



Board of Adjustment Staff Report

Meeting Date: July 8, 2024

Agenda Item: 10D

APPEAL OF DECISION CASE NUMBER: WVIO-PLA23-0127 (Schmidt – 345 Main St)

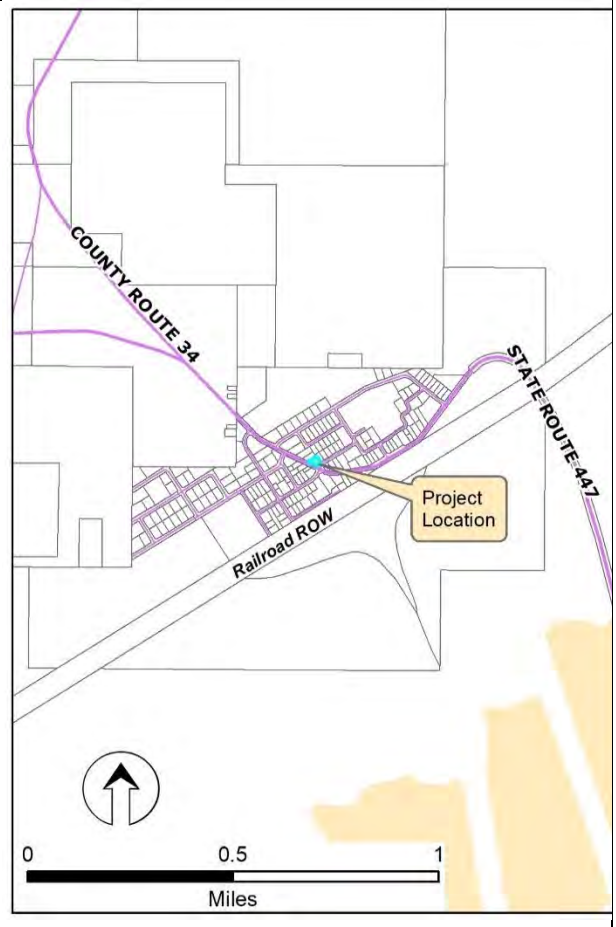
BRIEF SUMMARY OF REQUEST: An appeal of an Administrative Hearing Officer’s order affirming a code violation at 345 Main St. in Gerlach, NV for illegal storage of an RV on a vacant residentially zoned property.

STAFF PLANNER: Chad Giesinger, Planning Manager
Phone Number: 775.328.3626
E-mail: cgiesinger@washoecounty.gov

CASE DESCRIPTION

For possible action, hearing, and discussion to affirm, modify, reverse, or remand an Administrative Hearing Officer’s order affirming a code enforcement violation of WCC Section 110.306.35(b), outdoor storage of an RV on a vacant residentially zoned property without the required existing principal use.

Appellant / Owner: Gary Schmidt
Location: 345 Main St., Gerlach, NV
APN: 071-281-01
Parcel Size: ± 0.233 acre (± 10,149 sf)
Master Plan: Suburban Residential
Regulatory Zone: High Density Suburban (HDS)
Area Plan: High Desert
Development Code: Authorized in Articles 306, 910, and 912
Commission District: 5 – Commissioner Herman



STAFF RECOMMENDATION

AFFIRM

REVERSE

MODIFY / REMAND

POSSIBLE MOTION

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment deny this appeal and affirm the decision of the Administrative Hearing Officer, including: 1) upholding that the appellant is in violation of Washoe County Code Section 110.306.35(b); 2) upholding the hearing officers' order to either remove the subject RV from the property or file a deed restriction; 3) upholding the hearing officer's affirmance of the \$100 penalty and \$50 administrative action fee; and, 4) authorizing the Chair of the Board of Adjustment to prepare a written order of the decision and file it with the Secretary of the Board of Adjustment, a copy of which shall be served to the appellant.

(Possible Motion on Page 14)

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Documents Submitted by Appellant at Hearing Exhibit C

BOA Appeal Application / Request..... Exhibit D

Appeals of an Administrative Hearing Officer’s Decision to the Board of Adjustment Exhibit E

Interpretation 96-4.....Exhibit F

Deed restriction (filled out) Exhibit G

Record on Appeal Exhibit H

(CLICK ON BLUE HIGHLIGHTED EXHIBIT CONTENTS FOR A LINK TO ALL EXHIBITS)

General Summary

The appellant has placed a recreational vehicle (RV) on an approximately 0.23-acre vacant residentially zoned property that does not have an established principal use in violation of WCC section 110.306.35(b), which states:

Section 110.306.35 Outdoor Storage/Outdoor Display.

- (b) Outdoor Storage on Vacant Lots. No outdoor storage shall occur on a vacant parcel **without an existing principal use**. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location.

In addition, the respondent has refused to file the required deed restriction that would make the placement of the RV legal under WCC 110.306.15, which states:

Section 110.306.15 Main Structures Required. It is unlawful to construct, erect or locate accessory structures and/or uses on any lot without an existing main structure or principal use as provided for under Article 302, Allowed Uses, **except under the following circumstances:**

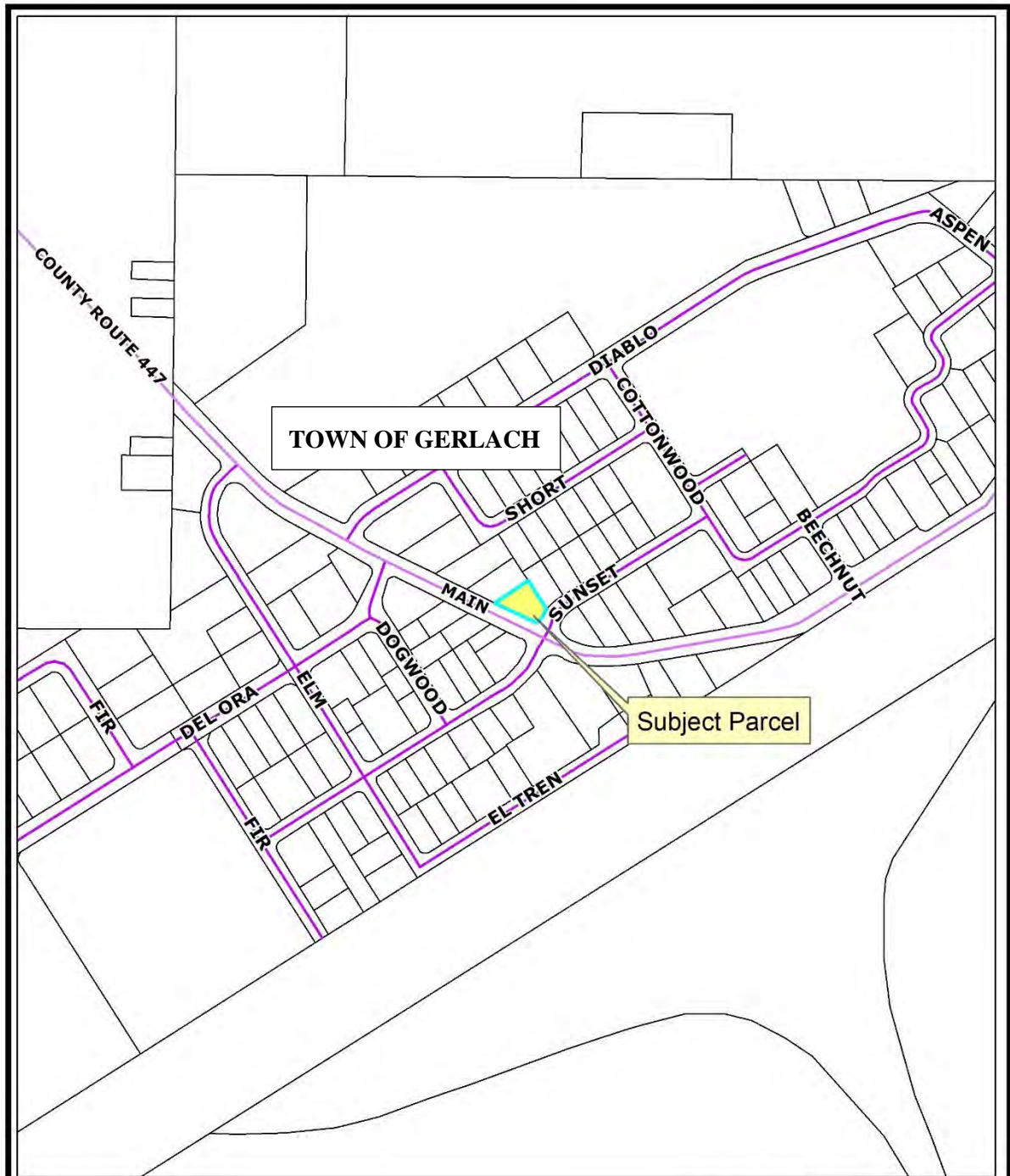
- (a) The structure complies with the provisions of Section 110.330.55, Agricultural Buildings;
- Or,
- (b) The proposed accessory structure **or use is located on a lot adjacent to another lot that contains an existing main structure or principal use, is under the same ownership, has the same regulatory zone,**

And,

A deed restriction has been filed with the Washoe County Recorder's Office stipulating that neither lot can be sold separately until the accessory structure or use otherwise allowed under this section is removed, terminated, or any nonconformance resulting from such a sale has been resolved. The deed restriction shall be executed on a form provided by the County through the Planning and Development Division, and the deed restriction shall make the County an intended third party beneficiary with the right, but not the obligation, to enforce its provisions. **No accessory structure or use otherwise allowed under this section is allowed until the required deed restriction is executed and recorded against the property** that will contain the accessory structure or use and against any other adjacent parcel under the same ownership that is used to satisfy the provisions of this paragraph, as well as any adjacent parcel under the same ownership that will be served by the accessory structure or use. For the purposes of this section, a parcel is under the same ownership if at least one of the owners of each parcel involved is the same.

Mr. Schmidt is eligible to meet the above criteria outlined in subsection (b) since he owns an adjacent parcel that contains an existing main structure and has the same regulatory zone; however, he has declined to file the deed restriction required by WCC 110.306.15(b). Recordation of the required deed restriction would resolve the code violation and the enforcement case would be closed.

Vicinity Map



VICINITY MAP
WVIO-PLA23-0127 (Appeal)
APN 071-281-01 (345 Main St)

Date: May 8, 2024

0 500 1,000
Feet

Community Services
Department, Planning
and Building
WASHOE COUNTY
NEVADA
Post Office Box 11130
Reno, Nevada 89520 (775) 328-3600

Background

On September 13, 2023 an anonymous complaint was received by Washoe311 and forwarded to Washoe County Code Enforcement for investigation. The complaint alleged that the subject property:

“has been collecting bikes and other items since the end of Burning Man. My understanding is that the "garage sale" happening at the start of Burning Man was shut down by code enforcement. **Now there have been people staying in the trailers on this property** and collecting items from burners. They claim the items are donations, but they are selling bikes as well. There were bikes left all year long from the last Burning Man and we do not want to see this mess continue. Junk storage, operating a business without a license....”

Upon receiving the complaint, the enforcement officer assigned to the area began an investigation and conducted a physical site inspection of the property. The site inspection confirmed that numerous bikes were being stored on the property, as well as several RV's:





While the enforcement official confirmed that bikes and RVs were being stored on the property, it could not be confirmed that people were living in the RVs, nor did it appear that a business was being conducted from the site. Therefore, officer Farmer issued an Administrative Warning to the property owner (appellant) only addressing the violations of storage on a vacant parcel (WCC 110.306.35(b)) and outdoor storage of any building materials, appliances, debris refuse-rubbish, junk vehicles, or garbage in public view (WCC 50.308.8). An Administrative Warning is the first step in the Administrative Enforcement process (WCC 125) and provides a 30-day warning to correct identified violations or face issuance of an administrative Penalty Notice (i.e. a civil fine starting at \$100).

The Administrative Warning was sent on September 25, 2023 via email and regular mail to the mailing address on file with the Assessor with a comply by date of October 28, 2023. The requested compliance actions included removal of all stored items from the property, registering the RVs, and/or screening the items from public view. Please see Exhibit B, pages 9-11 for a copy of the Administrative Warning.

However, in order to screen the items, the respondent would have had to build a 6-foot fence around the entire perimeter of the property and such fences are not allowed on vacant property. Therefore, the only way for the items to remain legally stored on the property was to either establish a principal use (so that the storage became an allowed accessory use) or remove the items.

Upon subsequent review of the case with Planning Manager Chad Giesinger, it was determined that the code provided an additional remedy the property owner could pursue by recording the deed restriction pursuant to WCC 110.306.15(b). The property owner is eligible to meet the criteria for recording a deed restriction since he owns an adjacent parcel with an existing main structure that has the same regulatory zone. Recordation of the deed restriction would allow accessory uses, such as construction of a fence and outdoor storage, to be legally established on the subject property.



Adjacent property outlined in blue, imagery from April 2023. Subject property outlined in red.

Based on a request from the property owner, further correspondence, and some progress being made towards compliance, officer Farmer issued an Extension of Time on October 31, 2023 with a new comply by date of December 2, 2023. The extension informed the property owner that an administrative penalty notice may be issued if the violations were not corrected by December 2, 2023. The extension was sent via email and regular postal mail to the mailing address on file with the Assessor. Please see Exhibit B, pages 12-13 for a copy of the issued Extension of Time.

On December 4, 2023, officer Farmer conducted a re-inspection of the property and found it to remain in violation. Although all the bicycles had been removed, which was appreciated by code enforcement, an unregistered RV remained stored on the property. A first Penalty Notice (civil fine of \$100) was subsequently issued on December 12, 2023 with a comply by date of January 14, 2024. The Penalty Notice was sent via email, regular postal mail, and by *certified mail* to the mailing address on file with the Assessor. Please see Exhibit B, pages 13-14 for a copy of the issued Penalty Notice. Below is the subject RV that remains on the property:



During the time between the extension being issued and the eventual issuance of the first Penalty Notice on December 12, 2023, the property owner continued to email various staff members to dispute the enforcement action, submit numerous Public Records Requests, and claim he was in compliance with code due to an interpretation of code issued in 1996. During this time, in an effort to resolve the matter,

Planning Manager Chad Giesinger entered the necessary information into the required deed restriction form (see Exhibit G) and provided it to the property owner with instructions on how to record it.

Instead of recording the deed restriction, the property owner maintained that he was not required to record a deed restriction, or otherwise come into compliance, relying on an inapplicable code interpretation from 1996. Staff had already explained in various emails that said interpretation did not address/allow the storage of an RV (or any other materials), but rather a detached accessory structure utilized as a garage to satisfy the required residential parking requirements (see Exhibit F). The relevant language from Interpretation 96-4 states:

Pursuant to Article 910, Section 110.910.05 of Chapter 110 of the Washoe County Code, the Director of the Department of Development Review has the authority to enforce the provisions of the Development Code. In order to appropriately enforce the Development Code, the Director finds it necessary to provide the following interpretation concerning the location of detached accessory structures and detached garages.

A detached accessory structure must be located either on the same lot as the main structure, or on a lot that is defined as the same parcel of land that the main structure is or is intended to be located. An exception to the detached accessory structure location interpretation is that detached garages associated with a use may be located on an adjacent parcel of land that is zoned for the same uses as the parcel of land on which the main structure is located.

As is shown above, the interpretation did not address the storage of an RV on an adjacent vacant parcel under common ownership.

In lieu of paying the issued fine or resolving the matter through one of the available compliance options, the property owner continued dispute the violation and requested another Extension of Time, even though the first Penalty Notice had already been issued. On December 21, 2023 the property owner was informed that no further extensions of time would be granted, a Penalty Notice had already been issued, and he could choose to appeal the Penalty Notice by January 14, 2024 (a date well beyond the holidays). See Exhibit B, page 20, for a copy of the notification email and further details.

On January 22, 2024, code enforcement was informed by the Administrative Hearing Office (AHO) that the property owner had appealed the Penalty Notice and an Administrative Hearing was scheduled for February 16, 2024. Just prior to the scheduled hearing, the respondent made a series of requests to the AHO including a request for special accommodations to have an in-person hearing. Ultimately the February 16, 2024 hearing was held via Zoom and the Hearing Officer granted the respondents request for a continuance and a request for an in-person hearing, resulting in a rescheduling of the hearing to April 5, 2024.

The in-person hearing was held on the scheduled date, but only after the AHO had addressed several motions from the respondent (made just prior to the hearing) to dismiss the case. After a nearly 5-hour hearing (hearings are usually only scheduled for one-hour maximum duration), the Hearing Officer ruled in favor of the county by affirming the violation and an Administrative Order was issued. The Administrative Order required the respondent to pay the fine and either record the required deed restriction or remove the RV from the subject property by June 30, 2024. (see Exhibit A).

Instead of complying with the Administrative Order, the property owner chose to appeal it by submitting an Appeal of Decision application on April 27, 2024 (see Exhibit D). Per WCC 110.910.15(d)(1), appeals of an administrative hearing officer's decision are heard and decided by the Board of Adjustment (see attachment E).

Analysis

The property owner is in violation of WCC section 110.306.35(b), which states:

Outdoor Storage on Vacant Lots. No outdoor storage shall occur on a vacant parcel without an existing principal use. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location.

Pursuant to WCC section 110.306.35(a), outdoor storage is defined as the outside placement of items for more than 72 consecutive hours. The subject RV has been on the property since at least September 2023. The only Development Code provision which would allow storage of an RV on an otherwise vacant parcel is WCC section 110.306.15(b), which requires the recordation of a deed restriction to protect the public interest from the creation of non-conforming uses should only one of the contiguous parcels be sold. The goal of this code provision is to avoid the proliferation of parcels with stand-alone accessory structures, such as garages, workshops, and cargo containers, or outdoor storage of junk, debris, and building materials on vacant parcels.

The appellant has argued, among other arguments, that they do not have to comply with WCC section 110.306.15(b) because of a previous interpretation of code issued in 1996. First, interpretations of code are not ordinances passed by the elected body; rather, they are authorized to be issued by the Director of Planning and Building to offer a consistent method of applying a code provision that may be confusing, conflict with another section of code, or construed in different ways by different people. The interpretation is relied upon by staff until the code is amended or clarified through the required ordinance process. The code has changed many times since 1996, including an ordinance adopted in 2016 that repealed Interpretation 96-4 and incorporated similar language into the Development Code (specifically WCC section 110.306.15). In any event, the subject RV was placed on the subject property in 2023 well after the 2016 ordinance was passed.

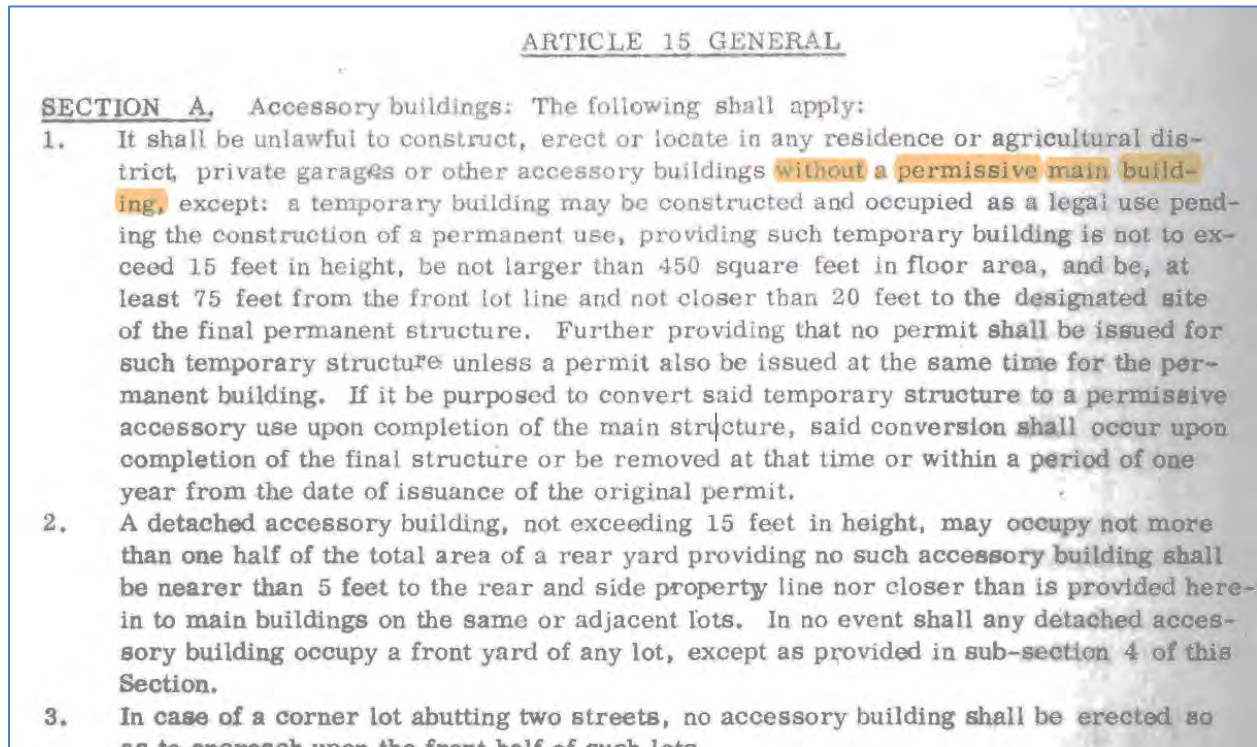
Secondly, even if the interpretation were to be applied to this situation, it would not have authorized the placement of an RV (or any other miscellaneous items) on an adjacent parcel under common ownership. The interpretation specifically addressed the placement of detached accessory structures on adjacent parcels under common ownership and with identical zoning.

Initially when the enforcement case was opened, the appellant argued that the Development Code had always allowed accessory uses on vacant parcels if there is an associated contiguous lot owned by the same owner. This is not correct. Prior to the amendment adopted in 2016 adding the deed restriction option (i.e. subsection b) to WCC section 110.306.15, the code did not allow any exceptions to establishing an accessory use on a parcel without a principal main structure. Below are two excerpts from the pre-2016 version of the Development Code, the first is the applicable code section as it existed in 2015 and the second is from the original code adopted in 1957:

2015 applicable code language:

Section 110.306.15 Main Structures Required. Except as otherwise provided in Section 110.330.55, Agricultural Buildings, it is unlawful to construct, erect or locate private garages or other accessory structures and uses in any Rural, Suburban or Urban Residential Regulatory Zone, including the General Rural Agricultural (GRA) Regulatory Zone, without an existing main structure and/or existing principal use as provided for under Article 302, Allowed Uses.

[Amended by Ord. 926, provisions eff. retro to 5/31/94; Ord. 1451, provisions eff. 1/1/11; Ord. 1475, provisions eff. 1/12/12.]

1957 applicable code language:

Therefore, prior to the 2016 amendments, the code had never allowed accessory uses without a permissive main structure. Accessory uses are just that – they are accessory to, or support, a principal use on a given piece of property.

The property owner has since conceded this point and has even conceded that Interpretation 96-4 does not address the storage of RVs. Nevertheless, the property owner has now resorted to arguing that the definition of a “parcel” or “parcel of land” that was in the code prior to 2016, and which is referenced in Interpretation 96-4, rendered his ownership of the two subject parcels (purchased by the respondent in 2011) as one “parcel of land”. The property owner is using this reasoning to argue that the two subject parcels are “grandfathered” as one “parcel of land” and can therefore establish accessory uses on either parcel.

There are several flaws to this argument. First, even if this argument were to be accepted, the RV was not stored on the subject parcel until after 2016 when the definition of a parcel was clarified/changed. Further, the subject parcel was vacant when the respondent purchased the land in December 2011 and it also appeared vacant in 2013 based on available aerial photography:

July 2011 aerial photo (oblique):



June 2013 aerial photo (oblique):



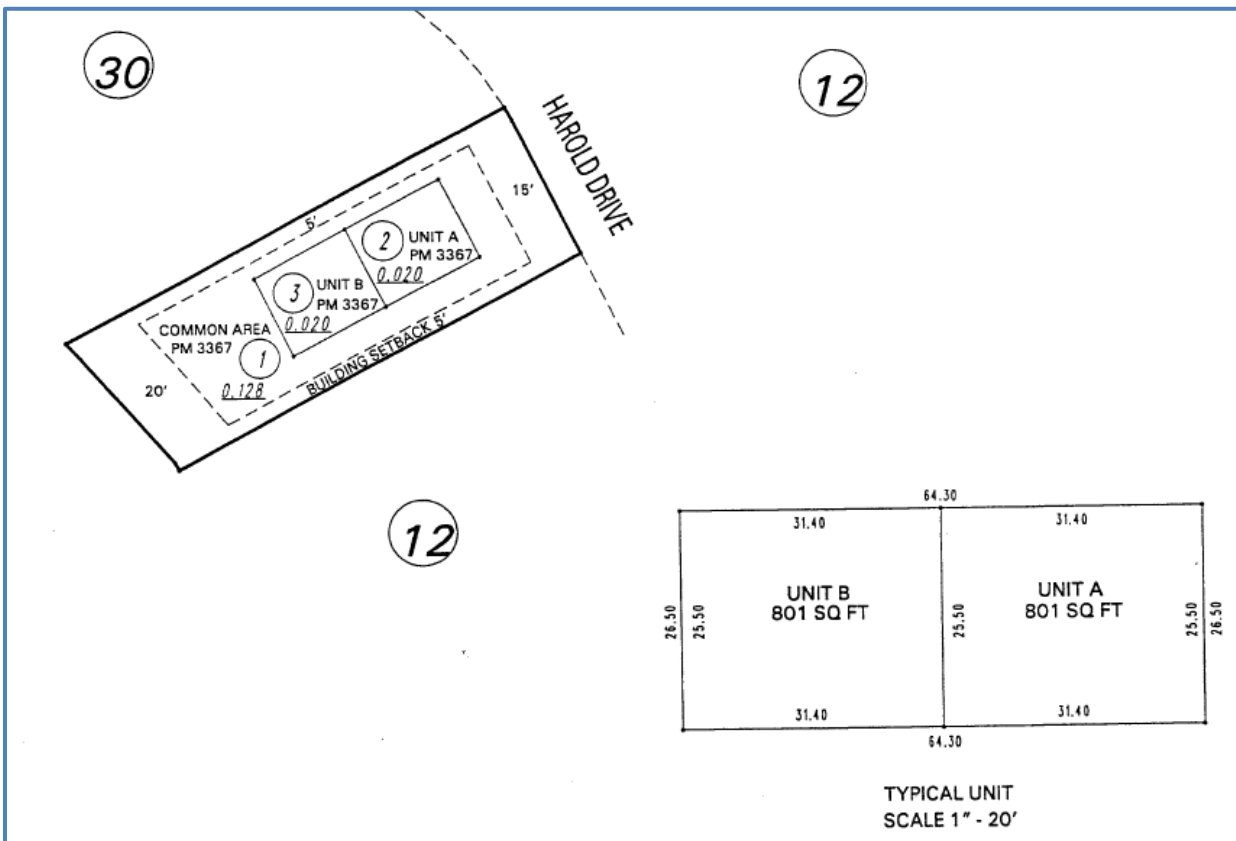
Thus, any claim of “grandfathering” status is invalid since RV storage was not present at the time of purchase and was absent from the subject parcel for a period of more than 1-year.

Secondly, and more importantly, the appellant is mis-interpreting the previous definition of a “parcel” or “parcel of land”, which stated:

“Parcel of Land means any unit or continuous units of land in the possession of **or** (emphasis added in bold) recorded as the property of one person”.

Interpreting this definition as equating to ownership of 2 contiguous parcels, which each have their own Assessor Parcel Number, as one “parcel of land” is not correct.

The “or” part of the definition is significant as it establishes two distinct ways to define a “parcel of land” that are used for different purposes. In addition, the definition does not define what is meant by a “unit” of land but does state “**or** recorded as the property of one person.” The “or” part of the definition also does not reference nor include the word “contiguous.” Further, a “unit” of land can be construed to mean only a portion of a given overall parcel of land, like dividing a large piece of land into lot “A and “B” but without changing the overarching Assessor Parcel Number (APN). Below is an example of such a scenario from an Assessor's Parcel map book page:



In the above example, there are three “units” of contiguous land contained within one overall Assessor Parcel Number (APN) and the setbacks for the parcel as a whole are shown. Note that each “unit” of land within this “parcel of land” do not have their own setbacks or APN’s. It is this staff’s opinion the pre-2016 definition of a parcel of land was worded to account for this situation.

The appellant purchased two pieces of property, each with an individual tax ID (Assessor Parcel Number – APN) that were recorded as individual parcels, with individual legal descriptions, and each as the “property of one person”. Taxes are paid separately on each property, and each has its own setbacks, zoning, and lot dimensions. Therefore, each individual parcel in this instance constitutes a “parcel of land” under the pre-2016 definition. It does not matter that the individual parcels are owned by the same person and happen to be contiguous. All land use regulations of the development code are applicable to each of the individual parcels, including zoning, setbacks, minimum parcel size, density, allowed uses, etc.

Lastly, the appellant argued at the administrative hearing that the recordation of a deed restriction would devalue and unnecessarily encumber his property if he wanted to sell it. This is a red herring argument as the deed restriction is easily removed upon proof from the owner that either all items have been removed from the property, or a principal use has been established. Should the appellant decide to sell the property, they could bring the parcel into conformance prior to listing it on the market.

Reviewing Agencies and Citizen Advisory Board

No other agencies have been involved in the administrative enforcement of the WCC violation. Citizen Advisory Board review is not part of an administrative enforcement proceeding.

Staff Recommendation

Based upon staff analysis, evidence presented, and testimony received, staff recommends that the Board of Adjustment (BOA) deny this appeal and affirm the decision of the Administrative Hearing Officer. In addition, if the BOA agrees with this recommendation, staff recommends that the appellant be ordered to comply with the issued Administrative Order in a timely manner since the original comply by date of June 30, 2024 has already passed. Staff recommends that the property owner be given no longer than 25 days (which is the length of the appeal period) to either move the RV or record the required deed restriction.

Possible Motion

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment deny this appeal and affirm the decision of the Administrative Hearing Officer. including 1) upholding that the appellant is in violation of Washoe County Code Section 110.306.35(b); 2) upholding the hearing officers' order to either remove the subject RV from the property or file a deed restriction; 3) upholding the hearing officer's affirmance of the \$100 penalty and \$50 administrative action fee; and, 4) authorizing the Chair of the Board of Adjustment to prepare a written order of the decision and file it with the Secretary of the Board of Adjustment, a copy of which shall be served to the appellant.

Written Decision and Appeal Process

A written order of the Board of Adjustment's decision shall be prepared, executed by the Board of Adjustment Chair, and filed with the Secretary of the Board of Adjustment and a copy of the order shall be served on the appellant. The appellant has the right to appeal the written order by filing a petition for judicial review in the Second Judicial District Court for the State of Nevada within 25 days from the date the order is mailed to the appellant. Per WCC Section 110.910.15(i)(6), when a petition for judicial review is filed, the court rules shall govern the proceeding. This judicial review is in lieu of an appeal to the Board of County Commissioners as authorized by NRS 278.310(3)(b).

Property Owner: Gary Schmidt
9000 Mount Rose Hwy
Reno, NV 89511



ADMINISTRATIVE ORDER

PROCEEDINGS BEFORE A WASHOE COUNTY ADMINISTRATIVE HEARING OFFICER

IN THE APPEAL OF (Respondents)

Gary Schmidt
DPG Schmidt Trust

CASE NO.: WVIO-PLA23-0127

HEARING DATE: 2/16/2024 @10am

SUBJECT PROPERTY

Address:
345 Main Street, Gerlach, NV 89412
APN: 071-281-01

ADMINISTRATIVE PENALTIES AND FEES

Administrative penalties and fees imposed by County: \$ 100.00
Hearing Officers decision: Affirm penalties/fees
 Dismiss penalties/fees
 Modify penalties/fees \$ 100.00

ADMINISTRATIVE ACTION FEES

Administrative Hearing request fee: \$ 50.00
Hearing Officers decision: ^{Partially} Violation confirmed, must pay hearing fee

TOTAL PENALTIES AND FEES

\$ 150.00

Payment is due immediately upon conclusion of appeal hearing, but no later than
Penalties/Fees Due Date → 4-30-2024

1. Pursuant to the Washoe County Enforcement Code ("Code") at 125.120, et seq., the Respondents above-named have appealed an administrative enforcement action brought by Washoe County ("County"). An administrative hearing was held to determine whether the Washoe County Code violations cited in an Administrative Penalty Notice, and the penalties and/or fees assessed as part of the notice, should be affirmed, modified, or dismissed.

2. Respondents were self-represented at the hearing or were represented by:

County was represented by Geisinger + Farmer

3. This Administrative Order is pursuant to the authority granted at Code 125.220 through 125.2290, inclusive, and is final as of the date as shown on the last page of this Order unless appealed in accordance with Code 125.275.

4. I have received and reviewed the evidence, including documents and testimony, provided at the hearing, and am ready and able to determine this appeal. The property at issue is located at the address and parcel number listed above under "Subject Property".

5. In the Administrative Penalty Notice, the County cited the following violations of Washoe County Code:

Violation(s)

a. WCC section 110.306.35(b) – Outdoor Storage on Vacant Lots. No outdoor storage shall occur on a vacant parcel without an existing principal use. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location.

Withdrawn
b. ~~WCC section 50.308(8) – Outdoor storage of any building materials, appliances, debris-refuse-rubbish, junk vehicles, or garbage in public view except as otherwise permitted by this Nuisance Code or as otherwise authorized pursuant to Code chapter 110, section 306, as amended.~~

Affirmed, I find the cited violations are supported by the evidence.

Dismissed, I find the cited violations are not supported by the evidence and dismiss them.

Modified, I find the cited violations should, according to the evidence, be modified as follows:

- ① WCC 50.308(8) violation: Respondent came into compliance and it is withdrawn;
② WCC 110.306.35(b) is affirmed.
③ R retains file a Deed Restriction. If the RV is removed from the property, R is to notify Code Enforcement (CE) so Deed Restriction can be removed.

The respondent must correct all affirmed or modified code violations by but will be stayed pending appeal.

June 30, 2024

6. This matter is referred back to the enforcement official for the following actions:-

- ① Resp. requested and was granted an in-person hearing, continuing the remote Feb. 14, 2024 hearing to April 5, 2024 in a RSC courtroom;
② Resp and Pet. were both afforded ample and an exceptional amount of time in which to present their respective cases;
③ A DDA ^{representing RSC} appeared prior to the commencement of the hearing to address assertions against the AHO

7. The respondent must complete the following additional actions by _____:

- ① \$100 + \$50 Admin Fee by April 30, 2024
- ② Removal of subject RV or filing of Dead Restriction by June 30, 2024

8. Failure to comply with all provisions of this Administrative Order is a misdemeanor criminal offense and Respondents may be issued a misdemeanor criminal citation. Conviction of a misdemeanor criminal offense is punishable as provided for in NRS 193.150, as amended. Any misdemeanor criminal actions do not provide an excuse to disobey this order, to not correct the cited violations, nor they bar any further enforcement actions by the County.

9. You may choose to appeal this Administrative Order to either the Second Judicial District Court or the Washoe County Board of Adjustment.

APPEALS TO THE SECOND JUDICIAL DISTRICT COURT

You must file a petition for judicial review of this Order to the Second Judicial District Court in and for the County of Washoe, State of Nevada within 30 calendar days of the date as shown on the last page of this Order. The filing of the petition postpones all deadlines and other enforcement or collection efforts established in this Order until the appeal is concluded. Failure to file the petition within 30 calendar days of the date of this Order waives any and all objections to this Order.

APPEALS TO THE WASHOE COUNTY BOARD OF ADJUSTMENT

You must file an appeal application within 20 calendar days of the date as shown on the last page of this Order. Appeal applications are available from the Washoe County Planning & Building Division:

- In person: Washoe County Administration Complex, 1001 East Ninth Street, Reno Building A, 2nd Floor, West end
- On-line: http://www.washoecounty.us/comdev_files/app_fy13_14/appeal/ax_app.pdf
- To request an application by mail: call 328-3600 or e-mail to planning@washoecounty.gov

Appeal applications must be filed in person. There is no charge for an appeal before the Washoe County Board of Adjustment.

The filing of the appeal postpones all deadlines and other enforcement or collection efforts established in this Order until the appeal is concluded. Failure to file an appeal within 20 calendar days of the date of this Order ~~waives~~ waives any and all objections to this Order.

Appeals of the decision of the Washoe County Board of Adjustment are made to the Second Judicial District Court.

Ordered:

Administrative Hearing Officer

NM GhushnEgg
Printed Name

April 9, 2024
Date

NM Ghushn
Signature

-Although testimony and evidence were presented indicating use of the subject parcel prior and after 2016, this was insufficient to prove that there was ongoing storage on the subject parcel but rather speculation and snapshots in time.

-Although there was testimony regarding a violation of Due Process by Code Enforcement, the facts presented reveal that CE worked with Respondent to come into compliance and offered extensions of time, until such time as it appeared that Respondent did not intend to work towards compliance, when CE issued its First Notice of Penalty.

-The Administrative Hearing process and officers do not have the authority or jurisdiction to address any and all grievances listed in a Respondent's appeal but may only make a determination whether a code violation occurred and whether a Respondent received due process, i.e., due process.

-Respondent's allegations of due process violations that occurred pre-hearing were remedied by allowing ample time for additional contact with County officials and arranging for an in-person hearing in a RJC courtroom seven weeks after the original scheduled hearing.

-Although Respondent offered arguments and there may be some substance warranting further research into Respondent's assertions regarding history, interpretations and legal meanings of "lot" and "parcel" to establish "legal nonconforming use" or "grandfathering," there was not enough evidence to rebut Petitioner's evidence that there had been a violation of existing and generally existing law to rebut Petitioner's meeting of the burden of proof by a preponderance of the evidence that would warrant dismissal. WCC 125.255.

-A Hearing Officer has the authority to require post-hearing briefing pursuant to the Washoe County Code but made no such order. WCC 125.250(3).

-This Hearing Officer denies Respondent's request for a new hearing/re-hearing as Respondent was afforded ample opportunity in which to present his case, i.e. the hearing was almost five hours in addition to pre-hearing communications, no extraordinary exists, and the matter is ripe for appeal. WCC 125.230(7) and WCC 125.275.



WASHOE COUNTY
COMMUNITY SERVICES DEPARTMENT
 Planning and Building Division
 Code Enforcement

1001 EAST 9TH STREET
 RENO, NEVADA 89512
 PHONE (775) 328-6106
 FAX (775) 328-6133

ADMINISTRATIVE HEARING PACKET
WASHOE COUNTY CODE ENFORCEMENT
1st ADMINISTRATIVE PENALTY NOTICE



Case Number: WVIO-PLA23-0127
Subject Property: 345 MAIN STREET, WASHOE COUNTY, NV 89412
Parcel Number: 071-281-01

HEARING DATE: 2/16/2024 @10:00AM





WASHOE COUNTY
COMMUNITY SERVICES DEPARTMENT
 Planning and Building Division
 Code Compliance

1001 EAST 9TH STREET
 RENO, NEVADA 89512
 PHONE (775) 328-6106
 FAX (775) 328.6133

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 WVIO-PLA23-0127
 345 Main Street APN 071-281-01
 Administrative Hearing / 1st Penalty Notice

SECTIONS

1	Complaint with pictures
2	Request for Administrative Hearing – Appeal to 1st Penalty Notice - \$100
3	Maps / Assessor Information – 345 Main Street Zoned HDS (High Density Suburban)
	• Property Map
	• Washoe County Assessor Information
4	Warnings / Penalties
	A. 1 st Administrative Warning 9/25/2023
	B. 1 st Extension of Time 10/31/2023
	C. 1 st Administrative Penalty 12/12/2023 - \$100
5	Washoe County Code Sections: Chapter 110 Development Code/Chapter 50 Nuisance Code
6	Email correspondence with property owner, Gary Schmidt
7	Deed Restriction provided to Mr. Schmidt 12/18/2023
8	Planning Analysis – Supplemental Information provided by Planning Manager Chad Giesinger
	A. Interpretation 96-4
	B. Aerial Photography History
	C. Code History - Excerpts

From: Washoe311
 To: Code Enforcement
 Subject: FW: A new Service Request has been created [Request ID #144185] (Code Violation/Enforcement General) - Washoe County, NV
 Date: Wednesday, September 13, 2023 1:35:51 PM
 Attachments: bikes.PNG
 image001.png
 image002.png
 image003.png
 image004.png
 image005.png

Greetings,

Below, please find the service request received by Washoe311. Let us know if we can provide additional information.

