



WASHOE COUNTY

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|-------------|------------|
| CM/ACM | |
| Finance | <u>ES</u> |
| DA | <u>NE</u> |
| Risk Mgt | <u>N/A</u> |
| HR | <u>N/A</u> |
| Comptroller | <u>CH</u> |

STAFF REPORT

BOARD MEETING DATE: May 23, 2017

DATE: May 23, 2017
TO: Board of County Commissioners
FROM: Eric Young, Senior Planner, Planning and Development
Community Services Department, 328-3613, eyoung@washoecounty.us
THROUGH: Bob Webb, Planning Manager, Planning and Development,
Community Services Department, 328-3623, bwebb@washoecounty.us
SUBJECT: For possible action, public hearing, and discussion on:

1. Appeal of the Planning Commission's denial of Development Code Amendment Case No. WDCA16-0001 (Willey), which sought to amend the Development Code at Chapter 110, Article 302, Table of Uses 110.302.05.4 (Industrial Use Types) to allow the Wholesaling, Storage, and Distribution (Heavy) Industrial use-type from WCC Section 110.304.30 in the General Rural (GR) regulatory Zone, with a Board of Adjustment approved Special Use Permit. The Wholesaling, Storage and Distribution use type is defined in WCC Section 110.304.30(1) and generally refers to businesses or establishments primarily engaged in wholesaling, storage, and bulk sale distribution including but not limited to open-air handling of material and equipment other than live animals and plants. The Heavy Use Type is further defined as distribution and handling of materials and equipment with examples to include monument sales, stone yards, or open storage yards. The appellant is requesting that the Board of County Commissioners reverse the Planning Commission's denial and approve the amendment request.
2. If the appeal is approved, introduction and first reading of an ordinance amending Washoe County Code, Chapter 110 (Development Code), at Article 302, Table of Uses 110.302.05.4 (Industrial Use Types) to allow the Wholesaling, Storage and Distribution Industrial Use Type (Heavy), as defined in WCC Section 110.304.30, in the General Rural (GR) regulatory zone with a Board of Adjustment approved Special Use Permit, and to make other changes necessarily connected therewith and pertaining thereto. The version of the ordinance approved for first reading may or may not include a minimum lot size requirement. And, if supported, set the public hearing for second reading and possible adoption of the Ordinance for June 13, 2017. (All Commission Districts.)

AGENDA ITEM # 23

SUMMARY

The Planning Commission conducted two public hearings for Development Code Amendment Case Number WDCA16-0001 on March 7 and April 4, 2017. The second hearing was necessary to correct errors in the resolution and accompanying ordinance adopted by the Planning Commission at the conclusion of the first hearing. The requested amendment would change the table of industrial land uses to allow the Wholesaling, Storage, and Distribution use-type in the General Rural (GR) Regulatory Zone throughout the unincorporated county with the approval of a special use permit by the Board of Adjustment. Their discussion included a review of the value and intent of potentially including a 40-acre minimum lot size requirement for such uses. At the conclusion of the hearing the Planning Commission voted unanimously to deny the requested amendment due to their inability to make any of the findings required by Washoe County Code chapter 110. The applicant, Mr. Gail Willey, filed a timely appeal of the Planning Commission decision. The appeal application states the reason the Planning Commission's decision should not have been made is, "The Planning Commission abused its discretion in denying the proposed amendment."

Through this appeal, the Board of Commissioners is being asked to take the following actions in the following order:

1. Determine if the Wholesaling, Storage, and Distribution use-type is an appropriate use throughout unincorporated Washoe County in the General Rural regulatory zone with an approved special use permit by the Board of Adjustment. If the Board determines the use is appropriate, act to grant the appeal and reverse the denial action of the Planning Commission. If the Board determines the use is not appropriate, act to deny the appeal.
2. If the Board grants the appeal and reverses the denial action of the Planning Commission, the next action is to determine if a minimum lot size should be required.
3. If the Board determines a 40-acre minimum lot size is appropriate, introduce and conduct a 1st reading of the ordinance in attachment A. If the Board determines that a 40-acre minimum lot size is not appropriate, introduce and conduct a first reading of the ordinance in attachment B.

Washoe County Strategic Objective supported by this item: Stewardship of our Community

PREVIOUS ACTION

The Planning Commission originally heard this case on March 7, 2017. The Planning Commission voted unanimously in favor of recommending approval of the amendments. However, the resolution approved by the Planning Commission did not match the agenda item and description in the staff report, nor the draft ordinance language exactly. Specifically, the resolution referred to the "General Rural Agricultural" regulatory zone and the amendment involves the "General Rural" regulatory zone. Therefore, it was necessary for staff to bring this case back to the Planning Commission in order to correct this inaccuracy.

On April 4, 2017, the Planning Commission heard the case again. At this hearing, the Planning Commission heard from numerous community members concerned about the impact of the proposed amendment. After considerable discussion regarding the appropriateness of allowing an industrial use-type in the General Rural regulatory zone throughout unincorporated Washoe County, the Planning Commission voted unanimously to deny the proposed amendment. The Planning Commission stated that they misunderstood the nature of the request the first time they heard it. They stated that their better understanding of the request led them to the conclusion that they could not make any of the findings required by Washoe County Code Chapter 110.

BACKGROUND

The applicant requested a Development Code Amendment to allow the establishment of Wholesaling, Storage and Distribution (Heavy) use-types in the General Rural (GR) regulatory zone with the granting of a special use permit by the Board of Adjustment. The request for the amendment was driven by the applicant's desire to establish a full service wholesale/retail landscape supply operation on General Rural zoned land. Currently, the Industrial regulatory zone is the only regulatory zone where such a use is permitted in unincorporated Washoe County. Staff's analysis of the request indicated that this amendment would create the potential for an industrial use-type to be located on non-conforming sub 40-acre GR parcels, in areas already developed primarily as residential. Staff recommended approval of the proposed amendment but only with the inclusion of a requirement to have a minimum lot size of 40 acres, the minimum required to be a conforming GR parcel. The Planning Commission recommended approval of the amendment on March 7, 2017 but voiced their dissatisfaction with the requirement for a minimum lot size.

However, due to the error mentioned in the Previous Action section of this staff report, the Planning Commission conducted a second public hearing for this matter on April 4, 2017. At this hearing, numerous community members expressed their concerns about maintaining their community's rural character. The Planning Commission discussed the impact of allowing an industrial use-type in rural areas. The Commission expressed a concern that allowing additional industrial use types in rural areas was not consistent with the Master Plan's deliberate exclusion of the Industrial Regulatory Zone from rural areas. The Commission also discussed the proliferation of small, non-conforming GR parcels throughout the county, and the fact that these parcels are often located in predominately residential areas. The staff report, minutes, and subsequent Action Order from the Planning Commission meeting are attached as attachments C, D and E respectively. At the conclusion of the public hearing, the Planning Commission stated that they had a more comprehensive understanding of the proposed amendment than they had after the first hearing, and determined that the amendment did not meet the required findings from WCC section 110.818.15(e). Below are the required findings and the Planning Commission's reasoning for their inability to conclude they could be met.

