findings of fact. Staff provides the following evaluation for each of the findings of fact and recommends that the Planning Commission make all four findings in support of the proposed Development Code 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 amendment has no impact on the policies and action programs of the Washoe County Master Plan. The amendment simply corrects a technical error and reinstates a use that had been previously authorized in the subject area.

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 amendment has no impact on the public health, safety, or welfare since it will not result in any substantial change to policy or authorized land uses. The amendment will promote the economic and social advantages gained from an appropriately regulated use of land resources by enabling cellular facilities and coverage in a large geographic portion of the county.

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 amendments respond to changed conditions resulting from passage of Ordinance Number 1475 that created a new regulatory zone.

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 amendment is technical in nature and therefore will not affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan. The amendment will improve the ability to provide adequate wireless cellular infrastructure to accommodate the growing population of Washoe County.

Public Notice

Staff held a public workshop on November 14, 2016, from 6:00 p.m. to 7:00 p.m. to discuss the proposed amendments and receive public comment. All active Citizen Advisory Board (CAB) members and citizens signed up on the County's e-mail notification list (cMail) were notified of the public workshop. The five persons that attended the workshop, and one Warm Springs resident that emailed comments to staff, supported the amendment.

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 CABs were likewise notified of the public hearing. Such notification was accomplished and staff can provide proof of notification if requested.

Recommendation

It is recommended that the Washoe County Planning Commission recommend approval of DCA16-007 to amend the Washoe County Code at Chapter 110 (Development Code), Article 324 *Communication Facilities* at Section 110.324.50(e), to include the General Rural Agricultural regulatory zone among the regulatory zones where wireless communication facility monopole antennas are allowed with a special use permit; to clarify that all new monopole antennas require the approval of a Special Use Permit; and to replace the master plan designations of Rural Residential, Suburban Residential, and Urban Residential with the corresponding regulatory zones of High Density Rural (HDR), Medium Density Rural (MDR), Low Density Rural (LDR), Low Density Suburban (LDS), Medium Density Suburban (MDS), High Density Suburban (HDS), Low Density Urban (LDU), Medium Density Urban (MDU), and High Density Urban (HDU); and, if approved, to authorize the chair to sign a resolution reflecting these amendments.

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 recommend approval of DCA16-007 to amend the Washoe County Code at Chapter 110

(Development Code), Article 324 *Communication Facilities* at Section 110.324.50(e), to include the General Rural Agricultural regulatory zone among the regulatory zones where wireless communication facility monopole antennas are allowed with a special use permit; to clarify that all new monopole antennas require the approval of a Special Use Permit; and to replace the master plan designations of Rural Residential, Suburban Residential, and Urban Residential with the corresponding regulatory zones of High Density Rural (HDR), Medium Density Rural (MDR), Low Density Rural (LDR), Low Density Suburban (LDS), Medium Density Suburban (MDS), High Density Suburban (HDS), Low Density Urban (LDU), Medium Density Urban (MDU), and High Density Urban (HDU); and, if approved, to authorize the chair to sign a resolution reflecting these amendments. I further move to authorize the Chair to sign the resolution contained in Attachment A on behalf of the Washoe County Planning Commission and to direct staff to present a report of this Commission's recommendation to the Washoe County Board of County Commissioners within 60 days of today's date. This recommendation for approval is based on all of the following four findings in accordance with Washoe County Code Section 110.818.15(e):

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 from the date that the Planning Commission's decision is filed with the Secretary to the Planning Commission, and mailed to the original applicant pursuant to WCC Section 110.818.25 and WCC Section 110.912.20.

Staff Report and Action Order xc: Dave Solaro, Director, CSD
Nate Edwards, Deputy District Attorney



RESOLUTION OF THE WASHOE COUNTY PLANNING COMMISSION

RECOMMENDING APPROVAL OF AN AMENDMENT TO THE WASHOE COUNTY CODE AT CHAPTER 110 (DEVELOPMENT CODE), ARTICLE 324 COMMUNICATION FACILITIES AT SECTION 110.324.50(E), TO INCLUDE THE GENERAL RURAL AGRICULTURAL REGULATORY ZONE AMONG THE REGULATORY ZONES WHERE WIRELESS COMMUNICATION FACILITY MONOPOLE ANTENNAS ARE ALLOWED WITH A SPECIAL USE PERMIT; TO CLARIFY THAT ALL NEW MONOPOLE ANTENNAS REQUIRE THE APPROVAL OF A SPECIAL USE PERMIT; AND TO REPLACE THE MASTER PLAN DESIGNATIONS OF RURAL RESIDENTIAL, SUBURBAN RESIDENTIAL, AND URBAN RESIDENTIAL WITH THE CORRESPONDING REGULATORY ZONES OF HIGH DENSITY RURAL (HDR), MEDIUM DENSITY RURAL (MDR), LOW DENSITY RURAL (LDR), LOW DENSITY SUBURBAN (LDS), MEDIUM DENSITY SUBURBAN (MDS), HIGH DENSITY SUBURBAN (HDS), LOW DENSITY URBAN (LDU), MEDIUM DENSITY URBAN (MDU), AND HIGH DENSITY URBAN (HDU).