This request will be closed upon receiving a status update from your office.

Thank you,



Washoe311 Service Center
Communications Division | Office of the County Manager
washoe311@washoecounty.gov | Office: 3-1-1 | 775.328.2003 | Fax: 775.328.2491
 1001 E. Ninth St., Bldg A, Reno, NV 89512

NOTICE: This communication, including any attachments, may contain confidential information and is intended only for the individual or entity whom it is addressed. Any review, dissemination, or copying of this communication by anyone other than the recipient is strictly prohibited by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521. If you are not the intended recipient, please contact the sender by reply email, delete and destroy all copies of the original message.

From: Washoe311 <Washoe311@washoecounty.gov>
 Sent: Wednesday, September 13, 2023 1:26 PM
 To: Washoe311 <Washoe311@washoecounty.gov>
 Subject: A new Service Request has been created [Request ID #144185] (Code Violation/Enforcement General) - Washoe County, NV

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Washoe County

A new service request has been filed.

Service Request Details	
ID	14415
Date/Time	9/13/2023 12 PM
Type	Code Violation/Enforcement General
Address	345 MAINT LERLACH
Origin	Website
Comments	This property has been collecting bikes and other items since the end of Burning Man. My understanding is that the garage sale happening at the start of Burning Man was shut down by code enforcement. So there have been people staying in the trailers on this property and collecting items from owners. They claim the items are donations but they are selling bikes as well. There are bikes left all year long from the last Burning Man and we do not want to see this mess continue. I am a storage operator a business without a license....
Submitter	n/a n/a 54 mahon dr lerlach

View in Alert

Washoe County



WVIO-PLA23-0127
EXHIBIT B

4





WASHOE COUNTY ADMINISTRATIVE HEARING OFFICE

Please Legibly Print All Information

1 South Sierra Street
Reno, Nevada 89501
Phone: (775) 328-2001
Fax: (775) 325-6510
AHO@washoecounty.gov

REQUEST FOR ADMINISTRATIVE HEARING

Today's Date: _____

Violation Number: _____

I am appealing the Civil Penalty received and request an Administrative Hearing be set on the case noted above. I understand this form must be completed and returned to the Administrative Hearing Office within the time frame indicated on the Civil Penalty or my request for appeal my be denied.

The following provides a basis for my appeal (continue on the back of this page or attach additional pages if needed):

- The demand for a deed restriction on the contiguous parcel for the accessory uses is inappropriate because the accessory uses pre-date the codes requiring any deed restrictions and are therefore "Grandfathered" in as legal nonconforming.
- Request for Appeal before the BOA was illegally denied & I object!
- There was a request for an additional 30 day extension that was denied only after the violation was issued and after addition adjustment on the property!

If you are found to be in violation of Washoe County regulations, you will be assessed a \$50.00 Administrative Hearing fee in addition to any other fine the Administrative Hearing Officer orders. Unless ordered otherwise by the Hearing Officer, this fee is payable to Washoe County Collections at the conclusion of the hearing.

Printed first and last name: Gary Schmidt

Cell phone: 775 622-4670

nobullschmidt@hotmail.com *

Address: PO Box 861

E-mail Address:

Signature: Virginia City, NV 89440

DATE AND TIME OF ADMINISTRATIVE HEARING

Your Administrative Hearing has been scheduled for:

Administrative Hearings will be conducted via Zoom. Administrative Hearings being at the scheduled time; therefore, it is important that you log in no later than 5 minutes prior to the hearing time to ensure you are able to connect with audio and video via Zoom.

* I have been having problems with my phone & my email account & I do not have the capacity to participate in Zoom meetings

WVIO-PLA23-0127
EXHIBIT B



📍 345 MAIN ST

📄 APN: 071-281-01

📄 Documents Tax Information

🕒 Permit/Accela Information Found (13)

👤 Owner: DPG SCHMIDT TRUST

🏢 Corporate Area: WASHOE

📍 Zip Code: 89412 Zip City: GERLACH

📄 Tax District: 9601

🗳️ Voter Precinct: 7522

🏠 Land use: 230

🏠 Land Zoning: HDS

🔌 Utility: Water: Municipal , Sewer: Municipal

📏 Square Ft.: 0

📏 Acreage: 0.233

💰 Total Assessment: 10025

🛏️ Bedrooms: 0

🛁 Baths: 0.

All data on this form is for use by the Washoe County Assessor for assessment purposes only.

Owner Information

APN	071-281-01	Card 1 of 1
Situs 1	345 MAIN ST	Bld #
Owner 1	DPG SCHMIDT TRUST	OWNER
Mail Address	C/O GARY SCHMIDT 9000 MT ROSE HWY RENO NV 89511	

Building Information MOBILE HOME INFO XFOB SUBAREA

Bld #1 Situs	345 MAIN ST	Property Name
Quality		Building Type
Stories		2nd Occupancy
Year Built	0	WAY 0
Bedrooms	0	Square Feet
Full Baths	0	Finished Bsmt 0
Half Baths	0	Unfin Bsmt 0
Fixtures		Basement Type
Fireplaces	0	Gar Conv Sq Feet 0
Heat Type		Total Garage Area 0
2nd Heat Type		Garage Type
Exterior Walls		Detached Garage 0
2nd Ext Walls		Basement Gar Door 0
Roof Cover		Sub Floor
% Complete	0	Frame
Obso/Bldg Adj	0	Units/Bldg 0
Construction Modifier		Units/Parcel 0

Parcel Information

Keyline Desc	GERLACH LT 5 BLK K		
Subdivision	GERLACH		
	Section	Township	Range
	32	23	23
Record of Survey Map : Parcel Map# : Sub Map#			
Special Property Code			
2024 Tax District	9601	Prior APN	--
2023 Tax District	9601	PAT FORMS Tax Cap Status	2012 Change Form Mailed, High Cap Applied

Sales and Transfer Records

RECORDER SEARCH

Grantor	Grantee	Doc #	Doc Type	Doc Date	DOR Code	Value/Sale Price	Adjusted Sale Price	Sale Code	Units	Price/Unit	Notes
DAMSEN, TOM & JESSICA	DPG SCHMIDT TRUST	4071386	DEED	12-29-2011		80,000	0	2MD	N/A		
PHILLIPS, RALPH E	DAMSEN, TOM & JESSICA	3491073	DEED	01-26-2007	230	83,000	0	2D	N/A		
PHILLIPS, RALPH E	PHILLIPS, RALPH E	3330852	DEED	12-30-2005	230	0	0	3BGG	N/A		
PHILLIPS, RALPH E & EVELYN R	PHILLIPS, RALPH E	3263197	AFF	08-18-2005	230	0	0	3BFM	N/A		WIFE DECEASED
	PHILLIPS, RALPH E & EVELYN R	1168763		06-08-1987	230	0	0		N/A		

Land Information

LAND DETAILS

Zoning information should be verified with the appropriate planning agency.			Land Use	230	DOR Code	230	Create/Clis Code		KB Neighborhood Map		
Size	10,149 SqFt	CAGC	-	Sewer	Municipal	Street	Paved	Zoning Code	HDS Formerly	2024 NBC	KBAF SDM
Size	0.233 Acres			Water	Muni	Value Year	2024	Zoning Maps	Page 071-28 Book 071	2023 NBC	

Valuation Information



The 2024/2025 values are preliminary values and subject to change.

ABATEMENT INFO

	Taxable Land	Imps New	Land New	Taxable Imps	OBSO	Tax Cap Value	Taxable Total	Land Assessed	Imps Assessed	Total Assessed	Exemption Value
2024/2025 NR	28,000	0	0	2,588	0		30,588	9,800	905	10,706	0
2024/2025 VN	28,000	0	0	2,588	0		30,588	9,800	905	10,706	0
2024/2025 QC	28,000	0	0	2,588	0		30,588	9,800	905	10,706	0

A sketch is not available.

Photos are not available for this Parcel.

This is a true and accurate copy of the records of the Washoe County Assessor's Office as of 01-22-2024



WASHOE COUNTY
 COMMUNITY SERVICES DEPARTMENT
 Planning and Building
 Code Compliance

1001 EAST 9TH STREET
 RENO, NEVADA 89512
 PHONE (775) 328-6106
 FAX (775) 328-6133

ADMINISTRATIVE ENFORCEMENT
****FIRST WARNING****

September 25, 2023

DPG SCMIDT TRUST
 9000 MT ROSE HWY
 C/O GARY SCHMIDT
 RENO, NV 89511

Case Number: WVIO-PLA23-0127
 Subject Property: 345 MAIN STREET, WASHOE COUNTY, NV 89412
 Parcel Number: 071-281-01

Comply by: October 28, 2023

Dear Respondent:

Based on a complaint received by this office, and a subsequent inspection of subject property, I have determined that a violation of Washoe County code exists on the property. This notice serves as a warning about the code violation and seeks your voluntary action to correct, mitigate, or remedy the code violation.

The code violations found on the property and the actions you must take to correct the situation are:
 VIOLATION:

WCC section 110.306.35(b) – Outdoor Storage on Vacant Lots. No outdoor storage shall occur on a vacant parcel without an existing principal use. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location.

CORRECTIVE ACTION:

WCC section 110.306.35(b) – Remove all stored items/material from the property.

VIOLATION:

WCC section 50.308(8) – Outdoor storage of any building materials, appliances, debris-refuse-rubbish, junk vehicles, or garbage in public view.

CORRECTIVE ACTION:

WCC section 50.308(8) – The specific stored items/material noted above must be screened or removed from public view. Screening must:

- provide physical separation and visual obscuration of the items/material on all sides and in all seasons; and,
- be at least 6 feet high and include, but is not limited to, a combination or individual use of a fence, decorative wall, structure, earth berm or dense landscaping.
- The items/material may be stored within a permitted, lawful structure provided that the items/material are not visible from public view.

Some additional information regarding the remedy for this code violation:



Memo to: DPG SCMIDT TRUST
Subject: Code Violation
Date: 9/25/2023
Page: 2

- If your screening method is not lawfully constructed (e.g., erecting a 6 foot high fence without a valid Washoe County building permit), then you must obtain the required Washoe County approvals before constructing the screening method.
- All vehicles, material, appliances, and/or debris must be removed or screened from public view. Vehicles may also be registered with DMV and therefore not considered as a junk vehicle.

Please correct the violations by 10/28/2023. You may contact me to request an extension of time to correct the violation. Any such request for an extension of time may be in writing to the address shown on this letter, by email at BFARMER@washoecounty.gov, or by phone at (775) 328-2312. I will only grant an extension of time if you have demonstrated reasonable progress in correcting the violation, or there are extenuating circumstances that prevent you from correcting the violation by the stated deadline. If I grant an extension of time, we will mutually develop a plan with time frames for you to correct the violation.

An administrative penalty notice will be issued if the violations are not corrected by 10/28/2023, or by the date agreed upon by me with an approved extension of time. **The administrative penalty notice will result in an automatic penalty of \$100.** Further Administrative Penalty Notices with increased penalty amounts and additional fees may be issued without further warning if the violation is not corrected. Failure to pay the penalty may cause further action by the County Collections Office, which may include an additional \$50 collection fee, potential penalties and interest, and may result in a lien on the property to recover all unpaid penalties, fees or costs.

Failure to correct the violation by the compliance date may also result in additional civil or criminal remedies after consultation with the District Attorney's office.



Brian Farmer
Code Enforcement Officer II
bfarmer@washoecounty.gov
(775) 328-2312



09/25/2023 06:50



WASHOE COUNTY
 COMMUNITY SERVICES DEPARTMENT
 Planning and Building Division
 Code Compliance

1001 EAST 9TH STREET
 RENO, NEVADA 89512
 PHONE (775) 328-6106
 FAX (775) 328-6133

****E TENSION OF TIME****
 October 31, 2023

DPG SCMIDT TRUST
 9000 MT ROSE HWY
 C/O GARY SCHMIDT
 RENO, NV 89511

Subject: Extension of time for Administrative Enforcement Warning
 WVIO-PLA23-0127/345 MAIN STREET, WASHOE COUNTY, NV 89412

Dear Respondent:

Washoe County is granting an extension of time for the violations on the property you own or occupy located at 345 MAIN STREET. Washoe County will grant an extension of time for Case Number WVIO-PLA23-0127. This is the **First E TENSION** granted for this case until December 2, 2023. A compliance inspection after extension of time date will be made to determine compliance with County Codes. **An administrative penalty notice may be issued if the violations are not corrected by 12/2/2023.**

The code violation remaining on your property are as follows:
 VIOLATION:

WCC section 110.306.35(b) – Outdoor Storage on Vacant Lots. No outdoor storage shall occur on a vacant parcel without an existing principal use. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location.

CORRECTIVE ACTION:

WCC section 110.306.35(b) – Remove all stored items/material from the property.

VIOLATION:

WCC section 50.308(8) – Outdoor storage of any building materials, appliances, debris-refuse-rubbish, junk vehicles, or garbage in public view.

CORRECTIVE ACTION:

WCC section 50.308(8) – The specific stored items/material noted above must be screened or removed from public view. Screening must:

- provide physical separation and visual obscuration of the items/material on all sides and in all seasons; and,
- be at least 6 feet high and include, but is not limited to, a combination or individual use of a fence, decorative wall, structure, earth berm or dense landscaping.
- The items/material may be stored within a permitted, lawful structure provided that the items/material are not visible from public view.

Some additional information regarding the remedy for this code violation:

- If your screening method is not lawfully constructed (e.g., erecting a 6 foot high fence without a valid Washoe County building permit), then you must obtain the required Washoe County approvals before constructing the screening method.





WASHOE COUNTY
COMMUNITY SERVICES DEPARTMENT
Planning and Building Division
Code Compliance

1001 EAST 9TH STREET
RENO, NEVADA 89512
PHONE (775) 328-6106
FAX (775) 328-6133

- All vehicles, material, appliances, and/or debris must be removed or screened from public view. Vehicles may also be registered with DMV and therefore not considered as a junk vehicle.

If you have any questions please call my office at (775) 328-2312

A handwritten signature in black ink, appearing to read "Brian Farmer".

Brian Farmer
Code Enforcement Officer II
bfarmer@washoecounty.gov
(775) 328-2312



WASHOE COUNTY
 COMMUNITY SERVICES DEPARTMENT
 Planning and Building Division
 Code Enforcement

1001 EAST 9^T STREET
 RENO, NEVADA 89512
 P ONE (775) 328- 10
 FA (775) 328- 133

ADMINISTRATIVE PENALTY NOTICE

****FIRST PENALTY****

December 12, 2023

DPG SCMIDT TRUST
 9000 MT ROSE HWY
 C/O GARY SCHMIDT
 RENO, NV 89511

Case Number: WVIO-PLA23-0127
 Subject Property: 345 MAIN STREET, WASHOE COUNTY, NV 89412
 Parcel Number: 071-281-01

Penalty Amount: **\$100**
 Comply by: 1/14/2024
 Payment Due by: 1/14/2024

Dear Respondent,

An inspection and an Administrative Enforcement Warning issued on 9/25/2023 revealed the violations noted below on the subject property. Washoe County Code Section 125.1 0() provides for issuance of an Administrative Penalty when violations noted on the Administrative Enforcement Warning are not corrected. This Administrative Penalty Notice is not a criminal proceeding.

The property was inspected on 12/4/2023 and remains in violation of the County Codes cited below. **You are hereby charged an administrative penalty of \$100.** Payment of the administrative penalty does not release you from correcting the code violation that currently exists on the subject property.

A 50% discount will be applied toward your penalty amount if paid on or before the payment due date listed above. Washoe County will accept one-half of the administrative penalty amount as payment in full if received by the payment due date shown on this notice. If an appeal is filed before the payment due date or if you pay the penalty after the payment due date, no reduction of the penalty is available. After the payment due date, any unpaid penalties will be turned over to the Washoe County Collections Office. A County Code required \$50 collections fee will be added to the penalty and you may also be subject to additional fees, interest and all collection remedies allowed by law. All penalties and fees assessed are cumulative. Each and every instance the code violation exists constitutes a separate and distinct offense. **County Code Violations must be corrected or additional penalties may be assessed without future warnings being issued. This notice of violation may be recorded with the Washoe County Recorder's Office if the violation is not corrected. In addition, pursuant to WCC 125.190, you are hereby notified that any approvals for applications, renewals of business licenses, and any land or structure use permits, building permits, or grading permits may be withheld until the violation(s) is corrected.**



Memo to: DPG SCMIDT TRUST
Subject: Administrative Penalty
Date: 12/12/2023
Page: 2

The code violation found on the property and the action you must take to correct the situation is:
VIOLATION:

WCC section 110.306.35(b) – Outdoor Storage on Vacant Lots. No outdoor storage shall occur on a vacant parcel without an existing principal use. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location.

CORRECTIVE ACTION:

WCC section 110.306.35(b) – Remove all stored items/material from the property.

As previously indicated to you, a deed restriction is required to be filed with the Washoe County's Recorder's Office to allow for an accessory use on this parcel, provided the items being stored do not violate WCC Section 50.308(8)

VIOLATION:

WCC section 50.308(8) – Outdoor storage of any building materials, appliances, debris-refuse-rubbish, junk vehicles, or garbage in public view.

CORRECTIVE ACTION:

WCC section 50.308(8) – The specific stored items/material noted above must be screened or removed from public view. Screening must:

- provide physical separation and visual obscuration of the items/material on all sides and in all seasons; and,
- be at least 6 feet high and include, but is not limited to, a combination or individual use of a fence, decorative wall, structure, earth berm or dense landscaping.
- The items/material may be stored within a permitted, lawful structure provided that the items/material are not visible from public view.

Some additional information regarding the remedy for this code violation:

- If your screening method is not lawfully constructed (e.g., erecting a 6 foot high fence without a valid Washoe County building permit), then you must obtain the required Washoe County approvals before constructing the screening method.
- All vehicles, material, appliances, and/or debris must be removed or screened from public view. Vehicles may also be registered with DMV and therefore not considered as a junk vehicle.

RIGHTS OF APPEAL: **You have a right to appeal this notice as described on the Right to Appeal instructions attached to this notice.** Failure to respond to this notice by 1/14/2024 shall be deemed an admission of liability and a waiver of any right to an administrative hearing.



Brian Farmer
Code Enforcement Officer II
bfarmer@washoecounty.gov
(775) 328-2312

Memo to: DPG SCMIDT TRUST
Subject: Administrative Penalty
Date: 12/12/2023
Page: 2

RIGHT TO APPEAL ADMINISTRATIVE PENALTY NOTICE

You may appeal this Administrative Penalty Notice by requesting an administrative hearing.

To request an administrative hearing, contact the Administrative Hearing Office located at Reno Justice Court by email at aho@washoecounty.gov, or by phone at (775) 328 2001 or (775) 325 500. You will need to provide a copy of this Administrative Penalty Notice to the hearing officer.

You must file your appeal on or before the appeal date stated in your Administrative Penalty Notice.

Fees and Costs: The fee to request an administrative hearing is \$50.00. This fee must be paid if you are found in violation of County Codes at the conclusion of the appeal hearing. The hearing officer may also impose additional administrative penalties and/or administrative action fees. Any outstanding penalties and fees must be paid at the conclusion of the appeal hearing.

Hearing Officer and Hearing Date: An administrative hearing officer will be assigned to your case by the Washoe County Administrative Hearing Office. The Administrative Hearing Office will notify you of your hearing date. The administrative hearing officer will issue an Administrative Order at the conclusion of your appeal hearing.

Impact on this Administrative Penalty Notice: Any deadlines, actions, and/or remedies included in this Administrative Penalty Notice will be placed on hold until your appeal is concluded.

Contact Information:

Administrative Hearing Office
(located at Reno Justice Court)
1 S. Sierra St.,
Reno, NV 89501
Administrative Hearing Office: (775) 328 2001
Reno Justice Court: (775) 325 500
aho@washoecounty.gov

Steps to File Your Appeal:

1. Contact the Administrative Hearing Office by email and/or phone on or before the appeal date shown on your Administrative Penalty Notice.
2. Email a copy of this Administrative Penalty Notice to the Administrative Hearing Office.



12/04/2023 09:05



12/04/2023 09:38



WASHOE COUNTY

COMMUNITY SERVICES DEPARTMENT

Planning and Building Division

Code Compliance

1001 EAST 9TH STREET
RENO, NEVADA 89512
PHONE (775) 328-6106
FAX (775) 328.6133

Washoe County Development Code

Section 110.30 .35(b) Outdoor Storage on Vacant lots. No outdoor storage shall occur on a vacant parcel without an existing principal use. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location.

Additional Information

Section 110.30 .15 Main Structures Required. It is unlawful to construct, erect or locate accessory structures and/or uses on any lot without an existing main structure or principal use as provided for under Article 302, Allowed Uses, except under the following circumstances:

(b) The proposed accessory structure or use is located on a lot adjacent to another lot that contains an existing main structure or principal use, is under the same ownership, has the same regulatory zone and

A deed restriction has been filed with the Washoe County Recorder's Office stipulating that neither lot can be sold separately until the accessory structure or use otherwise allowed under this section is removed, terminated, or any nonconformance resulting from such a sale has been resolved. The deed restriction shall be executed on a form provided by the County through the Planning and Development Division, and the deed restriction shall make the County an intended third party beneficiary with the right, but not the obligation, to enforce its provisions. No accessory structure or use otherwise allowed under this section is allowed until the required deed restriction is executed and recorded against the property that will contain the accessory structure or use and against any other adjacent parcel under the same ownership that is used to satisfy the provisions of this paragraph, as well as any adjacent parcel under the same ownership that will be served by the accessory structure or use. For the purposes of this section, a parcel is under the same ownership if at least one of the owners of each parcel involved is the same.

Washoe County Nuisance Code

Section 50.308(8) Outdoor storage of any building materials, appliances, debris-refuse-rubbish, junk vehicles, or garbage in public view.

Additional Information

Section 50.308(8) The specific stored items/material noted above must be screened or removed from public view. Screening must:

- provide physical separation and visual obscuration of the items/material on all sides and in all seasons and,
- be at least 6 feet high and include, but is not limited to, a combination or individual use of a fence, decorative wall, structure, earth berm or dense landscaping.
- The items/material may be stored within a permitted, lawful structure provided that the items/material are not visible from public view.

Some additional information regarding the remedy for this code violation:

- If your screening method is not lawfully constructed (e.g., erecting a 6 foot high fence without a valid Washoe County building permit), then you must obtain the required Washoe County approvals before constructing the screening method.

• All vehicles, material, appliances, and/or debris must be removed or screened from public view. Vehicles may also be registered with DMV and therefore not considered as a junk vehicle.



QUALITY
PUBLIC SERVICE



INTEGRITY



EFFECTIVE
COMMUNICATION

From: [Giesinger, Chad](#)
To: [gary.schmidt; kmullin@washoecounyy.gov; Brown, Eric P.; Solaro, David; Lloyd, Trevor; Jeanne Herman; Olander, Julie; Farmer, Brian; Joe Hart; Joe Hart](#)
Subject: RE: Abuse of Process by Brian Farmer and Chad Giesinger
Date: Thursday, December 21, 2023 9:24:46 AM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[DAS_contiguous_Deed_Restriction_Use-Schmidt.pdf](#)
[1st PN.pdf](#)

Gary,

You have already been granted one extension of time. Since then all you have done is argue and make public records requests. **Your request for an extension of time is denied as there is no justification for one to be granted.** The decision on whether to grant an extension of time vests solely with the enforcement officer at their discretion. As I have repeatedly explained, all that is necessary for you to comply and resolve the violation is for you to record the attached deed restriction, which you could have done when you were at the county complex on Tuesday. Apparently you do not want to do this because it is the “principle of the matter.” Since that is the case, no extension of time will matter. Decisions regarding extension of time requests cannot be appealed. What can be appealed is the actual issuance of fines through a penalty notice.

Since you refuse to comply and just want to argue, you have been issued a first penalty notice per WCC Chapter 125 *Administrative Enforcement*. You may appeal this notice per the instructions contained in the notice and make your arguments to a neutral 3rd party Administrative Hearing Officer. This is the standard process code enforcement follows for every enforcement complaint – you are not special nor being treated differently. The comply by date of the penalty notice is January 14, 2024, which is well beyond the holidays. You have until that date to file your appeal with the Administrative Hearing Office (not code enforcement or planning); OR comply by filing the required deed restriction (or pay the fine at a 50% discount).

WCC 125.160 - Complaints, warning, and administrative penalty notice, procedures.

1. Any person who observes a possible violation of the Code may notify the appropriate agency or department in person or by written communication, telephone contact, fax, or e-mail. Such a complaint is considered a public record under the law. After receipt of a complaint, the enforcement official will investigate the complaint if it is warranted.
2. Warnings. Whenever it is determined **by the enforcement official** that a violation of the Code exists, that is not a serious risk to public health, safety or welfare, the enforcement official shall start the formal enforcement process by providing to the respondent either an oral or a written warning seeking correction, mitigation, or remedy within a time frame specified by the enforcement official, but no more than 30 calendar days from the date the warning was served. The **enforcement official may extend this time frame at the official's discretion** to provide additional time to complete acts required for compliance with the Code. The enforcement official may also grant a request by the respondent for additional time to complete acts required for compliance with the Code. Extensions of time by the enforcement official are allowed if reasonable progress in the repair, correction, or abatement of violations is underway or there are extenuating circumstances that prohibit

compliance within the established timeline, and a plan of action with accompanying time frames is made between the enforcement official and the respondent. If the enforcement official determines that a violation of the Short-Term Rental (STR) ordinance has occurred, then no warning shall be issued due to the potential for serious risk to public health, safety or welfare created by the operation of a STR in violation of required standards, unless the enforcement official determines that the violation may be corrected through issuance of a warning without endangering the public health, safety or welfare.

10. An appeal to an administrative hearing may be requested during an administrative proceeding **only after the enforcement official issues an administrative penalty notice.**



Chad Giesinger, AICP
Planning Manager, Code Enforcement and Business License |
Planning & Building Division | Community Services Department

The best way to reach me is at: cgiesinger@washoecounty.gov |
Direct Phone Line: 775.328.3626

My typical working hours are: Monday-Friday 8 a.m. to 5 p.m. I am currently working from both home and the office. Please contact me to make an appointment for office visits.

Visit us first online: www.washoecounty.gov/csd
Code Enforcement: 775.328.6106 | Code-Enforcement@washoecounty.gov
Planning Division: 775.328.6100 | Planning@washoecounty.gov
CSD Office Hours: Monday-Friday 8:00am to 4:00pm
1001 East Ninth Street, Reno, NV 89512



From: gary schmidt <nobullschmidt@hotmail.com>

Sent: Wednesday, December 20, 2023 6:33 PM

To: kmullin@washoecounyy.gov; Brown, Eric P. <EPriceBrown@washoecounty.gov>; Solaro, David <DSolaro@washoecounty.gov>; Lloyd, Trevor <TLloyd@washoecounty.gov>; Jeanne Herman <jeannesland@gmail.com>; Olander, Julee <JOlander@washoecounty.gov>; Farmer, Brian <BFarmer@washoecounty.gov>; Giesinger, Chad <CGiesinger@washoecounty.gov>; Joe Hart <jmhart@chestv.com>; Joe Hart <jmhart@sbgvtv.com>

Subject: Re: Abuse of Process by Brian Farmer and Chad Giesinger

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Sent from my iPhone

On Dec 18, 2023, at 3:29 PM, gary schmidt <nobullschmidt@hotmail.com> wrote:

I have requested an additional 30 day extension in part due to the holidays and in part due to my further cooperation !

Has that been granted ?

If not I wish to appeal the decision not to grant an additional 30 days extension to the board of adjustment please provide the appropriate appeal form

Set an additional attempt to clarify my claims in assertions I acknowledge that the development code always required a primary used to be established before and it says reuse could be established it's just that prior to 1996 the primary use did not have to be on the same parcel as an accessory use and vice versa the excess reuse did not have to be on the same parcel as the primary use. In some ranching situations the Accessory use might be three or four parcels away from the primary use

Sent from my iPhone

On Dec 18, 2023, at 12:59 PM, Giesinger, Chad
<CGiesinger@washoecounty.gov> wrote:

Hello Gary,

The code has always required a main structure or principle use to exist before an accessory use can be established, period. The interpretation issued by Mike Harper in 1996 that you repeatedly mention only clarified that aggarage could be established on an adjacent contiguous parcel under the same ownership (see attached interpretation). This interpretation was superseded and removed by the Development Code Amendment approved in 2016 that requires a deed restriction to be recorded. Looking at available aerial photography, the subject RV was not stored on this parcel prior to 2016, and in any event an RV is not a garage.

I am not going to argue with you any further about this matter, which is why you will be receiving a 1st Penalty Notice. You may choose to appeal that notice to the Administrative Hearing Office (per the instructions included in the notice) and make your arguments to the neutral 3rd party Hearing Officer presiding over the matter. The Board of Adjustment hears any appeals of Administrative Hearing orders/decisions, and the BOA outcome can be appealed to District Court for final resolution. **Alternatively, this matter could easily be resolved if you simply agreed to record the**

required deed restriction. Should you wish to go that route (and save everyone a lot of time and effort in the process), please find attached the deed restriction template.

Regarding the numerous public record requests you keep embedding in long email strings, I think (but I am not certain due to the many and varied requests made at different times in different strings) that you have received all of the requested information, albeit not in a format of your preference. I have consulted with county legal representatives about how the requested information was provided and it is my understanding the response was sufficient. If you have further questions or requests, please send them specifically to Washoe311 as that is the county's official PRR tracking process.

Regarding your request for all deed restrictions that may have been filed for establishing an accessory use on a vacant contiguous parcel under the same ownership, I have searched the planning department records (that I am aware of) and could not find any. It is possible, however, that the recorded deed restriction was simply uploaded to Accela, in which case I would have to know a specific parcel number(s) to research and download any documents. Ultimately any such deed restrictions that do exist would have been recorded with the Records Office so that office would need to assist you (to the extent possible) with those records.

Regards,

Chad Giesinger, AICP

**Planning Manager, Code Enforcement and Business License |
Planning & Building Division | Community Services Department**

The best way to reach me is at: cgiesinger@washoecounty.gov |

Direct Phone Line: [775.328.3626](tel:775.328.3626)

My typical working hours are: [Monday-Friday 8 a.m.](#) to 5 p.m. I am currently working from both home and the office. Please contact me to make an appointment for office visits.

Visit us first online: www.washoecounty.gov/csd

Code Enforcement: [775.328.6106](tel:775.328.6106) | Code-Enforcement@washoecounty.gov

Planning Division: [775.328.6100](tel:775.328.6100) | Planning@washoecounty.gov

CSD Office Hours: [Monday-Friday 8:00am to 4:00pm](#)

[1001 East Ninth Street, Reno, NV 89512](#)

From: gary schmidt <nobullschmidt@hotmail.com>
Sent: Monday, December 4, 2023 11:32 AM
To: Giesinger, Chad <CGiesinger@washoecounty.gov>; Lloyd, Trevor <TLloyd@washoecounty.gov>; Solaro, David <DSolaro@washoecounty.gov>; Brown, Eric P. <EPriceBrown@washoecounty.gov>; Jeanne Herman <jeannesland@gmail.com>
Subject: Re: Public Records Request by Gary Schmidt

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Please be advised that I consider and believe that my combined properties (335 & 345 Main Street) that function as one residential unit on Main Street are in full compliance at this time taking into account "Grandfathering" and other issues ! This is not intended to acknowledge there had ever been any violations on these properties.

Please note the following;

There is no storage outside of a fenced enclosure and has never been any bicycles visible from the street being "stored" !! But in any event, during the normal course of our activities any bicycles that may have been visible from the street for a short period of time have been disposed of or placed in a manner not visible from the street. We do gather donated bicycles up in the aftermath of burning man every year but those bicycles to a substantial degree are donated to nonprofits, or distributed to people within the community, or in some other manner removed or distributed within a short period of time and it's never intended that they be "stored" in any manner visible from a public street. There may be a bicycle or two visible from the street that are in use personally.

There is one recreational vehicle on the combined properties for which we are still researching the title but it is appropriately placed behind a 6 foot fence at this time.

The two individually numbered parcels which function as one residential unit have functioned as one residential unit for decades, long before there was any requirement that an accessory structure or especially an accessory use be on the same parcel of property as the established primary use. Prior to the mid-1990s there was no requirement whatsoever that I can determine and by my recollection that required a secondary use, or a secondary accessory building for that matter, to be on the same numbered parcel as a primary use. The only requirement was that there be a primary use before you can have a secondary or accessory use or structure. Of course in the situation at hand we are not talking about secondary or accessory structures, only uses established on a combined parcel residential use long time established, for decades.

I have not yet received all the public records I have requested related to this matter

and in fact have not had time to fully review the public records I've just recently received. If you are not in agreement that there is full compliance at this time please grant an additional extension of a minimum of 30 days until such time as a County has provided me all the public records I have requested and I have had ample time to review them.

Also under NRS 239 please provide me copies of every deed restriction that has been filed in Washoe County since 1996 that addresses the situation for when a residential property occupies more than one numbered parcel and there are accessory structures or uses on one of the parcels different than where a primary use is. I am not disputing at this time that any accessory structure or use established more recently on a contiguous parcel to a primary use may have to file a deed restriction as is currently codified. But my situation is different in that the accessory uses were established decades ago before the County addressed these issues more specifically.

Also be advised that I have now incurred legal fees and other costs in this matter that I may in the future be holding the County accountable for because I believe this may be "harassment" and may be a punitive and retaliatory abusive action on the part of the County which I also believe the GGID may be complicit in !

Gary Schmidt

Sent from my iPhone

On Nov 15, 2023, at 7:49 AM, Giesinger, Chad
<CGiesinger@washoecounty.gov> wrote:

Hello Washoe311,

Please find below a public records request. Please reach out to the requestor, Gary Schmidt (cc'd on this email), with any clarifications regarding what is being requested. Code enforcement staff will begin researching the code citation portion of the request and will forward that on for compilation once complete. Thank you,

Chad Giesinger, AICP
Planning Manager, Code Enforcement and Business License |
Planning & Building Division | Community Services Department

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CSD Office Hours: [Monday-Friday 8:00am to 4:00pm](#)
[1001 East Ninth Street, Reno, NV 89512](#)

From: gary schmidt <nobullschmidt@hotmail.com>
Sent: Tuesday, November 14, 2023 5:28 PM
To: Giesinger, Chad <CGiesinger@washoecounty.gov>
Subject: Re: WVIO-PLA23-0127 Gerlach

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Nothing in the original development code from 1957 nor in the section you cited from 2013 claims or dictates that a primary use has to be on the same assessors parcel as the accessory uses. In the late 1990s Mike Harper issued an opinion that for the purposes of primary and accessory uses the primary use did not have to be on the same assessors parcel it just had to be on a connected partial. That eventually was the forerunner of the Code section adopted in 2016. Certainly the activities on the subject two parcels functioning as one lot pre-dates 2016 and 2013 as well as the 1990s. Obviously an accessory structure is a different animal than an accessory use. I still wish to receive the requested documentation and appeal forms etc. and also re-assert my public records requests. If you check current county code and current state law you will find that you cannot charge anything for gathering the documents. That portion of state law dealing with “extraordinary use of labor or resources” was repealed several years ago and there’s no provision in County code to charge for other than the paper and the ink for records requested. Even if there were he would not be allowed under current state law. Also at this time, at a minimum, I can appeal the decision of the Director that the 2016 code applies to my situation. That decision of the Director, assuming the Director made that decision, is immediately available for appeal and I intend to do so.

For your information the remaining RV trailer has been screened/fenced from view from the public roads so is no longer a potential violation even without current registration. However, I am still trying to deal with the registration list title issue.

If you have any Code citations prior to 2016 that state that any primary use has to be on the same assessor's parcel as the accessory use as opposed to just be in generically

associated parcel in function with the primary use please provide them.

Thank you

Sent from my iPhone

On Nov 14, 2023, at 4:09 PM, Giesinger, Chad
<CGiesinger@washoecounty.gov> wrote:

Hi Gary,

I apologize for my delay in responding to this email/issue, I have been out of the office. I wanted to point out that a violation case has not been opened yet on this matter, nor has a civil Penalty Notice been issued yet. Per WCC 125 only a penalty notice can be appealed. Right now you have only been issued an Administrative Warning, which is not appealable.

Since you appear willing to achieve compliance and register the subject RV trailer, we have been willing to keep working with you prior to issuing civil penalty fines. Good progress was made on the initial complaint of the stored items so we were hopeful we could continue to work together to resolve the remaining issue.

Regarding your argument that an accessory use on a vacant parcel was allowed by county code without a deed restriction prior to 2016 and therefore any such use is automatically “grandfathered” (actually legal non-conforming would be the correct term), that is not correct. In fact, prior to the section of code being added that allowed an accessory use to be established on **contiguous property under the same ownership** (with recordation of a deed restriction), no accessory uses were allowed on any parcel without first establishing a main use (regardless of ownership and contiguity). See Ordinance 1584, provisions effective 8/19/16. Therefore it is not possible that you have established a legal non-conforming storage use since it wasn’t allowed by previous codes.

Lastly, are you making an official public records request? Do you still intend to do so even though a violation has not been issued yet? If so I will forward your email to Washoe311 so an official PRR can be opened and tracked. If you want copies of all cases, *and the associated documents*, for storage on a vacant parcel violations then that will be extremely time consuming and would likely require a fee to be charged.

That violation is one of the most common cases CE works. A simple list would not be that time consuming to prepare, but downloading all of the documents for each of those cases would be. BTW – Administrative Enforcement cases do establish precedent in any event.

Previous code (circa 2013):

From the 1957 Development Code:

Chad Giesinger, AICP

**Planning Manager, Code Enforcement and Business License |
Planning & Building Division | Community Services Department**

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CSD Office Hours: Monday-Friday 8:00am to 4:00pm

1001 East Ninth Street, Reno, NV 89512

From: gary schmidt <nobullschmidt@hotmail.com>

Sent: Tuesday, November 7, 2023 1:37:43 PM

To: Farmer, Brian <BFarmer@washoecounty.gov>

Subject: Re: WVIO-PLA23-0127 Gerlach

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Don't understand this message

It was staffed with the Planning Manager

Staffed ???

As I indicated the accessory use is decades old and is grandfathered in before the deed restriction provision was adopted !!

Further under the provisions of the Development Code I would like to appeal the apparent decision that my uses on my properties “are not grandfathered in without the need for a deed restriction” to the Director of Community Development for his written opinion/decision in said regards !

Please also send me of the appeal form to the Administrative Hearing Officer!!

In addition please send me a copy of the Appeal Form to schedule this matter before the Board of Adjustment under NRS 278 should that become necessary !

Also under NRS 239 please send me copies of each and every document related to the original adoption of each code section referenced and/or alleged to be violated in your notice(s) to me including but not limited to WCBCB minutes and any and all related Director decisions, opinions, directives, and/or definitions published prior to the Code adoptions of any/all of the alleged citations ! Please also send me copies of the complete files of any and all other “Notices of Violation(s)” over the last 24 months to any other persons or properties regardless of the resolution alehing the same violation or violations ! Under NRS 239 please provide certification of all said requested documents !

Please provide the copies of the documents requested to

Nobullschmidt@hotmail.com

Please do not wait until all the requested copies of documents are secured before providing copies of the requested documents that are more readily available !

Thank you

Gary Schmidt

Sent from my iPhone

On Nov 2, 2023, at 11:04 AM, Farmer, Brian
<BFarmer@washoecounty.gov> wrote:

It was staffed with the Planning Manager and code requires a deed restriction to be filed for the accessory use. You always have the option to appeal any penalty and present your case to the Administrative Hearing Officer.

From: gary schmidt <nobullschmidt@hotmail.com>
Sent: Thursday, November 2, 2023 10:41:14 AM
To: Farmer, Brian <BFarmer@washoecounty.gov>
Subject: Re: WVIO-PLA23-0127 Gerlach

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

The property had combined use far before that deed restriction provision was added to the code section by Mike Harper some 20 plus years ago and is therefore grandfathered in under the older provision that did not require a deed restriction !