1. Consistency with Master Plan. The proposed Development Code amendment is not in substantial compliance with the policies and action programs of the Washoe County Master Plan, specifically the South Valleys Area plan or any other Area Plan that does not allow the Industrial Regulatory Zone. The Master Plan's

exclusion of the Industrial Regulatory Zone from the county's rural areas was a deliberate action and this amendment is not consistent with that policy;

2. Promotes the Purpose of the Development Code. The proposed Development Code amendment will not promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code, because of the potential negative impacts it could create in areas attempting to maintain a rural community character;
3. Response to Changed Conditions. The proposed Development Code amendment does not respond to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners because the conditions have not sufficiently changed; i.e., the community's desire to maintain its rural character has not changed; and,
4. No Adverse Affects. The record does not provide enough information to assure the Planning Commission that 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.

Given the above discussion, the Board of Commissioners is being asked to take from one to three separate actions:

1. Deny or approve the appeal of WDCA16-0001 (Willey), Wholesaling, Storage and Distribution in General Rural.
2. If the appeal is approved, determine whether or not a 40-acre minimum lot size requirement should be imposed.
3. Introduce and conduct a first reading of the draft ordinance with or without a 40-acre minimum lot size.

FISCAL IMPACT

No fiscal impact.

RECOMMENDATION

Staff recommends that the Board affirm the Planning Commission's denial of Development Code Amendment Case No. WDCA16-0001 (Willey).

POSSIBLE MOTION

Should the Board agree with the Planning Commission's denial of Development Code Amendment Case No. WDCA16-0001 (Willey); staff offers the following motion: "Move to affirm the Planning Commission's denial of Development Code Amendment Case No. WDCA16-0001, proposing to allow the Wholesaling, Storage and Distribution (Heavy) use-type in the General Rural Regulatory Zone with an approved Special Use Permit from the Board of Adjustment, having not been able to make the following findings pursuant to WCC section 110.818(e):

1. Consistency with Master Plan. The proposed Development Code amendment is not in substantial compliance with the policies and action programs of the Master Plan;
2. Promotes the Purpose of the Development Code. The proposed Development Code amendment would adversely impact the public health, safety or welfare,

and will not 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 does not identify and respond 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 does not create a more desirable utilization of land within the regulatory zones; and,
4. No Adverse Affects. The proposed Development Code amendment will adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.”

Should the Board disagree with the Planning Commission’s denial of Development Code Amendment Case No. WDCA16-0001; staff offers the following motion: “Move to reverse the Planning Commission’s denial of Development Code Amendment Case No. WDCA16-0001 and make all of the following required findings pursuant to WCC 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.

Further, introduce and conduct a first reading of the draft ordinance in attachment [A - with 40-acre minimum] [B - without 40-acre minimum]. And, if supported, set the public hearing for second reading and possible adoption of the Ordinance for June 13, 2017.”

Attachments:

- A – Draft Ordinance with 40-acre minimum
- B – Draft Ordinance without 40-acre minimum
- C – Staff Report, April 4, 2017 Planning Commission
- D – Minutes, April 4, 2017 Planning Commission
- E – Action Order, April 10, 2017, Planning Commission
- F - Appeal Application

ATTACHMENT A

Draft ordinance with
40 acre minimum parcel size

**WORKING COPY
INFORMATION ONLY**

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT:~~ DELETE LANGUAGE

BOLD TEXT: NEW LANGUAGE

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

Summary: An ordinance amending the Washoe County Code at Chapter 110 (Development Code), Article 302, Allowed Uses by amending Table 110.302.05.4 (Industrial Use-Types), to include the General Rural Regulatory Zone among the regulatory zones where the Wholesaling, Storage and Distribution (Heavy) industrial use-type is allowed on parcels of at least 40 acres in size with a special use permit granted by the Washoe County Board of Adjustment.

BILL NO. _____

ORDINANCE NO. _____

Title:

An ordinance amending the Washoe County Code at Chapter 110 (Development Code), Article 302, Allowed Uses by amending Table 110.302.05.4 (Industrial Use-Types), to include the General Rural Regulatory Zone among the regulatory zones where the Wholesaling, Storage and Distribution (Heavy) industrial use-type is allowed with a special use permit granted by the Washoe County Board of Adjustment

WHEREAS:

- A. This Commission desires to amend Article 302, Allowed Uses, of Washoe County Chapter 110 (Development Code) in order to include the General Rural Regulatory Zone among the regulatory zones where the Wholesaling, Storage and Distribution (Heavy) industrial use-type is allowed with a minimum parcel size of 40 acres and special use permit granted by the Washoe County Board of Adjustment and,
- B. The proposed amendment was initiated by Mr. Gail Willey by submittal of an application for a Development Code Amendment on December 15, 2016, and is assigned case number WDCA16-0001; 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 WDCA16-0001 on April 4, 2017 and recommended denial 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. Table 110.302.05.4 (Industrial Use-Types) of the Washoe County Code is hereby amended to read as follows:

Table 110.302.05.4
TABLE OF USES (Industrial Use Types)
(See Sections 110.302.10 and 110.302.15 for explanation)

| Industrial Use Types (Section 110.304.30) | LDR | MDR | HDR | LDS/ LDS 2 | MDS/ MDS 4 | HDS | LDU | MDU | HDU | GC | NC | TC | I | PSP | PR | OS | GR | GRA | SP |
|--|-----------------|----------------|----------------|---------------|---------------|-----|-----|-----|-----|----------------|----------------|----------------|----------------|----------------|----|----------------|------------------|----------------|----|
| Aggregate Facilities | | | | | | | | | | | | | | | | | | | |
| Permanent | S ₂ | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | -- | -- | S ₂ | -- | -- |
| Temporary | See Article 332 | | | | | | | | | | | | | | | | | | |
| Caretaker's Residence | | | | | | | | | | | | | | | | | | | |
| Attached | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | A | -- | -- | -- | -- | -- | SP |
| Detached | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | P | -- | -- | -- | -- | -- | SP |
| Custom Manufacturing | S ₂ | S ₂ | S ₂ | -- | -- | -- | -- | -- | -- | S ₂ | -- | S ₂ | A | -- | -- | -- | S ₂ | -- | SP |
| Energy Production | | | | | | | | | | | | | | | | | | | |
| Non-Renewable* | S ₂ | S ₂ | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | S ₂ | -- | S ₂ | S ₂ | -- | -- |
| Renewable* | S ₂ | S ₂ | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | S ₂ | S ₂ | S ₂ | -- | S ₂ | S ₂ | S ₂ | SP |
| General Industrial | | | | | | | | | | | | | | | | | | | |
| Limited | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | A | -- | -- | -- | -- | -- | SP |
| Intermediate | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | A | -- | -- | -- | -- | -- | SP |
| Heavy | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | -- | -- | -- | -- | -- |
| High Technology Industry | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | S ₂ | -- | A | -- | -- | -- | S ₂ | -- | SP |
| Inoperable Vehicle Storage | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | -- | -- | -- | -- | SP |
| Laundry Services | -- | -- | -- | -- | -- | -- | -- | -- | -- | P | -- | -- | A | -- | -- | -- | -- | -- | SP |
| Mining Operations | S ₂ | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | -- | -- | S ₂ | -- | -- |
| Petroleum Gas Extraction | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | -- | S ₂ | S ₂ | -- | -- |
| Salvage Yards | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | -- | -- | -- | -- | -- |
| Wholesaling, Storage and Distribution | | | | | | | | | | | | | | | | | | | |
| Light | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | A | -- | -- | -- | -- | -- | SP |
| Heavy | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | P | -- | -- | -- | S ₂ † | -- | -- |

Key: -- = Not allowed; A = Allowed; P = Administrative Permit; PR = Park Commission Approval pursuant to Section 110.104.40(c); S₁ = Planning Commission Special Use Permit; S₂ = Board of Adjustment Special Use Permit

Note: * If a special use permit for an energy production project meets the criteria for a project of regional significance, that special use permit will be reviewed by the Washoe County Planning Commission.