Resolution Number 16-19

WHEREAS

- A. Development Code Amendment Case Number DCA16-007, came before the Washoe County Planning Commission for a duly noticed public hearing on December 6, 2016; and
- B. The Washoe County Planning Commission heard public comment and input from both staff and the public regarding the proposed Development Code amendment; and
- C. The Washoe County Planning Commission gave reasoned consideration to the information it received regarding the proposed Development Code Amendment; and
- D. 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 DCA16-007:
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 Section 110.818.15(d) and (g):

1. The Washoe County Planning Commission does hereby recommend APPROVAL of DCA16-007 as set forth in Exhibit A to this resolution, to amend the Washoe County Code at Chapter 110 (Development Code), Article 324 *Communication Facilities* at Section 110.324.50(e), to include the General Rural Agricultural regulatory zone among the regulatory zones where wireless communication facility monopole antennas are allowed with a special use permit; to clarify that all new monopole antennas require the approval of a Special Use Permit; and to replace the master plan designations of Rural Residential, Suburban Residential, and Urban Residential with the corresponding regulatory zones of High Density Rural (HDR), Medium Density Rural (MDR), Low Density Rural (LDR), Low Density Suburban (LDS), Medium Density Suburban (MDS), High Density Suburban (HDS), Low Density Urban (LDU), Medium Density Urban (MDU), and High Density Urban (HDU); and,
2. A report describing this amendment, discussion at this public hearing, this recommendation, and the vote on the recommendation to be forwarded to the Washoe County Board of County Commissioners within 60 days of this resolution's adoption date.

ADOPTED on December 6, 2016.

WASHOE COUNTY PLANNING COMMISSION

ATTEST:

Carl R. Webb, Jr., AICP, Secretary

James Barnes, Chair

WORKING COPY
INFORMATION ONLY

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT: DELETED LANGUAGE~~

BOLD TEXT: NEW LANGUAGE

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040

Summary: To amend Washoe County Code, Chapter 110, Development Code, at Article 324, Communication Facilities, to clarify that the placement of a monopole antenna is an allowed use in the General Rural Agricultural regulatory zone with approval of a Special Use Permit.

BILL NO. _____

ORDINANCE NO. _____

An ordinance amending the Washoe County Code at Chapter 110 (Development Code) within Article 324 *Communication Facilities* at Section 110.324.50(e), to include the General Rural Agricultural regulatory zone among the regulatory zones where wireless communication facility monopole antennas are allowed with a special use permit; to clarify that all new monopole antennas require the approval of a Special Use Permit; and to replace the master plan designations of Rural Residential, Suburban Residential, and Urban Residential with the corresponding regulatory zones of High Density Rural (HDR), Medium Density Rural (MDR), Low Density Rural (LDR), Low Density Suburban (LDS), Medium Density Suburban (MDS), High Density Suburban (HDS), Low Density Urban (LDU), Medium Density Urban (MDU), and High Density Urban (HDU).

WHEREAS:

- A. It is the intent of the Development Code to comply with Federal Law prohibiting local governments from creating a "barrier to entry" for new wireless cellular facilities; and,

- B. All regulatory zones in Washoe County therefore allow new monopole wireless antennas with approval of a Special Use Permit, subject to certain placement criteria; and,
- C. Ordinance 1475 created a new regulatory zone entitled General Rural Agricultural that was inadvertently not included among the regulatory zones where wireless communication facility monopole antennas are allowed with a special use permit; and,
- D. To ensure that a "barrier to entry" is not created, the General Rural Agricultural regulatory zone must be included in Article 324, *Communication Facilities*, as a regulatory zone where wireless communication facility monopole antennas are allowed with a special use permit; and,
- E. The Washoe County Planning Commission held a duly noticed public hearing for DCA 16-007 on December 6, 2016, and adopted Resolution Number 16-19 recommending adoption of this ordinance; and,
- C. Following a first reading and publication as required by NRS 244.100 (1), and after a duly noticed public hearing, this Board of County Commissioners desires to adopt this Ordinance; and
- D. This Board of County Commissioners has determined that this ordinance is being adopted pursuant to requirements set forth in Chapter 278 of NRS, and therefore 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 110.324.50 *Wireless Communication/Cellular Facilities Placement Standards* is hereby amended to read as follows:

- (e) Monopole Antenna. The placement of a monopole antenna shall comply with the following criteria:
 - (1) Antennas shall be allowed **with approval of a Special Use Permit** in ~~all Rural Residential~~ **the High Density Rural (HDR), Medium Density Rural (MDR), Low Density**

Rural (LDR), Public/Semi-Public Facilities (PSP), General Commercial (GC), Neighborhood Commercial/Office (NC), Tourist Commercial (TC), Industrial (I), Parks and Recreation (PR), and Specific Plan (SP) regulatory zones. Antennas may be allowed with approval of a Special Use Permit in the ~~Urban-Residential~~ Low Density Urban (LDU), Medium Density Urban (MDU), High Density Urban (HDU), and ~~Suburban-Residential~~ Low Density Suburban (LDS), Medium Density Suburban (MDS), and High Density Suburban (HDS) regulatory zones when the antenna is proven by a technical review to be required to fill a "Significant Gap in Coverage" as defined in Section 110.324.55. Antennas shall be limited to the building standard height for an allowed main structure plus up to ten (10) feet above that height.

- (2) Antennas shall be permitted **with approval of a Special Use Permit** in the General Rural (GR), **General Rural Agricultural (GRA)**, and Open Space (OS) ~~land-use designations~~ **regulatory zones** (see Open Space limitations within this article) with the placement standards depicted in Table 110.324.50.1, Antenna Placement Standards.

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 the 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 it 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.

Passage and Effective Date

Proposed on.....(month).....(day).....(year)

Proposed by Commissioner

Passed(month).....(day).....(year)

Vote

Ayes	Commissioners.....
Nays	Commissioners.....
Absent	Commissioners.....

Attest:

.....
County Clerk

.....
Chair of the Board

This ordinance shall in force and effect from and after the day of the month of of the year