However a simple deed restriction since we are not dealing with accessory structures at this time only accessory uses is not a big issue even though the property is grandfather in without it ! Maybe just memorandum of understanding will make you happy in that regards ???

Thanks

Gary

Sent from my iPhone

On Nov 1, 2023, at 8:23 AM, Farmer, Brian
<BFarmer@washoecounty.gov> wrote:

Good morning,

I will grant the 30 day extension while you deal with the RV. Have you filed a deed restriction allowing an accessory use on that property? A deed restriction has to be filed with the Washoe County Recorder's Office stipulating that neither lot can be sold separately until the accessory structure or use otherwise allowed is removed, terminated, or any nonconformance resulting from such a sale has been resolved.

Brian Farmer
Code Enforcement Officer II, Code Enforcement |
Community Services Department
bfarmer@washoecounty.gov | Direct Line: [775.328.2312](tel:775.328.2312)
My working hours: Monday-Friday 7:00am to 3:30pm
Visit us first
online: <https://na01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.washoecounty.gov%2Fcsd&data=05%7C01%7C%7Ce62138d760d340ac06a008dbdaee7d3e%7C84df9e7fe9f640afb435aaaaaaaaaaaaa%7C1%7C0%7C638344490220726156%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAilCJQljojV2luMzliLCJBTiI6Ikl1haWwiLCJXVCIGMn0%3D%7C3000%7C%7C%7C&sdata=949IC93hWxACfofIts tIFuz3xstTZ1z47qSjNCCqjik%3D&reserved=0>
Code Enforcement: 775.328.6106 | Code-Enforcement@washoecounty.gov
CSD Office Hours: Monday-Friday 8:00am to 4:00pm
1001 East Ninth Street, Reno, NV 89512

Have some kudos to share about a Community Services
Department employee or experience?
Submit a Nomination
To make a payment: [Online Instructions](#)

-----Original Message-----

From: gary schmidt <nobullschmidt@hotmail.com>
Sent: Friday, October 27, 2023 7:35 PM

To: Farmer, Brian <BFarmer@washoecounty.gov>
Subject: WVIO-PLA23-0127 Gerlach

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Brian

One of the unlicensed travel trailers has been removed and I am working on the title and registration for the other ! All the bikes have been removed in the regular course of the activities on those two contiguous parcels under the same ownership and with the same zoning ! Many have been donated to non profits as we do every year! Others have been given to local residents !

We would like a 30 day extension of time to continue to deal with any remaining issues in dispute !

Thank you

Gary Schmidt

Sent from my iPhone

On Dec 20, 2023, at 6:16 PM, gary schmidt <nobullschmidt@hotmail.com> wrote:

To all parties;

Please note that in the communiqué I sent on December 4th I made assertions and claims that I was in compliance on my dual properties at 345 and 335 Main St in Gerlach. I had previously received a warning notice on these properties which I disputed at least in substantial part. I had received 30 day extension I believe until December 4 because of substantial improvement or compliance in the counties words. Please also note in paragraph five of the December 4th email from me where I stated that if the county was not in agreement with my compliance I requested an additional 30 day extension for cause! The first response I got from the County was an email dated December 18 from Chad Giesinger in which he did not address whether I was granted or denied a 30 day extension directly but indicated that he was "tired of arguing with me" (I guess that's his way of saying "my mind is made up don't confuse me with facts"). Then today on the 20th I went to my mailbox and received a first penalty notice dated December 12, again without ever having received a grant of or denial of my request for an additional 30 day extension. Had the additional 30 day

extension been denied I would have been entitled to appeal that denial of extension directly to the Board of Adjustment under NRS 278. I certainly don't think it's appropriate to issue a penalty notice when there is a request for an additional 30 day extension on the record which has not been responded to. I also don't appreciate Mr. Giesinger's hostile, aggressive, and demeaningly condescending attitude. In addition, in November I requested copies of the appeal form blanks from Mr. Gessinger and he has to date failed to provide them. I wished at that time to appeal the apparent decision of somebody, person unknown, in Community Development that had decided that "grandfathering" didn't apply to my situation. I have made several public records requests and received a portion of the records requested and all those received support my assertion that my two parcels that function as a single unit are "grandfathered" in dating back to the time at which accessory uses did not have to be on the same parcel as a primary use. I had a statutory right at that time to bring that appeal on denial of "grandfathering" before the Board of Adjustment but I got no cooperation from Mr. Gessinger, only antagonism.

I will be filing multiple individual appeals on various matters in the next few days. In the meantime I strongly suggest and request that the first penalty notice be rescinded and again that a 30 day extension be granted and if not it would be my intention to file an additional appeal to the Board of Adjustment on that denial of that 30 day extension.

I have been dealing with this type of abusive, intrusive, arrogant, and oppressive behavior by Community Development for over half a century. I have filed numerous Administrative and Judicial complaints against them successfully over the years. It just seems like whenever I go in there and others who will witness to the same it feels like the Abbot and Costello routine "Who's on First"

Gary Schmidt

From: gary schmidt <nobullschmidt@hotmail.com>
Sent: Monday, December 4, 2023 11:32 AM
To: Giesinger, Chad <CGiesinger@washoecounty.gov>; Lloyd, Trevor <TLloyd@washoecounty.gov>; Solaro, David <DSolaro@washoecounty.gov>; Brown, Eric P. <EPriceBrown@washoecounty.gov>; Jeanne Herman <jeannesland@gmail.com>
Subject: Re: Public Records Request by Gary Schmidt

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Please be advised that I consider and believe that my combined properties (335 & 345 Main Street) that function as one residential unit on Main Street are in full compliance at this time taking into account "Grandfathering" and other issues ! This is not

intended to acknowledge there had ever been any violations on these properties.

Please note the following;

There is no storage outside of a fenced enclosure and has never been any bicycles visible from the street being "stored" !! But in any event, during the normal course of our activities any bicycles that may have been visible from the street for a short period of time have been disposed of or placed in a manner not visible from the street. We do gather donated bicycles up in the aftermath of burning man every year but those bicycles to a substantial degree are donated to nonprofits, or distributed to people within the community, or in some other manner removed or distributed within a short period of time and it's never intended that they be "stored" in any manner visible from a public street. There may be a bicycle or two visible from the street that are in use personally.

There is one recreational vehicle on the combined properties for which we are still researching the title but it is appropriately placed behind a 6 foot fence at this time.

The two individually numbered parcels which function as one residential unit have functioned as one residential unit for decades, long before there was any requirement that an accessory structure or especially an accessory use be on the same parcel of property as the established primary use. Prior to the mid-1990s there was no requirement whatsoever that I can determine and by my recollection that required a secondary use, or a secondary accessory building for that matter, to be on the same numbered parcel as a primary use. The only requirement was that there be a primary use before you can have a secondary or accessory use or structure. Of course in the situation at hand we are not talking about secondary or accessory structures, only uses established on a combined parcel residential use long time established, for decades.

I have not yet received all the public records I have requested related to this matter and in fact have not had time to fully review the public records I've just recently received. If you are not in agreement that there is full compliance at this time please grant an additional extension of a minimum of 30 days until such time as a County has provided me all the public records I have requested and I have had ample time to review them.

Also under NRS 239 please provide me copies of every deed restriction that has been filed in Washoe County since 1996 that addresses the situation for when a residential property occupies more than one numbered parcel and there are accessory structures or uses on one of the parcels different than where a primary use is. I am not disputing at this time that any accessory structure or use established more recently on a contiguous parcel to a primary use may have to file a deed restriction as is currently codified. But my situation is different in that the accessory uses were established decades ago before the County addressed these issues more specifically.

Also be advised that I have now incurred legal fees and other costs in this matter that I may in the future be holding the County accountable for because I believe this may be “harassment” and may be a punitive and retaliatory abusive action on the part of the County which I also believe the GGID may be complicit in !

Gary Schmidt

Sent from my iPhone

On Nov 15, 2023, at 7:49 AM, Giesinger, Chad <CGiesinger@washoecounty.gov> wrote:

Hello Washoe311,

Please find below a public records request. Please reach out to the requestor, Gary Schmidt (cc'd on this email), with any clarifications regarding what is being requested. Code enforcement staff will begin researching the code citation portion of the request and will forward that on for compilation once complete. Thank you,

Sent from my iPhone

- - with existing primary use
- - adjacent contiguous

WHEN RECORDED, MAIL (DELIVER) TO:

Washoe County Community Services Department
 Planning and Development Division
 1100 North T. Blvd
 Reno -

DEED RESTRICTION AND COVENANT AGAINST SEPARATE SALE OF PROPERTIES UNTIL POTENTIAL NONCONFORMANCE HAS BEEN RESOLVED (Washoe County Code § 110.306.15(b))

This deed restriction and Covenant is made the _____ day of the _____ month of _____
 _____ Applicant
 Thereinafter _____ Owner

RECITALS

- 1. Owner is the owner of certain real property located in Washoe County State of Nevada, Assessor's Parcel Numbers _____ and _____ described as follows:
 _____ and _____
 _____ Nevada
- 2. The Owner desires to receive approval to establish an accessory use pursuant to WCC _____ on a vacant parcel that is contiguous to a parcel with an established main structure or principal use where both parcels are under the same ownership and have the same regulatory zone.
- 3. Pursuant to Washoe County Code WCC _____ and as a condition of the above approval by Washoe County an appropriate deed restriction is recorded documenting that the Owner shall not sell or convey either of the parcels separately unless or until any nonconformance resulting from such a sale or conveyance has been resolved.
- 4. The term accessory use as used herein shall have the meaning ascribed to it in WCC _____ and _____.

NOW, THEREFORE, in consideration of the foregoing and as a condition for the approval referenced above, Owner hereby executes this deed restriction and covenant against separate sale of these properties until potential nonconformance has been resolved as provided below:

- 1. Owner covenants that the use is and shall continue to be an accessory use to the primary main residence on the adjacent property and shall not sell or otherwise convey ownership of either property separately until potential nonconformance resulting from such a transfer is resolved.

Transferring ownership of either property separately without resolving the nonconformance shall constitute a violation of Washoe County approval.

- . This deed restriction and covenant shall be deemed a covenant running with the land and an equitable servitude as the case may be and in any event shall constitute benefits and burdens to the properties described above and shall be binding on the owner and owner's successors and assigns and all persons hereafter acquiring or owning any interest in the properties.
- . This deed restriction may not be repealed or modified without prior express written and recorded consent of Washoe County or its successor agency if any. Washoe County is deemed and agreed to be an intended third-party beneficiary of this deed restriction and as such can enforce the provisions of this deed restriction. Washoe County will agree to the removal of the deed restriction only once the owner has resolved any potential nonconformance that could result from separate sale or conveyance of the properties.
- . Potential nonconformance issues may be resolved through one or more of the following methods prior to a property transfer
 - a. Conversion to create combining the two lots into one
 - . boundary line adjustment resulting in the main structure and the accessory use being located on the same lot
 - c. Removal of the accessory use
 - d. Construction of a main structure or establishment of a principal use on the same lot as the accessory use
 - e. Conversion the accessory use into a main use or
- f. Other methods as approved by the Director of Planning and Building which resolve the potential for nonconformance but may not have been contemplated at the time this deed restriction was initially recorded.

Note: In addition to any other necessary actions to resolve any other nonconformance issues, if Owner locates a dwelling's required enclosed garage on an adjacent lot per the provisions of WCC § 110.306.15 and 110.410.20, Owner may also be required to construct a garage on the same Property as the main dwelling prior to the separate sale or conveyance of the Properties.

IN WITNESS WHEREOF _____ has executed this deed restriction on the day and year written.

OWNER(S)' SIGNATURE(S):

Applicant Name dated _____

Applicant Name dated _____

STATE OF NEVADA
COUNTY OF _____

This instrument was acknowledged before me on this _____ day of _____
y .

Notary

Interpretation 96-4

LOCATION OF DETACHED ACCESSORY STRUCTURES AND GARAGES

Pursuant to Article 910, Section 110.910.05 of Chapter 110 of the Washoe County Code, the Director of the Department of Development Review has the authority to enforce the provisions of the Development Code. In order to appropriately enforce the Development Code, the Director finds it necessary to provide the following interpretation concerning the location of detached accessory structures and detached garages.

A detached accessory structure must be located either on the same lot as the main structure, or on a lot that is defined as the same parcel of land that the main structure is or is intended to be located. An exception to the detached accessory structure location interpretation is that detached garages associated with a use may be located on an adjacent parcel of land that is zoned for the same uses as the parcel of land on which the main structure is located.

BAC GROUND

The location of detached accessory structures (which excludes a detached accessory dwelling) and detached garages relative to a main structure is not clearly identified in the Development Code. For example, a detached garage is identified as an example of a detached accessory structure. Yet, when a comparison of the location of detached accessory structures and detached garages relative to the lot that a main building (which is required for both detached uses) occurs, there is a distinction drawn in the Development Code. This interpretation is intended to establish the rule for the location of both types of detached uses.

The definition of a detached accessory structure (110.30 .15(3)) states that A detached accessory structure refers to a building or structure on the same lot as the main residential structure... Therefore, it is clear from the definition that a detached accessory structure must be located within the same parcel line boundaries as the main structure. The question then is raised whether a detached accessory structure must be within the same boundary lines as a main structure. The answer is no. The reason is found in the definition of lot (110.902.15). Lot means a distinct part or *parcel of land* divided with the intent to transfer ownership or for building purposes and which abuts upon a permanent means of access. (*emphasis added*) Parcel of land is defined as ...any unit or *contiguous units of land* in the possession of or recorded as the property of one person. (110.902.15) (*emphasis added*) It is, therefore, possible for a detached accessory structure to be located on land with distinct boundaries separate from the land that the main structure is located, but which is contiguous and is considered as part of a parcel of land on which the main structure is located. The most effective way of determining if a detached accessory building meets the location guidelines is to determine if the main structure and the detached accessory building are located on land with the same parcel number as assigned by the County Assessor's Office.

Although detached garages are defined as an example of a detached accessory structure, separate rules for their location are enumerated in 110. 10.20(a). This section states For dwellings, motels, automobile-oriented services, and elementary, junior high, and high schools, required parking spaces shall be provided on the same lot as the main building(s) or on an

adjoining lot or lots zoned for the main use of the property. Unlike the detached accessory structure's location rules, a detached garage can be located on a separate parcel of land as long as it is adjacent to the main structure's parcel of land and is zoned for the same use as the parcel of land on which the main structure is located.

Limitations of Interpretation

This interpretation shall supersede all previous interpretations of Chapter 110 of the Washoe County Code concerning the above referenced subject and be in effect unless and until a subsequent interpretation concerning the above referenced subject is made by the Director of the Department of Development Review, the interpretation is reversed through a successful appeal pursuant to Article 808, or the Washoe County Code is amended to include the subject matter referenced in this interpretation.

Michael A. Harper, AICP, Director
Department of Development Review

Dated: May 7, 1996

2011:



2016-2017



2011 July



2013 June



2017 May



2021 September



2023-April



CODE HISTORY

Current code language:

Section 110.306.15 Main Structures Required. It is unlawful to construct, erect or locate accessory structures and/or uses on any lot **without an existing main structure or principal use** as provided for under Article 302, Allowed Uses, **except under the following circumstances:**

- (a) The structure complies with the provisions of Section 110.330.55, Agricultural Buildings;
Or,
- (b) The proposed accessory structure or use is located on a lot adjacent to another lot that contains an existing main structure or principal use, is under the same ownership, has the same regulatory zone **and a deed restriction has been filed with the Washoe County Recorder's Office stipulating that neither lot can be sold separately until the accessory structure or use otherwise allowed under this section is removed, terminated, or any nonconformance resulting from such a sale has been resolved.** The deed restriction shall be executed on a form provided by the County through the Planning and Development Division, and the deed restriction shall make the County an intended third party beneficiary with the right, but not the obligation, to enforce its provisions. No accessory structure or use otherwise allowed under this section is allowed until the required deed restriction is executed and recorded against the property that will contain the accessory structure or use and against any other adjacent parcel under the same ownership that is used to satisfy the provisions of this paragraph, as well as any adjacent parcel under the same ownership that will be served by the accessory structure or use. For the purposes of this section, a parcel is under the same ownership if at least one of the owners of each parcel involved is the same.

*[Amended by Ord. 926, provisions eff. retro to 5/31/94; Ord. 1451, provisions eff. 1/1/11; Ord. 1475, provisions eff. 1/12/12; **Ord 1584, provisions eff. 8/19/16.]***

August 19, 2016 Revisions: (DCA16-002) BILL NO. 1768, **ORDINANCE NO. 1584.** An ordinance amending the Washoe County Code at Chapter 110 (Development Code) within Article 306, Accessory Uses and Structures, at Section 110.306.15, Main Structures Required **to allow an accessory structure or use on a parcel that does not have a main structure or use when adjacent to a parcel with a main structure or use and when both parcels are under the same ownership, subject to the recordation of a deed restriction;** within Article 410, Parking and Loading at Section 110.410.20(c), Location of Required Parking Spaces to clarify that a garage on an adjacent lot may only be used to satisfy a dwelling's parking requirements if it is also in compliance with Section 110.306.15; within Article 902, Definitions at Section 110.902.15, General Definitions to update the definitions of "Detached Accessory Structure," "Lot" and "Parcel of Land" to better reflect the clarifications identified above; and other matters necessarily connected therewith and pertaining thereto. Interpretation 96-4 Removed from Development Code. Proposed July 26, 2016, Passed August 9, 2016, Effective: August 19, 2016.

Pre-2016 Code:

Section 110.306.15 Main Structures Required. Except as otherwise provided in Section 110.330.55, Agricultural Buildings, it is unlawful to construct, erect or locate private garages or other accessory structures and uses in any Rural, Suburban or Urban Residential Regulatory Zone, including the General Rural Agricultural (GRA) Regulatory Zone, without an existing main structure and/or existing principal use as provided for under Article 302, Allowed Uses.

[Amended by Ord. 926, provisions eff. retro to 5/31/94; Ord. 1451, provisions eff. 1/1/11; Ord. 1475, provisions eff. 1/12/12.]

Original Development Code Circa 1957:

ARTICLE 15 GENERAL

SECTION A. Accessory buildings: The following shall apply:

1. It shall be unlawful to construct, erect or locate in any residence or agricultural district, private garages or other accessory buildings **without a permissive main building**, except: a temporary building may be constructed and occupied as a legal use pending the construction of a permanent use, providing such temporary building is not to exceed 15 feet in height, be not larger than 450 square feet in floor area, and be, at least 75 feet from the front lot line and not closer than 20 feet to the designated site of the final permanent structure. Further providing that no permit shall be issued for such temporary structure unless a permit also be issued at the same time for the permanent building. If it be purposed to convert said temporary structure to a permissive accessory use upon completion of the main structure, said conversion shall occur upon completion of the final structure or be removed at that time or within a period of one year from the date of issuance of the original permit.
2. A detached accessory building, not exceeding 15 feet in height, may occupy not more than one half of the total area of a rear yard providing no such accessory building shall be nearer than 5 feet to the rear and side property line nor closer than is provided herein to main buildings on the same or adjacent lots. In no event shall any detached accessory building occupy a front yard of any lot, except as provided in sub-section 4 of this Section.
3. In case of a corner lot abutting two streets, no accessory building shall be erected so as to encroach upon the front half of such lots.



WASHOE COUNTY ADMINISTRATIVE HEARING OFFICE

Please Legibly Print All Information

1 South Sierra Street
Reno, Nevada 89501
Phone: (775) 328-2001
Fax: (775) 325-6510
AHO@washoecounty.gov

REQUEST FOR ADMINISTRATIVE HEARING

Today's Date: _____
Violation Number: _____

I am appealing the Civil Penalty received and request an Administrative Hearing be set on the case noted above. I understand this form must be completed and returned to the Administrative Hearing Office within the time frame indicated on the Civil Penalty or my request for appeal my be denied.

The following provides a basis for my appeal (continue on the back of this page or attach additional pages if needed):

- The demand for a deed restriction on the contiguous parcel for the accessory uses is inappropriate because the accessory uses pre-date the codes requiring any deed restrictions and are therefore "Grandfathered" in as legal nonconforming.
- Request for Appeal before the BOA was illegally denied & I object!
- There was a request for an additional 30 day extension that was denied only after the violation was issued and after addition adjustment on the property!

If you are found to be in violation of Washoe County regulations, you will be assessed a \$50.00 Administrative Hearing fee in addition to any other fine the Administrative Hearing Officer orders. Unless ordered otherwise by the Hearing Officer, this fee is payable to Washoe County Collections at the conclusion of the hearing.

Printed first and last name: Gary Schmidt

Cell phone: 775 622-4670

nobullschmidt@hotmail.com *

Address: PO Box 861

E-mail Address:

Signature: Virginia City, NV 89410

DATE AND TIME OF ADMINISTRATIVE HEARING

Your Administrative Hearing has been scheduled for:

Administrative Hearings will be conducted via Zoom. Administrative Hearings being at the scheduled time; therefore, it is important that you log in no later than 5 minutes prior to the hearing time to ensure you are able to connect with audio and video via Zoom.

* I have been having problems with my phone & my email account & I do not have the capacity to participate in Zoom meetings

WVIO-PLA23-0127
EXHIBIT C

Jones, Stephanie M.

From: Jones, Stephanie M.
Sent: Monday, January 22, 2024 8:59 AM
To: Code-Enforcement
Cc: Giesinger, Chad
Subject: Gary Schmidt WVIO-PLA23-0127
Attachments: Request.pdf; 1st page Penalty.pdf; 2nd page Penalty.pdf

Hello,

Please see attached Request for Administrative Hearing and penalty notice regarding WVIO-PLA23-0127. Please send the case file at your earliest convenience and let us know which date you prefer. Thank you and have a great day!

February 16, 2024 at 10:00 A.M.
February 23, 2024, at 9:00 A.M. or 10:00 A.M.

Thank you, 😊



STEPHANIE JONES

Courtroom Clerk | Reno Justice Court
RJC: 775-325-6500; RJC Fax: 775-325-6510

stmjones@washoecounty.gov

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/



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ADMINISTRATIVE HEARING OFFICE

1 South Sierra Street
Reno, Nevada 89501
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Fax: (775) 325-6510
e-mail: AHO@washoecounty.us

Notice of Administrative Hearing

February 02, 2024

Gary Schmidt
PO Box 861
Virginia City NV 89440

Case Number: WCAH2024-000001 \ WVIO-PLA23-0127

Dear Gary Schmidt:

The Administrative Hearing concerning the subject case is scheduled for:

DATE: February 16, 2024
TIME: 10:00 A.M.

Administrative Hearings will be conducted via Zoom.

Please join the Zoom meeting no later than **10 minutes prior** to the hearing time. Hearings begin at the scheduled time.

Attendees Join Zoom Meeting:

<https://us02web.zoom.us/j/85817385967?pwd=di8xSVdQbnRaanF5RnYrNnllOU1zUT09>

Meeting ID: 858 1738 5967
Passcode: 561487

One tap mobile
+12133388477,,85817385967# US (Los Angeles)
+12063379723,,85817385967# US (Seattle)

Dial by your location
+1 213 338 8477 US (Los Angeles)
+1 206 337 9723 US (Seattle)

If you want the Hearing Officer to consider any exhibits, you must file them at least 72 hours prior to the scheduled hearing and must provide a copy of them to the other party. All exhibits presented for filing must be accompanied by an Exhibit Index, and each individual exhibit must be identified using an Exhibit Cover Page. A blank Exhibit Index and Exhibit Cover Page is included for your reference. Exhibits in this format may be submitted for filing via email at AHO@washoecounty.gov. Exhibits in the above format may be filed in-person at Reno Justice Court, but all exhibits must be printed on paper



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Reno, Nevada 89501

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that is 8 ½ by 11 inches in size, or they will not be accepted by the Court. Exhibits may not be unnecessarily duplicative or voluminous. If you have any questions, please contact the Administrative Hearing Office at (775) 328-2001 or via email at AHO@washoecounty.gov.

The following information may be pertinent to your case and/or your scheduled Administrative Hearing. Please read the following carefully and call the Administrative Hearing Office if you have questions.



WASHOE COUNTY

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1 South Sierra Street

Reno, Nevada 89501

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e-mail: AHO@washoecounty.us

CONTINUING A HEARING

The Hearing Office may grant a continuance of the administrative hearing based on good cause. You must submit a written request for a continuance to the Hearing Office prior to the administrative hearing date. You may also bring a continuance request form with you to the hearing and present the request directly to the Hearing Officer. A form to request such a continuance is included with this notice. The Hearing Office will rule on your request based on your written justification.

CANCELLING YOUR REQUEST FOR A HEARING

You may cancel your request for an administrative hearing in writing. A form to cancel your hearing request is included with this notice. Your written request must be personally delivered to the Hearing Office no later than 7 calendar days prior to the hearing date. Failure to deliver the request by this time frame will negate any such request.

WASHOE COUNTY CODE 55.800

(1) Except when a civil penalty is imposed pursuant to NRS 244.359 as provided below, any person violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not less than \$50 or more than \$1,000, or by both fine and imprisonment. Failure to appear in the proper court to answer to such misdemeanor citation is a separate offense.

(2) Each day that a violation occurs constitutes a separate offense.

(3) For any second conviction for violation of the same provision of this chapter, such person violating that provision shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not less than \$100 nor more than \$1,000, or both fine and imprisonment.

(4) In lieu of all or part of the criminal penalty which may be imposed pursuant to this section, the convicted person may be sentenced to perform a fixed period of community service pursuant to the conditions prescribed by law.

(5) Except as prohibited by NRS 244.359, and in lieu of any criminal penalty which may be imposed for the violation(s) of any ordinance enacted pursuant to NRS 244.359(3), a civil penalty in favor of the county may be imposed in an amount not to exceed \$500. In order to impose a civil penalty as authorized by NRS 244.359, a peace officer or an animal control officer shall serve upon a person a "Notice of Civil Penalty" (NCP). The NCP shall contain the information required in WCC 55.800(8) and will be adjudicated in accordance with WCC 55.800(6) through 55.800(16) inclusive. A NCP is a civil infraction in nature and is not to be considered a criminal offense for any reason. All civil penalties collected pursuant to WCC 55.800 shall be payable directly to Washoe County and shall be placed in the County's general fund.



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(6) Violation - Civil Infraction. It is a civil infraction for which a civil penalty may be imposed against an animal owner and in favor of the County, for an animal to be found in violation of any of the animal ordinances which are set forth in WCC 55.010 through 55.800 to the extent allowed by law.

(7) Notice of civil penalty. Whenever any animal is found in violation of the animal ordinances which are set forth in WCC 55.010 through 55.800, a NCP may be issued. In lieu of issuing a NCP, a written warning may be served upon the owner of the animal by affixing the warning to the place of residence in a conspicuous place. The written warning shall be imprinted so as to advise the owner that the owner has violated the animal control ordinances, which animal control ordinances the owner violated, but that it carries no civil or criminal penalty.

(8) Notice of civil penalty - Form. The NCP authorized by WCC 55.800(5) must be on a form which is provided by Washoe County Regional Animal Services and must contain the following information or as much of the following information as reasonably possible:

- (a) The name and address of the alleged violator.
- (b) The location at which the violation occurred together with the date and approximate time of the violation.
- (c) The description of the animal found in violation of WCC 55.010 through 55.800 together with the section(s) of the Washoe County Code allegedly violated.
- (d) The name of the peace officer or animal control officer who issues the notice of civil penalty.
- (e) Information which advises of the manner in which the violation occurred, and the time within which, the NCP should be answered.
- (f) Information that the Administrative Hearing Office is the Washoe County agency where the alleged violator shall appear. The NCP shall also contain the address, telephone number and the hours of operation of the Administrative Hearing Office.
- (g) The amount of civil penalty imposed together with a statement that the NCP shall not be considered a criminal offense for any purpose and that a person who commits the infraction shall not be arrested as a result; the NCP shall also inform the person served that failure to respond to the NCP within 30 days of the date of issuance shall be deemed an admission of liability and a waiver of any right to a hearing and will result in the imposition of an additional \$25.00 administrative assessment;
- (h) The NCP shall also advise the individual that the Washoe County Board of Commissioners authorizes animal services to accept as payment in full for the civil penalty, one half of the authorized penalty indicated on the NCP if the individual pays that amount within 30 days of issuance.

(9) Issuance. The notice of civil penalty may be issued by any peace officer or animal control officer. The NCP may be issued by the peace officer or animal control officer based upon a written and signed statement of a complaining party. In such a case, the complaining



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party must appear at a hearing subsequently scheduled pursuant to WCC 55.800(13) (d) below, to testify. If the complaining party does not appear at the hearing in the case, the NCP will be dismissed and the respondent released from liability.

(10) Filing. The notice of civil penalty and/or an electronic facsimile thereof, must be filed with and retained by Washoe County Regional Animal Services and is deemed to be a public record of matters which are observed pursuant to a duty which is imposed by law and is prima facie evidence of the facts which are alleged therein. The notice of civil penalty must be served on the person to whom it is issued as provided in section 55.800(11).

(11) Service. The notice of civil penalty may be served upon the owner of the animal by personal service, regular US Postal Service mail to the last known address of the owner, or by affixing the notice to the place of residence in a conspicuous place. Service of the notice of civil penalty by mail or affixation has the same force and effect and is subject to the same penalties for the disregard thereof as if the notice of civil penalty were personally served on the owner.

(12) Liability. The owner of an animal is liable for all of the civil penalties which are imposed pursuant to this chapter. The following civil penalties are hereby authorized by the Board of County Commissioners:

- (a). For the first NCP relating to an ordinance: \$100.00
- (b). For second or subsequent NCPs issued for the same ordinance:
 - (1) Second NCP- \$200.00
 - (2) Third or subsequent NCP- \$400.00
- (c). A peace officer or animal control officer may issue a criminal citation for a fourth or subsequent violation by the owner of the same ordinance within a three year period.

(13) Notice of Civil Penalty - Duties of animal owner/respondent.

- (a). A person who responds ("the respondent") to a notice of civil penalty must either:
 - (1) "Admit" the commission of the civil infraction and pay the civil penalty imposed on the NCP, or
 - (2) "Deny" liability for the civil penalty.
- (b). A person may "admit" pursuant to paragraph (1) of subsection (a) of this section by paying the amount of the civil penalty which is appropriate for the violation and which has been approved by the Washoe County Board of Commissioners.
- (c). A person may "deny" liability pursuant to paragraph (2) of subsection (a) of this section by appearing in person at or by telephone contact to the Washoe County Administrative Hearing Office within 30 days of the date of issuance of the NCP to request a hearing, at which time, a date for a



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hearing and assignment of a hearing officer on the NCP shall be scheduled.

- (d). Assignment of the hearing officer to each case will be on a fixed daily rotation basis, but the hearing officer must be chosen from a list of hearing officers approved by the Washoe County Board of Commissioners. Only one hearing officer will be so assigned per day to hear scheduled cases. The assigned hearing officer is subject to disqualification for bias, prejudice, conflict of interest, or for any other reason for which a judge may be disqualified in a court of law. At the hearing, the hearing officer shall have the authority to require every witness to declare, under penalty of perjury, that he will testify truthfully, by oath or affirmation, administered by the hearing officer. An affirmation is sufficient if the witness is addressed in the following terms:

"Do you solemnly swear or affirm that the evidence you shall give in this matter now pending shall be the truth, the whole truth and nothing but the truth."

Assent to this affirmation shall be made by the answer "I do".

The hearing officer shall not accept evidence from any party that does not assent to the affirmation.

- (e). At that hearing, any witness may present relevant evidence regarding the infraction and the issuance of the NCP. If the hearing officer finds that the civil infraction has not occurred or a civil infraction has been committed but the respondent asserts and proves one or more legal defenses to the NCP, the hearing officer may dismiss the NCP and release the owner from liability.
- (f). If the hearing officer finds that a civil infraction has been committed and no defense exists, the hearing officer may, in the interest of justice and on behalf of the County, enter into an agreement for the timely or periodic payment of the applicable civil penalty.
- (g). In a contested hearing, the respondent against whom the hearing officer has entered a finding of liability and has assessed a civil penalty, by default or otherwise, may, if the assessed fine has been paid, seek judicial review thereof by filing a petition for a writ of mandate in the district court within 30 days of the hearing officer's findings.
- (h). If the person served with a NCP fails to respond as set forth in this subsection, animal services may serve on the violator by mail or by personal service, an overdue notice which shall contain payment instruction including the address to which payments should be mailed or personally delivered. The overdue notice shall also state that payment of the civil penalty in accordance with WCC 55.800(8)(h) is no longer available to the violator and that the entire amount of the civil penalty indicated on the NCP shall be paid. In addition, the overdue notice shall inform the violator that an additional administrative assessment of \$25.00 will also be charged.



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(14) Judicial enforcement. Judicial enforcement of a notice of civil penalty must be by way of civil suit in the appropriate Justice's Court. A certified copy of the notice of civil penalty constitutes a prima facie showing that a civil infraction occurred.

(15) Commencement of civil action - Procedure. The civil action authorized in WCC 55.800(14) may be commenced at any time after the expiration of 60 days following the date on which the notice of civil penalty was served pursuant to WCC 55.800(11) or 60 days following the hearing officer's findings, by the filing of a complaint in the name of Washoe County and the issuance of a summons with respect thereto. Service of such complaint and summons on the defendant must be made by certified mail, return receipt requested, addressed to the registered owner of the animal at the owner's last known address, as indicated by any animal identification or in any other manner which is authorized by law. The proceedings in the Justice's Court for actions commenced pursuant this chapter shall be governed by the appropriate Justice Court Rules of Civil Procedure.

(16) Time limit. Civil actions pursuant to this chapter may only be commenced within one year after the date on which the civil penalty occurred, and the standard of proof which is applied is the preponderance of the evidence. The County has satisfied its burden of proof if it shows that a civil infraction occurred and that the animal was owned by, registered to, or in the custody of the defendant on the date the NCP was served, unless either of these elements is satisfactorily rebutted by the defendant. The defendant may assert and prove defenses as allowed by law and the court may dismiss the notice of civil penalty if it finds that a defense has been proven by the respondent.

(17) Administrative Enforcement Authority. In addition to any criminal or civil penalties which are authorized by this chapter, in the sole discretion of Washoe County Regional Animal Services and in lieu of the process contained in WCC 55.800(5) through 55.800(16), any animal control officer is authorized to utilize the administrative enforcement procedures contained within WCC Chapter 125 in appropriate cases.

If you have any questions, please do not hesitate to contact this office.

Enclosures: Request to Continue an Administrative Hearing; Request to Cancel an Administrative Hearing

cc: Selected Hearing Officer
File, Case No. WCAH2024-000001



WASHOE COUNTY
ADMINISTRATIVE HEARING OFFICE

1 South Sierra Street
Reno, Nevada 89501
Phone: (775) 328-2001
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e-mail: AHO@washoecounty.us

**REQUEST TO CONTINUE OR CANCEL AN ADMINISTRATIVE HEARING **

Date: _____
Case Number: _____
Scheduled Hearing Date: _____

I hereby request a continuance until _____ of the administrative hearing
on the case noted above for the following reason(s):

I understand that I am responsible to attend the scheduled administrative hearing if I do not receive
written approval of this request prior to the scheduled hearing date.

I understand that I cannot continue an administrative hearing for the following cases:

Dangerous Dog Determination.

I verify that I am the eligible party associated with the case noted above.

Printed Name: _____ Daytime phone: _____

Address: _____

Signature: _____

When completed, this form must be returned to the Reno Justice Court either in person at
1 South Sierra, Reno NV or via e-mail at AHO@washoecounty.us

DECISION ON REQUEST

Your request for a continuance, or to cancel, your scheduled administrative hearing has been reviewed
and:

[] Your request is granted. Your new administrative hearing date is set for:

Date: _____

[] Your request is denied. You must attend your scheduled administrative hearing date as noted
above.

Signature of Hearing Officer

Date



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Reno, Nevada 89501
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INDEX OF EXHIBITS

Exhibit Number _____ **Number of Pages** _____

Exhibit Description _____

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Exhibit Cover Page

EXHIBIT NUMBER _____

Jones, Stephanie M.

From: Farmer, Brian
Sent: Monday, January 22, 2024 12:29 PM
To: Jones, Stephanie M.
Subject: Re: Gary Schmidt WVIO-PLA23-0127

Good morning
Let's do the 16th @10am

From: Jones, Stephanie M. <StMJones@washoecounty.gov>
Sent: Monday, January 22, 2024 9:10:55 AM
To: Farmer, Brian <BFarmer@washoecounty.gov>
Subject: FW: Gary Schmidt WVIO-PLA23-0127



STEPHANIE JONES

Courtroom Clerk | Reno Justice Court

RJC: 775-325-6500; RJC Fax: 775-325-6510

stmjones@washoecounty.gov

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

From: Jones, Stephanie M.
Sent: Monday, January 22, 2024 8:59 AM
To: Code-Enforcement <Code-Enforcement@washoecounty.gov>
Cc: Giesinger, Chad <CGiesinger@washoecounty.gov>
Subject: Gary Schmidt WVIO-PLA23-0127

Hello,

Please see attached Request for Administrative Hearing and penalty notice regarding WVIO-PLA23-0127. Please send the case file at your earliest convenience and let us know which date you prefer. Thank you and have a great day!

February 16, 2024 at 10:00 A.M.
February 23, 2024, at 9:00 A.M. or 10:00 A.M.

Thank you, 😊



STEPHANIE JONES

Courtroom Clerk | Reno Justice Court

RJC: 775-325-6500; RJC Fax: 775-325-6510

stmjones@washoecounty.gov

Solorzano, Gloria

From: NM G <nmg416@gmail.com>
Sent: Thursday, February 15, 2024 5:02 PM
To: Administrative Hearing Office; Code-Enforcement; nobullschmidt@hotmail.com
Cc: Gustafson, Jennifer
Subject: Re: Schmidt, Gary - WCAH2024-000001 / WVIO-PLA23-0127

[**NOTICE:** This message originated outside of Washoe County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Good Afternoon All-

After reviewing the correspondence, it was my understanding that the Respondent had been notified on February 9 that accommodations had been made for him to appear via *Zoom* in a conference room at the courthouse and no objection was made until now, approximately an hour ago. For that reason, the hearing time will proceed as scheduled. Mr. Schmidt, as you have been to the Mills Lane Courthouse, I assume that you can make it again tomorrow. For the record, I have inquired if there is availability for in-person hearings in general when timely requested.

Unless the County waives its right to respond to these motions, I will not be making any decisions on these matters at this time until the County has not had an opportunity to respond. At this late hour, the County may email any responses or may respond at the beginning of the hearing time, 10:00 a.m. tomorrow morning, as scheduled.

Thank you.

Kind regards,

Nancy Moss Ghushn, Esq.
Administrative Hearing Officer

On Thu, Feb 15, 2024 at 3:31 PM Administrative Hearing Office <AHO@washoecounty.gov> wrote:

Hello,

Attached are the Motions submitted by the Respondent on February 15, 2024. I replied and informed the Respondent that the Administrative Hearing will move forward unless a decision is made.

Thank you,



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

--

Nancy Moss Ghushn

Solorzano, Gloria

From: NM G <nmg416@gmail.com>
Sent: Friday, April 26, 2024 3:52 PM
To: Administrative Hearing Office
Subject: Re: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127
Attachments: image001.png
Follow Up Flag: Follow up
Flag Status: Completed

[NOTICE: This message originated outside of Washoe County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Thank you, Gloria.

-Nancy

On Fri, Apr 26, 2024, 3:39 PM Administrative Hearing Office <AHO@washoecounty.gov> wrote:

I've reply to Mr. Schmidt.

Thank you,



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

From: NM G <nmg416@gmail.com>
Sent: Thursday, April 25, 2024 10:35 PM

To: Administrative Hearing Office <AHO@washoecounty.gov>

Subject: Re: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Thank you, Shelby.

Would you or one of the other clerks who worked this case respond to Mr. Schmidt please? Just say that he was sent the final order (which included an additional page of responses to his requests), and that the matter is ripe for review. I don't think I should be interacting directly with him at this point if I can avoid it, but I will if he persists.