† A minimum lot size of 40 acres is required for Wholesaling Storage and Distribution Special Use Permit in the General Rural Regulatory Zone.

Sources: Sedway Cooke Associates and Washoe County Department of Community Development

SECTION 4. 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.

Passage and Effective Date

Proposed on _____ (month) _____ (day), 2017.

Proposed by Commissioner _____.

Passed on _____ (month) _____ (day), 2017.

Vote:

Ayes: Commissioners _____

Nayes: Commissioners _____

Absent: Commissioners _____

Bob 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 _____.

ATTACHMENT B

Draft ordinance without
40 acre minimum parcel size

**WORKING COPY
INFORMATION ONLY**

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT:~~ DELETE LANGUAGE

BOLD TEXT: NEW LANGUAGE

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

Summary: An ordinance amending the Washoe County Code at Chapter 110 (Development Code), Article 302, Allowed Uses by amending Table 110.302.05.4 (Industrial Use-Types), to include the General Rural Regulatory Zone among the regulatory zones where the Wholesaling, Storage and Distribution (Heavy) industrial use-type is allowed with a special use permit granted by the Washoe County Board of Adjustment.

BILL NO. _____

ORDINANCE NO. _____

Title:

An ordinance amending the Washoe County Code at Chapter 110 (Development Code), Article 302, Allowed Uses by amending Table 110.302.05.4 (Industrial Use-Types), to include the General Rural Regulatory Zone among the regulatory zones where the Wholesaling, Storage and Distribution (Heavy) industrial use-type is allowed with a special use permit granted by the Washoe County Board of Adjustment

WHEREAS:

- A. This Commission desires to amend Article 302, Allowed Uses, of Washoe County Chapter 110 (Development Code) in order to include the General Rural Regulatory Zone among the regulatory zones where the Wholesaling, Storage and Distribution (Heavy) industrial use-type is allowed with a special use permit granted by the Washoe County Board of Adjustment and,
- B. The proposed amendment was initiated by Mr. Gail Willey by submittal of an application for a Development Code Amendment on December 15, 2016, and is assigned case number WDCA16-0001; 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 WDCA16-0001 on April 4, 2017 and recommended denial 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. Table 110.302.05.4 (Industrial Use-Types) of the Washoe County Code is hereby amended to read as follows:

Table 110.302.05.4
TABLE OF USES (Industrial Use Types)
(See Sections 110.302.10 and 110.302.15 for explanation)

| Industrial Use Types (Section 110.304.30) | LDR | MDR | HDR | LDS/ LDS 2 | MDS/ MDS 4 | HDS | LDU | MDU | HDU | GC | NC | TC | I | PSP | PR | OS | GR | GRA | SP | |
|--|-----------------|----------------|----------------|---------------|---------------|-----|-----|-----|-----|----------------|----------------|----------------|----------------|----------------|----|----------------|----------------|----------------|----|--|
| Aggregate Facilities | | | | | | | | | | | | | | | | | | | | |
| Permanent | S ₂ | - | - | - | - | - | - | - | - | - | - | - | S ₂ | - | - | - | S ₂ | - | - | |
| Temporary | See Article 332 | | | | | | | | | | | | | | | | | | | |
| Caretaker's Residence | | | | | | | | | | | | | | | | | | | | |
| Attached | - | - | - | - | - | - | - | - | - | - | - | - | A | - | - | - | - | - | SP | |
| Detached | - | - | - | - | - | - | - | - | - | - | - | - | P | - | - | - | - | - | SP | |
| Custom Manufacturing | S ₂ | S ₂ | S ₂ | - | - | - | - | - | - | S ₂ | - | S ₂ | A | - | - | - | S ₂ | - | SP | |
| Energy Production | | | | | | | | | | | | | | | | | | | | |
| Non-Renewable* | S ₂ | S ₂ | - | - | - | - | - | - | - | - | - | - | S ₂ | S ₂ | - | S ₂ | S ₂ | - | - | |
| Renewable* | S ₂ | S ₂ | - | - | - | - | - | - | - | S ₂ | - | S ₂ | S ₂ | S ₂ | - | S ₂ | S ₂ | S ₂ | SP | |
| General Industrial | | | | | | | | | | | | | | | | | | | | |
| Limited | - | - | - | - | - | - | - | - | - | - | - | - | A | - | - | - | - | - | SP | |
| Intermediate | - | - | - | - | - | - | - | - | - | - | - | - | A | - | - | - | - | - | SP | |
| Heavy | - | - | - | - | - | - | - | - | - | - | - | - | S ₂ | - | - | - | - | - | - | |
| High Technology Industry | - | - | - | - | - | - | - | - | - | S ₂ | S ₂ | - | A | - | - | - | S ₂ | - | SP | |
| Inoperable Vehicle Storage | - | - | - | - | - | - | - | - | - | - | - | - | S ₂ | - | - | - | - | - | SP | |
| Laundry Services | - | - | - | - | - | - | - | - | - | P | - | - | A | - | - | - | - | - | SP | |
| Mining Operations | S ₂ | - | - | - | - | - | - | - | - | - | - | - | S ₂ | - | - | - | S ₂ | - | - | |
| Petroleum Gas Extraction | - | - | - | - | - | - | - | - | - | - | - | - | S ₂ | - | - | S ₂ | S ₂ | - | - | |
| Salvage Yards | - | - | - | - | - | - | - | - | - | - | - | - | S ₂ | - | - | - | - | - | - | |
| Wholesaling, Storage and Distribution | | | | | | | | | | | | | | | | | | | | |
| Light | - | - | - | - | - | - | - | - | - | - | - | - | A | - | - | - | - | - | SP | |
| Heavy | - | - | - | - | - | - | - | - | - | - | - | - | P | - | - | - | S ₂ | - | - | |

Key: -- = Not allowed; A = Allowed; P = Administrative Permit; PR = Park Commission Approval pursuant to Section 110.104.40(c); S₁ = Planning Commission Special Use Permit; S₂ = Board of Adjustment Special Use Permit

Note: * If a special use permit for an energy production project meets the criteria for a project of regional significance, that special use permit will be reviewed by the Washoe County Planning Commission.

Sources: Sedway Cooke Associates and Washoe County Department of Community Development

SECTION 4. 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.

Passage and Effective Date

Proposed on _____ (month) _____ (day), 2017.

Proposed by Commissioner _____.

Passed on _____ (month) _____ (day), 2017.

Vote:

Ayes: Commissioners _____

Nayes: Commissioners _____

Absent: Commissioners _____

Bob 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 _____.

DRAFT



Planning Commission Staff Report

Meeting Date: April 4, 2017

Subject: Development Code Amendment Case Number WDCA16-0001

Applicant: Gail Willey

Agenda Item Number: 9C

Summary: To amend Washoe County Code, Chapter 110, Table 110.302.05.4 Table of Uses (Industrial use-types) to allow Wholesaling, Storage, and Distribution (Heavy) in the General Rural (GR) regulatory zone with a minimum lot size of 40 acres and a Special Use Permit approved by the Washoe County Board of Adjustment.

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

Prepared by: Eric Young, Senior Planner
Washoe County Community Services Department
Planning and Development Division

Phone: 775.328.3613
E-Mail: eyoung@washoecounty.us

**Washoe County
Commission District:** All Commission Districts

Description

Development Code Amendment Case Number WDCA16-0001 (Wholesaling, Storage and Distribution - Heavy) – For possible hearing, action and discussion to recommend approval of an amendment to the Washoe County Code at Chapter 110 (Development Code), Article 302, Table of Uses 110.302.05.4 (Industrial Use Types) to allow the Wholesaling, Storage and Distribution (Heavy) Industrial Use Type from WCC Section 110.304.30 in the General Rural (GR) regulatory zone, with a Board of Adjustment approved Special Use Permit. The discussion may include a determination whether to require a minimum lot size; and, if approved, to authorize the chair to sign an updated resolution reflecting these amendments. This case was originally heard and approved by the Planning Commission on March 7, 2017; however, the adopting resolution and draft ordinance did not accurately reflect the proposed amendments as recommended for approval by the Planning Commission. Those issues have been corrected for this second appearance before the Planning Commission. The Wholesaling, Storage and Distribution (Heavy) industrial use type is defined in WCC Section 110.304.30(I) and generally refers to businesses or establishments primarily engaged in wholesaling, storage, and bulk sale distribution including but not limited to open-air handling of material and equipment other than live animals and plants; Heavy refers to distribution and handling of materials and equipment and typical uses include monument sales, stone yards, and open storage yards.

- Applicant: Gail Willey
- Location: All of unincorporated Washoe County

- Master Plan Category: Rural (R)
- Regulatory Zone: General Rural (GR)
- Area Plan: All
- Citizen Advisory Board: All
- Development Code: Article 818, Amendment of Development Code
- Commission District: All

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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 Commission, the Washoe County Planning Commission, or an owner of real property. Development Code amendments are initiated by resolution of the Washoe County Commission or the 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 Commission hears all amendments recommended for approval, and amendments recommended for denial upon appeal. The County Commission 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 and Proposed Amendments

BACKGROUND ON PROPOSED CODE CHANGES

Background on the second appearance of the amendment

The Planning Commission originally heard this case on March 7, 2017. The Commission voted unanimously in favor of recommending approval of the amendments. However, the resolution approved by the Planning Commission did not match the agenda item and description in the staff report, nor the draft ordinance language exactly. Specifically, the resolution referred to the General Rural Agricultural regulatory zone and the amendment involves the General Rural regulatory zone. Therefore, it is necessary for staff to bring this case back to the Planning Commission in order to correct this inaccuracy. The Planning Commission also engaged in significant discussion regarding whether to include language regarding whether to support staff's recommendation to set a 40 acre minimum acreage as a requirement for the special use permit. At the time, the documents were written in a manner that excluded the Commission from removing the language in the draft ordinance that requires a 40 acre minimum. Staff has taken the opportunity that this second hearing affords to provide the commission with a choice of two resolutions and matching ordinances to choose from: one that maintains the staff recommended 40 acre minimum language (Attachment A) and one that excludes that language (Attachment D).

The rest of the staff report that follows contains the same information regarding the case that the original staff report presented on March 7, 2017 contained.

Staff report language from the March 7, 2017 staff report

Mr. Willey is requesting that Washoe County amend Washoe County Code (WCC) Chapter 110 (Development Code) to allow the industrial use type of Wholesaling, Storage and Distribution (Heavy) in the General Rural (GR) Regulatory Zone with the approval of a Special Use Permit (SUP) by the Washoe County Board of Adjustment. The amendment would be accomplished by amending Table 110.302.05.4, Table of Uses (Industrial Use Types) as depicted further in this staff report.

As described in Mr. Willey's application (Attachment B), the motivation for this requested amendment is to allow for the Wholesaling, Storage and Distribution of landscape materials that are commonly used throughout this region. Currently the Development Code does not recognize a use type that would include the full range of "landscaping services" under one defined use type. The code defines both retail and wholesale "Nursery Sales" (see definitions below). These uses are considered commercial uses and both are permitted in GR with the approval of a SUP by the Board of Adjustment. However, neither "Nursery Sales" definition includes the full range of landscaping materials such as stone, timber and other products utilized extensively in xeriscape and low-water landscape plans. The use type that is applied for uses that wholesale, store, and distribute these kinds of materials is called "Wholesaling, Storage and Distribution (Heavy)," and is considered an Industrial use type (see definitions below). Currently this use type is limited to the Industrial Regulatory Zone with the approval of an Administrative Permit by either the Board of Adjustment or the Hearing Examiner.

Section 110.304.25 Commercial Use Types.

(x) Nursery Sales. Nursery sales use type refers to the sales of plants, flowers and related nursery items. The following are nursery sales use types:

- (1) Retail. Retail refers to retail sale of plants and flowers and related nursery items. Typical uses include retail nurseries and home garden stores.
- (2) Wholesale. Wholesale refers to wholesaling of plants and flowers, with incidental retail sales. Typical uses include wholesale nurseries.

Section 110.304.30 Industrial Use Types.

(l) Wholesaling, Storage and Distribution. Wholesaling, storage and distribution use type refers to establishments or places of business primarily engaged in wholesaling, storage and bulk sale distribution including, but not limited to, open-air handling of material and equipment other than live animals and plants. The following are wholesaling, storage and distribution use types:

- (1) Light. Light refers to wholesaling, storage and warehousing services within enclosed structures. Typical uses include wholesale distributors, storage warehouses, or moving and storage firms.
- (2) Heavy. Heavy refers to distribution and handling of materials and equipment. Typical uses include monument sales, stone yards or open storage yards.

The result of this approach to these use types is that the only location suitable to undertake a combined wholesale/retail full service landscape company is in the Industrial Regulatory Zone with an approved Administrative Permit. Mr. Willey points out that not only are non-nursery

landscape materials experiencing increased demand due to low water landscaping requirements, but there are a number of other use types currently allowed in GR with a SUP that are potentially more intensive than Wholesaling, Storage and Distribution.