Let me know, and thanks so much.

--Nancy

Nancy Moss Ghusn, Esq.

Administrative Hearing Officer

On Thu, Apr 25, 2024 at 7:16 AM Administrative Hearing Office <AHO@washoecounty.gov> wrote:

Good morning, everything was sent to Mr. Schmidt.

Thank you



Shelby Ceja

Criminal Division Supervisor | Reno Justice Court

Office: 775-325-6536 | Fax: 775-325-6510

SCeja@washoecounty.us

Physical Address: 1 South Sierra Street, Reno, NV 89501

www.washoecounty.us/rjc/

From: NM G <nmg416@gmail.com>

Sent: Wednesday, April 24, 2024 10:39 PM

To: Administrative Hearing Office <AHO@washoecounty.gov>

Subject: Fwd: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

[**NOTICE:** This message originated outside of Washoe County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Good Morning, All-

I just saw Mr. Schmidt's email from this morning and thought I should check that the Administrative Order was sent to him together with my additional page of findings?

Thanks so much.

--Nancy

Nancy Moss Ghusn, Esq.

Administrative Hearing Officer

----- Forwarded message -----

From: gary schmidt <nobullschmidt@hotmail.com>

Date: Wed, Apr 24, 2024 at 10:25 AM

Subject: Re: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

To: Administrative Hearing Office <AHO@washoecounty.gov>

Cc: Nancy Moss-Ghusn <nmg416@gmail.com>, Mullin, Kelly D. <KMullin@washoecounty.gov>,

Farmer, Brian <BFarmer@washoecounty.gov>, Giesinger, Chad <CGiesinger@washoecounty.gov>,

Solaro, David <DSolaro@washoecounty.gov>, Brown, Eric P. <EPriceBrown@washoecounty.gov>, Herman, Jeanne <JHerman@washoecounty.gov>

In a post hearing motion/briefing sent on April 8th I in part requested a re-hearing or new hearing as follows:

“In addition Respondent would like to request a re-hearing or new hearing (if necessary) solely on the issue of whether or not the storage that occurred on the subject unit of land prior to August of 2016 was legal and therefore if there was a legal use of storage prior to August of 2016 and therefore the Legal Nonconforming use of storage had been established and is “grandfathered” in.”

I have not received a response to this request as of yet ! It would appear to me that until I receive a rehearing or a denial of my request for a re-hearing on this particular issue this entire matter is still pending before the Administrative Hearing Officer ! I also hereby assert that the “Findings of fact” are still incomplete at this time !

Gary Schmidt

Respondent

Sent from my iPhone

On Apr 8, 2024, at 10:41 AM, Administrative Hearing Office <AHO@washoecounty.gov> wrote:

Good morning, this has been received and added to the record if the case.

Thank you

[cid:image001.png@01DA89A1.1CEF8490]

Shelby C.

Criminal Division Supervisor | Reno Justice Court

Office: 775-325-6500 | Fax: 775-325-6510

RJCCriminal@washoecounty.us

Physical Address: 1 South Sierra Street, Reno, NV 89501

www.washoecounty.us/rjc/<<https://na01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.washoecounty.us%2Frjc%2F&data=05%7C02%7C%7Ca1a27d8cfc7a438d3c6b08dc57f30ed4%7C84df9e7fe9f640afb435aaaaaaaaaaaa%7C1%7C0%7C638481948988038767%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6lk1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=qJEJZz0bkjR2T2oX25jZWRXWFGNMrxSRZPbq%2B7Zgp8o%3D&reserved=0>>

From: gary schmidt <nobullschmidt@hotmail.com>

Sent: Monday, April 8, 2024 8:28 AM

To: Nancy Moss-Ghusn <nmg416@gmail.com>; Administrative Hearing Office <AHO@washoecounty.gov>; Mullin, Kelly D. <KMullin@washoecounty.gov>; Farmer, Brian <BFarmer@washoecounty.gov>; Giesinger, Chad <CGiesinger@washoecounty.gov>; Solaro, David <DSolaro@washoecounty.gov>; Brown, Eric P. <EPriceBrown@washoecounty.gov>; Herman, Jeanne <JHerman@washoecounty.gov>

Subject: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Washoe County Community Service

Code Enforcement

VS

DPG Schmidt

Gary Schmidt

Case No WVIO-PLA23-0127

Administrative Hearing Office

Reno Justice court

Respondent, Schmidt hear-by submits this Post Hearing Briefing and request for Specific Findings of Fact

POST HEARING BRIEFING

There is unrefuted evidence presented by the Respondent that the definition of “parcel of land” contained within the Washoe County Development Code in 1996 and in 2012 when Schmidt purchased the two combined units of land and up and until the passage of the new Code in August of 2016 was

“Parcel of Land. Parcel of land means any unit or continuous units of land in the possession of or recorded as the property of one person.

(see definition included in the Harper Interpretation in 1996 that was presented by the Petitioner as evidence (110.902.15) and also contained within the Staff Report (Exhibit 1 pp 9) dated July 15 of 2016 authored by Kelly Mullin at the time a Planner and the definition excerpt from the Washoe County Development Code in July of 2016 presented by Respondent as Exhibit # 11. Also there was NO evidence presented by the Petitioners to the contrary !! Only “word solid“ and “opinion” as to how the word “parcel” had been used by the Community Service’s Department for years with absolutely no evidence presented as to whether they were using the proper definition during that time. To the contrary, undisputed evidence was presented that they had been misapplying a generic or assessors office definition of a “parcel of land” during that entire decade and perhaps for decades before and ignoring the actual LEGAL definition contained within the Washoe County Development Code at that time. The improper use of a definition in conflict with the definition that is actually in Code does not create validity of that use. Also the County is not permitted to create their own definition or pull one from somewhere else such as the Assessors Office just because they do not like the one that is in Code or perhaps they never bothered to even check the definitions that were in Code

which failure to check the definition that was in Code is exactly what may have happened. By their own admission under oath in the hearing when questioned by the Respondent they both made adverse admissions that they had never checked the Washoe County Development Code for a definition of “parcel” or “lot” and they could not give one. Additionally, if it would be unclear to anyone or if one thinks there is any ambiguity (which I do not) the call goes against the person or entity that drafted all the language because they had the responsibility to make the language clear and complete !

There was undisputed evidence presented by both the Petitioner and by the Respondent that the two contiguous units of land were owned by Mr Schmidt from purchase in 2012 through August of 2016 and up and until the present.

(See Exhibit number 5 the Assessors Record Sheets and testimonies by Petitioners and Respondent.

Therefore combining the actual definition of “parcel of land “ from the Development Code up and until August of 2016 along with the undisputed ownership evidence there is undisputed evidence that the two adjacent units of land from Mr. Schmidt’s purchase in 2012 (and prior) and up until August of 2016 where defined by the County as a single “parcel of land” or one parcel of land.

There was also undisputed evidence that there was continual storage on the two contiguous units of land defined by the County at the time as a “parcel of land” from 2012 up until July of 2016 and continuing until this day.

(See Petitioners exhibits and photographs which all show storage and Respondents testimony that storage had been continual on both units of land during that five-year period and continuing until today)

The primary issue to be determined, decided, and resolved from the evidence is whether the continual use of storage on the subject property cited by the County was “LEGAL” (conforming) during the time period from 2012 until August of 2016 !

There was undisputed evidence presented that the Code Section applicable from 2012 until August of 2016 and beyond was WCC section 110.306.35(b) and is as follows:

Outdoor Storage on Vacant Lots. No Outdoor storage shall occur on a vacant parcel without an existing principal use. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location

See Petitioner's exhibits of the notices and citations!

There was undisputed evidence in photographs presented by the Petitioners, by the Assessor's Record Sheets presented as Exhibit 5, by the Respondent, and by the testimony of both of the Petitioners that there was a primary use of a home on the unit of land identified as number 2 on Schmidt's Exhibit No. 10 (Schmidt's map of the two contiguous units of land identified as a single "parcel" by definition within the Development Code). With the utilization of the definition of "parcel of land" during the time period from 2012 through August of 2016 it is obvious that the "parcel" had a principle use of a house and therefore storage was a Legal Conforming Use anywhere on the "parcel" including the portion thereof that was cited by the County. Therefore applying the undisputed definition of "parcel of land" (undisputed by any evidence other than hearsay conjecture testimony by Petitioners not supported by any citations of law or fact) the undisputed trail of evidence leads to only one conclusion and that is that Mr. Schmidt had established a Legal Conforming Use of storage throughout the years from his purchase 2012 up until August 2016 at which time said storage use on the subject unit of land became LEGAL Nonconforming and said storage use is allowed to continue as a Legal Nonconforming use under the County Code provisions in regards to "grandfathering" introduced into evidence by Respondent as Exhibit 9

and now by the Case Law analysis now submitted as exhibit 16 !

There was no evidence presented that the use of storage had or has discontinued for any 12 month period. There was evidence presented by Mr. Schmidt's testimony that there was no 12 month period during any time of Mr. Schmidt's ownership of the common contiguous units of land that the storage use had been discontinued for a 12 month period. In fact the testimony was that storage was basically continuous over his time of ownership on a day to day basis. The Petitioner's own aerial photographs also support this conclusion.

Therefore it is clear from the evidence presented unrefuted and absent of any evidence to the contrary that Mr. Schmidt had established the Legal Conforming Use of storage during his ownership up and until August of 2016 and at that time the storage use became a Legal Nonconforming Use which has continued until this day without any lapse of a 12 month period.

Summarized; From the purchase of the two units of land by Schmidt which were defined by the County as a single “parcel” there existed a primary use on the “parcel” of a house and the Legal Conforming Use of storage existed throughout the “parcel”. Therefore when the definition of “parcel” changed in August of 2016 Mr Schmidt became “grandfathered in” in regards to the use of storage on both units of land or the total of the properties.

In regards to the Post Hearing Briefing Respondent would like to submit what are identified as Exhibit 16, three pages of Case Law related to the issue of “grandfathering” or the establishment of a Legal Nonconforming Use. Submitted at the hearing was the actual Washoe County Code Regulations in regards to grandfathering or Legal Nonconforming Use as Exhibit 9. Case Law had not been prepared and therefore not submitted because it was anticipated that the Petitioners would know and understand “grandfathering” or Legal Nonconforming Uses and that the actual definition or description would not be an issue. But much to Respondant’s surprise neither Petitioner was able to enter into the record any definition or description when they were repeatedly asked about “grandfathering” or Legal Nonconforming Use. Therefore Respondent feels it’s entirely appropriate that this Case Law be accepted into the Record and be considered within this format of a Post Hearing Briefing for the Hearing Officer to consider prior to any final written order !

REQUEST FOR SPECIFIC FINDINGS OF FACT

Respondent also requested to have Specific Findings of Facts. Specific Findings of Facts are requested at least in part as follows;

1 In regards to the issue of alleged improper screening of the recreational vehicle based upon a photo taken on December 4 by the Petitioner and as is noted in the warning notice and citation Respondent believes that at the hearing it was acknowledged that that screening is no longer an issue and that portion of the citation should be dismissed.

2 Petitioner would also like to request a Specific Finding of Fact in regards to the issue of whether or not storage was ongoing on the subject Unit of Land prior to August of 2016 and subsequent to August of 2016. Respondent believes that the evidence (or lack of evidence on the part of the Petitioner) held that there was storage on the subject unit of land on the citation but that the only issue remaining in regards to the storage use was whether or not it was “legal” storage that was ongoing at any time and/or if legal storage had been established prior to August 2016 which is relevant to the establishment of a Legal Nonconforming Use after August 2016 commonly known as “grandfathering”.

3 Respondent would request a Specific Finding of Fact as to whether there was legal storage on the subject unit of land ongoing prior to August 2016 and if not what evidence was relied on to come to any finding that legal storage had not been established during that time period.

4 Petitioner would like a Specific Finding of Fact in regards to the appeal issue as to whether or not the Respondent had been illegally denied the opportunity to have these issues heard before the Board of Adjustment. Hearing Officer made claims and asserted that that issue could not be considered by the Hearing Officer even though it was listed as one of the items appealed on that Administrative Hearing Appeal form. Specific legal citations of law and analysis in a format of a Finding of Facts on this issue are here-by requested.

In addition Respondent would like to request a re-hearing or new hearing (if necessary) solely on the issue of whether or not the storage that occurred on the subject unit of land prior to August of 2016 was legal and therefore if there was a legal use of storage prior to August of 2016 and therefore the Legal Nonconforming use of storage had been established and is “grandfathered” in.

Gary Schmidt

Respondent

April 6th, 2024

[image]

[image]

[image]

Sent from my iPhone

--

Nancy Moss Ghusn

--

Nancy Moss Ghusn

Solorzano, Gloria

From: Administrative Hearing Office
Sent: Thursday, February 15, 2024 9:29 AM
To: gary schmidt
Subject: Administrative Hearing Reminder - WCAH2024-000001 / WVIO-PLA23-0127

Hello,

This is just a reminder being sent to all parties your Administrative Hearing is scheduled for Friday, February 16, 2024, at 10:00 a.m.

In person appearing: You may appear at the Reno Justice Court 30 minutes prior to your hearing schedule on February 16, 2024, at 10:00 a.m. and we will provide you with a tablet queued up and ready to go into a conference room to allow you the ability to appear.

ZOOM appearing: Please don't log on any earlier than ten (10) minutes before the scheduled hearing since we have a stacked calendar. Additionally, please be patient if you are waiting to be let into your court hearing since the prior hearing may still be going on.

ZOOM

Topic: Administrative Hearing via Zoom
Join Zoom Meeting

<https://us02web.zoom.us/j/85817385967?pwd=di8xSVdQbnRaanF5RnYrNnlIOU1zUT09>

Meeting ID: 858 1738 5967

Passcode: 561487

One tap mobile

+12133388477,,85817385967# US (Los Angeles)

+12063379723,,85817385967# US (Seattle)

Dial by your location

+1 213 338 8477 US (Los Angeles)

+1 206 337 9723 US (Seattle)

Meeting ID: 858 1738 5967

Find your local number: <https://us02web.zoom.us/j/85817385967>



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

Solorzano, Gloria

From: Administrative Hearing Office
Sent: Tuesday, February 20, 2024 11:33 AM
To: 'nobullschmidt@hotmail.com'
Subject: Schmidt, Gary - WCAH2024-000001 / WVIO-PLA23-0127 - Administrative Order
Attachments: Administrative Order.pdf

Hello,

Attached is a copy of the Administrative Order from the Administrative Hearing held on February 16, 2024. A copy will also be in the mail. The in-person Administrative Hearing is scheduled on April 5, 2024 at 9:00 a.m.

Thank you,



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

Solorzano, Gloria

From: Administrative Hearing Office
Sent: Tuesday, February 20, 2024 11:30 AM
To: Code-Enforcement
Subject: Schmidt, Gary - WCAH2024-000001/WVIO-PLA23-0127 - Administrative Order
Attachments: Administrative Order.pdf

Hello,

Please find attached the Administrative Order from the Administrative Hearing held on February 16, 2024. Can you also provide an Administrative Order for the upcoming hearing set on April 5, 2024.

Thank you.



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

Solorzano, Gloria

From: Administrative Hearing Office
Sent: Monday, April 29, 2024 11:56 AM
To: gary schmidt; Administrative Hearing Office
Cc: Mullin, Kelly D.; Farmer, Brian; Giesinger, Chad; Solaro, David; Brown, Eric P.; Herman, Jeanne
Subject: RE: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127
Attachments: Administrative Order signed.pdf

Hello,

Please see attached Administrative Order signed by Hearing Officer Ghush on April 9, 2024 which includes five (5) pages.

Thank you,



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

From: gary schmidt <nobullschmidt@hotmail.com>
Sent: Saturday, April 27, 2024 6:15 PM
To: Administrative Hearing Office <AHO@washoecounty.gov>
Cc: Mullin, Kelly D. <KMullin@washoecounty.gov>; Farmer, Brian <BFarmer@washoecounty.gov>; Giesinger, Chad <CGiesinger@washoecounty.gov>; Solaro, David <DSolaro@washoecounty.gov>; Brown, Eric P. <EPriceBrown@washoecounty.gov>; Herman, Jeanne <JHerman@washoecounty.gov>
Subject: Re: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Respondent never received an “additional page” please resend !

Sent from my iPhone

On Apr 26, 2024, at 3:38 PM, Administrative Hearing Office <AHO@washoecounty.gov> wrote:

Mr. Schmidt,

The final Order sent included an additional page responding to your below requests. This matter is ripe for review.

Thank you,



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

From: gary schmidt <nobullschmidt@hotmail.com>

Sent: Wednesday, April 24, 2024 10:26 AM

To: Administrative Hearing Office <AHO@washoecounty.gov>

Cc: Nancy Moss-Ghusn <nmg416@gmail.com>; Mullin, Kelly D. <KMullin@washoecounty.gov>; Farmer, Brian <BFarmer@washoecounty.gov>; Giesinger, Chad <CGiesinger@washoecounty.gov>; Solaro, David <DSolaro@washoecounty.gov>; Brown, Eric P. <EPriceBrown@washoecounty.gov>; Herman, Jeanne <JHerman@washoecounty.gov>

Subject: Re: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

[**NOTICE:** This message originated outside of Washoe County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

In a post hearing motion/briefing sent on April 8th I in part requested a re-hearing or new hearing as follows:

“In addition Respondent would like to request a re-hearing or new hearing (if necessary) solely on the issue of whether or not the storage that occurred on the subject unit of land prior to August of 2016 was legal and therefore if there was a legal use of storage prior to August of 2016 and therefore the Legal Nonconforming use of storage had been established and is “grandfathered” in.”

I have not received a response to this request as of yet ! It would appear to me that until I receive a rehearing or a denial of my request for a re-hearing on this particular issue this entire matter is still pending before the Administrative Hearing Officer ! I also hereby assert that the “Findings of fact” are still incomplete at this time !

Gary Schmidt
Respondent

Sent from my iPhone

On Apr 8, 2024, at 10:41 AM, Administrative Hearing Office
<AHO@washoecounty.gov> wrote:

Good morning, this has been received and added to the record if the case.

Thank you

[[cid:image001.png@01DA89A1.1CEF8490](#)]

Shelby C.

Criminal Division Supervisor | Reno Justice Court

Office: 775-325-6500 | Fax: 775-325-6510

RJCCriminal@washoecounty.us

Physical Address: 1 South Sierra Street, Reno, NV 89501

www.washoecounty.us/rjc/<<https://na01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.washoecounty.us%2Frjc%2F&data=05%7C02%7C%7Ca1a27d8cfc7a438d3c6b08dc57f30ed4%7C84df9e7fe9f640afb435aaaaaaa%7C1%7C0%7C638481948988038767%7CUnknown%7CTWFpbGZsb3d8eyJWljoijMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=qJEJZz0bkjR2T2oX25jZWRXWFGNMrxSRZPbq%2B7Zgp8o%3D&reserved=0>>

From: gary schmidt <nobullschmidt@hotmail.com>

Sent: Monday, April 8, 2024 8:28 AM

To: Nancy Moss-Ghusn <nmg416@gmail.com>; Administrative Hearing Office <AHO@washoecounty.gov>; Mullin, Kelly D.

<KMullin@washoecounty.gov>; Farmer, Brian

<BFarmer@washoecounty.gov>; Giesinger, Chad

<CGiesinger@washoecounty.gov>; Solaro, David

<DSolaro@washoecounty.gov>; Brown, Eric P.

<EPriceBrown@washoecounty.gov>; Herman, Jeanne

<JHerman@washoecounty.gov>

Subject: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Washoe County Community Service

Code Enforcement

VS

DPG Schmidt

Gary Schmidt

Case No WVIO-PLA23-0127

Administrative Hearing Office

Reno Justice court

Respondent, Schmidt hear-by submits this Post Hearing Briefing and request for Specific Findings of Fact

POST HEARING BRIEFING

There is unrefuted evidence presented by the Respondent that the definition of “parcel of land” contained within the Washoe County Development Code in 1996 and in 2012 when Schmidt purchased the two combined units of land and up and until the passage of the new Code in August of 2016 was

“Parcel of Land. Parcel of land means any unit or continuous units of land in the possession of or recorded as the property of one person.

(see definition included in the Harper Interpretation in 1996 that was presented by the Petitioner as evidence (110.902.15) and also contained within the Staff Report (Exhibit 1 pp 9) dated July 15 of 2016 authored by Kelly Mullin at the time a Planner and the definition excerpt from the Washoe County Development Code in July of 2016 presented by Respondent as Exhibit # 11. Also there was NO evidence presented by the Petitioners to the contrary !! Only “word solid“ and “opinion” as to how the word “parcel” had been used by the Community Service’s Department for years with absolutely no evidence presented as to whether they were using the proper definition during that time. To the contrary, undisputed evidence was presented that they had been misapplying a generic or assessors office definition of a “parcel of land” during that entire decade and perhaps for decades before and ignoring the actual LEGAL definition contained within the Washoe County Development Code at that time. The improper use of a definition in conflict with the definition that is actually in Code does not create validity of that use. Also the County is not permitted to create their own definition or pull one from somewhere else such as the Assessors Office just because they do not like the one that is in Code or perhaps they never bothered to even check the definitions that were in Code which failure to check the definition that was in Code is exactly what may have happened. By their own admission under oath in the hearing when questioned by the Respondent they both made adverse admissions that they had never checked the Washoe County Development Code for a definition of “parcel” or “lot” and they could not give one. Additionally, if it would be unclear to anyone or if one thinks there is any ambiguity (which I do not) the call goes against the person or entity that drafted all the language because they had the responsibility to make the language clear and complete !

There was undisputed evidence presented by both the Petitioner and by the Respondent that the two contiguous units of land were owned by Mr Schmidt from purchase in 2012 through August of 2016 and up and until the present.

(See Exhibit number 5 the Assessors Record Sheets and testimonies by Petitioners and Respondent.

Therefore combining the actual definition of “parcel of land “ from the Development Code up and until August of 2016 along with the undisputed ownership evidence there is undisputed evidence that the two adjacent units of land from Mr. Schmidt’s purchase in 2012 (and prior) and up until August of 2016 where defined by the County as a single “parcel of land” or one parcel of land.

There was also undisputed evidence that there was continual storage on the two contiguous units of land defined by the County at the time as a “parcel of land” from 2012 up until July of 2016 and continuing until this day.

(See Petitioners exhibits and photographs which all show storage and Respondents testimony that storage had been continual on both units of land during that five-year period and continuing until today)

The primary issue to be determined, decided, and resolved from the evidence is whether the continual use of storage on the subject property cited by the County was “LEGAL” (conforming) during the time period from 2012 until August of 2016 !

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Outdoor Storage on Vacant Lots. No Outdoor storage shall occur on a vacant parcel without an existing principal use. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location

See Petitioner’s exhibits of the notices and citations!

There was undisputed evidence in photographs presented by the Petitioners, by the Assessor’s Record Sheets presented as Exhibit 5, by the Respondent, and by the testimony of both of the Petitioners that there was a primary use of a home on the unit of land identified as number 2 on Schmidt’s Exhibit No. 10 (Schmidt’s map of the two contiguous units of land identified as a single “parcel” by definition within the Development Code). With the utilization of the definition of “parcel of land” during the time period from 2012 through August of 2016 it is obvious that the “parcel” had a principle use of a house and therefore storage was a Legal Conforming Use anywhere on the “parcel” including the portion thereof that was cited by the County. Therefore applying the undisputed definition of “parcel of land” (undisputed by any evidence other than hearsay conjecture testimony by Petitioners not supported by any citations of law or fact) the undisputed trail of evidence leads to only one conclusion and that is that Mr. Schmidt had established a Legal Conforming Use of storage throughout the years from his purchase

2012 up until August 2016 at which time said storage use on the subject unit of land became LEGAL Nonconforming and said storage use is allowed to continue as a Legal Nonconforming use under the County Code provisions in regards to “grandfathering” introduced into evidence by Respondent as Exhibit 9

and now by the Case Law analysis now submitted as exhibit 16 !

There was no evidence presented that the use of storage had or has discontinued for any 12 month period. There was evidence presented by Mr. Schmidt’s testimony that there was no 12 month period during any time of Mr. Schmidt’s ownership of the common contiguous units of land that the storage use had been discontinued for a 12 month period. In fact the testimony was that storage was basically continuous over his time of ownership on a day to day basis. The Petitioner’s own aerial photographs also support this conclusion.

Therefore it is clear from the evidence presented unrefuted and absent of any evidence to the contrary that Mr. Schmidt had established the Legal Conforming Use of storage during his ownership up and until August of 2016 and at that time the storage use became a Legal Nonconforming Use which has continued until this day without any lapse of a 12 month period.

Summarized; From the purchase of the two units of land by Schmidt which were defined by the County as a single “parcel” there existed a primary use on the “parcel” of a house and the Legal Conforming Use of storage existed throughout the “parcel”. Therefore when the definition of “parcel” changed in August of 2016 Mr Schmidt became “grandfathered in” in regards to the use of storage on both units of land or the total of the properties.

In regards to the Post Hearing Briefing Respondent would like to submit what are identified as Exhibit 16, three pages of Case Law related to the issue of “grandfathering” or the establishment of a Legal Nonconforming Use. Submitted at the hearing was the actual Washoe County Code Regulations in regards to grandfathering or Legal Nonconforming Use as Exhibit 9. Case Law had not been prepared and therefore not submitted

because it was anticipated that the Petitioners would know and understand “grandfathering” or Legal Nonconforming Uses and that the actual definition or description would not be an issue. But much to Respondant’s surprise neither Petitioner was able to enter into the record any definition or description when they were repeatedly asked about “grandfathering” or Legal Nonconforming Use. Therefore Respondent feels it’s entirely appropriate that this Case Law be accepted into the Record and be considered within this format of a Post Hearing Briefing for the Hearing Officer to consider prior to any final written order !

REQUEST FOR SPECIFIC FINDINGS OF FACT

Respondent also requested to have Specific Findings of Facts. Specific Findings of Facts are requested at least in part as follows;

1 In regards to the issue of alleged improper screening of the recreational vehicle based upon a a photo taken on December 4 by the Petitioner and as is noted in the warning notice and citation Respondent believes that at the hearing it was acknowledged that that screening is no longer an issue and that portion of the citation should be dismissed.

2 Petitioner would also like to request a Specific Finding of Fact in regards to the issue of whether or not storage was ongoing on the subject Unit of Land prior to August of 2016 and subsequent to August of 2016. Respondent believes that the evidence (or lack of evidence on the part of the Petitioner) held that there was storage on the subject unit of land on the citation but that the only issue remaining in regards to the storage use was whether or not it was “legal” storage that was ongoing at any time and/or if legal storage had been established prior to August 2016 which is relevant to the establishment of a Legal Nonconforming Use after August 2016 commonly known as “grandfathering”.

3 Respondent would request a Specific Finding of Fact as to whether there was legal storage on the subject unit of land ongoing prior to August 2016

and if not what evidence was relied on to come to any finding that legal storage had not been established during that time period.

4 Petitioner would like a Specific Finding of Fact in regards to the appeal issue as to whether or not the Respondent had been illegally denied the opportunity to have these issues heard before the Board of Adjustment. Hearing Officer made claims and asserted that that issue could not be considered by the Hearing Officer even though it was listed as one of the items appealed on that Administrative Hearing Appeal form. Specific legal citations of law and analysis in a format of a Finding of Facts on this issue are here-by requested.

In addition Respondent would like to request a re-hearing or new hearing (if necessary) solely on the issue of whether or not the storage that occurred on the subject unit of land prior to August of 2016 was legal and therefore if there was a legal use of storage prior to August of 2016 and therefore the Legal Nonconforming use of storage had been established and is “grandfathered” in.

Gary Schmidt

Respondent

April 6th, 2024

[image]

[image]

[image]

Solorzano, Gloria

From: Patricia Halstead <phalstead@halsteadlawoffices.com>
Sent: Tuesday, February 13, 2024 9:30 AM
To: Administrative Hearing Office
Subject: RE: Schmidt, Gary - WCAH2024-000001 / WVIO-PLA23-0127 - Case file & Admin Order

[NOTICE: This message originated outside of Washoe County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Received

Kindest regards,

Patricia Halstead, Esq.
615 S. Arlington Avenue
Reno, NV 89509
(775) 322-2244
(775) 465-4144 - facsimile
www.halsteadlawoffices.com

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From: Administrative Hearing Office <AHO@washoecounty.gov>
Sent: Tuesday, February 13, 2024 8:35 AM
To: Patricia Halstead <phalstead@halsteadlawoffices.com>
Subject: Schmidt, Gary - WCAH2024-000001 / WVIO-PLA23-0127 - Case file & Admin Order

Hello,

Can you please confirm receipt of this email. Attached is the case file and Admin Order unsigned.

Thank you,



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

Solorzano, Gloria

From: Administrative Hearing Office
Sent: Friday, February 9, 2024 1:11 PM
To: Patricia Halstead
Cc: 'nvpch@sbcglobal.net'
Subject: Re: Case File and Order for Admin Hearing for - Schmidt, Gary - WCAH2024-000001 / WVIO-PLA23-0127
Attachments: Case File Received.pdf; Administrative Order Unsigned.pdf; Email from Jennifer Gustafson regarding Complaint from Respondent re IPAD.pdf; Letter sent Accomadation for Admin Hearing to Respondent.pdf; Per request of Respondent - I emailed him a copy of the voice message he left for AHO.pdf; Letter sent Reminder for Admin Hearing to Respondent.pdf

Hello,

Please see attached the case file, Admin Order, along with the on-going letters mailed to Respondent regarding accommodations as in person using one of the Court's iPad and emails received pertaining to the case for your review.

Please reply that you have received this email.

Thank you,



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

Solorzano, Gloria

From: NM G <nmg416@gmail.com>
Sent: Wednesday, February 14, 2024 6:48 PM
To: Administrative Hearing Office
Cc: Solorzano, Gloria; Patricia Halstead
Subject: Fwd: Fw: Schmidt, Gary - WCAH2024-000001 / WVIO-PLA23-0127 - Case file & Admin Order

Follow Up Flag: Follow up
Flag Status: Completed

[NOTICE: This message originated outside of Washoe County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Good Evening/Morning, All-

I am confirming that I am covering the 10:00 hearing on Friday, February 16 for Hearing Officer Patricia Halstead. She has also forwarded the materials to me, but I will check in tomorrow if necessary after I review the file.

As an aside, please send communications to nmg416@gmail.com rather than to nmg416@aol.com.

Thanks so much.

--Nancy
Nancy Moss Ghushn, Esq.
Administrative Hearing Officer

----- Forwarded message -----

From: NM Ghushn <nmg416@aol.com>
Date: Wed, Feb 14, 2024 at 6:35 PM
Subject: Fw: Schmidt, Gary - WCAH2024-000001 / WVIO-PLA23-0127 - Case file & Admin Order
To: NM G. <nmg416@gmail.com>

----- Forwarded Message -----

From: Patricia Halstead <phalstead@halsteadlawoffices.com>
To: Administrative Hearing Office <aho@washoecounty.gov>
Cc: Solorzano, Gloria <gsolorzano@washoecounty.gov>; Nancy Moss Ghushn <nmg416@aol.com>
Sent: Wednesday, February 14, 2024 at 04:27:45 PM PST
Subject: RE: Schmidt, Gary - WCAH2024-000001 / WVIO-PLA23-0127 - Case file & Admin Order

I had a conflict arise for Friday so Nancy is going to now cover the hearing. I have forwarded her the case file and other relevant emails.

Nancy, can you please confirm you are in recipe and will be covering? Thank you!

Kindest regards,

Patricia Halstead, Esq.

615 S. Arlington Avenue

Reno, NV 89509

(775) 322-2244

(775) 465-4144 - facsimile

www.halsteadlawoffices.com

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From: Administrative Hearing Office <AHO@washoecounty.gov>

Sent: Tuesday, February 13, 2024 8:35 AM

To: Patricia Halstead <phalstead@halsteadlawoffices.com>

Subject: Schmidt, Gary - WCAH2024-000001 / WVIO-PLA23-0127 - Case file & Admin Order

Hello,

Can you please confirm receipt of this email. Attached is the case file and Admin Order unsigned.

Thank you,



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

Solorzano, Gloria

From: Gustafson, Jennifer
Sent: Wednesday, January 31, 2024 6:11 PM
To: Administrative Hearing Office; Willrich, Erick S; St. Jacques, Diane
Cc: Giesinger, Chad
Subject: RE: AHO Zoom hearings
Attachments: Administrative Hearing Request - Gary Schmidt.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Shelby,

With regard to Mr. Schmidt's appeal, he sent a copy of his AHO appeal form to the DA's Office (attached). On the request form, he indicates he does not have the capability to attend a Zoom hearing due to phone and email issues. I recommend that the AHO follow up with Mr. Schmidt on this via phone and email (please document follow-up) and offer the normal accommodation of the tablet in the RJC conference room. Mr. Schmidt is very litigious so he will seek to contest not having access to the hearing.

Thank you,

Jen Gustafson

From: Administrative Hearing Office <AHO@washoecounty.gov>
Sent: Tuesday, January 30, 2024 2:48 PM
To: Gustafson, Jennifer <jgustafson@da.washoecounty.gov>; Administrative Hearing Office <AHO@washoecounty.gov>; Willrich, Erick S <ewillrich@washoecounty.gov>
Cc: Wooster, Robert <RWooster@washoecounty.gov>; Giesinger, Chad <CGiesinger@washoecounty.gov>
Subject: RE: AHO Zoom hearings

With regard to Mr. Schmidt, this matter is set 2/16/2024 at 10:00 a.m., he has not indicated to the AHO that he doesn't have the ability to appear from my knowledge.

Thank you



Shelby Ceja
Criminal Division Supervisor | Reno Justice Court
Office: 775-325-6536 | Fax: 775-325-6510
SCeja@washoecounty.us
Physical Address: 1 South Sierra Street, Reno, NV 89501
www.washoecounty.us/rjc/

From: Gustafson, Jennifer <jgustafson@da.washoecounty.gov>
Sent: Tuesday, January 30, 2024 8:49 AM
To: Administrative Hearing Office <AHO@washoecounty.gov>; Willrich, Erick S <ewillrich@washoecounty.gov>

Cc: Wooster, Robert <RWooster@washoecounty.gov>; Giesinger, Chad <CGiesinger@washoecounty.gov>

Subject: AHO Zoom hearings

Hello Administrative Hearing Office and Erick,

We've had this issue come up a couple times now in the past couple weeks where a person has complained about the AHO only offering the hearings via Zoom. The first time was with a homeless individual in a dangerous dog case (claiming she did not have any ability to participate via Zoom) and has now raised some due process concerns on appeal. And the second is with Gary Schmidt's upcoming appeal in which he is apparently claiming that he is having phone and computer issues and needs an in-person hearing. (Based on his appeal documentation).

Question for the AHO-- How are you handling these things? Are these requests being sent to the assigned hearing officer to make a ruling?

In consultation with the DA's litigation lead, the advice from my office is that if the AHO wants to hold remote hearings via Zoom, that's fine. However, Washoe County needs to provide a place where the indigent (and computer illiterate) can utilize Zoom technology to attend the hearings. If that is not a possibility, the AHO should provide for in-person hearings.

All—Please let me know what is being done regarding this issue for the upcoming Gary Schmidt appeal. Also Erick—I don't have Diane's contact info, so she has not been cc'd on this email.

Thanks,

Jen Gustafson



Jennifer Gustafson

Deputy District Attorney

District Attorney's Office

jgustafson@da.washoecounty.gov | O: 775-337-5700

One South Sierra Street, Reno, NV 89501



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Solorzano, Gloria

From: Gustafson, Jennifer
Sent: Wednesday, January 31, 2024 6:01 PM
To: Administrative Hearing Office; Willrich, Erick S; St. Jacques, Diane
Cc: Wooster, Robert; Giesinger, Chad
Subject: RE: AHO Zoom hearings

Thank you, Shelby! That all sounds very reasonable. I am glad to hear that the AHO has established options for those who are homeless or don't have ready access to a computer or smartphone.

Thanks,

Jen

From: Administrative Hearing Office <AHO@washoecounty.gov>
Sent: Tuesday, January 30, 2024 2:46 PM
To: Gustafson, Jennifer <jgustafson@da.washoecounty.gov>; Administrative Hearing Office <AHO@washoecounty.gov>; Willrich, Erick S <ewillrich@washoecounty.gov>
Cc: Wooster, Robert <RWooster@washoecounty.gov>; Giesinger, Chad <CGiesinger@washoecounty.gov>
Subject: RE: AHO Zoom hearings

Good afternoon, if they indicate they do not have the ability to appear via Zoom they are instructed to appear at the Reno Justice Court 30 minutes prior to their hearing and we will provide them with a tablet queued up and ready to go in a conference room to allow them the ability to appear.

Thank you!



Shelby Ceja
Criminal Division Supervisor | Reno Justice Court
Office: 775-325-6536 | Fax: 775-325-6510
SCeja@washoecounty.us
Physical Address: 1 South Sierra Street, Reno, NV 89501
www.washoecounty.us/rjc/

From: Gustafson, Jennifer <jgustafson@da.washoecounty.gov>
Sent: Tuesday, January 30, 2024 8:49 AM
To: Administrative Hearing Office <AHO@washoecounty.gov>; Willrich, Erick S <ewillrich@washoecounty.gov>
Cc: Wooster, Robert <RWooster@washoecounty.gov>; Giesinger, Chad <CGiesinger@washoecounty.gov>
Subject: AHO Zoom hearings

Hello Administrative Hearing Office and Erick,

We've had this issue come up a couple times now in the past couple weeks where a person has complained about the AHO only offering the hearings via Zoom. The first time was with a homeless individual in a dangerous dog case (claiming she did not have any ability to participate via Zoom) and has now raised some due process concerns on appeal. And the

second is with Gary Schmidt's upcoming appeal in which he is apparently claiming that he is having phone and computer issues and needs an in-person hearing. (Based on his appeal documentation).

Question for the AHO-- How are you handling these things? Are these requests being sent to the assigned hearing officer to make a ruling?

In consultation with the DA's litigation lead, the advice from my office is that if the AHO wants to hold remote hearings via Zoom, that's fine. However, Washoe County needs to provide a place where the indigent (and computer illiterate) can utilize Zoom technology to attend the hearings. If that is not a possibility, the AHO should provide for in-person hearings.

All—Please let me know what is being done regarding this issue for the upcoming Gary Schmidt appeal. Also Erick—I don't have Diane's contact info, so she has not been cc'd on this email.

Thanks,

Jen Gustafson



Jennifer Gustafson

Deputy District Attorney

District Attorney's Office

jgustafson@da.washoecounty.gov | O: 775-337-5700

One South Sierra Street, Reno, NV 89501



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Solorzano, Gloria

From: gary schmidt <nobullschmidt@hotmail.com>
Sent: Saturday, April 27, 2024 6:15 PM
To: Administrative Hearing Office
Cc: Mullin, Kelly D.; Farmer, Brian; Giesinger, Chad; Solaro, David; Brown, Eric P.; Herman, Jeanne
Subject: Re: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

Follow Up Flag: Follow up
Flag Status: Completed

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Respondent never received an “additional page” please resend !

Sent from my iPhone

On Apr 26, 2024, at 3:38 PM, Administrative Hearing Office <AHO@washoecounty.gov> wrote:

Mr. Schmidt,

The final Order sent included an additional page responding to your below requests. This matter is ripe for review.

Thank you,



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

From: gary schmidt <nobullschmidt@hotmail.com>
Sent: Wednesday, April 24, 2024 10:26 AM
To: Administrative Hearing Office <AHO@washoecounty.gov>
Cc: Nancy Moss-Ghusn <nmg416@gmail.com>; Mullin, Kelly D. <KMullin@washoecounty.gov>; Farmer, Brian <BFarmer@washoecounty.gov>; Giesinger, Chad <CGiesinger@washoecounty.gov>; Solaro, David <DSolaro@washoecounty.gov>; Brown, Eric P. <EPriceBrown@washoecounty.gov>; Herman, Jeanne

<JHerman@washoecounty.gov>

Subject: Re: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

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In a post hearing motion/briefing sent on April 8th I in part requested a re-hearing or new hearing as follows:

“In addition Respondent would like to request a re-hearing or new hearing (if necessary) solely on the issue of whether or not the storage that occurred on the subject unit of land prior to August of 2016 was legal and therefore if there was a legal use of storage prior to August of 2016 and therefore the Legal Nonconforming use of storage had been established and is “grandfathered” in.”