While staff does not have data regarding Mr. Willey's first contention regarding the market for landscaping materials, an analysis of the Development Code does suggest Mr. Willey has a legitimate point concerning other use types allowed in the GR regulatory zone. Some of the other potentially high intensity Civic, Commercial, Industrial, and Agricultural use types permitted in the GR regulatory zone with a SUP include:

- A. Aggregate Facilities. Aggregate facilities use type refers to the extraction and processing of sand, gravel and rock from the ground. Typical uses include sand and gravel pit and ancillary uses such as concrete and asphalt batch plants.
- B. Custom Manufacturing. Custom manufacturing use type refers to the on-site production of goods by hand manufacturing or artistic endeavor which involves only the use of hand tools or domestic mechanical equipment and the incidental sale of these goods directly to consumers. Typical uses include ceramic studios, custom cabinet making, candle making shops and custom jewelry manufacturers.
- C. Non-Renewable Energy Production. Non-Renewable energy production use type refers to the commercial production of energy utilizing any non-renewable source of energy.
- D. Renewable Energy Production. Renewable energy production use type refers to the commercial production of energy utilizing solar, geothermal, wind, hydroelectric, and biomass sources of energy.
- E. Mining Operations. Mining operations use type refers to the extraction and processing of rocks and minerals from the ground, but excludes uses classified under the petroleum gas extraction use type. Typical uses include the mining of precious metals and industrial minerals.
- F. Petroleum Gas Extraction. Petroleum gas extraction use type refers to the extraction of oil and natural gas from the ground and the temporary storage of oil at the well site. Typical uses include oil and gas wells.
- G. Utility Services. Utility services use type refers to the provision of electricity, water or other liquids, or gas, through wires, pipes or ditches through utility services involving major structures that have flexibility in location. Typical uses include natural gas transmission lines and substations, petroleum pipelines, and irrigation water ditches.
- H. Major Public Facilities. Major public facilities use type refers to public facilities that provide a significant service and have a substantial impact on the community. Typical uses are sanitary landfills, airports, and detention and correction facilities.
- I. Commercial Campground Facilities/RV Park. Commercial campground facilities/RV park refers to areas and services for two (2) or more campsites, accommodating camping vehicles and tents, which are used by the general public as temporary living quarters for recreational purposes. Typical uses include recreational vehicle campgrounds.

- J. Agricultural Processing. Agricultural processing use type refers to the processing of foods and beverages from agricultural commodities, but excludes animal slaughtering. Typical uses include canning of fruits and vegetables, processing of dairy products, and the production of prepared meats from purchased carcasses.

Washoe County's experience with these use types varies. Clearly, many of these use types either don't exist in Washoe County or they exist on a relatively rare basis. The two use types we have considerable experience are Aggregate Facilities and Utility Services (often a water tank). Both use types can have considerable public impacts that are mitigated through a series of standard and custom conditions of approval within an approved SUP. However, staff feels the more important point behind this list of use types is that it shows Washoe County is prepared to consider allowing these uses in the GR regulatory zone, provided the SUP public hearing process results in appropriate mitigation measures to counter the potential negative impacts of the use type. In fact, a review of the full table of allowed use types (Attachment C) demonstrates Washoe County is prepared to consider a wide variety of intensive uses by SUP in regulatory zones where the compatibility of those use types with the use types allowed by right is possible with comprehensive mitigating conditions of approval.

Staff can generally support the addition of use types to regulatory zones where they are currently unavailable provided two conditions are met. First, the new use types are consistent with other use types allowed in that zone, and second, the use types can be made compatible with other allowed use types through the proper application of conditions of approval with an SUP approval process. This application appears to meet both of these conditions. However, there are some potential consequences that should be considered prior to recommending approval. The GR Regulatory Zone permits some very intensive uses that cover the full range of Residential, Civic, Commercial, Industrial, and Agricultural use types. It is the most diverse of all the regulatory zones, allowing for the broadest mix of use types. However, the biggest use types within GR are overwhelmingly residential and agricultural. In fact, the GR zone is the only regulatory zone which essentially serves as the County's agricultural zoning. Staff feels this means it is particularly important to consider the potential for incompatible use types proliferating throughout the GR regulatory zone. If Washoe County determines that it is suffering due to a lack of industrial zoning, or due to a dysfunctional distribution of industrial zoning, then the County could consider expanding where industrial zoning is located. While there are considerable Regional Plan Conformance issues with this approach, it remains an alternative. Staff feels the County should be cautious about inadvertently turning GR into a kind of industrial zoning replacement, or even more troubling, into a true "hodgepodge zoning." Washoe County's Development Code is by no means fatally flawed or too obsolete to function properly; however, it is true that staff is encountering contemporary uses and business plans, driven by changing markets and changing technology that the Development Code does not adequately anticipate and define. This situation suggests that Washoe County may wish to consider a broader review of the allowed use types in the Development Code, including under what circumstances they are permitted, if they are adequately defined, and if certain contemporary use types should be defined and permitted. Staff considered undertaking such a review as part of this amendment process. However, this amendment was not initiated by the County. Rather, it is the product of a private application. For this reason, staff did not want to broaden the scope of the review and discussion beyond what is necessary to review the applicant's request.

Given the discussion above and the parameters of the application, staff is comfortable recommending approval of the proposed Development Code Amendment. However, staff's recommendation will include an additional proposed amendment that requires a GR parcel

conform to all lot standards for the GR Regulatory Zone, including a minimum 40 acre lot size. This additional proposed amendment is required because there are many non-conforming GR lots throughout the County, and these non-conforming lots are commonly located in areas defined by their residential character. This amendment will prevent locating Wholesaling, Storage and Distribution (Heavy) industrial use types on small GR lots that are more likely to have adjacency/compatibility issues that can't adequately be mitigated with conditions of approval within an SUP.

PROPOSED AMENDMENTS (Highlighted in yellow text for ease of reference)

Table 110.302.05.4

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

| Industrial Use Types (Section 110.304.30) | LDR | MDR | HDR | LDS/ LDS 2 | MDS/ MDS 4 | HDS | LDU | MDU | HDU | GC | NC | TC | I | PSP | PR | OS | GR | GRA | SP | |
|--|-----------------|----------------|----------------|---------------|---------------|-----|-----|-----|-----|----------------|----------------|----------------|----------------|----------------|----|----------------|------------------|----------------|----|--|
| Aggregate Facilities | | | | | | | | | | | | | | | | | | | | |
| Permanent | S ₂ | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | -- | -- | S ₂ | -- | -- | |
| Temporary | See Article 332 | | | | | | | | | | | | | | | | | | | |
| Caretaker's Residence | | | | | | | | | | | | | | | | | | | | |
| Attached | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | A | -- | -- | -- | -- | -- | SP | |
| Detached | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | P | -- | -- | -- | -- | -- | SP | |
| Custom Manufacturing | S ₂ | S ₂ | S ₂ | -- | -- | -- | -- | -- | -- | S ₂ | -- | S ₂ | A | -- | -- | -- | S ₂ | -- | SP | |
| Energy Production | | | | | | | | | | | | | | | | | | | | |
| Non-Renewable* | S ₂ | S ₂ | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | S ₂ | -- | S ₂ | S ₂ | -- | -- | |
| Renewable* | S ₂ | S ₂ | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | S ₂ | S ₂ | S ₂ | -- | S ₂ | S ₂ | S ₂ | SP | |
| General Industrial | | | | | | | | | | | | | | | | | | | | |
| Limited | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | A | -- | -- | -- | -- | -- | SP | |
| Intermediate | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | A | -- | -- | -- | -- | -- | SP | |
| Heavy | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | -- | -- | -- | -- | -- | |
| High Technology Industry | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | S ₂ | -- | A | -- | -- | -- | S ₂ | -- | SP | |
| Inoperable Vehicle Storage | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | -- | -- | -- | -- | SP | |
| Laundry Services | -- | -- | -- | -- | -- | -- | -- | -- | -- | P | -- | -- | A | -- | -- | -- | -- | -- | SP | |
| Mining Operations | S ₂ | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | -- | -- | S ₂ | -- | -- | |
| Petroleum Gas Extraction | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | -- | S ₂ | S ₂ | -- | -- | |
| Salvage Yards | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | S ₂ | -- | -- | -- | -- | -- | -- | |
| Wholesaling, Storage and Distribution | | | | | | | | | | | | | | | | | | | | |
| Light | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | A | -- | -- | -- | -- | -- | SP | |
| Heavy | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | P | -- | -- | -- | S ₂ † | -- | -- | |

Key: -- = Not allowed; A = Allowed; P = Administrative Permit; PR = Park Commission Approval pursuant to Section 110.104.40(c); S₁ = Planning Commission Special Use Permit; S₂ = Board of Adjustment Special Use Permit

Notes: * If a special use permit for an energy production project meets the criteria for a project of regional significance, that special use permit will be reviewed by the Washoe County Planning Commission.