I have not received a response to this request as of yet ! It would appear to me that until I receive a rehearing or a denial of my request for a re-hearing on this particular issue this entire matter is still pending before the Administrative Hearing Officer ! I also hereby assert that the “Findings of fact” are still incomplete at this time !

Gary Schmidt
Respondent

Sent from my iPhone

On Apr 8, 2024, at 10:41 AM, Administrative Hearing Office
<AHO@washoecounty.gov> wrote:

Good morning, this has been received and added to the record if the case.

Thank you

[[cid:image001.png@01DA89A1.1CEF8490](#)]

Shelby C.

Criminal Division Supervisor | Reno Justice Court

Office: 775-325-6500 | Fax: 775-325-6510

RJCCriminal@washoecounty.us

Physical Address: 1 South Sierra Street, Reno, NV 89501

www.washoecounty.us/rjc/<<https://na01.safelinks.protection.outlook.com/>>

[?url=http%3A%2F%2Fwww.washoecounty.us%2Frc%2F&data=05%7C02%7C%7Ca1a27d8cfc7a438d3c6b08dc57f30ed4%7C84df9e7fe9f640afb435aaaaaa%7C1%7C0%7C638481948988038767%7CUnknown%7CTWFpbGZsb3d8eyJWljoImFC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=qJEJZz0bkjR2T2oX25jZWRXWFGNMrxSRZPbq%2B7Zgp8o%3D&reserved=0](http%3A%2F%2Fwww.washoecounty.us%2Frc%2F&data=05%7C02%7C%7Ca1a27d8cfc7a438d3c6b08dc57f30ed4%7C84df9e7fe9f640afb435aaaaaa%7C1%7C0%7C638481948988038767%7CUnknown%7CTWFpbGZsb3d8eyJWljoImFC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=qJEJZz0bkjR2T2oX25jZWRXWFGNMrxSRZPbq%2B7Zgp8o%3D&reserved=0)>

From: gary schmidt <nobullschmidt@hotmail.com>

Sent: Monday, April 8, 2024 8:28 AM

To: Nancy Moss-Ghusn <nmg416@gmail.com>; Administrative Hearing Office <AHO@washoecounty.gov>; Mullin, Kelly D.

<KMullin@washoecounty.gov>; Farmer, Brian

<BFarmer@washoecounty.gov>; Giesinger, Chad

<CGiesinger@washoecounty.gov>; Solaro, David

<DSolaro@washoecounty.gov>; Brown, Eric P.

<EPriceBrown@washoecounty.gov>; Herman, Jeanne

<JHerman@washoecounty.gov>

Subject: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

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Washoe County Community Service

Code Enforcement

VS

DPG Schmidt

Gary Schmidt

Case No WVIO-PLA23-0127

Administrative Hearing Office

Reno Justice court

Respondent, Schmidt hear-by submits this Post Hearing Briefing and request for Specific Findings of Fact

POST HEARING BRIEFING

There is unrefuted evidence presented by the Respondent that the definition of “parcel of land” contained within the Washoe County Development Code in 1996 and in 2012 when Schmidt purchased the two combined units of land and up and until the passage of the new Code in August of 2016 was

“Parcel of Land. Parcel of land means any unit or continuous units of land in the possession of or recorded as the property of one person.

(see definition included in the Harper Interpretation in 1996 that was presented by the Petitioner as evidence (110.902.15) and also contained within the Staff Report (Exhibit 1 pp 9) dated July 15 of 2016 authored by Kelly Mullin at the time a Planner and the definition excerpt from the Washoe County Development Code in July of 2016 presented by Respondent as Exhibit # 11. Also there was NO evidence presented by the Petitioners to the contrary !! Only “word solid“ and “opinion” as to how the word “parcel” had been used by the Community Service’s Department for years with absolutely no evidence presented as to whether they were using the proper definition during that time. To the contrary, undisputed evidence was presented that they had been misapplying a generic or assessors office definition of a “parcel of land” during that entire decade and perhaps for decades before and ignoring the actual LEGAL definition contained within the Washoe County Development Code at that time. The improper use of a definition in conflict with the definition that is actually in Code does not create validity of that use. Also the County is not permitted to create their own definition or pull one from somewhere else such as the Assessors Office just because they do not like the one that is in Code or perhaps they never bothered to even check the definitions that were in Code which failure to check the definition that was in Code is exactly what may have happened. By their

own admission under oath in the hearing when questioned by the Respondent they both made adverse admissions that they had never checked the Washoe County Development Code for a definition of “parcel” or “lot” and they could not give one. Additionally, if it would be unclear to anyone or if one thinks there is any ambiguity (which I do not) the call goes against the person or entity that drafted all the language because they had the responsibility to make the language clear and complete !

There was undisputed evidence presented by both the Petitioner and by the Respondent that the two contiguous units of land were owned by Mr Schmidt from purchase in 2012 through August of 2016 and up and until the present.

(See Exhibit number 5 the Assessors Record Sheets and testimonies by Petitioners and Respondent.

Therefore combining the actual definition of “parcel of land “ from the Development Code up and until August of 2016 along with the undisputed ownership evidence there is undisputed evidence that the two adjacent units of land from Mr. Schmidt’s purchase in 2012 (and prior) and up until August of 2016 were defined by the County as a single “parcel of land” or one parcel of land.

There was also undisputed evidence that there was continual storage on the two contiguous units of land defined by the County at the time as a “parcel of land” from 2012 up until July of 2016 and continuing until this day.

(See Petitioners exhibits and photographs which all show storage and Respondents testimony that storage had been continual on both units of land during that five-year period and continuing until today)

The primary issue to be determined, decided, and resolved from the evidence is whether the continual use of storage on the subject property cited by the County was “LEGAL” (conforming) during the time period from 2012 until August of 2016 !

There was undisputed evidence presented that the Code Section applicable from 2012 until August of 2016 and beyond was WCC section 110.306.35(b) and is as follows:

Outdoor Storage on Vacant Lots. No Outdoor storage shall occur on a vacant parcel without an existing principal use. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location

See Petitioner's exhibits of the notices and citations!

There was undisputed evidence in photographs presented by the Petitioners, by the Assessor's Record Sheets presented as Exhibit 5, by the Respondent, and by the testimony of both of the Petitioners that there was a primary use of a home on the unit of land identified as number 2 on Schmidt's Exhibit No. 10 (Schmidt's map of the two contiguous units of land identified as a single "parcel" by definition within the Development Code). With the utilization of the definition of "parcel of land" during the time period from 2012 through August of 2016 it is obvious that the "parcel" had a principle use of a house and therefore storage was a Legal Conforming Use anywhere on the "parcel" including the portion thereof that was cited by the County. Therefore applying the undisputed definition of "parcel of land" (undisputed by any evidence other than hearsay conjecture testimony by Petitioners not supported by any citations of law or fact) the undisputed trail of evidence leads to only one conclusion and that is that Mr. Schmidt had established a Legal Conforming Use of storage throughout the years from his purchase 2012 up until August 2016 at which time said storage use on the subject unit of land became LEGAL Nonconforming and said storage use is allowed to continue as a Legal Nonconforming use under the County Code provisions in regards to "grandfathering" introduced into evidence by Respondent as Exhibit 9

and now by the Case Law analysis now submitted as exhibit 16 !

There was no evidence presented that the use of storage had or has discontinued for any 12 month period. There was evidence presented by Mr. Schmidt's testimony that there was no 12 month period during any time of Mr. Schmidt's ownership of the common contiguous units of land that the storage use had been discontinued for a 12 month period. In fact the testimony was that storage was basically continuous over his time of ownership on a day to day basis. The Petitioner's own aerial photographs also support this conclusion.

Therefore it is clear from the evidence presented unrefuted and absent of any evidence to the contrary that Mr. Schmidt had established the Legal Conforming Use of storage during his ownership up and until August of 2016 and at that time the storage use became a Legal Nonconforming Use which has continued until this day without any lapse of a 12 month period.

Summarized; From the purchase of the two units of land by Schmidt which were defined by the County as a single “parcel” there existed a primary use on the “parcel” of a house and the Legal Conforming Use of storage existed throughout the “parcel”. Therefore when the definition of “parcel” changed in August of 2016 Mr Schmidt became “grandfathered in” in regards to the use of storage on both units of land or the total of the properties.

In regards to the Post Hearing Briefing Respondent would like to submit what are identified as Exhibit 16, three pages of Case Law related to the issue of “grandfathering” or the establishment of a Legal Nonconforming Use. Submitted at the hearing was the actual Washoe County Code Regulations in regards to grandfathering or Legal Nonconforming Use as Exhibit 9. Case Law had not been prepared and therefore not submitted because it was anticipated that the Petitioners would know and understand “grandfathering” or Legal Nonconforming Uses and that the actual definition or description would not be an issue. But much to Respondant’s surprise neither Petitioner was able to enter into the record any definition or description when they were repeatedly asked about “grandfathering” or Legal Nonconforming Use. Therefore Respondent feels it’s entirely appropriate that this Case Law be accepted into the Record and be considered within this format of a Post Hearing Briefing for the Hearing Officer to consider prior to any final written order !

REQUEST FOR SPECIFIC FINDINGS OF FACT

Respondent also requested to have Specific Findings of Facts. Specific Findings of Facts are requested at least in part as follows;

1 In regards to the issue of alleged improper screening of the recreational vehicle based upon a a photo taken on December 4 by the Petitioner and as is noted in the warning notice and citation Respondent believes that at the hearing it was acknowledged that that screening is no longer an issue and that portion of the citation should be dismissed.

2 Petitioner would also like to request a Specific Finding of Fact in regards to the issue of whether or not storage was ongoing on the subject Unit of Land prior to August of 2016 and subsequent to August of 2016. Respondent believes that the evidence (or lack of evidence on the part of the Petitioner) held that there was storage on the subject unit of land on the citation but that the only issue remaining in regards to the storage use was whether or not it was “legal” storage that was ongoing at any time and/or if legal storage had been established prior to August 2016 which is relevant to the establishment of a Legal Nonconforming Use after August 2016 commonly known as “grandfathering”.

3 Respondent would request a Specific Finding of Fact as to whether there was legal storage on the subject unit of land ongoing prior to August 2016 and if not what evidence was relied on to come to any finding that legal storage had not been established during that time period.

4 Petitioner would like a Specific Finding of Fact in regards to the appeal issue as to whether or not the Respondent had been illegally denied the opportunity to have these issues heard before the Board of Adjustment. Hearing Officer made claims and asserted that that issue could not be considered by the Hearing Officer even though it was listed as one of the items appealed on that Administrative Hearing Appeal form. Specific legal citations of law and analysis in a format of a Finding of Facts on this issue are here-by requested.

In addition Respondent would like to request a re-hearing or new hearing (if necessary) solely on the issue of whether or not the storage that occurred on the subject unit of land prior to August of 2016 was legal and therefore if there was a legal use of storage prior to August of 2016 and therefore the

Legal Nonconforming use of storage had been established and is “grandfathered” in.

Gary Schmidt

Respondent

April 6th, 2024

[image]

[image]

[image]

Sent from my iPhone

Solorzano, Gloria

From: gary schmidt <nobullschmidt@hotmail.com>
Sent: Wednesday, April 24, 2024 10:26 AM
To: Administrative Hearing Office
Cc: Nancy Moss-Ghusn; Mullin, Kelly D.; Farmer, Brian; Giesinger, Chad; Solaro, David; Brown, Eric P.; Herman, Jeanne
Subject: Re: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

Follow Up Flag: Follow up
Flag Status: Completed

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In a post hearing motion/briefing sent on April 8th I in part requested a re-hearing or new hearing as follows:

“In addition Respondent would like to request a re-hearing or new hearing (if necessary) solely on the issue of whether or not the storage that occurred on the subject unit of land prior to August of 2016 was legal and therefore if there was a legal use of storage prior to August of 2016 and therefore the Legal Nonconforming use of storage had been established and is “grandfathered” in.”

I have not received a response to this request as of yet ! It would appear to me that until I receive a rehearing or a denial of my request for a re-hearing on this particular issue this entire matter is still pending before the Administrative Hearing Officer ! I also hereby assert that the “Findings of fact” are still incomplete at this time !

Gary Schmidt
Respondent

Sent from my iPhone

On Apr 8, 2024, at 10:41 AM, Administrative Hearing Office <AHO@washoecounty.gov> wrote:

Good morning, this has been received and added to the record if the case.

Thank you

[cid:image001.png@01DA89A1.1CEF8490]

Shelby C.

Criminal Division Supervisor | Reno Justice Court

Office: 775-325-6500 | Fax: 775-325-6510

RJCCriminal@washoecounty.us

Physical Address: 1 South Sierra Street, Reno, NV 89501

www.washoecounty.us/rjc/<https://na01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.washoecounty.us%2Frjc%2F&data=05%7C02%7C%7Ca1a27d8cfc7a438d3c6b08dc57f30ed4%7C84df9e7fe9f640afb435aaaaaaaaaaaa%7C1%7C0%7C638481948988038767%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6lk1haWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=qJEJZz0bkjR2T2oX25jZWRXWFGNMrxSRZPbq%2B7Zgp8o%3D&reserved=0>

From: gary schmidt <nobullschmidt@hotmail.com>

Sent: Monday, April 8, 2024 8:28 AM

To: Nancy Moss-Ghusn <nmg416@gmail.com>; Administrative Hearing Office <AHO@washoecounty.gov>; Mullin, Kelly D. <KMullin@washoecounty.gov>; Farmer, Brian <BFarmer@washoecounty.gov>; Giesinger, Chad <CGiesinger@washoecounty.gov>; Solaro, David <DSolaro@washoecounty.gov>; Brown, Eric P.

<EPriceBrown@washoecounty.gov>; Herman, Jeanne <JHerman@washoecounty.gov>

Subject: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

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Washoe County Community Service

Code Enforcement

VS

DPG Schmidt

Gary Schmidt

Case No WVIO-PLA23-0127

Administrative Hearing Office

Reno Justice court

Respondent, Schmidt hear-by submits this Post Hearing Briefing and request for Specific Findings of Fact

POST HEARING BRIEFING

There is unrefuted evidence presented by the Respondent that the definition of “parcel of land” contained within the Washoe County Development Code in 1996 and in 2012 when Schmidt purchased the two combined units of land and up and until the passage of the new Code in August of 2016 was

“Parcel of Land. Parcel of land means any unit or continuous units of land in the possession of or recorded as the property of one person.

(see definition included in the Harper Interpretation in 1996 that was presented by the Petitioner as evidence (110.902.15) and also contained within the Staff Report (Exhibit 1 pp 9) dated July 15 of 2016 authored by Kelly Mullin at the time a Planner and the definition excerpt from the Washoe County Development Code in July of 2016 presented by Respondent as Exhibit # 11. Also there was NO evidence presented by the Petitioners to the contrary !! Only “word solid“ and “opinion” as to how the word “parcel” had been used by the Community Service’s Department for years with absolutely no evidence presented as to whether they were using the proper definition during that time. To the contrary, undisputed evidence was presented that they had been misapplying a generic or assessors office definition of a “parcel of land” during that entire decade and perhaps for decades before and ignoring the actual LEGAL definition contained within the Washoe County Development Code at that time. The improper use of a definition in conflict with the definition that is actually in Code does not create validity of that use. Also the County is not permitted to create their own definition or pull one from somewhere else such as the Assessors Office just because they do not like the one that is in Code or perhaps they never bothered to even check the definitions that were in Code which failure to check the

definition that was in Code is exactly what may have happened. By their own admission under oath in the hearing when questioned by the Respondent they both made adverse admissions that they had never checked the Washoe County Development Code for a definition of “parcel” or “lot” and they could not give one. Additionally, if it would be unclear to anyone or if one thinks there is any ambiguity (which I do not) the call goes against the person or entity that drafted all the language because they had the responsibility to make the language clear and complete !

There was undisputed evidence presented by both the Petitioner and by the Respondent that the two contiguous units of land were owned by Mr Schmidt from purchase in 2012 through August of 2016 and up and until the present.

(See Exhibit number 5 the Assessors Record Sheets and testimonies by Petitioners and Respondent.

Therefore combining the actual definition of “parcel of land “ from the Development Code up and until August of 2016 along with the undisputed ownership evidence there is undisputed evidence that the two adjacent units of land from Mr. Schmidt’s purchase in 2012 (and prior) and up until August of 2016 where defined by the County as a single “parcel of land” or one parcel of land.

There was also undisputed evidence that there was continual storage on the two contiguous units of land defined by the County at the time as a “parcel of land” from 2012 up until July of 2016 and continuing until this day.

(See Petitioners exhibits and photographs which all show storage and Respondents testimony that storage had been continual on both units of land during that five-year period and continuing until today)

The primary issue to be determined, decided, and resolved from the evidence is whether the continual use of storage on the subject property cited by the County was “LEGAL” (conforming) during the time period from 2012 until August of 2016 !

There was undisputed evidence presented that the Code Section applicable from 2012 until August of 2016 and beyond was WCC section 110.306.35(b) and is as follows:

Outdoor Storage on Vacant Lots. No Outdoor storage shall occur on a vacant parcel without an existing principal use. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location

See Petitioner's exhibits of the notices and citations!

There was undisputed evidence in photographs presented by the Petitioners, by the Assessor's Record Sheets presented as Exhibit 5, by the Respondent, and by the testimony of both of the Petitioners that there was a primary use of a home on the unit of land identified as number 2 on Schmidt's Exhibit No. 10 (Schmidt's map of the two contiguous units of land identified as a single "parcel" by definition within the Development Code). With the utilization of the definition of "parcel of land" during the time period from 2012 through August of 2016 it is obvious that the "parcel" had a principle use of a house and therefore storage was a Legal Conforming Use anywhere on the "parcel" including the portion thereof that was cited by the County. Therefore applying the undisputed definition of "parcel of land" (undisputed by any evidence other than hearsay conjecture testimony by Petitioners not supported by any citations of law or fact) the undisputed trail of evidence leads to only one conclusion and that is that Mr. Schmidt had established a Legal Conforming Use of storage throughout the years from his purchase 2012 up until August 2016 at which time said storage use on the subject unit of land became LEGAL Nonconforming and said storage use is allowed to continue as a Legal Nonconforming use under the County Code provisions in regards to "grandfathering" introduced into evidence by Respondent as Exhibit 9

and now by the Case Law analysis now submitted as exhibit 16 !

There was no evidence presented that the use of storage had or has discontinued for any 12 month period. There was evidence presented by Mr. Schmidt's testimony that there was no 12 month period during any time of Mr. Schmidt's ownership of the common contiguous units of land that the storage use had been discontinued for a 12 month period. In fact the testimony was that storage was basically continuous over his time of ownership on a day to day basis. The Petitioner's own aerial photographs also support this conclusion.

Therefore it is clear from the evidence presented unrefuted and absent of any evidence to the contrary that Mr. Schmidt had established the Legal Conforming Use of storage during his ownership up and until August of 2016 and at that time the storage use became a Legal Nonconforming Use which has continued until this day without any lapse of a 12 month period.

Summarized; From the purchase of the two units of land by Schmidt which were defined by the County as a single “parcel” there existed a primary use on the “parcel” of a house and the Legal Conforming Use of storage existed throughout the “parcel”. Therefore when the definition of “parcel” changed in August of 2016 Mr Schmidt became “grandfathered in” in regards to the use of storage on both units of land or the total of the properties.

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REQUEST FOR SPECIFIC FINDINGS OF FACT

Respondent also requested to have Specific Findings of Facts. Specific Findings of Facts are requested at least in part as follows;

1 In regards to the issue of alleged improper screening of the recreational vehicle based upon a photo taken on December 4 by the Petitioner and as is noted in the warning notice and citation Respondent believes that at the hearing it was acknowledged that that screening is no longer an issue and that portion of the citation should be dismissed.

2 Petitioner would also like to request a Specific Finding of Fact in regards to the issue of whether or not storage was ongoing on the subject Unit of Land prior to August of 2016 and subsequent to August of 2016. Respondent believes that the evidence (or lack of evidence on the part of the Petitioner) held that there was storage on the subject unit of land on the citation but that the only issue remaining in regards to the storage use was whether or not it was “legal” storage that was ongoing at any time and/or if legal storage had been established prior to August 2016 which is relevant to the establishment of a Legal Nonconforming Use after August 2016 commonly known as “grandfathering”.

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Gary Schmidt

Respondent

April 6th, 2024

[image]

Solorzano, Gloria

From: Administrative Hearing Office
Sent: Tuesday, March 26, 2024 3:14 PM
To: NM G
Cc: NM Ghush
Subject: FW: Motion WVIO-PLA23-0127/ WCAH2024-000001- Schmidt, Gary

Hello,

Please see the attached email received from Mr. Schmidt.

Thank you,



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

From: gary schmidt <nobullschmidt@hotmail.com>

Sent: Tuesday, March 26, 2024 11:19 AM

To: Administrative Hearing Office <AHO@washoecounty.gov>; Brown, Eric P. <EPriceBrown@washoecounty.gov>; Solaro, David <DSolaro@washoecounty.gov>; Giesinger, Chad <CGiesinger@washoecounty.gov>; Farmer, Brian <BFarmer@washoecounty.gov>; Herman, Jeanne <JHerman@washoecounty.gov>; Mullin, Kelly D. <KMullin@washoecounty.gov>; ecrump@washoe.gov

Subject: Motion WVIO-PLA23-0127

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MOTION TO DISMISS

Washoe County Community Service Code Enforcement VS

**DPG Schmidt
Gary Schmidt**

**Case No WVIO-PLA23-0127
Administrative Hearing Office
Reno Justice court**

MOTION

Respondent, Gary Schmidt, hereby moves for a pre hearing dismissal of this action with prejudice based on the egregious violations of the due process to which Respondent is entitled based on the following facts, evidence, assertions, and arguments.

1. As previously noted, the phone number that is listed as a contact for the Administrative Hearing Office on the notice form is dysfunctional. I called that number probably a dozen times over a 10 day period prior to the hearing originally scheduled for February 16th, 2024 and never received a response. However, whoever administrates for the Administrative Hearing Office did find the time to respond to my public records requests for copies of the phone messages that I made within some of the messages and supply me with copies of the messages which I have attached to this motion. While

they could not find the time or the inclination to return my call and engage in a conversation about the process they did have the time to email me copies of my own messages which records request I made within the messages I left also requesting information and a return call which I never received. Subsequent to the phone calls I made to the dysfunctional phone number up until the hearing which occurred on February 16 and was continued I have made again numerous calls to that number up until and including on March 25. The phone number remains dysfunctional ! It goes automatically to a message that says the responsible party is on the phone. Again numerous messages were left. I finally did receive a return call on March 25th but it was from the Justice Court and they were able to answer some of my questions but not all. It is particularly egregious that upon multiple notices the Administrative Hearing Office has failed to correct the deficiencies in that phone number. This alone should be just cause for dismissal of this action with prejudice because of blatant violation of Due Process. There must be consequences for dysfunctional government !

2. As previously noted, the Justice Court and/or the Administrative Hearing Office required myself, the respondent, to file exhibits using a standard court index and standard court cover pages while no such requirement was made of the Petitioner or the County or

of themselves in essence. Effectively, the County requires the respondent to comply with a particular format for filing exhibits that they do not comply with themselves. The County exhibits I received did not have cover pages for each exhibit and were run-on and printed on two sides of the page with no proper indexing/cover sheets on the actual documents and are very confusing to use. I am not in disagreement with the requirement of a proper standardized index page and cover sheets and page numbering but I emphatically believe that the County should comply with their own standards. This blatant and egregious and arrogantly omnipotent violation of Due Process alone should justify dismissal with prejudice at this time. Now, over 5 weeks later, the County has still not provided me with properly formatted exhibits as was demanded of me.

3. The language on the notice that there would be a zoom hearing conducted seems to imply that that's the only option. There is no statement on that notice informing the respondent that he/she has the opportunity and the right to request an in-person hearing or obviously no information on how that request could be made. There is also no authority listed in regards to the noticing of a zoom hearing as an alternative to an in-person hearing. The form should be updated. The Judge/Hearing Officer as much as acknowledged these deficiencies by making a statement on the record that

“the whole process is a work in progress and needs improvement”. I have not been provided any notice of any updated/corrected form.

4. The address for the Administrative Hearing Office on the notice form was number 1 Sierra Street. However, when I went to the court complex building at that address on Monday, February 12th, after not receiving any return calls from my multiple calls to the dysfunctional phone number, the first eight or nine people I inquired of had no idea where any Administrative Hearing Office might be in that building. I spent over an hour searching and sometimes having to take a number to wait in line to ask a question from which I received no viable information. While inquiring as to where it might be I even called the dysfunctional number for the Administrative Hearing Office from inside the court complex leaving a message again that I was on site at Number 1 Sierra Street and couldn't find their office. A recording of that phone call is included with this motion. Ultimately it was determined that the Administrative Hearing Office is not at Number 1 Sierra Street it is at the County Manager's Office on 9th Street. Ultimately I was able to determine that while the office is not at Number 1 Sierra Street the Justice Court at that location performs a service for the Administrative Hearing Office process. The form notice of the location of the Administrative Hearings should be corrected and

made more explicit and in addition there should be some specific information on the notice form as to the function of the Justice Court in the Administrative Hearing process. Also there should be some signage within the court complex building such as on the directory board, which I found none, directing people to the Justice Court Counter for any inquiries about Administrative Hearings. As of Wednesday March 6th there was still no signage or posted information on the directories board or elsewhere in the lobby giving anyone any information where to go or what to do to make inquiries about the Administrative Hearing Process. On that day, March 6th, I again made a complaint to the Assistant Justice Court Administrator about the lack of signage or directory information.

5. Because my timely request for an in-person hearing, which was made 8 days prior to the scheduled hearing, was not considered prior to the scheduled zoom hearing date I therefore had to arrange for all my witnesses to attend either in person or on zoom at the zoom hearing that was scheduled for Friday, the 16th of February. Had my request for an in-person hearing been considered and granted PRIOR to the scheduled zoom hearing date all these witnesses, including the County's, would not have suffered the inconvenience of having to appear on the 16th and then also now having to appear again at an

in-person hearing to be scheduled later, in this case on April 5. While the County may argue that it's not their fault that the witnesses are inconvenienced twice it is indeed THE COUNTY'S FAULT because there was no information provided even when repeatedly requested on how to request an in-person hearing but indeed the in-person hearing was requested 8 days before the scheduled hearing. If such information had been published on notices or made available timely the request could have been made with more confidence and dealt with in advance. The argument that "well we're all here today at the hearing on the 16th of February so it's not our fault that everybody's going to be inconvenienced and have to return again because you (the Respondent) could avoid that by just proceeding with the zoom hearing today" is circular reasoning. Myself, the respondent, am entitled to an in-person hearing and I should not be forced via the back door into participating in a zoom hearing in order to avoid the double inconvenience of witnesses attending twice. That double inconvenience is as a direct result of inefficiencies or indeed perhaps malfeasance on the part of the County and/or the Administrative Hearing Office personnel. Additionally, a copy of the recorded phone messages attached is evidence that a request for an in-person hearing was made at least eight days prior to the scheduled zoom date. Not only did the County

and/or the Administrative Hearing Office fail to respond to that request they also failed to acknowledge or notice at the hearing on February 16th that that request had been made via phone message on February 8th. The County in essence withheld exculpatory evidence from the hearing on the 16th in regards to the timely request for an in-person hearing. These combined failings, in my strong opinion, constitute malfeasance and very egregious violations of Due Process. Said “actions and failures to act” I assert warrant a dismissal of this action with prejudice.

I would also like to note for the record that dismissing this particular hearing with prejudice is not a significant act of any great consequence to the Public or to the County. Dismissal at this time itself will just clean up the process. For the record, I still am under the opinion that at this time and on December 12 when the citation was issued that I was and am in total compliance with any Development Code or Nuisance regulations. I believe that the notice of violation was issued in an abusive act of prejudice and retaliation and harassment against me because of my calling before the public certain malfeasance and miss-doings of the County in conspiracy with the Gerlach General Improvement District in another matter. If the Court were to grant this request for dismissal with prejudice it only dispenses of

this particular Notice of Violation with prejudice. The County would be free, if they are so inclined and if they allege there are any remaining violations, to go back out and re-notice a new Warning Notice and then ultimately issue a new Notice of Violation on the property for any violation they think still exists which I believe is none. So if the County was so inclined they could start the process all over and if they so chose at least perhaps it would proceed under a proper process which is due to me i.e. Due Process. HOPEFULLY in the meantime as suggested by the Hearing Officer/Judge herself and by James Conway the Reno Justice Court Administrator, someone could;

1. Update and improve the notice forms to properly identify the address of the Administrative Hearing Office and the function of the Justice Court in assisting the administration of hearings.

2. Include on the updated notice form information in regards to how the Respondent may request an in-person hearing if they so were inclined.

3. Get a working information number in place that is responded to within 24 hours.

4. Include on the notice how to get information about filing exhibits, calling or scheduling witnesses, and filing pre-hearing motions or notices.

5. Make the same requirements of the County in regards to the filing of exhibits as is demanded of the Respondent.

6. Identify the Hearing Officer at least ten calendar days in advance !!

At the hearing on the 16th of February the respondent Mr. Schmidt's, myself's, microphone was muted by "Gloria" for reasons unknown without direction from the Hearing Officer/ Judge and without notice to the Hearing Officer/Judge or Mr. Schmidt. Mr. Giesinger repeatedly talked over the Judge and interrupted the Judge and interrupted the respondent, Mr Schmidt. Mr. Giesinger's microphone was never muted. We would be of the opinion that it is the Judge/Hearing Officer that should be in control of any muting of anybody to create at least a impression of a more fair process. I believe this demonstrated a level of prejudice by a facilitator of the process, Gloria, against the respondent, Mr. Schmidt. In any event certainly it demonstrated a violation of the fair process that is due.

Additionally, one of the reasons I had originally requested an additional 30 day extension from the County in regards to the initial warning notice was that I was attempting to meet with the Community Service Director, Kelly Mullen, to discuss the issues as Chad

Gisinger would not even look at my documentation or his own documentation and exhibits and follow the facts where they led. As I said in one of my emails to Gisinger that it appeared his mind was made up and he didn't want to be confused by facts. I was hoping that Kelly Mullen, the Director, might be more amicable to reasonable discussion of the matter and any issues remaining and perhaps things could be resolved short of a hearing process. David Solaro, Assistant County Manager, is not an option because he is a principal target in our claims and possible action against the County in another matter for conspiracy with the GGID Board. Another option beyond Ms. Mullin would be with Eric Brown, the County Manager. I believe two of the County Commissioners, the only two I have discussed this matter with, understand my arguments and support them. There is also now a new Director of Community Services who I have reached out to. In essence, I believe there is still a window of opportunity to settle this matter short of the hearing process which if said hearing process is ultimately needed may possibly lead to further judicial filings and processes. I don't think there is any prospect of resolving issues with further discussions with Mr. Gisinger as I read it because of the arrogant, condescending, omnipotent, demeaning, attitude he has demonstrated. I believe the Court witnessed and experienced a little bit of that at the

hearing when he interrupted the Hearing Officer/Judge and spoke over her and never addressed her respectfully as he also did the same to myself, Gary Schmidt. The video recording of the hearing speaks for itself and it's being widely publicized.

In conclusion, I think it would be extremely wise and prudent to dismiss and dispose of this matter at this time and allow myself, the respondent, time to meet with Kelly Mullin or the new Director of Community Services and potentially Eric Brown the County Manager to discuss resolution of the matters and to give the County Code Enforcement Department time to reinspect and reconsider and if they so desire they can reissue a notice of violation and then the hearing process could move forward again without the cloud of all the Due Process violations from the first hearing moving forward in the process. There could be a clean clear hearing on any remaining alleged code infraction issues without the side show of all the Due Process violations. It would also give the County and the Administrative Hearing Office time to “clean up their act” and improve the process which was acknowledged at the hearing on the 16th of February that there was need for.

Gary Schmidt Respondent

Solorzano, Gloria

From: Patricia Halstead <phalstead@halsteadlawoffices.com>
Sent: Monday, February 12, 2024 4:56 PM
To: Administrative Hearing Office
Subject: RE: Administrative Hearing for Gary Schmidt WVIO-PLA23-0127 / WCAH2024-000001

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Yes, I've received the below email only as of yet.

Kindest regards,

Patricia Halstead, Esq.
615 S. Arlington Avenue
Reno, NV 89509
(775) 322-2244
(775) 465-4144 - facsimile
www.halsteadlawoffices.com

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From: Administrative Hearing Office <AHO@washoecounty.gov>
Sent: Monday, February 12, 2024 4:52 PM
To: Patricia Halstead <phalstead@halsteadlawoffices.com>
Subject: Administrative Hearing for Gary Schmidt WVIO-PLA23-0127 / WCAH2024-000001

Hello,

Please confirm that you have received the attached Exhibits 1 – 5.

Thank you!



Ada

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

Solorzano, Gloria

From: Farmer, Brian
Sent: Tuesday, February 13, 2024 8:07 AM
To: Administrative Hearing Office; Giesinger, Chad
Subject: Re: Administrative Hearing for Gary Schmidt WVIO-PLA23-0127 / WCAH2024-000001

Received

From: Code-Enforcement <Code-Enforcement@washoecounty.gov>
Sent: Tuesday, February 13, 2024 7:07:14 AM
To: Farmer, Brian <BFarmer@washoecounty.gov>
Subject: Fwd: Administrative Hearing for Gary Schmidt WVIO-PLA23-0127 / WCAH2024-000001

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From: Administrative Hearing Office <AHO@washoecounty.gov>
Sent: Monday, February 12, 2024 4:52:56 PM
To: Code-Enforcement <Code-Enforcement@washoecounty.gov>; Giesinger, Chad <CGiesinger@washoecounty.gov>
Subject: Administrative Hearing for Gary Schmidt WVIO-PLA23-0127 / WCAH2024-000001

Hello,

Please confirm that you have received the attached Exhibits 1 – 5.

Thank you!



Ada

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

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WASHOE COUNTY
ADMINISTRATIVE HEARING OFFICE

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Exhibit Cover Page

EXHIBIT NUMBER 1



WASHOE COUNTY

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CM/ACM	_____
Finance	_____
DA	_____
Risk Mgt.	N/A
Comptroller	_____
Clerk	_____

STAFF REPORT
BOARD MEETING DATE: August 9, 2016

DATE: July 15, 2016

TO: Board of County Commissioners

FROM: Kelly Mullin, Planner, Planning and Development Division, Community Services Department, 328-3608, kmullin@washoecounty.us

THROUGH: William H. Whitney, Division Director, Planning and Development Community Services Department, 328-3617, bwhitney@washoecounty.us

SUBJECT: Hearing and possible action to conduct a second reading and adopt an ordinance amending Washoe County Code Chapter 110 (Development Code) to clarify when an accessory structure or use may be constructed on a parcel without an existing main structure or an existing principal use. The amendment focuses on circumstances where the subject parcel is adjacent to a parcel with an existing main structure or principal use and when both parcels are under the same ownership. The amendment includes updates to the following sections of the Development Code:

- Article 306, Accessory Uses and Structures, Section 110.306.15, *Main Structures Required* – to identify the circumstances under which an accessory structure or use may be established on a parcel without an existing main structure or an existing principal use.
- Article 410, Parking and Loading, Section 110.410.20, *Location of Required Parking Spaces* – to clarify that a dwelling’s required garage may only be located on an adjoining lot if it also meets the requirements of Section 110.306.15.
- Article 902, Definitions, Section 110.902.15, *General Definitions* – to update definitions for “Detached accessory structure,” “Lot” and “Parcel of land” to better reflect the proposed code amendments identified above.

(Bill No. 1768)
 (All Commission Districts.)

SUMMARY

Clarify and codify the contents of Interpretation 96-4 (Location of detached accessory structures) by allowing for an accessory structure or use to be established on vacant land where there is an existing main use or structure on adjacent land under the same ownership; putting in place mechanisms to prevent the potential for associated code

AGENDA ITEM #

WVIO-PLA23-0127
EXHIBIT C



nonconformance situations by requiring the recordation of a deed restriction requiring that the parcels remain under common ownership unless they are brought into conformance with general rules regarding accessory structures; clarifying when a garage on an adjacent property can be used to satisfy a dwelling's parking requirements; updating associated definitions within the Development Code to reflect these clarifications; and, making other amendments necessarily connected therewith and pertaining thereto.

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

PREVIOUS ACTION

The Washoe County Planning Commission initiated Development Code Amendment Case Number DCA16-002, with changes to Article 306, *Accessory Uses and Structures*, Article 410, *Parking and Loading* and Article 902, *Definitions* on March 1, 2016 by Resolution Number 16-02.

The Washoe County Planning Commission recommended approval of DCA16-002 on June 7, 2016 by Resolution Number 16-07 (see Attachment A).

The Washoe County Board of Commissioners introduced and held a first reading of DCA16-002 on July 26, 2016.

BACKGROUND

In general, the Development Code does not allow accessory structures or uses on parcels without an existing main structure or existing principal use except under a few specific circumstances. As identified in Interpretation 96-4, *Location of detached accessory structures and garages*, one of those circumstances is when an accessory structure is placed on a vacant parcel adjacent to another parcel with an established principal use and both parcels are under the same ownership (see Attachment C). However, allowing the structure to be constructed under these circumstances can later lead to nonconformance and a code violation if either of the parcels is sold – thereby violating the requirement for same ownership established in the interpretation. Such a transaction would create a parcel with an accessory structure but no associated main structure or principal use on the parcel, which violates WCC Section 110.306.15, *Main Structures Required*.

This Development Code amendment seeks to codify and clarify the contents of Interpretation 96-4 as well as to put in place mechanisms to prevent the potential for the code nonconformance/violation situation identified above. Should the Board adopt the proposed code amendments, Interpretation 96-4 will be removed from the Development Code.

The proposed amendment modifies Development Code regulations within Article 306, *Accessory Uses and Structures*, Article 410, *Parking and Loading*, and Article 902, *Definitions* and includes the following changes:

1. Article 306, Accessory Uses and Structures

Clarify that, in order to construct an accessory structure on a parcel without an existing main structure or existing principal use, the following requirements must be met:

- the proposed accessory structure or use must be located on a lot adjacent to another lot that contains an existing main structure or principal use;
- both lots must be under the same ownership;
- both lots must have the same regulatory zone; and,
- a deed restriction must have been recorded stipulating that neither lot can be sold until any nonconformance or violation resulting from such a sale has been resolved.

Note – to resolve potential nonconformance violation concerns, property owners would have a wide variety of possible remedies, including, but not limited to: reversion to acreage combining the two lots into one; boundary line adjustment resulting in the main structure (or principal use) and accessory structure being located on the same lot; removing the accessory structure; constructing a main structure or establishing a principal use on the same lot as the accessory structure; converting the accessory structure into a main structure; or bonding for the removal of the accessory structure if the new owner does not establish a main structure or principal use on the property within a specified period of time.

2. Article 410, Parking and Loading

Clarify that a dwelling's required garage may only be located on an adjoining lot if it also meets the requirements of Section 110.306.15, *Main Structures Required*.

3. Article 902, Definitions

Update the definitions of "Detached Accessory Structure," "Lot," and "Parcel of Land" to better reflect the proposed code amendments identified above.

The language of the proposed amendments is provided in Attachment B.

Washoe County Code Section 110.818.35 requires the Board affirm, modify or reject the findings of fact made by the Planning Commission (PC) when adopting the ordinance for any Development Code amendment. The Board may also add any other findings of fact that they deem to be relevant as part of their adoption. The four findings of fact made by the PC during their recommendation for approval of DCA16-002 are included within Resolution 16-07 (Attachment A). Those findings of fact are included below:

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.
4. No Adverse Effects. 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.

FISCAL IMPACT

No fiscal impacts are anticipated.