† Minimum lot size of 40 acres is required for Wholesaling, Storage, and Distribution in the GR regulatory zone.

Sources: Sedway Cooke Associates and Washoe County Department of Community Development

Findings

Washoe County Code 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 Washoe County Master Plan anticipates the need for extra discretionary action to approve certain uses. The Master Plan also encourages promoting economic development while ensuring the compatibility of uses. This amendment is consistent with the policies and action programs in the Master Plan that promote these concepts.

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 for the orderly development of the County by ensuring that Wholesaling, Storage and Distribution (Heavy) industrial use types are only allowed in the General Rural Regulatory Zone when the potential negative impacts and incompatibilities have been addressed through the application of appropriate conditions of approval within an SUP.

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 growth in market demand for non-nursery landscape products such as rocks and timber was not fully anticipated in the original drafting of the Development Code. Contemporary business models for nurseries and landscaping companies often blend the two uses, even going so far as to blend wholesale and retail uses on the same site. The ability to pursue a similar business model is severely curtailed in Washoe County by the definitions currently utilized in the Development Code. This amendment will allow the County to consider the establishment of uses such as these provided they can be made compatible through the application of appropriate conditions of approval within an SUP.

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 will not be impacted by this proposed amendment.

Public Notice

Pursuant to Washoe County Code 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. 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 WDCA16-0001, to amend Washoe County Chapter 110 (Development Code) within Article 302, Table 110.302.05.04 (Industrial Use Types.) The following motion is provided for your consideration:

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 WDCA16-0001, to amend Washoe County Chapter 110 (Development Code) within Article 302, Table 110.302.05.04 (Industrial Use Types.) I further move to authorize the Chair to sign the resolution contained in Attachment (*A or D, substitute the correct Attachment*), 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 days from the date that the Planning Commission's decision is filed with the Secretary to the Planning Commission, pursuant to Washoe County Code Section 110.818.25 and Washoe County Code Section 110.912.20.

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



WASHOE COUNTY PLANNING COMMISSION Meeting Minutes

Planning Commission Members

James Barnes, Chair
Sarah Chvilicek, Vice Chair
Larry Chesney
Francine Donshick
Philip Horan
Greg Prough
Carl R. Webb, Jr., AICP, Secretary

Tuesday, April 4, 2017
6:30 p.m.

Washoe County Commission Chambers
1001 East Ninth Street
Reno, NV

The Washoe County Planning Commission met in a scheduled session on Tuesday, April 4, 2017, in the Washoe County Commission Chambers, Building A, 1001 East Ninth Street, Reno, Nevada.

C. Development Code Amendment Case Number WDCA16-0001 (Wholesaling, Storage and Distribution - Heavy) – For possible hearing, action and discussion to recommend approval of an amendment to the Washoe County Code at Chapter 110 (Development Code), Article 302, Table of Uses 110.302.05.4 (Industrial Use Types) to allow the Wholesaling, Storage and Distribution (Heavy) Industrial Use Type from WCC Section 110.304.30 in the General Rural (GR) regulatory zone, with a Board of Adjustment approved Special Use Permit. The discussion may include a determination whether to require a minimum lot size; and, if approved, to authorize the chair to sign an updated resolution reflecting these amendments. This case was originally heard and approved by the Planning Commission on March 7, 2017; however, the adopting resolution and draft ordinance did not accurately reflect the proposed amendments as recommended for approval by the Planning Commission. Those issues have been corrected for this second appearance before the Planning Commission. The Wholesaling, Storage and Distribution (Heavy) industrial use type is defined in WCC Section 110.304.30(I) and generally refers to businesses or establishments primarily engaged in wholesaling, storage, and bulk sale distribution including but not limited to open-air handling of material and equipment other than live animals and plants; Heavy refers to distribution and handling of materials and equipment and typical uses include monument sales, stone yards, and open storage yards.

- Applicant: Gail Willey
- Location: All of unincorporated Washoe County
- Master Plan Category: Rural (R)
- Regulatory Zone: General Rural (GR)
- Area Plan: All
- Citizen Advisory Board: All
- Development Code: Article 818, Amendment of Development Code
- Commission District: All
- Prepared by: Eric Young, Senior Planner
Washoe County Community Services Department

- Phone: Division of Planning and Development
775.328.3613
- E-Mail: eyoung@washoecounty.us

Chair Barnes called for any disclosures from the Commission. Hearing none, he opened discussion to staff. Eric Young, Senior Planner, presented the Staff Report.

Commissioner Donshick said he talked about the Resolution stated General Rural (GR) but she went through all her documents and wondered where it mentioned General Rural Agriculture (GRA). Mr. Young stated it was clearly his error. He explained there was a Resolution in the packet and attached to that Resolution was a draft ordinance. The Resolution stated the Commission was recommending approval of the ordinance. The Resolution was correct and said the proposed change was to allow the change in GR. In the introductory paragraph of the draft ordinance, it said GRA and so the ordinance and the Resolution did not match, which was his error. That was why this was being brought back to the Planning Commission; to make sure the two documents said the same thing word for word.

Vice Chair Chvilicek said in the allowed Tables of Uses, (page 2 of 4), was it correct to state that the only allowance that required a 40 acre minimum was in the wholesale storage and distribution under heavy; none of those other uses required a 40-acre minimum under the GR classification. Mr. Young stated that was correct; in the Development Code they used that 40-acre minimum three times and it was all for Division 300. He said one of the exceptions was someone had to have 40 acres to get the exception for building an accessory structure larger than their home. Vice Chair Chvilicek said some of these other allowed uses in GR that required a Special Use Permit but did not have acreage requirements were much heavier use and would have a heavier impact and to single out one entity requiring 40 acres baffled her.

Chair Barnes asked the Commission how much of a presentation they would want from Mr. Young. Hearing none, he asked if the Commission had any further questions. Hearing none, he opened up the presentation for the Applicant. Mr. Young stated the Applicant was not present; however, he said he had heard from quite a few community members. He said another part of the discussion last month was that the Applicant had a particular property in mind for this use, but staff did not look at the property. Staff actively tried to stay away from that. He said it was a little bit different from the Spanish Springs situation they just saw where it was limited to just a small area and they could identify all of the different areas where it would happen. In this instance, the change would allow this use with a Special Use Permit on every single GR parcel anywhere in the County of many different sizes and character neighborhoods.