RECOMMENDATION

It is recommended that the Board of County Commissioners hold a second reading and adopt an ordinance amending Washoe County Code Chapter 110 (Development Code) within Article 306, *Accessory Uses and Structures*, Article 410, *Parking and Loading* and Article 902, *Definitions* to identify the circumstances under which an accessory structure or use may be established on a parcel without an existing main structure or an existing principal use; to clarify that a dwelling's required garage may only be located on an adjoining lot if it also meets the requirements of WCC Section 110.306.15; and to update definitions for "Detached accessory structure," "Lot" and "Parcel of land" to better reflect those clarifications.

It is further recommended that the Board affirm the four findings of fact that the Washoe County Planning Commission made on June 7, 2016 as recorded within Resolution Number 16-07 (Attachment A).

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be:

"Move to adopt Ordinance Number (insert ordinance number as provided by the County Clerk) and affirm the four findings of fact that the Washoe County Planning Commission made on June 7, 2016, as recorded within Resolution 16-07 and attached to the staff report for this item."

- Attachments:
- A. Planning Commission Resolution 16-07
 - B. Working copy, DCA16-002 (WCC Chapter 110 amendments)
 - C. Development Code Interpretation 96-4, *Location of detached accessory structures and garages*



RESOLUTION OF THE WASHOE COUNTY PLANNING COMMISSION

RECOMMENDING APPROVAL OF AMENDMENTS (DCA16-002) TO THE WASHOE COUNTY CODE AT CHAPTER 110 (DEVELOPMENT CODE) WITHIN ARTICLE 306, ACCESSORY USES AND STRUCTURES, AT SECTION 110.306.15, MAIN STRUCTURES REQUIRED TO ALLOW AN ACCESSORY STRUCTURE OR USE ON A PARCEL THAT DOES NOT HAVE A MAIN STRUCTURE OR USE, WHEN ADJACENT TO A PARCEL WITH AN MAIN STRUCTURE OR USE AND WHEN BOTH PARCELS ARE UNDER THE SAME OWNERSHIP, SUBJECT TO THE RECORDATION OF A DEED RESTRICTION; WITHIN ARTICLE 410, PARKING AND LOADING AT SECTION 110.410.20(C), LOCATION OF REQUIRED PARKING SPACES TO CLARIFY THAT A GARAGE ON AN ADJACENT LOT MAY ONLY BE USED TO SATISFY A DWELLING'S PARKING REQUIREMENTS IF IT IS ALSO IN COMPLIANCE WITH SECTION 110.306.15; WITHIN ARTICLE 902, DEFINITIONS AT SECTION 110.902.15, GENERAL DEFINITIONS TO UPDATE THE DEFINITIONS OF "DETACHED ACCESSORY STRUCTURE," "LOT" AND "PARCEL OF LAND" TO BETTER REFLECT THE CLARIFICATIONS IDENTIFIED ABOVE.

Resolution Number 16-07

WHEREAS

- A. Development Code Amendment Case Number DCA16-002, came before the Washoe County Planning Commission for a duly noticed public hearing on June 7, 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. A public workshop was held May 12, 2016 in order to seek feedback from the public regarding the proposed Development Code amendment; and
- D. The Washoe County Planning Commission gave reasoned consideration to the information it received regarding the proposed Development Code amendment; and
- E. 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 DCA16-002:
 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 Effects. 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.

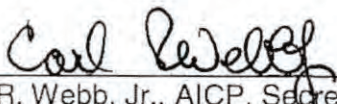
NOW, THEREFORE, BE IT RESOLVED that pursuant to Washoe County Code Section 110.818.15(d) and (g):

1. The Washoe County Planning Commission does hereby recommend APPROVAL of DCA16-002, an amendment to the Washoe County Code at Chapter 110 (Development Code) within Article 306, *Accessory Uses and Structures*, at Section 110.306.15, *Main Structures Required* to allow an accessory structure or use on a parcel that does not have a main structure or use, when adjacent to a parcel with an main structure or use and when both parcels are under the same ownership, subject to the recordation of a deed restriction; within Article 410, *Parking and Loading* at Section 110.410.20(c), *Location of Required Parking Spaces* to clarify that a garage on an adjacent lot may only be used to satisfy a dwelling's parking requirements if it is also in compliance with Section 110.306.15; within Article 902, *Definitions* at Section 110.902.15, *General Definitions* to update the definitions of "Detached Accessory Structure," "Lot" and "Parcel of Land" to better reflect the clarifications identified above; and,
2. A report describing this amendment, discussion at this public hearing, this recommendation, and the vote on the recommendation will be forwarded to the Washoe County Board of Commissioners within 60 days of this resolution's adoption date.

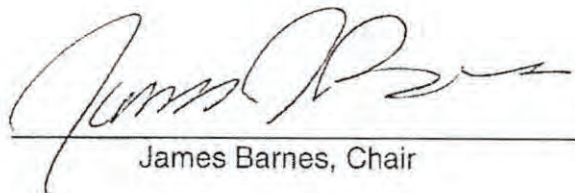
ADOPTED on June 7, 2016.

WASHOE COUNTY PLANNING COMMISSION

ATTEST:



Carl R. Webb, Jr., AICP, Secretary



James Barnes, Chair

DRAFT: May 23, 2016

DCA16-002

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: Clarify and codify the contents of Interpretation 96-4 (Location of detached accessory structures) by allowing for an accessory structure or use to be established on vacant land under specific circumstances; put in place mechanisms to prevent the potential for associated code nonconformance situations by requiring the recordation of a deed restriction; clarify when a garage on an adjacent property can be used to satisfy a dwelling's parking requirements; and update associated definitions within the Development Code to reflect these clarifications.

BILL NO. _____

ORDINANCE NO. _____

TITLE:

An ordinance amending the Washoe County Code at Chapter 110 (Development Code) within Article 306, *Accessory Uses and Structures*, at Section 110.306.15, *Main Structures Required* to allow an accessory structure or use on a parcel that does not have a main structure or use when adjacent to a parcel with a main structure or use and when both parcels are under the same ownership, subject to the recordation of a deed restriction; within Article 410, *Parking and Loading* at Section 110.410.20(c), *Location of Required Parking Spaces* to clarify that a garage on an adjacent lot may only be used to satisfy a dwelling's parking requirements if it is also in compliance with Section 110.306.15; within Article 902, *Definitions* at Section 110.902.15, *General Definitions* to update the definitions of "Detached Accessory Structure," "Lot" and "Parcel of Land" to better reflect the clarifications identified above; and other matters necessarily connected therewith and pertaining thereto.

WHEREAS:

- A. The Washoe County Planning Commission initiated the proposed amendments to Washoe County Code Chapter 110, Development Code, by Resolution Number 16-02 on March 1, 2016; the amendments and this ordinance were drafted in conjunction with the District Attorney; the Planning Commission held a duly noticed public hearing for DCA16-002 on June 7, 2016, and adopted Resolution Number 16-07 recommending adoption of this ordinance; and,
- B. 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
- C. This Board of County Commissioners has determined that this ordinance is being adopted pursuant to requirements set forth in Chapter 278 of NRS, and is therefore 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 110.306.15 is hereby amended to read as follows:

Section 110.306.15 Main Structures Required. ~~Except as otherwise provided in Section 110.330.55, Agricultural Buildings, it is unlawful to construct, erect or locate private garages or other accessory structures and/or uses in any Rural, Suburban or Urban Residential Regulatory Zone, including the General Rural Agricultural (GRA) Regulatory Zone, on any lot without an existing main structure and/or existing principal use as provided for under Article 302, Allowed Uses, except under the following circumstances:-~~

- (a) The structure complies with the provisions of Section 110.330.55, Agricultural Buildings; or
 - (b) The proposed accessory structure or use is located on a lot adjacent to another lot that contains an existing main structure or principal use, is under the same ownership, has the same regulatory zone
- and

A deed restriction has been filed with the Washoe County Recorder's Office stipulating that neither lot can be sold separately until the accessory structure or use otherwise allowed under this section is removed, terminated, or any nonconformance resulting from such a sale has been resolved. The deed restriction shall be executed on a form provided by the County through the Planning and Development Division, and the deed restriction shall make the County an intended third party beneficiary with the right, but not the obligation, to enforce its provisions. No accessory structure or use otherwise allowed under this section is allowed until the required deed restriction is executed and recorded

against the property that will contain the accessory structure or use and against any other adjacent parcel under the same ownership that is used to satisfy the provisions of this paragraph, as well as any adjacent parcel under the same ownership that will be served by the accessory structure or use. For the purposes of this section, a parcel is under the same ownership if at least one of the owners of each parcel involved is the same.

SECTION 2. Section 110.410.20 is hereby amended to read as follows:

Section 110.410.20 Location of Required Parking Spaces. Required parking spaces shall be located as set forth in this section.

- (a) On Same or Adjacent Lot. For dwellings, motels, automobile-oriented services, and elementary, junior high, and high schools, required parking spaces shall be provided on the same lot as the main building(s) or on an adjoining lot or lots zoned for the main use of the property.
- (b) Other Uses. For uses not listed in Subsection (a) above, required parking spaces shall be located within three hundred (300) feet of the lot on which the main building is located.
- (c) Adjacent and Off-site Lots. If an adjacent or off-site lot is used to satisfy the parking requirements, the lot(s) shall be secured in such a manner that will provide parking for the life of the project. This Requirement does not preclude the use of reciprocal parking agreements, so long as the agreement is in a form acceptable to Washoe County. **A garage on an adjacent lot may only be used to satisfy a dwelling's parking requirements if it also complies with the provisions of Section 110.306.15.**

SECTION 3. The definitions of "Detached Accessory Structure," "Lot" and "Parcel of Land" as found in Section 110.902.15 are hereby amended to read as follows:

Detached Accessory Structure. **Except as provided for under Section 110.306.15,** "Detached accessory structure" means a building or structure on the same lot as the main residential structure and devoted to a use incidental to that main residential structure. A detached accessory structure is not designed, configured, or used for human habitation. The detached accessory structure may be connected to water and wastewater systems subject to the recordation of a deed restriction prohibiting the use of the structure as a dwelling unit. Installation of both a kitchen and a toilet in a detached accessory structure shall render the structure as a dwelling unit and subject to the accessory dwelling unit provisions contained in Article 306, Accessory Uses and Structures. Typical uses include storage buildings, sheds, barns, and detached garages.

Lot. "Lot" means a distinct part or parcel of land divided with the intent to transfer ownership or for building purposes, and which abuts upon a permanent means of access **and is assigned a single parcel number by the Washoe County Assessor's Office.**

Parcel of Land. "Parcel of land" means any unit or contiguous units of land ~~in the possession of or recorded as the property of one person~~ **assigned a single parcel number by the Washoe County Assessor's Office.**

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 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.

DRAFT: May 23, 2016

Passage and Effective Date

This ordinance was proposed on _____ by Commissioner _____.

This ordinance was passed on _____.

Those voting "aye" were _____.

Those voting "nay" were _____.

Those absent were _____.

Those abstaining were _____.

This ordinance shall be published and shall be in force and effect from and after the _____ day of the month of _____ of the year _____ as set forth in NRS 244.100.

Kitty K. Jung, Chair
Washoe County Commission

ATTEST:

Nancy Parent, County Clerk

Interpretation 96-4

LOCATION OF DETACHED ACCESSORY STRUCTURES AND GARAGES

Pursuant to Article 910, Section 110.910.05 of Chapter 110 of the Washoe County Code, the Director of the Department of Development Review has the authority to enforce the provisions of the Development Code. In order to appropriately enforce the Development Code, the Director finds it necessary to provide the following interpretation concerning the location of detached accessory structures and detached garages.

A detached accessory structure must be located either on the same lot as the main structure, or on a lot that is defined as the same parcel of land that the main structure is or is intended to be located. An exception to the detached accessory structure location interpretation is that detached garages associated with a use may be located on an adjacent parcel of land that is zoned for the same uses as the parcel of land on which the main structure is located.

BACKGROUND

The location of detached accessory structures (which excludes a detached accessory dwelling) and detached garages relative to a main structure is not clearly identified in the Development Code. For example, a detached garage is identified as an example of a detached accessory structure. Yet, when a comparison of the location of detached accessory structures and detached garages relative to the lot that a main building (which is required for both detached uses) occurs, there is a distinction drawn in the Development Code. This interpretation is intended to establish the rule for the location of both types of detached uses.

The definition of a detached accessory structure (110.304.15(3)) states that "A detached accessory structure refers to a building or structure on the same lot as the main residential structure..." Therefore, it is clear from the definition that a detached accessory structure must be located within the same parcel line boundaries as the main structure. The question then is raised whether a detached accessory structure must be within the same boundary lines as a main structure. The answer is no. The reason is found in the definition of Lot (110.902.15). "Lot means a distinct part or *parcel of land* divided with the intent to transfer ownership or for building purposes and which abuts upon a permanent means of access." (*emphasis added*) Parcel of land is defined as "...any unit or *contiguous units of land* in the possession of or recorded as the property of one person." (110.902.15) (*emphasis added*) It is, therefore, possible for a detached accessory structure to be located on land with distinct boundaries separate from the land that the main structure is located, but which is contiguous and is considered as part of a parcel of land on which the main structure is located. The most effective way of determining if a detached accessory building meets the location guidelines is to determine if the main structure and the detached accessory building are located on land with the same parcel number as assigned by the County Assessor's Office.

Although detached garages are defined as an example of a detached accessory structure, separate rules for their location are enumerated in 110.410.20(a). This section states "For dwellings, motels, automobile-oriented services, and elementary, junior high, and high schools, required parking spaces shall be provided on the same lot as the main building(s) or on an adjoining lot or lots zoned for the main use of the property." Unlike the detached accessory

structure's location rules, a detached garage can be located on a separate parcel of land as long as it is adjacent to the main structure's parcel of land and is zoned for the same use as the parcel of land on which the main structure is located.

Limitations of Interpretation

This interpretation shall supersede all previous interpretations of Chapter 110 of the Washoe County Code concerning the above referenced subject and be in effect unless and until a subsequent interpretation concerning the above referenced subject is made by the Director of the Department of Development Review, the interpretation is reversed through a successful appeal pursuant to Article 808, or the Washoe County Code is amended to include the subject matter referenced in this interpretation.

Michael A. Harper, AICP, Director
Department of Development Review

Dated: May 7, 1996

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WASHOE COUNTY
ADMINISTRATIVE HEARING OFFICE

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EXHIBIT NUMBER 2

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Summary: (Text to be determined)

BILL NO. _____

ORDINANCE NO. _____

An ordinance amending the Washoe County Code at Chapter 110 (Development Code) within Article 306, *Accessory Uses and Structures*, at Section 110.306.15, *Main Structures Required* to allow an accessory structure or use on a parcel that does not have an established principal use when adjacent to a parcel with an established principal use and when both parcels are under the same ownership, subject to the recordation of a deed restriction; within Article 410, *Parking and Loading* at Section 110.410.20(c), *Location of Required Parking Spaces* to clarify that a garage on an adjacent lot may only be used to satisfy a dwelling's parking requirements if it is also in compliance with Section 110.306.15; within Article 902, *Definitions* at Section 110.902.15, *General Definitions* to update the definitions of "Detached Accessory Structure," "Lot" and "Parcel of Land" to better reflect the clarifications identified above.

WHEREAS:

- A. *(Text to be determined)*; and,
- B. *(Text to be determined)*; and
- C. *(Text to be determined)*.

THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY DOES HEREBY ORDAIN:

SECTION 1. Section 110.306.15 is hereby amended to read as follows:

Section 110.306.15 Main Structures Required. Except as otherwise provided in Section 110.330.55, Agricultural Buildings, it is unlawful to construct, erect or locate private garages or other accessory structures and uses in any Rural, Suburban or Urban Residential Regulatory Zone, including the General Rural Agricultural (GRA) Regulatory Zone, on any lot without an existing main structure and/or existing principal use as provided for under Article 302, Allowed Uses, **except under the following circumstances:-**

- (a) The structure complies with the provisions of Section 110.330.55, Agricultural Buildings; or
- (b) The proposed accessory structure is located on a lot adjacent to another lot that contains an existing main structure or principal use, is under the same ownership, has the same regulatory zone

and

A deed restriction has been filed with the Washoe County Recorder's Office stipulating that neither lot can be sold until the accessory structure or use otherwise allowed under this section is removed, terminated, or any nonconformance resulting from such a sale has been resolved. The deed restriction shall be executed on a form provided by the County through the Planning and Development Division, and the deed restriction shall make the County an intended third party beneficiary with the right, but not the obligation, to enforce its provisions. No accessory structure otherwise allowed under this section is allowed until the required deed restriction is executed and recorded against the property that will contain the accessory structure or use and against any other adjacent parcel under the same ownership that is used to satisfy the provisions of this paragraph, as well as any adjacent parcel under the same ownership that will be served by the accessory use or structure. For the purposes of this section, a parcel is under the same ownership if at least one of the owners of each parcel involved is the same.

SECTION 2. Section 110.410.20 is hereby amended to read as follows:

Section 110.410.20 Location of Required Parking Spaces. Required parking spaces shall be located as set forth in this section.

- (a) On Same or Adjacent Lot. For dwellings, motels, automobile-oriented services, and elementary, junior high, and high schools, required parking spaces shall be provided on the same lot as the main building(s) or on an adjoining lot or lots zoned for the main use of the property.
- (b) Other Uses. For uses not listed in Subsection (a) above, required parking spaces shall be located within three hundred (300) feet of the lot on which the main building is located.
- (c) Adjacent and Off-site Lots. If an adjacent or off-site lot is used to satisfy the parking requirements, the lot(s) shall be secured in such a manner that will provide parking for the life of the project. This Requirement does not preclude the use of reciprocal parking agreements, so long as the agreement is in a form acceptable to Washoe County. **A garage on an adjacent lot may only be used to satisfy a dwelling's parking requirements if it also complies with the provisions of Section 110.306.15.**

DRAFT: May 4, 2016

SECTION 3. The definitions of "Detached Accessory Structure," "Lot" and "Parcel of Land" as found in Section 110.902.15 are hereby amended to read as follows:

Detached Accessory Structure. **Except as provided for under Section 110.306.15,** "Detached accessory structure" means a building or structure on the same lot as the main residential structure and devoted to a use incidental to that main residential structure. A detached accessory structure is not designed, configured, or used for human habitation. The detached accessory structure may be connected to water and wastewater systems subject to the recordation of a deed restriction prohibiting the use of the structure as a dwelling unit. Installation of both a kitchen and a toilet in a detached accessory structure shall render the structure as a dwelling unit and subject to the accessory dwelling unit provisions contained in Article 306, Accessory Uses and Structures. Typical uses include storage buildings, sheds, barns, and detached garages.

Lot. "Lot" means a distinct part or parcel of land divided with the intent to transfer ownership or for building purposes, ~~and~~ which abuts upon a permanent means of access **and is assigned a single parcel number by the Washoe County Assessor's Office.**

Parcel of Land. "Parcel of land" means any unit or contiguous units of land ~~in the possession of or recorded as the property of one person~~ **assigned a single parcel number by the Washoe County Assessor's Office.**

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 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.

DRAFT: May 4, 2016

Passage and Effective Date

This ordinance was proposed on _____ by Commissioner _____.

This ordinance was passed on _____.

Those voting "aye" were _____.

Those voting "nay" were _____.

Those absent were _____.

Those abstaining were _____.

This ordinance shall be published and shall be in force and effect immediately upon the date of the second publication as set forth in NRS 244.100.

Kitty Jung, Chair
Washoe County Commission

ATTEST:

Nancy Parent, County Clerk



WASHOE COUNTY
ADMINISTRATIVE HEARING OFFICE

1 South Sierra Street

Reno, Nevada 89501

Phone: (775) 328-2001

Fax: (775) 325-6510

e-mail: AHO@washoecounty.us

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EXHIBIT NUMBER 3

Summary: Clarify and codify the contents of Interpretation 96-4 (Location of detached accessory structures) by allowing for an accessory structure or use to be established on vacant land under specific circumstances; put in place mechanisms to prevent the potential for associated code nonconformance situations by requiring the recordation of a deed restriction; clarify when a garage on an adjacent property can be used to satisfy a dwelling's parking requirements; and update associated definitions within the Development Code to reflect these clarifications.

BILL NO. 1768

ORDINANCE NO. ~~1582~~ 1584

TITLE:

An ordinance amending the Washoe County Code at Chapter 110 (Development Code) within Article 306, *Accessory Uses and Structures*, at Section 110.306.15, *Main Structures Required* to allow an accessory structure or use on a parcel that does not have a main structure or use when adjacent to a parcel with a main structure or use and when both parcels are under the same ownership, subject to the recordation of a deed restriction; within Article 410, *Parking and Loading* at Section 110.410.20(c), *Location of Required Parking Spaces* to clarify that a garage on an adjacent lot may only be used to satisfy a dwelling's parking requirements if it is also in compliance with Section 110.306.15; within Article 902, *Definitions* at Section 110.902.15, *General Definitions* to update the definitions of "Detached Accessory Structure," "Lot" and "Parcel of Land" to better reflect the clarifications identified above; and other matters necessarily connected therewith and pertaining thereto.

WHEREAS:

- A. The Washoe County Planning Commission initiated the proposed amendments to Washoe County Code Chapter 110, Development Code, by Resolution Number 16-02 on March 1, 2016; the amendments and this ordinance were drafted in conjunction with the District Attorney; the Planning Commission held a duly noticed public hearing for DCA16-002

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on June 7, 2016, and adopted Resolution Number 16-07 recommending adoption of this ordinance; and,

- B. 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
- C. This Board of County Commissioners has determined that this ordinance is being adopted pursuant to requirements set forth in Chapter 278 of NRS, and is therefore 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 110.306.15 is hereby amended to read as follows:

Section 110.306.15 Main Structures Required. It is unlawful to construct, erect or locate accessory structures and/or uses on any lot without an existing main structure or principal use as provided for under Article 302, Allowed Uses, except under the following circumstances:

- (a) The structure complies with the provisions of Section 110.330.55, Agricultural Buildings; or
 - (b) The proposed accessory structure or use is located on a lot adjacent to another lot that contains an existing main structure or principal use, is under the same ownership, has the same regulatory zone
- and

A deed restriction has been filed with the Washoe County Recorder's Office stipulating that neither lot can be sold separately until the accessory structure or use otherwise allowed under this section is removed, terminated, or any nonconformance resulting from such a sale has been resolved. The deed restriction shall be executed on a form provided by the County through the Planning and Development Division, and the deed restriction shall make the County an intended third party beneficiary with the right, but not the obligation, to enforce its provisions. No accessory structure or use otherwise allowed under this section is allowed until the required deed restriction is executed and recorded against the property that will contain the accessory structure or use and against any other adjacent parcel under the same ownership that is used to satisfy the provisions of this paragraph, as well as any adjacent parcel under the same ownership that will be served by the accessory structure or use. For the purposes of this section, a parcel is under the same ownership if at least one of the owners of each parcel involved is the same.

SECTION 2. Section 110.410.20 is hereby amended to read as follows:

Section 110.410.20 Location of Required Parking Spaces. Required parking spaces shall be located as set forth in this section.

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- (a) On Same or Adjacent Lot. For dwellings, motels, automobile-oriented services, and elementary, junior high, and high schools, required parking spaces shall be provided on the same lot as the main building(s) or on an adjoining lot or lots zoned for the main use of the property.
- (b) Other Uses. For uses not listed in Subsection (a) above, required parking spaces shall be located within three hundred (300) feet of the lot on which the main building is located.
- (c) Adjacent and Off-site Lots. If an adjacent or off-site lot is used to satisfy the parking requirements, the lot(s) shall be secured in such a manner that will provide parking for the life of the project. This Requirement does not preclude the use of reciprocal parking agreements, so long as the agreement is in a form acceptable to Washoe County. A garage on an adjacent lot may only be used to satisfy a dwelling's parking requirements if it also complies with the provisions of Section 110.306.15.

SECTION 3. The definitions of "Detached Accessory Structure," "Lot" and "Parcel of Land" as found in Section 110.902.15 are hereby amended to read as follows:

Detached Accessory Structure. Except as provided for under Section 110.306.15, "detached accessory structure" means a building or structure on the same lot as the main residential structure and devoted to a use incidental to that main residential structure. A detached accessory structure is not designed, configured, or used for human habitation. The detached accessory structure may be connected to water and wastewater systems subject to the recordation of a deed restriction prohibiting the use of the structure as a dwelling unit. Installation of both a kitchen and a toilet in a detached accessory structure shall render the structure as a dwelling unit and subject to the accessory dwelling unit provisions contained in Article 306, Accessory Uses and Structures. Typical uses include storage buildings, sheds, barns, and detached garages.

Lot. "Lot" means a distinct part or parcel of land divided with the intent to transfer ownership or for building purposes, which abuts upon a permanent means of access and is assigned a single parcel number by the Washoe County Assessor's Office.

Parcel of Land. "Parcel of land" means any unit or contiguous units of land assigned a single parcel number by the Washoe County Assessor's Office.

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 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

This ordinance was proposed on July 26, 2016 by Commissioner Hartung.

This ordinance was passed on August 9, 2016.

Those voting "aye" were Jung, Lucey, Berkbigler, Hartung, & Herman.

Those voting "nay" were none.

Those absent were none.

Those abstaining were none.

This ordinance shall be published and shall be in force and effect from and after the 19th day of the month of August of the year 2016 as set forth in NRS 244.100.

Kitty K. Jung
Kitty K. Jung, Chair
Washoe County Commission

ATTEST:

Jean Balasinski Chief Deputy for
Nancy Parent, County Clerk

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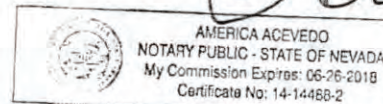
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PO#
Ad# 0001500886
Legal Ad Cost: \$395.00

STATE OF NEVADA
COUNTY OF WASHOE

Being first duly sworn, deposes and says: That as the legal clerk of the Reno Gazette-Journal, a daily newspaper of general circulation published in Reno, Washoe County, State of Nevada, that the notice referenced below has published in each regular and entire issue of said newspaper between the date: 08/12/2016 - 08/19/2016, for exact publication dates please see last line of Proof of Publication below.

Signed: _____

Subscribed and sworn to before me



NOTICE OF ADOPTION WASHOE COUNTY ORDINANCE
NO. 1584 (NEW NUMBER) Ordinance No. 1582
(previously assigned) BILL NO. 1768 NOTICE IS
HEREBY GIVEN that typewritten

Publish Dates:
08/12/16, 08/19/16

NOTICE OF ADOPTION
WASHOE COUNTY ORDINANCE NO. 1584 (NEW NUMBER)
Ordinance No. 1582 (previously assigned) BILL NO. 1768
NOTICE IS HEREBY GIVEN that typewritten copies of the above-
numbered and entitled ordinance are available for inspection by the
interested parties at the office of the County Clerk of Washoe County,
Nevada, at her office in the Washoe County Complex, 1001 E. Ninth
Street, Building A, Reno, Washoe County, Nevada; and that the ordi-
nance was proposed on July 28, 2016 by Commissioner Hartung and
was passed and adopted without amendment at a regular meeting
held on August 9, 2016 by the following vote of the Board of County
Commissioners: An ordinance amending the Washoe County Code at
Chapter 110 (Development Code) within Article 306, Accessory Uses
and Structures, at Section 110.306.15, Main Structures Required to al-
low an accessory structure or use on a parcel that does not have a
main structure or use when adjacent to a parcel with a main struc-
ture or use and when both parcels are under the same ownership,
subject to the recordation of a deed restriction; within Article 410,
Parking and Loading at Section 110.410.20(c), Location of Required
Parking Spaces to clarify that a garage on an adjacent lot may only
be used to satisfy a dwelling's parking requirements if it is also in
compliance with Section 110.306.15; within Article 902, Definitions of
Section 110.902.15, General Definitions to update the definitions of
"Detached Accessory Structure," "Lot" and "Parcel of Land" to bet-
ter reflect the clarifications identified above; and other matters nec-
essarily connected therewith and pertaining thereto.

Those Voting Aye: Kitty Jung, Bob Lucev, Marsha Berkbigler,
Vaughn Hartung and Jeanne Herman.
Those Absent: None.

This Ordinance shall be in full force and effect from and after August
19, 2016. IN WITNESS WHEREOF, the Board of County Commis-
sioners of Washoe County, Nevada, has caused this Ordinance to be pub-
lished by title only. DATED August 9, 2016.

Nancy Parent, Washoe County Clerk and Clerk of the Board of
County Commissioners

No 1500886

August 12, 19, 2016



WASHOE COUNTY
ADMINISTRATIVE HEARING OFFICE

1 South Sierra Street
Reno, Nevada 89501
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EXHIBIT NUMBER 4

MEMORANDUM OF OPINION

TO: Gary Schmidt
FROM: Luke Busby, Esq.
RE: Development Efforts in Gerlach and Associated Zoning Change Requests
DATE: Thursday, October 12, 2023

ISSUE

The issue addressed in this memorandum is whether Gerlach General Improvement District (“GGID”) has the legal authority to request zoning changes for the purpose of facilitating a real-estate development plan.

FACTS

On February 2, 2023, GGID deliberated on a development plan for a specific property, APN No. 071-240-16, during Agenda Item 3 and hired consultant Wood Rogers to aid in its property development aspirations.

At a March 7, 2023 meeting, a presentation underscored potential property development initiatives led by GGID.

During the May 4, 2023 session, Chairperson Conley brought up the crucial water and sewer capacity required for such development. Vice Chairman Schrenzel pointed out GGID's lack of land development expertise, further justifying the engagement of Wood Rogers, and the decision to seek the assistance of Washoe County.

By the June 1, 2023 meeting, the minutes clearly indicate GGID's active pursuit and commitment to property development as a primary business activity. On the same day, the GID also proposed a significant zoning change for the property, moving from Medium Density Suburban to High Density Suburban. This proposed change contradicts the High Desert Master Plan for Washoe County, which envisions Gerlach's growth to require High Density Suburban areas in the central town and Medium Density Suburban on its outskirts.

APPLICABLE LAW

Statutory Scheme:

The General Improvement District Law was established in 1959 to offer urban services in areas lacking them and beyond the reach of general county or city government in Nevada. By 1965, an amendment required a determination that creating such a district

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was both necessary for the public and economically viable. Chapter 318 of the Nevada Revised Statutes enables Nevada cities and counties to create General Improvement Districts and defines their authorized actions. The GGID was established with the approval of Washoe County by a charter in 1974. The county commissioners have the power to establish districts within the county per NRS 318.050(1). However, once formed, GIDs operate as independent legal entities with enduring existence, as per NRS 318.105. The General Improvement District Law grants GIDs various powers, which the county boards don't directly oversee or review.

GIDs possess authority over their respective districts. Based on NRS 318.175, they can manage all district activities, acquire, enhance, and operate any district projects, and maintain them. They are also responsible for the upkeep and repair of district improvements, as provided by NRS 318.145. Beyond these duties, GIDs can hire agents, employees, engineers, and lawyers according to NRS 318.180. They have the flexibility to modify district boundaries in collaboration with property owners within the GIDs, as outlined in NRS 318.256 - 318.272. Additionally, GID boards are endowed with implicit powers under NRS 318.210, encompassing all rights and powers indirectly derived from the specific mandates in Chapter 318 of NRS.

Counties exist primarily for the convenient administration of government and have only such powers as are delegated to them. See NRS 244.137, adoption of Dillon's Rule, and NRS 244.146, powers of counties in Nevada are circumscribed and bound by statute. Ipso facto, because Dillon's Rule applies to counties, it also applies to GIDs. Under Dillon's Rule, a GID's authority is defined in three main ways. First, it includes powers that are directly bestowed upon it by the Nevada Constitution, statute, or charter. Second, there are powers that, while not explicitly stated, can be reasonably inferred or are inherently present based on the powers that are expressly granted. Lastly, for the GID to achieve its stated goals and objectives, certain powers are not merely a matter of convenience but are absolutely essential and indispensable. *Endo Health Sols., Inc. v. Second Judicial Dist. Court*, 492 P.3d 565, 567 (Nev. 2021)

According to NRS 318.116, GID's can be granted a range of powers either during their formation, reorganization, or as defined by other statutes. These powers encompass the provision of electric light, extermination of pests, management of public cemeteries, operation of swimming pools, TV and FM radio facilities, street maintenance including curbs, gutters, and sidewalks, storm drainage, sewage sanitation, street lighting, garbage collection and disposal, recreation, water supply, fencing, fire protection, space heating energy, emergency medical services, noxious weed control, and managing areas for the preservation of endangered or threatened wildlife species. Each of these powers is further detailed in specific sections of the NRS.

Under NRS 318.100, a GID only holds the basic powers listed in Chapter 318 and as established during the GID's charter. A GID can build or acquire improvements related to these powers, finance them using methods described in the chapter, and provide services associated with these basic powers.

Except as otherwise provided in NRS 318.512 to 318.5126, inclusive, under NRS 318.160, a GID has the authority to obtain, sell, and place encumbrances on real and personal property, including related interests like leases and operational revenues. NRS 318.512 to 318.5126 pertains to the powers of a GID to sell real property: Appraisal Requirements (NRS 318.512): Before a GID sells any real property, it must obtain two independent appraisals (or one if a public hearing is held). The appraisals should be recent (not more than 6 months old). The property cannot be sold for less than the average of these appraisals or the single appraisal value. Appraiser Selection and Disclosure (NRS 318.5121): The GID's board must maintain a list of qualified appraisers and select from this list. Appraisers must disclose potential conflicts of interest and should not appraise properties they or close relatives have an interest in. Intent to Sell (NRS 318.5122): The GID's board must adopt a resolution declaring its intention to sell the property at auction, specifying minimum price and other details. A notice of this resolution must be publicly posted and published. Auction Process (NRS 318.5123): The GID opens sealed bids publicly. It can accept the highest written bid or a higher oral bid. They may reject all bids if deemed necessary. Money from property sales goes to the GID fund. Exceptions to Auction Sales (NRS 318.5124): Some properties can be sold without auction, such as those adjacent to another property or to the State/governmental entities for public use. Second Offering and Listings (NRS 318.5125): If a property doesn't sell initially, it can be offered a second time. If still unsold, it can be listed with a licensed real estate broker, ensuring recent appraisals. Invalid Sales (NRS 318.5126): Any sale that doesn't follow these provisions is void.

The Board of County Commissioners in which a GID is located lacks the authority to address a GID's non-compliance with affirmative laws. Instead, private citizens, aggrieved bidders, or State agencies are responsible for ensuring compliance.

A GID can be dissolved, consolidated, or merged by a board of county commissioners if it's in the county and district's best interests and if the district's services are no longer necessary or can be better provided by another entity (NRS 318.490(1)). If dissolved, the county takes on the district's debts. However, the GID's board of trustees can overrule this decision under certain circumstances, under which the GGID does not appear to qualify. (NRS 318.490(3)). Additionally, if over half the property owners submit written protests, the dissolution, merger, or consolidation won't proceed (NRS 318.495).

If the Nevada Department of Taxation so notifies a county commission, or if a petition signed by 20% of the district's qualified voters submits that a GID is mismanaged or not adhering to laws (NRS 318.515), the board of county commissioners must hold a hearing. After ensuring proper notice and hearing, the board can choose to: (a) assume the role of the district's board of trustees, (b) consider merging, consolidating, or dissolving the district, (c) petition the district court for a receiver for the district, or (d) decide that the district's management remains unchanged.

Property owners and voters within a GID have the option to initiate recalls of GID board members. Specifically, trustees can be recalled in accordance with the provisions

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of the NRS and the Nevada Constitution, as outlined in NRS 318.0955. Furthermore, the board of county commissioners holds the authority to remove any GID trustee, whether appointed or elected, for cause. Such removals require a process involving a petition, a formal hearing, and proper notice both published and mailed to the trustee in question, as provided in NRS 318.080(6).

GGID's Charter [Washoe County Bill No. 375 – Ord. No. 225 (1974) contains a single provision relating to its charter related to property. In Section 3(k), GGID is authorized, "To sell or lease any land, rights-of-way, easements, property or material acquired by the District; and to sell real property pursuant to this subsection to the highest bidder at public auction after five days' notice given by publication."

Case Law:

In *Kroll v. Incline Vill. Gen. Improvement Dist.*, 130 Nev. 1206 (2014)(Unpublished) the Court held that a GID can act on the authority given by the county, provided these bylaws don't "conflict with the Constitution and laws of the State," as stated in NRS 318.205. Under NRS 318.143, Washoe County empowered IVGID to "acquire, construct, reconstruct, improve, extend and better lands, works, systems and facilities for public recreation." The undersigned counsel has not been able to locate a similar ordinance from Washoe County that would permit GGID to engage in a for-profit real estate development.

ANALYSIS

GIDs, despite their independence, must adhere to state laws that regulate governmental power and protect citizens' rights. This means that a GID board of trustees can only direct spending and use GID powers in line with these laws.

The minutes from public meetings indicate that the GID is involved or trying to involve itself in real estate development activities, which are not sanctioned by their charter or state law. The minutes from GGID's meetings show that the GID plans to undertake further development tasks, like renting or leasing properties it develops, setting lease terms, and building various types of structures. These activities aren't related to the services GGID is lawfully permitted to provide under its charter or under NRS Chapter 318.

State law clearly outlines how a GID should handle surplus property not related to their utility functions. Washoe County's charter for the GGID does not to allow real estate "development" activities the GID is pursuing, especially since the charter must adhere to state law.

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CONCLUSION

Under Dillon's Rule, the GID's foray into private real estate development oversteps its established authority. Firstly, the rule mandates explicit authorization from the Nevada Constitution, statute, or charter for any GID action. If real estate development isn't expressly mentioned in these foundational documents, the GID is operating outside its designated powers. Secondly, even if one tries to justify this action by inferring it from other powers, it's challenging to reasonably argue that real estate development is an inherent extension of the GID's granted authorities because such matters are not a function of a government entity, and especially a GID. Lastly, Dillon's Rule distinguishes between what's merely convenient and what's indispensable. Unless real estate development is pivotal to the GID's core functions and objectives, which it is not, its engagement in such activities is a clear overreach under the third prong of the Dillon's rule analysis. In sum, the GID is venturing beyond its rightful jurisdiction by engaging in real estate development, including seeking zoning changes to facilitate its real estate development objectives.

By engaging in real estate development activities, GGID is crowding out private development in Gerlach. GGID is backstopped by taxpayers, unlike private developers, and GGID is not required to pay application fees for development, etc. Mr. Schmidt, as well as others, made real estate development investments in Gerlach based upon the existing High Desert Area plan.

Mr. Schmidt and others have investment-backed expectations for the development of properties that are being undermined by having to compete with GGID. Further, if Washoe County assists GGID with its real estate development plans, and then approves the zoning change, and facilitates the GGID's development scheme, Washoe County may also be interfering with Mr. Schmidt and others' investment-backed expectations for the development of private property in Gerlach.

By: Zade A. Berling



**WASHOE COUNTY
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EXHIBIT NUMBER 5

All data on this form is for use by the Washoe County Assessor for assessment purposes only.

Owner Information

Building Information MOBILE HOME INFO XFOB SUBAREA

Table with Owner Information: APN 071-281-02, Situs 1 335 MAIN ST, Owner 1 DPG SCHMIDT TRUST, Mail Address PO BOX 861 VIRGINIA CITY NV 89440

Table with Building Information: Bld #1 Situs 335 MAIN ST, Property Name, Building Type, 2nd Occupancy, Year Built, Bedrooms, Full Baths, Half Baths, Fixtures, Fireplaces, Heat Type, 2nd Heat Type, Exterior Walls, 2nd Ext Walls, Roof Cover, % Complete, Obso/Bldg Adj, Construction Modifier

Parcel Information

Table with Parcel Information: Keyline Desc GERLACH LT 4 BLK K, Subdivision GERLACH, Section Township 32 Range 23, Record of Survey Map, Parcel Map#, Sub Map#, Special Property Code 046, 2024 Tax District 9601, Prior APN --, 2023 Tax District 9601, PAT FORMS Tax Cap Status, 2012 Change Form Mailed, High Cap Applied

Sales and Transfer Records

RECORDER SEARCH

Table with Sales and Transfer Records: Grantor, Grantee, Doc #, Doc Type, Doc Date, DOR Code, Value/Sale Price, Adjusted Sale Price, Sale Code, Units, Price/Unit, Notes

Land Information

LAND DETAILS

Table with Land Information: Zoning information should be verified with the appropriate planning agency, Land Use, DOR Code, Create/Cls Code, KB Neighborhood Map, Size 11,282 SqFt, CAGC -, Sewer Municipal, Street Paved, Zoning Code, HDS Formerly, 2024 NBC KBAF SDM, Size 0.259 Acres, Water Muni, Value Year 2024, Zoning Maps Page 071-28 | Book 071, 2023 NBC

Valuation Information

The 2024/2025 values are preliminary values and subject to change.

ABATEMENT INFO

Table with Valuation Information: Taxable Land, Imps New, Land New, Taxable Imps, OBSO, Tax Cap Value, Taxable Total, Land Assessed, Imps Assessed, Total Assessed, Exemption Value

A sketch is not available.

Photos are not available for this Parcel.

This is a true and accurate copy of the records of the Washoe County Assessor's Office as of 02-11-2024



All data on this form is for use by the Washoe County Assessor for assessment purposes only.

Owner Information

Building Information

MOBILE HOME INFO

XFOB

SUBAREA

APN 071-281-01	Card 1 of 1
Situs 1 345 MAIN ST	Bld #
Owner 1 DPG SCHMIDT TRUST	OWNER
Mail Address PO BOX 861 VIRGINIA CITY NV 89440	

Bld #1 Situs	345 MAIN ST	Property Name
Quality		Building Type
Stories		2nd Occupancy
Year Built	0	WAY 0
Bedrooms	0	Square Feet
Full Baths	0	Finished Bsmt 0
Half Baths	0	Unfin Bsmt 0
Fixtures		Basement Type
Fireplaces	0	Gar Conv Sq Feet 0
Heat Type		Total Garage Area 0
2nd Heat Type		Garage Type
Exterior Walls		Detached Garage 0
2nd Ext Walls		Basement Gar Door 0
Roof Cover		Sub Floor
% Complete	0	Frame
Obso/Bldg Adj	0	Units/Bldg 0
Construction Modifier		Units/Parcel 0

Parcel Information

Keyline Desc	GERLACH LT 5 BLK K		
Subdivision	GERLACH		
Section	Township 32 Range 23		
Record of Survey Map	: Parcel Map# : Sub Map#		
Special Property Code			
2024 Tax District	9601	Prior APN	- -
2023 Tax District	9601	PAT FORMS	2012 Change Form Mailed, High Cap Applied
		Tax Cap Status	

Sales and Transfer Records

RECORDER SEARCH

Grantor	Grantee	Doc #	Doc Type	Doc Date	DOR Code	Value/Sale Price	Adjusted Sale Price	Sale Code	Units	Price/Unit	Notes
DAMSEN, TOM & JESSICA	DPG SCHMIDT TRUST	4071386	DEED	12-29-2011		80,000	0	2MD	N/A		
PHILLIPS, RALPH E	DAMSEN, TOM & JESSICA	3491073	DEED	01-26-2007	230	83,000	0	2D	N/A		
PHILLIPS, RALPH E	PHILLIPS, RALPH E	3330852	DEED	12-30-2005	230	0	0	3BGG	N/A		
PHILLIPS, RALPH E & EVELYN R	PHILLIPS, RALPH E	3263197	AFF	08-18-2005	230	0	0	3BFM	N/A		WIFE DECEASED
	PHILLIPS, RALPH E & EVELYN R	1168763		06-08-1987	230	0	0		N/A		

Land Information

LAND DETAILS

Zoning information should be verified with the appropriate planning agency.		Land Use	230	DOR Code	230	Create/Cls Code		KB Neighborhood Map			
Size	10,149 SqFt	CAGC	-	Sewer	Municipal	Street	Paved	Zoning Code	HDS Formerly	2024 NBC	KBAF SDM
Size	0.233 Acres	Water	Muni	Value Year	2024	Zoning Maps	Page 071-28 Book 071	2023 NBC			

Valuation Information

The 2024/2025 values are preliminary values and subject to change.

ABATEMENT INFO

	Taxable Land	Imps New	Land New	Taxable Imps	OBSO	Tax Cap Value	Taxable Total	Land Assessed	Imps Assessed	Total Assessed	Exemption Value
2024/2025 NR	28,000	0	0	2,588	0		30,588	9,800	905	10,706	0
2024/2025 VN	28,000	0	0	2,588	0		30,588	9,800	905	10,706	0
2024/2025 QC	28,000	0	0	2,588	0		30,588	9,800	905	10,706	0

A sketch is not available.

Photos are not available for this Parcel.

This is a true and accurate copy of the records of the Washoe County Assessor's Office as of 02-11-2024

OPENING STATEMENT

Ex C

You Honor, even though I am the Respondent and I will be giving testimony when doing so and when examining witnesses I will be using the third person during the process. I will be using the term Respondent or Mr Schmidt when referring to myself. This is to ensure a more readable and less confusing record of the hearing which record will surely have a long life beyond today.

Your Honor,

I would like to make you aware that there are broader issues at hand that are not going to be settled here today In total as there is pending a strong possibility of a seven figure damage claim against Washoe County by the Respondent in which certainly this abusive Code Enforcement action will be factor. I do have every confidence that this particular alleged Code Violation will be dismissed here today but it's necessary and appropriate that To continue to establish a clear record of the failings and abuses of Washoe County in total to include but not be limited to Code Enforcement and also abuses of the Gerlach General Improvement District extensively in complicity and conspiracy with Washoe County. I have prepared a six point guide sheet for the court to frame my presentation today which I offer a copy of at this time

Six (6) Issues

- 1 Granting (denial) of second extension of time on original notice
- 2 Proper Screening of specific items of storage if required
- 3 Grandfathering of Storage or other uses on subject "parcel"
- 4 Whether denial of the Board of Adjustment process by Washoe County was in violation of State Law
- 5 Whether there were violations of Due Process
- 6 Potential claims for monetary damages for Abuse of Process or actions taken in retribution or in retaliation.

NRS 278.262 Hearing examiners: Power of governing body to appoint. The governing body of any county or city may appoint as many full-time or part-time hearing examiners as are necessary or appropriate to assist the planning commission and the governing body in acting upon proposals for changes in zoning classification, zoning districts, special use permits, variances and other matters affecting zoning.

(Added to NRS by _____; A _____; _____)

NRS 278.263 Hearing examiners: Compensation; qualifications; removal.

1. Hearing examiners appointed under the authority of NRS 278.262 are entitled to receive such compensation as is considered necessary by the governing body and shall possess qualifications similar to those of a licensed architect, attorney, engineer or a member of the American Institute of Certified Planners.

2. Hearing examiners serve at the pleasure of the governing body in accordance with any appropriate personnel ordinance or regulation.

(Added to NRS by _____; A _____)

NRS 278.264 Hearing examiners: Rules of procedure. Upon the determination of any governing body that a hearing examiner is to be employed and before any hearings are conducted utilizing his or her services, an ordinance shall be enacted setting forth rules of procedure for the processing and hearing of applications which are to be considered by a hearing examiner.

(Added to NRS by _____)

NRS 278.265 Hearing examiners: Notice and hearing; duties and powers; final action on certain matters; appeal of final action.

1. Any ordinance enacted pursuant to the provisions of NRS 278.264 must provide, in substance, the same notice of hearing and conduct of hearing safeguards required by NRS 278.315 or 278.480, whichever is applicable.

2. The governing body shall, by ordinance, set forth the duties and powers of the hearing examiner, including a statement of whether the hearing examiner may take final action on any matter assigned to the hearing examiner by the governing body.

3. Except as otherwise provided in subsection 4, the governing body may authorize the hearing examiner to take final action on matters relating to a variance, vacation, abandonment, special use permit, conditional use permit and other special exception or application specified in the ordinance.

4. The governing body shall not authorize the hearing examiner to take final action on:

(a) Matters relating to a zoning classification, zoning district or an amendment to a zoning boundary.

(b) An application for a conditional use permit that is filed pursuant to NRS 278.147.

5. An applicant or protestant may appeal any final action taken by the hearing examiner in accordance with the ordinance adopted pursuant to NRS 278.3195.

(Added to NRS by _____; A _____; _____; _____; _____)

NRS 278.310 Appeals: Persons entitled to appeal to board of adjustment; procedure; appeals from decisions of board of adjustment; alternative procedure if board of adjustment has not been created.

1. Except as otherwise provided in subsection 4, appeals to the board of adjustment may be taken by:

(a) Any person aggrieved by his or her inability to obtain a building permit, or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of any zoning regulation or any regulation relating to the location or soundness of structures.

(b) Any officer, department, board or bureau of the city or county affected by the grant or refusal of a building permit or by other decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of any zoning regulations.

2. Except as otherwise provided in subsection 4, the time within which an appeal must be made, and the form of other procedure relating thereto, must be as specified in the general rules provided by the governing body to govern the procedure of the board of adjustment and in the supplemental rules of procedure adopted by the board of adjustment.

3. Each governing body which has created a board of adjustment pursuant to NRS 278.270 shall adopt an ordinance providing that any person who is aggrieved by a decision of the board of adjustment regarding an appeal of an administrative decision may appeal the decision of the board of adjustment. An ordinance that a governing body is required to adopt pursuant to this subsection must either:

(a) Comply with subsection 2 of NRS 278.3195, thereby requiring the aggrieved person first to appeal the decision of the board of adjustment to the governing body; or

(b) Set forth a separate procedure which allows the aggrieved person to appeal the decision of the board of adjustment directly to the district court of the proper county by filing a petition for judicial review within 25 days after the date of filing of notice of the decision with the clerk or secretary of the board of adjustment, as provided in NRS 278.0235.

4. If the governing body has not created a board of adjustment pursuant to NRS 278.270, any person aggrieved by the decision of an administrative officer or agency, as described in subsection 1, may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

[16:110:1941; 1931 NCL § 5063.15]—(NRS A)

NRS 278.3195 Governing body to adopt ordinance allowing appeal to governing body concerning certain decisions regarding use of land; required contents of ordinance; appeal of decision of governing body to district court.

1. Except as otherwise provided in NRS 278.310, each governing body shall adopt an ordinance providing that any person who is aggrieved by a decision of:

(a) The planning commission, if the governing body has created a planning commission pursuant to NRS 278.030;

(b) The board of adjustment, if the governing body has created a board of adjustment pursuant to NRS 278.270;

(c) A hearing examiner, if the governing body has appointed a hearing examiner pursuant to NRS 278.262; or

(d) Any other person appointed or employed by the governing body who is authorized to make administrative decisions regarding the use of land,
È may appeal the decision to the governing body. In a county whose population is 700,000 or more, a person shall be deemed to be aggrieved under an ordinance adopted pursuant to this subsection if the person appeared, either in person, through an authorized representative or in writing, before a person or entity described in paragraphs (a) to (d), inclusive, on the matter which is the subject of the decision.

2. Except as otherwise provided in NRS 278.310, an ordinance adopted pursuant to subsection 1 must set forth, without limitation:

(a) The period within which an appeal must be filed with the governing body.

(b) The procedures pursuant to which the governing body will hear the appeal.

(c) That the governing body may affirm, modify or reverse a decision.

(d) The period within which the governing body must render its decision except that:

(1) In a county whose population is 700,000 or more, that period must not exceed 45 days.

(2) In a county whose population is less than 700,000, that period must not exceed 60 days.

(e) That the decision of the governing body is a final decision for the purpose of judicial review.

(f) That, in reviewing a decision, the governing body will be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020.

(g) That the governing body may charge the appellant a fee for the filing of an appeal.

3. In addition to the requirements set forth in subsection 2, in a county whose population is 700,000 or more, an ordinance adopted pursuant to subsection 1 must:

(a) Set forth procedures for the consolidation of appeals; and

(b) Prohibit the governing body from granting to an aggrieved person more than two continuances on the same matter, unless the governing body determines, upon good cause shown, that the granting of additional continuances is warranted.

4. Any person who:

(a) Has appealed a decision to the governing body in accordance with an ordinance adopted

pursuant to subsection 1; and

(b) Is aggrieved by the decision of the governing body,
È may appeal that decision to the district court of the proper county by filing a petition for judicial review within 25 days after the date of filing of notice of the decision with the clerk or secretary of the governing body, as set forth in NRS 278.0235.

5. As used in this section, "person" includes the Armed Forces of the United States or an official component or representative thereof.

(Added to NRS by 2010 20 ; A 2010 20 ; 2010 20 ; 2010 20)

8x3



0



2



Section 110.904.20 Nonconforming Use of Land. The nonconforming use of land shall be subject to the provisions of this section.

(a) Continuation. A nonconforming use of land may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (1) Any structure associated with such use shall not be enlarged or increased more than ten (10) percent, nor the use extended to occupy an area of land greater than ten (10) percent than was occupied on the effective date of this article;
 - (2) If such a use ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform to the requirements of this Development Code for the regulatory zone in which it is located; and
 - (3) The storage of inoperable vehicles in contravention to the provisions of the Development Code shall not be considered a nonconforming use and shall be required to conform to the provisions of this Development Code.
- (b) Adding New Uses or Structures. When a nonconforming use exists on any lot, no new use or structure shall be established or built on such lot unless the lot area, dimensions and yards provided for each existing and proposed use or structure conform to the requirements of this Development Code for the regulatory zone in which the lot is located.
- (c) Change to Another Nonconforming Use. A nonconforming use of land shall not be changed to another nonconforming use of land.

Section 110.904.10 Types of Nonconformance. This article regulates the categories of nonconformance listed below in this section. If a nonconforming use falls into two (2) or more categories, it shall be subject to the regulations of each category.

- (a) Nonconforming Lot. A lot which was legal when brought into existence but does not conform to the current lot size or shape requirements of the regulatory zone where it is located. A nonconforming lot is subject to the provisions of Section 110.904.15.
- (b) Nonconforming Use of Land. A use which does not involve a structure and which was legal when brought into existence but does not conform to the current uses allowed in the regulatory zone where it is located. A nonconforming use of land is subject to the provisions of Section 110.904.20.
- (c) Nonconforming Use of a Structure. A use which is



071-264-03

071-264-02

071-281-01

071-281-03

071-264-15

071-281-0

071-264-16

071-281-01

071-284-04

071-284-03

W SUNSET BLVD

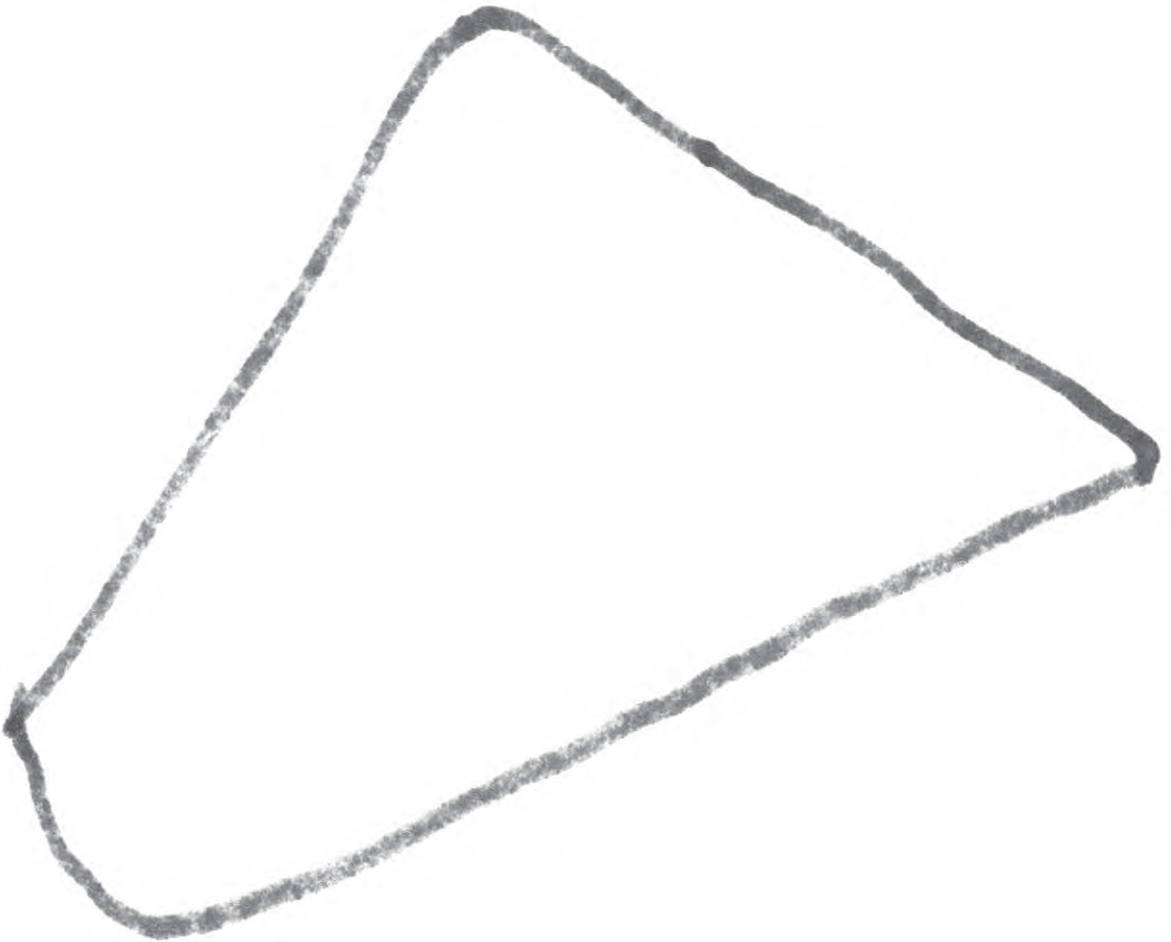
Schmidt Parcel
Unit of Land #1

K2

071-281-0

5
x

x



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Division Nine - General Provisions
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(D)

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Interior Lot. See "Lot, Interior."

Junkyard. "Junkyard" means any space for storage, abandonment or sale of junk, scrap material or similar waste, including the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or parts. Junkyard shall be synonymous with salvage yard.

Kitchen. "Kitchen" means a room or space within a room equipped with such electrical or gas hook up that would enable the installation of a range, oven, or like appliance using 220/40 volts or natural gas (or similar fuels, such as propane) for the preparation of food, and also containing either or both a refrigerator and sink for the washing and/or disposal of food.

Landscaped Buffer. "Landscaped buffer" means an area of landscaping which separates two (2) distinct land uses, or a land use and a public right-of-way, and which acts to soften or mitigate the effects of one (1) land use on the other.

Landscaping. "Landscaping" means an area devoted to and maintained with a mixture of existing or new native or exotic plants such as turf, groundcover, shrubs, flowers, vines and trees, as well as additional complementary decorative features such as rocks, decorative pavement, fountains, pools, sculpture and decorative wall.

Ldn. "Ldn" means the average equivalent A-weighted sound level during a 24-hour day obtained by adding ten decibels to the hourly noise levels measured during the night (10:00 p.m. to 7:00 a.m.). In this way Ldn takes into account the lower tolerance of people for noise during nighttime periods. Ldn noise level measurements are typically plotted onto a map to identify noise contours around a significant noise generator (e.g. freeways, airports, etc.).

Limited Gaming. "Limited gaming" means gaming enterprises authorized by the State Gaming Control Board whereby any person or gaming establishment may be issued a limited gaming license or have such conditions placed on a gaming license as necessary to protect the public interest.

Livestock. "Livestock" means:

- (a) All cattle or animals of the bovine species;
- (b) All horses, mules, burros and asses or animals of the equine species;
- (c) All goats or animals of the caprine species;
- (d) All swine or animals of the porcine species; and
- (e) All sheep or animals of the ovine species.

Loading Space. "Loading space" means an off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of vehicles while handling merchandise or materials.

Lot. "Lot" means a distinct part or parcel of land divided with the intent to transfer ownership or for building purposes, which abuts upon a permanent means of access and is assigned a single parcel number by the Washoe County Assessor's Office.

Lot, Corner. "Corner lot" means a lot situated at the intersection of two (2) or more streets or a lot that abuts one (1) street that changes directions, curves or turns around the lot with an interior angle of 135 degrees or less.



allowable uses including, but not limited to, agricultural, ranching or mining activities, as long as no aviation related commerce is conducted at the personal landing fields.

NRS. "NRS" means Nevada Revised Statutes.

Open Space, Common. "Common open space" means the total land area, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents or occupants of the development. Common open space includes swimming pools, putting greens and other recreational-leisure facilities; areas of scenic or natural beauty and habitat areas; hiking, riding or off-street bicycle trails; and landscaped areas adjacent to roads which are in excess of minimum required rights-of-way.

Open Space, Private. "Private open space" means the outdoor living area directly adjoining a dwelling unit or building which is intended for the private enjoyment of the residents or occupants of the dwelling unit or building and which is defined in such a manner that its boundaries are evident.

Open Space Use. "Open space use" means the current employment of land, the preservation of which use would conserve and enhance natural or scenic resources, protect streams and water supplies or preserve sites designated as historic pursuant to law, provided such land has a greater value for another use than for open space use.

Outdoor Storage. "Outdoor Storage" means the outside placement of items and materials that are incidental to the existing principal use of the property, except as provided for under Section 110.306.35(d), for a period of more than seventy-two (72) consecutive hours. Outdoor storage is further defined and regulated in the Washoe County Nuisance Code (WCC Sections 50.300 to 50.310, inclusive).

Parcel Map. "Parcel map" means a map for a minor subdivision.

Parcel of Land. "Parcel of land" means any unit or contiguous units of land assigned a single parcel number by the Washoe County Assessor's Office.

Parking Area. "Parking area" means an open area, excluding a street or other public right-of-way, used for the parking of vehicles and available to the public, whether for free or for compensation.

Permanent Employee Housing. "Permanent employee housing" means housing for employees of an isolated industrial, mining, railroad, highway, utilities or agricultural based use where those employees occupy the housing on a permanent basis year round. This development may occur on a single parcel or multiple parcels.

Permitted Water Rights. "Permitted water rights" means the right, in accordance with NRS Chapter 533 and as approved by the Nevada State Engineer, to appropriate public waters, or to change the place of diversion, manner of use or place of use of water already appropriated.

Perennial Stream. "Perennial stream" means a stream that flows from source to mouth throughout the year. This definition does not apply to a man-made watercourse constructed for irrigation, aesthetic or other purposes.

Person. "Person" means a firm, association, corporation, partnership or an individual.

Personal Landing Field. "Personal landing field" means a private use aviation landing area that is used for fixed-wing aircraft or helicopter landing operations that are incidental and ancillary to



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Washoe County
Community Services Department
Planning and Development
1001 E. Ninth St., Bldg. A
Post Office Box 11130
Reno, NV 89520-0027
Tel: 775.328.6100
Fax: 775.328.6133

Washoe County Development Code

The Washoe County Development Code is contained within the Washoe County Code as Chapter 110. The Development Code, together with related information and applications necessary for development, are available from the Washoe County Community Services Department, Planning and Development Division. This document is available for \$30.00. For information on other chapters of the Washoe County Code, please contact the Office of the County Clerk.

The Washoe County Development Code can also be found on our department's home page on the Internet at www.washoecounty.us/comdev/. Other chapters of the Washoe County Code can be found on the County Clerk's home page at www.washoecounty.us/clerk/.

NINETY-SECOND PRINTING, APRIL 2016

Ldn. "Ldn" means the average equivalent A-weighted sound level during a 24-hour day obtained by adding ten decibels to the hourly noise levels measured during the night (10:00 p.m. to 7:00 a.m.). In this way, Ldn takes into account the lower tolerance of people for noise during nighttime periods. Ldn noise level measurements are typically plotted onto a map to identify noise contours around a significant noise generator (e.g. freeways, airports, etc.).

Limited Gaming. "Limited gaming" means gaming enterprises authorized by the State Gaming Control Board whereby any person or gaming establishment may be issued a limited gaming license or have such conditions placed on a gaming license as necessary to protect the public interest.

Livestock. "Livestock" means:

- (a) All cattle or animals of the bovine species;
- (b) All horses, mules, burros and asses or animals of the equine species;
- (c) All goats or animals of the caprine species;
- (d) All swine or animals of the porcine species; and
- (e) All sheep or animals of the ovine species.

Loading Space. "Loading space" means an off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of vehicles while handling merchandise or materials.

Lot. "Lot" means a distinct part or parcel of land divided with the intent to transfer ownership or for building purposes and which abuts upon a permanent means of access.

Lot, Corner. "Corner lot" means a lot situated at the intersection of two (2) or more streets or a lot that abuts one (1) street that changes directions, curves or turns around the lot with an interior angle of 135 degrees or less.

Lot, Interior. "Interior lot" means either (a) a lot bounded by a street on only one (1) side; or, (b) a lot situated at the intersection of (2) streets having an interior angle of one hundred thirty-five (135) degrees or more; or, (c) a lot that has continuous street frontage on only one (1) street and when the curvature of the lot along the street frontage exceeds one hundred thirty-five (135) degrees or more.

Lot, Through. "Through lot" means a lot bounded by two (2) streets that do not intersect at the boundaries of the lot.

Lot Coverage. "Lot coverage" is a measure of intensity of land use which represents the portion of a site that is impervious (i.e. does not absorb water). This portion includes, but is not limited to, all areas covered by buildings, parking structures, driveways, roads, sidewalks, and any areas of concrete asphalt. In the case of lumberyards, areas where lumber is stored also constitutes impervious surfaces.

Lot Depth. "Lot depth" is the distance between the front and rear lot lines measured in the mean direction of the side lines.

Lot Size. "Lot size" is the total square footage of a lot.

Lot Width. "Lot width" may be determined in one of the following three ways:

- (a) The distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear line (see Figure 110.902.15LW1).

Figure 110.902.15LW1

Outdoor Storage. "Outdoor Storage" means the outside placement of items and materials that are incidental to the existing principal use of the property, except as provided for under Section 110.306.35(d), for a period of more than seventy-two (72) consecutive hours. Outdoor storage is further defined and regulated in the Washoe County Nuisance Code (WCC Sections 50.300 to 50.310, inclusive).

Parcel Map. "Parcel map" means a map for a minor subdivision.

Parcel of Land. "Parcel of land" means any unit or contiguous units of land in the possession of or recorded as the property of one person.

Parking Area. "Parking area" means an open area, excluding a street or other public right-of-way, used for the parking of vehicles and available to the public, whether for free or for compensation.

Permanent Employee Housing. "Permanent employee housing" means housing for employees of an isolated industrial, mining, railroad, highway, utilities or agricultural based use where those employees occupy the housing on a permanent basis year round. This development may occur on a single parcel or multiple parcels.

Permitted Water Rights. "Permitted water rights" means the right, in accordance with NRS Chapter 533 and as approved by the Nevada State Engineer, to appropriate public waters, or to change the place of diversion, manner of use or place of use of water already appropriated.

Perennial Stream. "Perennial stream" means a stream that flows from source to mouth throughout the year. This definition does not apply to a man-made watercourse constructed for irrigation, aesthetic or other purposes.

Person. "Person" means a firm, association, corporation, partnership or an individual.

Personal Landing Field. "Personal landing field" means a private use aviation landing area that is used for fixed-wing aircraft or helicopter landing operations that are incidental and ancillary to established allowable land uses including, but not limited to, agricultural, ranching or mining activities, as long as no aviation related commerce is conducted at the personal landing fields. Personal landing fields do not engage in scheduled or non-scheduled air transportation activities, or in any scenic and sightseeing transportation service, or any other form of aviation commerce. The term "personal landing field" does not apply to "non-municipal air strips and glider ports," or to public airports operated by any federal, state or local government agencies.

Placement. "Placement" means the issuance of a set-up permit by the Building and Safety Department for a manufactured home or mobile home.

Planting Area. "Planting area" means an area devoted to or maintained predominantly with native or exotic plants including turf, groundcover, shrubs, flowers, vines and trees with a limited portion of complementary decorative features.

Plumbing Fixture. A "plumbing fixture" is a receptacle, device, or appliance that is supplied with water or which receives liquid or liquid-borne wastes, and which discharges into a drainage system to which it may be directly or indirectly connected.

Police Powers. "Police powers" means powers reserved to the states by the U.S. Constitution and delegated to cities and counties through the Nevada Constitution and the Nevada Revised Statutes; it is the authority to create and enforce ordinances and regulations that are not in conflict with general laws in order to promote the health, safety and general welfare of the public.

Print: "Print" means and includes a blueprint, photostat, direct process print or other copy which



127

Pipe

Vaults

Water





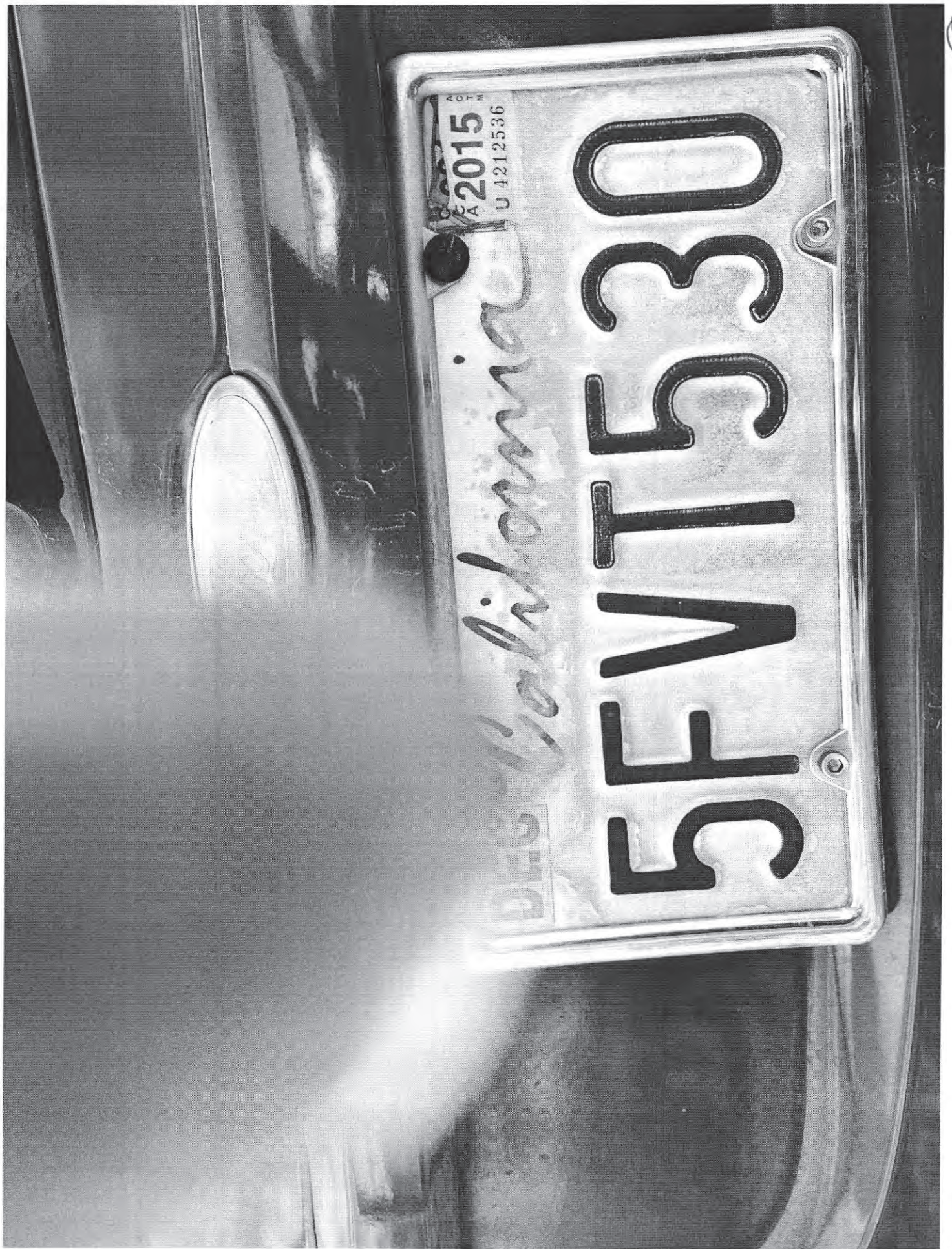
PIPE

Trailer

car

Gravel pile

3



57



Pallets
Pipe
rebar quarfed
Frames
(5)

14

Section 110.910.15 Enforcement Procedures. The following procedures shall apply to enforce the provisions of any development regulation

(a) Complaints. Complaints regarding possible violations of a development regulation may be made orally or in writing and shall be referred to the Director of Community Development, the Director of Community Services, the Building Official, the County Engineer or any of their designees, who may assign an enforcement official to investigate and take appropriate enforcement action. Oral complaints may be made anonymously. Enforcement officials and County employees who observe or become aware of possible violations of a development regulation shall discuss the possible violation with the Director of Community Development, the Director of Community Services, the Building Washoe County Development Code Official, the County Engineer or any of their designees, who may direct enforcement actions.

From: [Administrative Hearing Office](#)
To: [Patricia Halstead](#)
Subject: Administrative Hearing for Gary Schmidt WVIO-PLA23-0127 / WCAH2024-000001
Date: Monday, February 12, 2024 4:51:00 PM
Attachments: [Exhibit 1 from Respondent - Documents.pdf](#)
[Exhibit 2 from Respondent - Document.pdf](#)
[Exhibit 3 from Respondent - Documents.pdf](#)
[Exhibit 4 from Respondent - Documents.pdf](#)
[Exhibit 5 from Respondent - Documents.tif](#)
[image001.png](#)

Hello,

Please confirm that you have received the attached Exhibits 1 – 5.

Thank you!



Ada
Administrative Hearing Office
AHO@washoecounty.gov; AHO Voicemail: 775-328-2001
Fax: 775-325-6510
Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501
www.washoecounty.gov/rjc/

From: [Administrative Hearing Office](#)
To: [Code-Enforcement](#); [Giesinger, Chad](#)
Subject: Administrative Hearing for Gary Schmidt WVIO-PLA23-0127 / WCAH2024-000001
Date: Monday, February 12, 2024 4:52:00 PM
Attachments: [Exhibit 1 from Respondent - Documents.pdf](#)
[Exhibit 2 from Respondent - Document.pdf](#)
[Exhibit 3 from Respondent - Documents.pdf](#)
[Exhibit 4 from Respondent - Documents.pdf](#)
[Exhibit 5 from Respondent - Documents.tif](#)
[image001.png](#)

Hello,

Please confirm that you have received the attached Exhibits 1 – 5.

Thank you!



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Fax: 775-325-6510
Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501
www.washoecounty.gov/rjc/



ADMINISTRATIVE HEARING OFFICE RENO JUSTICE COURT

February 22, 2024

Gary Schmidt
PO BOX 861
Virginia City, NV 89440

Re: Case No.: WVIO-PLA23-0127 / WCAH2024-00001
Administrative Hearing: February 16, 2024 at 10:00 – 11:00 AM

Dear Mr. Schmidt,

You may appear at the Reno Justice Court 30 minutes prior to your hearing schedule on February 16, 2024, at 10:00 a.m. and we will provide you with a tablet queued up and ready to go into a conference room to allow you the ability to appear.

Please contact the Administrative Hearing Office if you have any concerns at (775) 328-2001 and leave a voice message.

Sincerely,

Gloria
Administrative Hearing Office



ADMINISTRATIVE HEARING OFFICE
RENO JUSTICE COURT

February 9, 2024

Gary Schmidt
PO BOX 861
Virginia City, NV 89440

Re: Case No.: WVIO-PLA23-0127 / WCAH2024-00001
REMINDER: Administrative Hearing: February 16, 2024, at 10:00 – 11:00 AM

Dear Mr. Schmidt,

You may appear at the Reno Justice Court 30 minutes prior to your hearing schedule on February 16, 2024, at 10:00 a.m. and we will provide you with a tablet queued up and ready to go into a conference room to allow you the ability to appear.

This is just a reminder being sent to all parties that your Administrative Hearing is scheduled for Friday, February 16, 2024, at 10:00 – 11:00 a.m. Please don't log on any earlier than ten (10) minutes before the scheduled hearing since we have a stacked calendar. Additionally, please be patient if you are waiting to be let into your court hearing since the prior hearing may still be going on.

ZOOM LINK

Topic: Administrative Hearing via Zoom
Join Zoom Meeting

<https://us02web.zoom.us/j/85817385967?pwd=di8xSVdQbnRaanF5RnYrNnllOU1zUT09>

Meeting ID: 858 1738 5967
Passcode: 561487

One tap mobile
+12133388477,,85817385967# US (Los Angeles)
+12063379723,,85817385967# US (Seattle)

Dial by your location

+1 213 338 8477 US (Los Angeles)
+1 206 337 9723 US (Seattle)

Meeting ID: 858 1738 5967

Find your local number: <https://us02web.zoom.us/j/kcvQ8e911h>

Please contact the Administrative Hearing Office if you have any concerns at (775) 328-2001 and leave a voice message.

Sincerely,

Gloria
Administrative Hearing Office

Solorzano, Gloria

From: gary schmidt <nobullschmidt@hotmail.com>
Sent: Tuesday, March 26, 2024 11:19 AM
To: Administrative Hearing Office; Brown, Eric P.; Solaro, David; Giesinger, Chad; Farmer, Brian; Herman, Jeanne; Mullin, Kelly D.; ecrump@washoe.gov
Subject: Motion WVIO-PLA23-0127

Follow Up Flag: Follow up
Flag Status: Completed

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

MOTION TO DISMISS

Washoe County Community Service

Code Enforcement

VS

DPG Schmidt

Gary Schmidt

Case No WVIO-PLA23-0127

Administrative Hearing Office

Reno Justice court

MOTION

Respondent, Gary Schmidt, hereby moves for a pre hearing dismissal of this action with prejudice based on

the egregious violations of the due process to which Respondent is entitled based on the following facts, evidence, assertions, and arguments.

1. As previously noted, the phone number that is listed as a contact for the Administrative Hearing Office on the notice form is dysfunctional. I called that number probably a dozen times over a 10 day period prior to the hearing originally scheduled for February 16th, 2024 and never received a response. However, whoever administrates for the Administrative Hearing Office did find the time to respond to my public records requests for copies of the phone messages that I made within some of the messages and supply me with copies of the messages which I have attached to this motion. While they could not find the time or the inclination to return my call and engage in a conversation about the process they did have the time to email me copies of my own messages which records request I made within the messages I left also requesting information and a return call which I never received. Subsequent to the phone calls I made to the dysfunctional phone number up until the hearing which occurred on February 16 and was continued I have made again numerous calls to that number up until and including on March 25. The phone number remains dysfunctional ! It goes automatically to a message that says the responsible party is on the phone. Again numerous messages were left. I finally did

receive a return call on March 25th but it was from the Justice Court and they were able to answer some of my questions but not all. It is particularly egregious that upon multiple notices the Administrative Hearing Office has failed to correct the deficiencies in that phone number. This alone should be just cause for dismissal of this action with prejudice because of blatant violation of Due Process. There must be consequences for dysfunctional government !

2. As previously noted, the Justice Court and/or the Administrative Hearing Office required myself, the respondent, to file exhibits using a standard court index and standard court cover pages while no such requirement was made of the Petitioner or the County or of themselves in essence. Effectively, the County requires the respondent to comply with a particular format for filing exhibits that they do not comply with themselves. The County exhibits I received did not have cover pages for each exhibit and were run-on and printed on two sides of the page with no proper indexing/cover sheets on the actual documents and are very confusing to use. I am not in disagreement with the requirement of a proper standardized index page and cover sheets and page numbering but I emphatically believe that the County should comply with their own standards. This blatant and egregious and arrogantly omnipotent violation of Due Process alone should justify dismissal

with prejudice at this time. Now, over 5 weeks later, the County has still not provided me with properly formatted exhibits as was demanded of me.

3. The language on the notice that there would be a zoom hearing conducted seems to imply that that's the only option. There is no statement on that notice informing the respondent that he/she has the opportunity and the right to request an in-person hearing or obviously no information on how that request could be made. There is also no authority listed in regards to the noticing of a zoom hearing as an alternative to an in-person hearing. The form should be updated. The Judge/Hearing Officer as much as acknowledged these deficiencies by making a statement on the record that "the whole process is a work in progress and needs improvement". I have not been provided any notice of any updated/corrected form.