Chair Barnes opened public comment. Delia Greenhalgh, 140 Andrew Lane; Lani Wilkes, 5475 Tana Wood Drive and 136 Andrew Lane; Paul Howard, 145 Andrew Lane; Tim Milton, 130 Andrew Lane; Cynthia Albright, 4495 Interlaken Court; Richard Mahoney, 625 Rhodes Road; Kevin Huffer, 300 Andrew Lane; Jeff Cates, 165 Andrew Lane; Carol Huffer, 300 Andrew Lane; Scott Jordan, 605 Chance Lane; Marcy Jordan, 605 Chance Lane; Marijke Bekken, 132 Andrew Lane; William Naylor, 1005 Dunbar Drive; Hershel Rosenbaum, 132 Andrew Lane; and, Dan Herman, Campo Rico Drive, all voice their concerns. Those concerns were summarized as follows: industrial use types (heavy) in the GR zone and an amendment to the minimum parcel size of 40 acres; large amount of the 35 acres was unbuildable due to flood plains; inconsistent with the surrounding area; lifestyle and safety; Andrew Lane as their access to the nursery; small dirt road off of Andrew Lane to transport nursery supplies; road was inadequate to meet the demands of heavy vehicles; industrial-sized vehicles, noise pollution effects on people, animals and the natural habitat; safety concerns for school busses and students; dust, air and gas emissions; original purpose for the Development Code; uniqueness

of the region that they lived in; meteorological and topological aspects; bridge safety; high velocity wind zone; Special Use Permit application process; driveway easements on the side of this property; Steamboat Creek; flooding; water over the bridge on Andrew Lane and its effects on several homes down the dirt driveway; notification to surrounding property owners; Washoe County goals; minimum parcel size; Big Ditch Water Board; fragile ecological site; water quality, wildlife access; open air storage site; rural environment; wholesale storage and distribution; higher acreage usage; property values; rural development; Rhodes Road; Damonte Ranch; 100-year flood plain; soft, meadow grassland; 10-year flood plain; fertilizers; non-native soils; potential hazmat material; water systems; previous denial of SPB11-19-97 heard in 1998; pasture land for livestock; not accessible for fire trucks; wild horses; domestic horses; color rock; toxic materials; not consistent with South Valleys Area Plan; increased traffic; Conservation Area; public health, safety and welfare; and, dangerous conditions on the narrow dirt road.

Chair Barnes closed public comment and opened up questions to the Commission. Commissioner Chesney asked if a public workshop had been held. Mr. Young replied they had; however, there was very little attendance. Commissioner Chesney asked what the notification requirements were to the public for this type of amendment. Mr. Young stated they were required to notice Community Advisory Boards (CAB) and use the c-mail used by the County. Mr. Webb stated the Development Code itself required notice in the newspaper and CABs for Development Code Amendments only. He said the Department had a policy and it also held an all CAB/Public Workshop in addition to what the Code required and as Mr. Young pointed out, they took the extra step to notify all on the c-mail blast.

Mr. Young stated there was zero attendance from all the CAB noticing. Vice Chair Chvilicek stated but there was no specific CAB meeting held. Mr. Young stated that was correct; it was not actually an official CAB meeting. They published a notice of possible quorum in case they ended up with a quorum, but it was more like an open public workshop. Mr. Webb stated the previous Development Code Amendment heard for cellular on GRA was only toward Warm Springs, so that was specific and offered to the Warm Springs CAB. As a county-wide Development Code Amendment affecting all GR regulatory zones throughout the County, they did not go out and visit each of the CABs, they noticed all the CAB members and asked them to participate in the workshop to discuss and answer questions.

Vice Chair Chvilicek stated what had been originally presented was a change for industrial to wholesale storage and distribution, which would allow this in the GR zone, not just the 40 acres. Mr. Young stated that was correct. Vice Chair Chvilicek stated so what was being asked of the Commission was to not only allow it in GR, but to ask for a 40-acre minimum. Mr. Young stated that was staff's recommendation; however, the Applicant's request was to allow it in GR with no minimum acreage. Vice Chair Chvilicek stated the Commission could approve it without minimum acreage, approve it with minimum acreage, or deny wholesale. Mr. Young said that was correct.

Vice Chair Chvilicek thought the process was skewed and people were not being notified, other than the all-CAB workshop. She said she was on the c-mail but had been mysteriously dropped from all email notifications, so she understood that this process was hard to follow. She said she was in favor of denying the amendment.

Mr. Webb stated this was a conundrum they faced because this Commission could only recommend; the actual policy decision would be made by the BCC. He said the same conundrum applied to the BCC when they considered any Code Amendment; they were only required to notice those hearings in the newspaper. A change to the Code required a notice to the CABs and the newspaper; however, staff took that further to do the c-mail. He said there

would be no measurable or affordable way to notice every property owner who owned a GR property inside Washoe County. He said the first question this Commission had to ask was if an industrial use type of wholesale, storage and distribution heavy was appropriate in GR. Then once that determination was made, the next question was should there be a minimum acreage. Staff's recommendation was 40 acres minimum, or the Commission could say no. Also, the Commission could say right from the start that they did not believe it was an appropriate use in the GR zone.

Vice Chair Chvilicek stated she thought the minimum acreage was always 40 acres for the GR zone. Mr. Webb stated they went from an old zoning system to a one-map system in the 1990s and then back to a two-map system. He said because of that the GR zone was initially developed as a holding area; it could be for lands that had some sort of a constraint such as wetlands, steep slopes or flood plains, or they could be areas that there was no planned development. Mr. Webb continued to explain the different types of zoning over the years, what qualified in the zone areas and the various reasons why certain properties fell within the current categories when they went to the Master Plan. He said what Mr. Young was portraying in the Staff Report was staff's professional opinion that they should not attempt to perpetuate the use of the non-conforming smaller lots, but that was the Planning Commission's discussion, consideration and recommendation.

DDA Edwards stated last month the Planning Commission voted in favor of the Amendment with the 40-acre limitation.

Chair Barnes closed the public hearing and brought discussion back to the Commission. Commissioner Horan stated what the Commission had seen tonight was a little bit of the law of unintended consequences when an amendment was driven by a single applicant. Vice Chair Chvilicek concurred and said Area Plans trumped everything. Chair Barnes closed discussion and called for a motion.

Vice Chair Chvilicek made a motion that after given reasoned consideration to the information contained in the Staff Report and information received during the public hearing that the Washoe County Planning Commission deny WDCA16-0001 and the finding was that it was not consistent with the Master Plan because it was not included in the Area Plan, that promotes the purpose of the Development Code, there was an industrial allowance and that this type of use was already allowed in industrial zoning and could not make any of the findings based on what she already stated. Commissioner Chesney seconded the motion, which carried unanimously.

10. Chair and Commission Items

***A. Future agenda items.**

There were no future agenda items.

***B. Requests for information from staff.**

There were no requests for information from Staff.

11. Director's and Legal Counsel's Items

***A. Report on previous Planning Commission items.**

There were no reports to be given.

*B Legal information and updates.

DDA Edwards stated he had no information or updates to share with the Commission.

12. *General Public Comment

There was no response to the call for public comment.

13. Adjournment

9:34 p.m. Commissioner Donshick moved to adjourn the meeting, seconded by Commissioner Chesney, which carried unanimously.

Respectfully submitted,

Jaime Deller, Independent Contractor

Approved by Commission in session on May 2, 2017.

Carl R. Webb, Jr., AICP
Secretary to the Planning Commission



Planning Commission Action Order
Development Code Amendment Case Number WDCA16-0001

Decision: **Denial**

Decision Date: April 4, 2017

Mailing/Filing Date: April 10, 2017

Applicant: Gail Willey
9825 South Virginia Street
Reno, NV 89511

Assigned Planner: Eric Young, Senior Planner
Washoe County Community Services Department
Planning and Development Division
Phone: 775.328.3613
E-Mail: eyoung@washoecounty.us

Development Code Amendment Case Number WDCA16-0001 (Wholesaling, Storage and Distribution - Heavy) – For possible hearing, action and discussion to recommend approval of an amendment to the Washoe County Code at Chapter 110 (Development Code), Article 302, Table of Uses 110.302.05.4 (Industrial Use Types) to allow the Wholesaling, Storage and Distribution (Heavy) Industrial Use Type from WCC Section 110.304.30 in the General Rural (GR) regulatory zone, with a Board of Adjustment approved Special Use Permit. The discussion may include a determination whether to require a minimum lot size; and, if approved, to authorize the chair to sign an updated resolution reflecting these amendments. This case was originally heard and approved by the Planning Commission on March 7, 2017; however, the adopting resolution and draft ordinance did not accurately reflect the proposed amendments as recommended for approval by the Planning Commission. Those issues have been corrected for this second appearance before the Planning Commission. The Wholesaling, Storage and Distribution (Heavy) industrial use type is defined in WCC Section 110.304.30(l) and generally refers to businesses or establishments primarily engaged in wholesaling, storage, and bulk sale distribution including but not limited to open-air handling of material and equipment other than live animals and plants; Heavy refers to distribution and handling of materials and equipment and typical uses include monument sales, stone yards, and open storage yards.

- Applicant: Gail Willey
- Location: All of unincorporated Washoe County
- Master Plan Category: Rural (R)
- Regulatory Zone: General Rural (GR)
- Area Plan: All
- Citizen Advisory Board: All
- Development Code: Article 818, Amendment of Development Code
- Commission District: All

To: Gail Willey
Subject: WDC16-0001
Date: April 10, 2017
Page: 2

Notice is hereby given that the Washoe County Planning Commission denied the above referenced case number based on the inability to make any of the findings required by Washoe County Code Section 110.818.15(e).

1. Consistency with Master Plan. The proposed Development Code amendment is not in substantial compliance with the policies and action programs of the Washoe County Master Plan, specifically the South Valleys Area plan nor any other Area Plan that does not allow the Industrial Regulatory Zone;
2. Promotes the Purpose of the Development Code. The proposed Development Code amendment will not promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code, because of the potential negative impacts it could create in areas attempting to maintain a rural community character;
3. Response to Changed Conditions. The proposed Development Code amendment does not respond to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners because the conditions have not sufficiently changed; i.e., the community's desire to maintain its rural character has not changed; and,
4. No Adverse Affects. The record does not provide enough information to assure the Planning Commission that 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.

Anyone wishing to appeal this decision to the Washoe County Board of County Commissioners may do so within 10 calendar days after the Mailing/Filing Date shown on this Action Order. To be informed of the appeal procedure, call the Planning staff at **775.328.6100**. Appeals must be filed in accordance with Section 110.912.20 of the Washoe County Development Code.

Washoe County Community Services Department
Planning and Development Division

Carl R. Webb, Jr., AICP
Secretary to the Planning Commission

CRW/EY/ks

xc:

Applicant: Gail Willey, 9825 South Virginia Street, Reno, NV 89511

Others: Lewis Roca Rothgerber Christie LLP, Attn: Garrett Gordon, 50 West Liberty Street, Suite 410, Reno, NV 89501

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

Community Services Department
Planning and Development
APPEAL TO BOARD OF COUNTY
COMMISSIONERS (BCC)
APPLICATION



Community Services Department
Planning and Development
1001 E. Ninth St., Bldg. A
Reno, NV 89520

Telephone: 775.328.3600

Washoe County Appeal of Decision to Board of County Commissioners

Your entire application is a public record. If you have a concern about releasing personal information please contact Planning and Development staff at 775.328.3600.

| Appeal of Decision by (Check one) | |
|--|---|
| Note: Appeals to the Washoe County Board of County Commissioners are governed by WCC Section 110.912.20. | |
| <input checked="" type="checkbox"/> Planning Commission | <input type="checkbox"/> Board of Adjustment |
| <input type="checkbox"/> Hearing Examiner | <input type="checkbox"/> Other Deciding Body (specify) _____ |
| Appeal Date Information | |
| Note: This appeal must be delivered in writing to the offices of the Planning & Development Division (address is on the cover sheet) within 10 calendar days from the date that the decision being appealed is filed with the Commission or Board Secretary (or Director) and mailed to the original applicant. | |
| Note: The appeal must be accompanied by the appropriate appeal fee (see attached Master Fee Schedule). | |
| Date of this appeal: <u>April 12, 2017</u> | |
| Date of action by County: <u>April 4, 2017</u> | |
| Date Decision filed with Secretary: <u>April 10, 2017</u> | |
| Appellant Information | |
| Name: <u>Gail Willey</u> | Phone: <u>(775) 321-3453</u> |
| Address: <u>PO Box 18789</u> | Fax: _____ |
| | Email: <u>cstiteler@lrrc.com</u> |
| City: <u>Reno</u> State: <u>NV</u> Zip: <u>89511</u> | Cell: _____ |
| Describe your basis as a person aggrieved by the decision: <u>Applicant for amendment to Washoe County Development Code.</u> | |
| Appealed Decision Information | |
| Application Number: <u>WDCA16-0001</u> | |
| Project Name: <u>Development Code Amendment (Wholesaling, Storage and Distribution - Heavy)</u> | |
| State the specific action(s) and related finding(s) you are appealing: Denial of proposed amendment to the Washoe County Development Code and the findings that the proposed amendment (1) is not in substantial compliance with the Washoe County Master Plan, (2) does not promote the original purposes of the Development Code, (3) does not respond to changed conditions or further studies that have occurred since the Development Code was adopted, and (4) that the record does not provide enough information to assure the Planning Commission that the proposed amendment will not adversely affect the implementation of the polices and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan. Applicant is prepared to provide additional briefing and to make a presentation regarding these findings. | |

Appealed Decision Information (continued)

Describe why the decision should or should not have been made:

The Planning Commission abused its discretion in denying the proposed amendment.

Cite the specific outcome you are requesting with this appeal:

Reversal of the Planning Commission's denial of the proposed amendment

Did you speak at the public hearing when this item was considered?

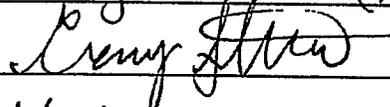
Yes
 No

Did you submit written comments prior to the action on the item being appealed?

Yes
 No

Appellant Signature

Printed Name: Casey Stiteler (Attorney-in-Fact for Applicant)

Signature: 

Date: 4/14/2017