4. The address for the Administrative Hearing Office on the notice form was number 1 Sierra Street. However, when I went to the court complex building at that address on Monday, February 12th, after not receiving any return calls from my multiple calls to the dysfunctional phone number, the first eight or nine people I inquired of had no idea where any Administrative Hearing Office might be in that building. I spent over an hour searching and sometimes having to take a number to wait in line to ask a question from

which I received no viable information. While inquiring as to where it might be I even called the dysfunctional number for the Administrative Hearing Office from inside the court complex leaving a message again that I was on site at Number 1 Sierra Street and couldn't find their office. A recording of that phone call is included with this motion. Ultimately it was determined that the Administrative Hearing Office is not at Number 1 Sierra Street it is at the County Manager's Office on 9th Street. Ultimately I was able to determine that while the office is not at Number 1 Sierra Street the Justice Court at that location performs a service for the Administrative Hearing Office process. The form notice of the location of the Administrative Hearings should be corrected and made more explicit and in addition there should be some specific information on the notice form as to the function of the Justice Court in the Administrative Hearing process. Also there should be some signage within the court complex building such as on the directory board, which I found none, directing people to the Justice Court Counter for any inquiries about Administrative Hearings. As of Wednesday March 6th there was still no signage or posted information on the directories board or elsewhere in the lobby giving anyone any information where to go or what to do to make inquiries about the Administrative Hearing Process. On that day, March 6th, I again made a

complaint to the Assistant Justice Court Administrator about the lack of signage or directory information.

5. Because my timely request for an in-person hearing, which was made 8 days prior to the scheduled hearing, was not considered prior to the scheduled zoom hearing date I therefore had to arrange for all my witnesses to attend either in person or on zoom at the zoom hearing that was scheduled for Friday, the 16th of February. Had my request for an in-person hearing been considered and granted PRIOR to the scheduled zoom hearing date all these witnesses, including the County's, would not have suffered the inconvenience of having to appear on the 16th and then also now having to appear again at an in-person hearing to be scheduled later, in this case on April 5. While the County may argue that it's not their fault that the witnesses are inconvenienced twice it is indeed THE COUNTY'S FAULT because there was no information provided even when repeatedly requested on how to request an in-person hearing but indeed the in-person hearing was requested 8 days before the scheduled hearing. If such information had been published on notices or made available timely the request could have been made with more confidence and dealt with in advance. The argument that "well we're all here today at the hearing on the 16th of February so it's not our fault that everybody's going to be

inconvenienced and have to return again because you (the Respondent) could avoid that by just proceeding with the zoom hearing today” is circular reasoning. Myself, the respondent, am entitled to an in-person hearing and I should not be forced via the back door into participating in a zoom hearing in order to avoid the double inconvenience of witnesses attending twice. That double inconvenience is as a direct result of inefficiencies or indeed perhaps malfeasance on the part of the County and/or the Administrative Hearing Office personnel. Additionally, a copy of the recorded phone messages attached is evidence that a request for an in-person hearing was made at least eight days prior to the scheduled zoom date. Not only did the County and/or the Administrative Hearing Office fail to respond to that request they also failed to acknowledge or notice at the hearing on February 16th that that request had been made via phone message on February 8th. The County in essence withheld exculpatory evidence from the hearing on the 16th in regards to the timely request for an in-person hearing. These combined failings, in my strong opinion, constitute malfeasance and very egregious violations of Due Process. Said “actions and failures to act” I assert warrant a dismissal of this action with prejudice.

I would also like to note for the record that dismissing this particular hearing with prejudice is not a significant act of any great consequence to the Public or to the County. Dismissal at this time itself will just clean up the process. For the record, I still am under the opinion that at this time and on December 12 when the citation was issued that I was and am in total compliance with any Development Code or Nuisance regulations. I believe that the notice of violation was issued in an abusive act of prejudice and retaliation and harassment against me because of my calling before the public certain malfeasance and miss-doings of the County in conspiracy with the Gerlach General Improvement District in another matter. If the Court were to grant this request for dismissal with prejudice it only dispenses of this particular Notice of Violation with prejudice. The County would be free, if they are so inclined and if they allege there are any remaining violations, to go back out and re-notice a new Warning Notice and then ultimately issue a new Notice of Violation on the property for any violation they think still exists which I believe is none. So if the County was so inclined they could start the process all over and if they so chose at least perhaps it would proceed under a proper process which is due to me i.e. Due Process. HOPEFULLY in the meantime as suggested by the Hearing Officer/Judge herself and by

James Conway the Reno Justice Court Administrator, someone could;

1. Update and improve the notice forms to properly identify the address of the Administrative Hearing Office and the function of the Justice Court in assisting the administration of hearings.

2. Include on the updated notice form information in regards to how the Respondent may request an in-person hearing if they so were inclined.

3. Get a working information number in place that is responded to within 24 hours.

4. Include on the notice how to get information about filing exhibits, calling or scheduling witnesses, and filing pre-hearing motions or notices.

5. Make the same requirements of the County in regards to the filing of exhibits as is demanded of the Respondent.

6. Identify the Hearing Officer at least ten calendar days in advance !!

At the hearing on the 16th of February the respondent Mr. Schmidt's, myself's, microphone was muted by "Gloria" for reasons unknown without direction from the Hearing Officer/ Judge and without notice to the Hearing Officer/Judge or Mr. Schmidt. Mr. Giesinger repeatedly talked over the Judge and interrupted the Judge and

interrupted the respondent, Mr Schmidt. Mr. Giesinger's microphone was never muted. We would be of the opinion that it is the Judge/Hearing Officer that should be in control of any muting of anybody to create at least a impression of a more fair process. I believe this demonstrated a level of prejudice by a facilitator of the process, Gloria, against the respondent, Mr. Schmidt. In any event certainly it demonstrated a violation of the fair process that is due.

Additionally, one of the reasons I had originally requested an additional 30 day extension from the County in regards to the initial warning notice was that I was attempting to meet with the Community Service Director, Kelly Mullen, to discuss the issues as Chad Gisinger would not even look at my documentation or his own documentation and exhibits and follow the facts where they led. As I said in one of my emails to Gisinger that it appeared his mind was made up and he didn't want to be confused by facts. I was hoping that Kelly Mullen, the Director, might be more amicable to reasonable discussion of the matter and any issues remaining and perhaps things could be resolved short of a hearing process. David Solaro, Assistant County Manager, is not an option because he is a principal target in our claims and possible action against the County in another matter for conspiracy with the GGID

Board. Another option beyond Ms. Mullin would be with Eric Brown, the County Manager. I believe two of the County Commissioners, the only two I have discussed this matter with, understand my arguments and support them. There is also now a new Director of Community Services who I have reached out to. In essence, I believe there is still a window of opportunity to settle this matter short of the hearing process which if said hearing process is ultimately needed may possibly lead to further judicial filings and processes. I don't think there is any prospect of resolving issues with further discussions with Mr. Gisinger as I read it because of the arrogant, condescending, omnipotent, demeaning, attitude he has demonstrated. I believe the Court witnessed and experienced a little bit of that at the hearing when he interrupted the Hearing Officer/Judge and spoke over her and never addressed her respectfully as he also did the same to myself, Gary Schmidt. The video recording of the hearing speaks for itself and it's being widely publicized.

In conclusion, I think it would be extremely wise and prudent to dismiss and dispose of this matter at this time and allow myself, the respondent, time to meet with Kelly Mullin or the new Director of Community Services and potentially Eric Brown the County Manager to discuss resolution of the matters and to give the

County Code Enforcement Department time to reinspect and reconsider and if they so desire they can reissue a notice of violation and then the hearing process could move forward again without the cloud of all the Due Process violations from the first hearing moving forward in the process. There could be a clean clear hearing on any remaining alleged code infraction issues without the side show of all the Due Process violations. It would also give the County and the Administrative Hearing Office time to “clean up their act” and improve the process which was acknowledged at the hearing on the 16th of February that there was need for.

Gary Schmidt Respondent

775-622-4670

Sent from my iPhone

From: gary schmidt <nobullschmidt@hotmail.com>
Sent: Monday, April 8, 2024 8:28 AM
To: Nancy Moss-Ghusn; Administrative Hearing Office; Mullin, Kelly D.; Farmer, Brian; Giesinger, Chad; Solaro, David; Brown, Eric P.; Herman, Jeanne
Subject: Post Hearing Briefing /Request for Specific Findings of Fact Case No. WVIO-PLA23-0127

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Washoe County Comunity Service
Code Enforcement
VS
DPG Schmidt
Gary Schmidt

Case No WVIO-PLA23-0127
Administrative Hearing Office
Reno Justice court

Respondent, Schmidt hear-by submits this Post Hearing Briefing and request for Specific Findings of Fact

POST HEARING BRIEFING

There is unrefuted evidence presented by the Respondent that the definition of “parcel of land” contained within the Washoe County Development Code in 1996 and in 2012 when Schmidt purchased the two combined units of land and up and until the passage of the new Code in August of 2016 was

“Parcel of Land. Parcel of land means any unit or continuous units of land in the possession of or recorded as the property of one person.

*(see definition included in the Harper Interpretation in 1996 that was presented by the Petitioner as evidence (110.902.15) and also contained within the Staff Report (Exhibit 1 pp 9) dated July 15 of 2016 authored by Kelly Mullin at the time a Planner and the definition excerpt from the Washoe County Development Code in July of 2016 presented by Respondent as Exhibit # 11. Also there was NO evidence presented by the Petitioners to the contrary !! Only “word solid” and “opinion” as to how the word “parcel” had been used by the Community Service’s Department for years with absolutely **no evidence presented** as to whether they were using the proper definition during that time. To the contrary, **undisputed evidence was presented that they had been misapplying a generic or assessors office definition of a “parcel of land” during that entire decade and perhaps for decades before and ignoring the actual LEGAL definition contained within the Washoe County Development Code at that time.** The improper use of a definition in conflict with the definition that is actually in Code does not create validity of that use. Also the County is not permitted to create their own definition or pull one from somewhere else such as the Assessors Office just because they do not like the one that is in Code or perhaps they never bothered to even check the definitions that were in Code which failure to check the definition that was in Code is exactly what may have happened. By their own admission under oath in the hearing when questioned by the Respondent they both made adverse admissions that they had never checked the Washoe County Development Code for a definition of “parcel” or “lot” and they could not give one. Additionally, if it would be unclear to anyone or if one thinks there is any ambiguity (which I do not) the call goes against the person or entity that drafted all the language because they had the responsibility to make the language clear and complete !*

There was undisputed evidence presented by both the Petitioner and by the Respondent that the two contiguous units of land were owned by Mr Schmidt from purchase in 2012 through August of 2016 and up and until the present.

(See Exhibit number 5 the Assessors Record Sheets and testimonies by Petitioners and Respondent.

Therefore combining the actual definition of “parcel of land “ from the Development Code up and until August of 2016 along with the undisputed ownership evidence there is undisputed evidence that the two adjacent units of land from Mr. Schmidt’s purchase in 2012 (and prior) and up until August of 2016 where defined by the County as a **single “parcel of land” or one parcel of land.**

There was also undisputed evidence that there was continual storage on the two contiguous units of land defined by the County at the time as a “parcel of land” from 2012 up until July of 2016 and continuing until this day.

(See Petitioners exhibits and photographs which all show storage and Respondents testimony that storage had been continual on both units of land during that five-year period and continuing until today)

The primary issue to be determined, decided, and resolved from the evidence is whether the continual use of storage on the subject property cited by the County was “LEGAL” (conforming) during the time period from 2012 until August of 2016 !

There was undisputed evidence presented that the Code Section applicable from 2012 until August of 2016 and beyond was WCC section 110.306.35(b) and is as follows:

Outdoor Storage on Vacant Lots. No Outdoor storage shall occur on a vacant parcel without an existing principal use. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location

See Petitioner's exhibits of the notices and citations!

There was undisputed evidence in photographs presented by the Petitioners, by the Assessor's Record Sheets presented as Exhibit 5, by the Respondent, and by the testimony of both of the Petitioners that there was a **primary use** of a home on the unit of land identified as number 2 on Schmidt's Exhibit No. 10 (Schmidt's map of the two contiguous units of land identified as a single "parcel" by definition within the Development Code). With the utilization of the definition of "parcel of land" during the time period from 2012 through August of 2016 it is obvious that the "parcel" had a principle use of a house and therefore storage was a Legal Conforming Use anywhere on the "parcel" including the portion thereof that was cited by the County. Therefore applying the undisputed definition of "parcel of land" (*undisputed by any evidence other than hearsay conjecture testimony by Petitioners not supported by any citations of law or fact*) the undisputed trail of evidence leads to only one conclusion and that is that Mr. Schmidt had established a Legal Conforming Use of storage throughout the years from his purchase 2012 up until August 2016 at which time said storage use on the subject unit of land became LEGAL Nonconforming and said storage use is allowed to continue as a Legal Nonconforming use under the County Code provisions in regards to "grandfathering" introduced into evidence by Respondent as Exhibit 9 and now by the Case Law analysis now submitted as exhibit 16 !

There was no evidence presented that the use of storage had or has discontinued for any 12 month period. There was evidence presented by Mr. Schmidt's testimony that there was no 12 month period during any time of Mr. Schmidt's ownership of the common contiguous units of land that the storage use had been discontinued for a 12 month period. In fact the testimony was that storage was basically continuous over his time of ownership on a day to day basis. The Petitioner's own aerial photographs also support this conclusion.

Therefore it is clear from the evidence presented unrefuted and absent of any evidence to the contrary that Mr. Schmidt had established the Legal Conforming Use of storage during his ownership up and until August of 2016 and at that time the storage use became a Legal Nonconforming Use which has continued until this day without any lapse of a 12 month period.

Summarized: From the purchase of the two units of land by Schmidt which were defined by the County as a single "parcel" there existed a primary use on the "parcel" of a house and the Legal Conforming Use of storage existed throughout the "parcel". Therefore when the definition of "parcel" changed in August of 2016 Mr Schmidt became "grandfathered in" in regards to the use of storage on both units of land or the total of the properties.

In regards to the Post Hearing Briefing Respondent would like to submit what are identified as Exhibit 16, three pages of Case Law related to the issue of "grandfathering" or the establishment of a Legal Nonconforming Use. Submitted at the hearing was the actual Washoe County Code Regulations in

regards to grandfathering or Legal Nonconforming Use as Exhibit 9. Case Law had not been prepared and therefore not submitted because it was anticipated that the Petitioners would know and understand “grandfathering” or Legal Nonconforming Uses and that the actual definition or description would not be an issue. But much to Respondant’s surprise neither Petitioner was able to enter into the record any definition or description when they were repeatedly asked about “grandfathering” or Legal Nonconforming Use. Therefore Respondent feels it’s entirely appropriate that this Case Law be accepted into the Record and be considered within this format of a Post Hearing Briefing for the Hearing Officer to consider prior to any final written order !

REQUEST FOR SPECIFIC FINDINGS OF FACT

Respondent also requested to have Specific Findings of Facts. Specific Findings of Facts are requested at least in part as follows;

- 1 In regards to the issue of alleged improper screening of the recreational vehicle based upon a a photo taken on December 4 by the Petitioner and as is noted in the warning notice and citation Respondent believes that at the hearing it was acknowledged that that screening is no longer an issue and that portion of the citation should be dismissed.
- 2 Petitioner would also like to request a Specific Finding of Fact in regards to the issue of whether or not storage was ongoing on the subject Unit of Land prior to August of 2016 and subsequent to August of 2016. Respondent believes that the evidence (or lack of evidence on the part of the Petitioner) held that there was storage on the subject unit of land on the citation but that the only issue remaining in regards to the storage use was whether or not it was “legal” storage that was ongoing at any time and/or if legal storage had been established prior to August 2016 which is relevant to the establishment of a Legal Nonconforming Use after August 2016 commonly known as “grandfathering”.
- 3 Respondent would request a Specific Finding of Fact as to whether there was legal storage on the subject unit of land ongoing prior to August 2016 and if not what evidence was relied on to come to any finding that legal storage had not been established during that time period.
- 4 Petitioner would like a Specific Finding of Fact in regards to the appeal issue as to whether or not the Respondent had been illegally denied the opportunity to have these issues heard before the Board of Adjustment. Hearing Officer made claims and asserted that that issue could not be considered by the Hearing Officer even though it was listed as one of the items appealed on that Administrative Hearing Appeal form. Specific legal citations of law and analysis in a format of a Finding of Facts on this issue are here-by requested.

In addition Respondent would like to request a re-hearing or new hearing (if necessary) solely on the issue of whether or not the storage that occurred on the subject unit of land prior to August of 2016 was legal and therefore if there was a legal use of storage prior to August of 2016 and therefore the Legal Nonconforming use of storage had been established and is “grandfathered” in.

Gary Schmidt
Respondent

1

defines “grandfather cla

2

existed before the law’s

3

12

As stated by the

1 Title”, he failed to cit

2 insufficient, as here, t

3

25 Such lack of

26 Amendment to the I

In *Isabell v. City of*

entertainment zoning ordinance

Court concluded: "Plaintiff

900 feet from a residential

use because its operation

businesses from locating

Solorzano, Gloria

From: Administrative Hearing Office
Sent: Friday, February 16, 2024 7:44 AM
To: nobullschmidt@hotmail.com
Subject: Re: Recording for 02/15/2024 at 5:24 PM & Hearing Set 02/16/24 AT 10:00 am
Attachments: voicemail202402151723fromSCHMIDT,GARY 17756224670.mp3

Hello,

At your request attached is your recording. Also, please see below the Administrative Hearing Officer decision:

Good Afternoon All-

After reviewing the correspondence, it was my understanding that the Respondent had been notified on February 9 that accommodations had been made for him to appear via *Zoom* in a conference room at the courthouse and no objection was made until now, approximately an hour ago. For that reason, the hearing time will proceed as scheduled. Mr. Schmidt, as you have been to the Mills Lane Courthouse, I assume that you can make it again tomorrow. For the record, I have inquired if there is availability for in-person hearings in general when timely requested.

Unless the County waives its right to respond to these motions, I will not be making any decisions on these matters at this time until the County has not had an opportunity to respond. At this late hour, the County may email any responses or may respond at the beginning of the hearing time, 10:00 a.m. tomorrow morning, as scheduled.

Thank you.

Kind regards,

Nancy Moss Ghusn, Esq.
Administrative Hearing Officer

Thank you,



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

Solorzano, Gloria

From: Administrative Hearing Office
Sent: Tuesday, February 13, 2024 9:13 AM
To: gary schmidt
Subject: Re: Schmidt, Gary - WCAH2024-00001 / WVIO-PLA23-0127 - (3) Voicemail
Attachments: voicemail202402121225fromSCHMIDT,GARY 17756224670.mp3;
voicemail202402121331fromSCHMIDT,GARY 17756224670.mp3;
voicemail202402121617fromSCHMIDT,GARY 17756224670.mp3

Hello Mr. Schmidt,

Attached is a copy of your three (3) voice mails that you requested.

Thank you and have a great day!



GLORIA

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

Jones, Stephanie M.

From: Jones, Stephanie M.
Sent: Thursday, February 8, 2024 7:56 AM
To: 'nobullschmidt@hotmail.com'
Subject: Office of Administrative Hearings
Attachments: voicemail202402071319fromSCHMIDT,GARY 17756224670.mp3

Hello Mr. Schmidt,

Attached is a copy of your voice mail that you requested. If you have a lot of exhibits, please send them in accordance to instructions as soon as possible.

Thank you and have a great day! 😊



STEPHANIE

Administrative Hearing Office

AHO@washoecounty.gov; AHO Voicemail: 775-328-2001

Reno Justice Court: 775-325-6500; Fax: 775-325-6510

Physical & Mailing Address: 1 South Sierra Street Reno, NV 89501

www.washoecounty.gov/rjc/

1 WASHOE COUNTY
2 ADMINISTRATIVE HEARING OFFICE

3 * * * * *

4 Washoe County)
5 Community Services Plaintiff,)
6 Code Enforcement)
7 vs.)
8 DPG Schmidt Trust)
9 Gary Schmidt)
10 Defendant.)
11)

Case No. WV10-PLA23-0127
Dept. No. Administrative Hearing
Office - Reno Justice Court

12 MOTION

13 I hereby move for a pre-hearing dismissal with
14 prejudice because of a violation of due process
15 as follows: Code Enforcement issued one extension of
16 time for compliance based on their assessment of good
17 progress. Mr. Schmidt made a written request for
18 an additional extension of 30 days on December 4th.
19 Code Enforcement did not deny that request until
20 December 21st after Mr. Schmidt made an
21 additional written inquire about the status of the
22 request for an extension on December 18th. We
23 assert that it is a violation of due process
24 to issue a notice of violations pending a response
25 to the request for an extension which Code
26 Enforcement did when they issued the subject
Code Violation Notice on December 12th!
All this is in evidence before the Hearing Officer.

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WASHOE COUNTY
ADMINISTRATIVE HEARING OFFICE

* * * * *

Washoe County)
Community Services Plaintiff,)
Code Enforcement)
vs.)
DPA Schmidt Trust)
Gary Schmidt)
Defendant.)

Case No. WV10-PLA23-0127
Dept. No. Administrative Hearing
Office - Reno Justice Court

MOTION

I hereby move for pre-hearing dismissal with prejudice because Washoe County has failed to properly file their Exhibits in the proper format with numbered cover sheets or the proper Court provided index page as was required ~~of~~ the Defendant/Respondent! Please note Section one (1) of the 14th Amendment of the U.S. Constitution!

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WASHOE COUNTY
ADMINISTRATIVE HEARING OFFICE

* * * * *

Washoe County)
Community Services Plaintiff,)
Code Enforcement)
vs.)
DPG Schmidt Trust)
Gary Schmidt)
Defendant.)

Case No. WVIO-PLA23-0127
Dept. No. Administrative Hearing
Office - Reno Justice Court

MOTION

We hereby move for a continuation of this hearing until facilities can be provided for an in person live hearing. I have not consented to a zoom hearing and hereby repeat my opposition to a zoom hearing! I have repeatedly called the information number (775-328-2001) and left messages and recieved NO return calls. I was at the Justice Court for almost two hours and could get very little information or answers to my questions on Monday the 12th of February. I started calling last week!

Washoe County Appeal of Decision to Board of Adjustment

Your entire application is a public record. If you have a concern about releasing personal information please contact Planning and Building staff at 775.328.6100.

Appeal of Decision by (Check one)	
<p>Note: Appeals to the Washoe County Board of Adjustment are governed by WCC Section 110.910.15(i), WCC Section 110.912.10(j), and NRS 278.310.</p>	
<input checked="" type="checkbox"/> Administrative Hearing Officer	<input type="checkbox"/> County Building Official
<input type="checkbox"/> Director, Planning and Building Division <input type="checkbox"/> Director, Engineering and Capital Projects Division	<p>Fire Code Official</p> <input type="checkbox"/> North Lake Tahoe Fire Protection District <input type="checkbox"/> Truckee Meadows Fire Protection District
Appeal Date Information	
<p>Note: This appeal must be delivered in writing to the offices of the Planning and Building Division or the Washoe County Building Official within 10 (ten) calendar days from the date that the decision being appealed is communicated in writing to the appellant.</p> <p>Note: The appeal must be accompanied by the appropriate appeal fee (see attached Master Fee Schedule).</p>	
Date of this appeal: <u>5-27-24</u>	
Date of action by County: <u>5-9-24 Fall of 2023 to Present</u>	
Date of decision for which appeal is being filed: <u>5-9-24</u>	
Project Location: <u>335 + 345 Main Street Gerlach</u>	
Appellant Information	
Name: <u>Gary Schmidt</u>	Phone: <u>775 622-4670</u>
Address: <u>P.O. Box 861</u>	Fax:
	Email: <u>nobullschmidt@gmail.com</u>
City: <u>Virginia City</u> State: <u>NV</u> Zip: <u>89440</u>	Cell: <u>hotmail.com</u>
Specific action by the County being appealed: <u>Hearing Officer failed to acknowledge undisputed evidence and failed to rule on the primary issue of the "grandfathering" of the use of storage at address 345 Main Street, Gerlach SEE Attached!</u>	
Describe why the decision should or should not have been made: <u>Storage at the address of 345 Main Street is a Legal Nonconforming use and the citation should be dismissed!</u>	

Cite the specific outcome you are requesting with this appeal:

Declare that the use of "storage" is a legal non conforming use at 345 Main Street Gerlach!
Dismiss the citation!
Award damages to Schmidt from the County for Abuse of Process!

Describe your basis as an aggrieved party. The basis must include the nature and location of your property interest and the manner in which the property interest will be affected by the appealed decision.

See case file WV10-PLA23-0137

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

Yes
 No *N/A*

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

Yes
 No

Appellant Affidavit

STATE OF NEVADA)

COUNTY OF ~~WASHOE~~ Storey

I, Gary Schmidt being duly sworn, depose, and say that I am an appellant
(print name)

seeking the relief specified in this petition and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by staff of the Planning and Building Division.

Signed

Address

Phone:

[Signature]
324 C Street
Virginia City NV
775-622-4670

Subscribed and sworn to before me this

29 day of April, 2024

[Signature]
Notary Public in and for said county and state Storey Co. NV

My commission expires: Mar. 10, 2025

(Notary Stamp)



HEATHER MARIE FAIRCLOTH
NOTARY PUBLIC
STATE OF NEVADA
APPT No. 21-5979-16
MY APPT EXPIRES MARCH 10, 2025

Washoe County Community Service

Code Enforcement

VS

DPG Schmidt

Gary Schmidt

Case No WVIO-PLA23-0127

Administrative Hearing Office

Reno Justice court

Respondent, Schmidt hear-by submits this Post Hearing Briefing and request for Specific Findings of Fact

POST HEARING BRIEFING

There is unrefuted evidence presented by the Respondent that the definition of "parcel of land" contained within the Washoe County Development Code in 1996 and in 2012 when Schmidt purchased the two combined units of land and up and until the passage of the new Code in August of 2016 was

"Parcel of Land. Parcel of land means any unit or continuous units of land in the possession of or recorded as the property of one person.

(see definition included in the Harper Interpretation in 1996 that was presented by the Petitioner

as evidence (110.902.15) and also contained within the Staff Report (Exhibit 1 pp 9) dated July 15 of 2016 authored by Kelly Mullin at the time a Planner and the definition excerpt from the Washoe County Development Code in July of 2016 presented by Respondent as Exhibit # 11. Also there was NO evidence presented by the Petitioners to the contrary !! Only "word salad" and "opinion" as to how the word "parcel" had been used by the Community Service's Department for years with absolutely no evidence presented as to whether they were using the proper definition during that time. To the contrary, undisputed evidence was presented that they had been misapplying a generic or assessors office definition of a "parcel of land" during that entire decade and perhaps for decades before and ignoring the actual LEGAL definition contained within the Washoe County Development Code at that time. The improper use of a definition in conflict with the definition that is actually in Code does not create validity of that use. Also the County is not permitted to create their own definition or pull one from somewhere else such as the Assessors Office just because they do not like the one that is in Code or perhaps they never bothered to even check the definitions that were in Code which failure to check the definition that was in Code is exactly what may have happened. By their own admission under oath in the hearing when questioned by the Respondent they both made adverse admissions that they had never checked the Washoe County Development Code for a definition of "parcel" or "lot" and they could not give one. Additionally, if it would be unclear to anyone or if one thinks there is any ambiguity (which I do not) the call goes against the person or entity that drafted all the language because they had the responsibility to make the language clear and complete !

There was undisputed evidence presented by both the Petitioner and by the Respondent that the two contiguous units of land were owned by Mr Schmidt from purchase in 2012 through August of 2016 and up and until the present.

(See Exhibit number 5 the Assessors Record Sheets and testimonies by Petitioners and Respondent.

Therefore combining the actual definition of "parcel of land " from the Development Code up and until August of 2016 along with the undisputed ownership evidence there is undisputed evidence that the two adjacent units of land from Mr. Schmidt's purchase in 2012 (and prior) and up until August of 2016 were defined by the County as a single "parcel of land" or one parcel of land.

There was also undisputed evidence that there was continual storage on the two contiguous units of land defined by the County at the time as a "parcel of land" from 2012 up until July of 2016 and continuing until this day.

(See Petitioners exhibits and photographs which all show storage and Respondents testimony

that storage had been continual on both units of land during that five-year period and continuing until today)

The primary issue to be determined, decided, and resolved from the evidence is whether the continual use of storage on the subject property cited by the County was "LEGAL" (conforming) during the time period from 2012 until August of 2016 !

There was undisputed evidence presented that the Code Section applicable from 2012 until August of 2016 and beyond was WCC section 110.306.35(b) and is as follows:

Outdoor Storage on Vacant Lots. No Outdoor storage shall occur on a vacant parcel without an existing principal use. No vehicles may be stored or displayed for sale on any vacant lot or at any vacant business location

See Petitioner's exhibits of the notices and citations!

There was undisputed evidence in photographs presented by the Petitioners, by the Assessor's Record Sheets presented as Exhibit 5, by the Respondent, and by the testimony of both of the Petitioners that there was a primary use of a home on the unit of land identified as number 2 on Schmidt's Exhibit No. 10 (Schmidt's map of the two contiguous units of land identified as a single "parcel" by definition within the Development Code). With the utilization of the definition of "parcel of land" during the time period from 2012 through August of 2016 it is obvious that the "parcel" had a principle use of a house and therefore storage was a Legal Conforming Use anywhere on the "parcel" including the portion thereof that was cited by the County. Therefore applying the undisputed definition of "parcel of land" (undisputed by any evidence other than hearsay conjecture testimony by Petitioners not supported by any citations of law or fact) the undisputed trail of evidence leads to only one conclusion and that is that Mr. Schmidt had established a Legal Conforming Use of storage throughout the years from his purchase 2012 up until August 2016 at which time said storage use on the subject unit of land became LEGAL Nonconforming and said storage use is allowed to continue as a Legal Nonconforming use under the County Code provisions in regards to "grandfathering" introduced into evidence by Respondent as Exhibit 9

and now by the Case Law analysis now submitted as exhibit 16 !

There was no evidence presented that the use of storage had or has discontinued for any 12 month period. There was evidence presented by Mr. Schmidt's testimony that there was no 12 month period during any time of Mr. Schmidt's ownership of the common contiguous units of land that the storage use had been discontinued for a 12 month period. In fact the testimony was that storage was basically continuous over his time of ownership on a day to day basis. The Petitioner's own aerial photographs also support this conclusion.

Therefore it is clear from the evidence presented unrefuted and absent of any evidence to the contrary that Mr. Schmidt had established the Legal Conforming Use of storage during his ownership up and until August of 2016 and at that time the storage use became a Legal Nonconforming Use which has continued until this day without any lapse of a 12 month period.

Summarized; From the purchase of the two units of land by Schmidt which were defined by the County as a single "parcel" there existed a primary use on the "parcel" of a house and the Legal Conforming Use of storage existed throughout the "parcel". Therefore when the definition of "parcel" changed in August of 2016 Mr Schmidt became "grandfathered in" in regards to the use of storage on both units of land or the total of the properties.

In regards to the Post Hearing Briefing Respondent would like to submit what are identified as Exhibit 16, three pages of Case Law related to the issue of "grandfathering" or the establishment of a Legal Nonconforming Use. Submitted at the hearing was the actual Washoe County Code Regulations in regards to grandfathering or Legal Nonconforming Use as Exhibit 9. Case Law had not been prepared and therefore not submitted because it was anticipated that the Petitioners would know and understand "grandfathering" or Legal Nonconforming Uses and that the actual definition or description would not be an issue. But much to Respondant's surprise neither Petitioner was able to enter into the record any definition or description when they were repeatedly asked about "grandfathering" or Legal Nonconforming Use. Therefore Respondent feels it's entirely appropriate that this Case Law be accepted into the Record and be considered within this format of a Post Hearing Briefing for the Hearing Officer to consider prior to any final written order !

REQUEST FOR SPECIFIC FINDINGS OF FACT

Respondent also requested to have Specific Findings of Facts. Specific Findings of Facts are requested at least in part as follows;

1 In regards to the issue of alleged improper screening of the recreational vehicle based upon a photo taken on December 4 by the Petitioner and as is noted in the warning notice and citation Respondent believes that at the hearing it was acknowledged that that screening is no longer an issue and that portion of the citation should be dismissed.

2 Petitioner would also like to request a Specific Finding of Fact in regards to the issue of whether or not storage was ongoing on the subject Unit of Land prior to August of 2016 and subsequent to August of 2016. Respondent believes that the evidence (or lack of evidence on the part of the Petitioner) held that there was storage on the subject unit of land on the citation but that the only issue remaining in regards to the storage use was whether or not it was "legal" storage that was ongoing at any time and/or if legal storage had been established prior to August 2016 which is relevant to the establishment of a Legal Nonconforming Use after August 2016 commonly known as "grandfathering".

3 Respondent would request a Specific Finding of Fact as to whether there was legal storage on the subject unit of land ongoing prior to August 2016 and if not what evidence was relied on to come to any finding that legal storage had not been established during that time period.

4 Petitioner would like a Specific Finding of Fact in regards to the appeal issue as to whether or not the Respondent had been illegally denied the opportunity to have these issues heard before the Board of Adjustment. Hearing Officer made claims and asserted that that issue could not be considered by the Hearing Officer even though it was listed as one of the items appealed on that Administrative Hearing Appeal form. Specific legal citations of law and analysis in a format of a Finding of Facts on this issue are here-by requested.

In addition Respondent would like to request a re-hearing or new hearing (if necessary) solely on the issue of whether or not the storage that occurred on the subject unit of land prior to August of 2016 was legal and therefore if there was a legal use of storage prior to August of 2016 and therefore the Legal Nonconforming use of storage had been established and is "grandfathered" in.

Gary Schmidt

Respondent

April 6th, 2024

[image]

[image]

[image]

Sent from my iPhone

Appeals of an Administrative Hearing Officer's Decision to the Board of Adjustment

Washoe County Code (WCC) Section 110.910.15 *Enforcement Procedures* sets forth various enforcement procedures that may be utilized to enforce violations of any development regulation. WCC Section 110.910.15(d) *Administrative Enforcement Proceedings* provides an administrative enforcement option/procedure that enables an enforcement official to construe the violation of any provision in a development regulation as an administrative offense and pursue all procedures and remedies in WCC Chapter 125, *Administrative Enforcement Code*, subject to the following provisions:

- (1) Appeal to Board of Adjustment. Any aggrieved person may appeal a decision or order of an administrative hearing officer to the Board of Adjustment in accordance with the Rules of the Board of Adjustment.

WCC Chapter 125 provides administrative enforcement procedures that include a process for warnings and then escalating penalties if a violation is not corrected. These procedures also allow a violator that has received an administrative penalty notice to appeal the penalty to an administrative hearing officer in lieu of paying the penalty. The administrative hearing officer is then responsible for determining, based on the evidence presented and testimony provided at the hearing, if a violation of WCC occurred as alleged by the code enforcement officer. Administrative hearings are presided over by Washoe County Board of County Commissioner (BCC) appointed hearing officers. The hearings are informal in nature, and the hearing officer is vested by WCC Chapter 125 to dispose of the case which includes affirming, dismissing, remanding or modifying the administrative penalty notice. Hearings procedures are limited to two matters:

125.250 Administrative hearing procedures.

2. Matters and evidence to be considered at the hearing must be relevant to:
 - a. Whether the conditions described in the administrative penalty notice, stop activity order, or remediation order violate the Code, and in the case of an abatement notice, solely whether the cited violations are repeating or continuing without required compliance or remedy; and
 - b. Whether the enforcement official afforded the respondent due process by adhering to the notice requirements set forth in this administrative enforcement code.

WCC Section 110.910.15(i) *Appeals to the Board of Adjustment* further states that pursuant to NRS 278.310, an aggrieved person may appeal an interpretation or decision of an administrative hearing officer to the Board of Adjustment subject to the following provisions:

- (1) Notice. The administrative hearing officer's decision or order shall explain the right to appeal, the appeal procedure, and how to obtain forms.
- (2) Forms and Deadline. Unless a different time for appeal is provided in this article or another code or regulation, the appellant shall have twenty (20) calendar days from the date of service of the administrative hearing officer's decision to file an appeal. The appeal shall be prepared on forms provided by and shall be turned in to the Community Development Department or Building Official as the case may be. If an appeal is not received by the Community Development Department or Building Official by the deadline, the right to appeal is deemed waived, and the administrative proceeding may proceed.
- (3) The burden to establish appellant as an aggrieved party is on the appellant, and the appellant must in his/her appeal request establish by affidavit the nature and location

of his or her property interest and the manner in which the property interest will be affected by the decision being appealed. The Board of Adjustment shall first determine standing to bring the appeal, and may schedule a separate public hearing for that purpose.

- (4) Hearing Procedures. The timelines and procedures set out herein and the rules of the Board of Adjustment govern the appeal, except that following the public hearing, the Board of Adjustment shall either affirm, modify, reverse or remand the decision being appealed or any combination thereof, but may not award damages. A written order shall be prepared, executed by the Board of Adjustment Chair, and filed with the Secretary of the Board of Adjustment and a copy of the order shall be served on the appellant.
- (5) Judicial Review of Board of Adjustment Decisions. The appellant shall have twenty-five (25) days from the later of:
 - (i) Filing of the order with the secretary of the Board of Adjustment, or
 - (ii) The date the order is mailed to the appellant.
- (6) When a petition for judicial review is filed, the court rules shall govern the proceeding. This judicial review is in lieu of appeal to the Board as authorized by NRS 278.310 (3)(b).

WCC 110.912 *Establishment of Commissions, Boards, and Hearing Examiners* sets forth the powers and duties of the Board of Adjustment. WCC 110.912.10(j)(2) establishes matters that may be appealed to the Board or Adjustment and includes the following sub-section:

- (iii) A decision of an administrative hearing officer if an administrative enforcement proceeding is completed in accordance with Article 910 of the Development Code.

WCC 110.912.10(j)(6) and (7) provide the following parameters for Board of Adjustment review of appeals:

- (6) Record on Appeal; Additional Evidence. A record on appeal shall be prepared by the County (including either a transcript of or a copy of the recording of the proceeding, at the discretion of the Chairman of the Board) and the Board:
 - (i) Shall review the record on appeal and all evidence, testimony, documents, information and arguments introduced and the decision in the proceedings being appealed;
 - (ii) Shall afford all parties an opportunity to respond and present relevant and non-repetitious evidence and arguments on all issues being decided on appeal even if it is new evidence;
 - (iii) Shall conduct a public hearing, and hear and consider relevant information and comments by members of the public, even if they did not appear in the proceeding under appeal;
 - (iv) May consider, upon disclosure, information and comments communicated to Board members before the hearing; and
 - (v) May consider maps, adopted master plans to include area plans, and its own knowledge of conditions that exist.
- (7) Burden of Proof and Persuasion; Reasons for Reversal of Underlying Decisions; Limitations on Awards.

- (i) Decisions of administrative officials, hearing officers, and the technical review boards for building code and fire codes are presumed to be reasonable and lawful, and it is the burden of the appellant to persuade the Board otherwise.
- (ii) On an affirmative vote of a majority of the members present at the hearing, the Board may affirm the decision being appealed,
- (iii) On a majority vote of all its members [as required by NRS 278.300 (2)], the Board may reverse, modify or remand a decision if the decision:
 - (A) Was made contrary to the constitution, a statute, an ordinance or regulation, or the law of the case;
 - (B) Exceeds the jurisdiction or statutory authority of the deciding official or body;
 - (C) Was made on unlawful procedure;
 - (D) Is affected by an erroneous interpretation or other error of law;
 - (E) Is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record, or
 - (F) Is arbitrary or capricious or characterized by abuse of discretion.
- (iv) The Board may not award, allocate or direct the payment of money damages, attorney's fees or costs of the proceeding to any party.

Interpretation 96-4

LOCATION OF DETACHED ACCESSORY STRUCTURES AND GARAGES

Pursuant to Article 910, Section 110.910.05 of Chapter 110 of the Washoe County Code, the Director of the Department of Development Review has the authority to enforce the provisions of the Development Code. In order to appropriately enforce the Development Code, the Director finds it necessary to provide the following interpretation concerning the location of detached accessory structures and detached garages.

A detached accessory structure must be located either on the same lot as the main structure, or on a lot that is defined as the same parcel of land that the main structure is or is intended to be located. An exception to the detached accessory structure location interpretation is that detached garages associated with a use may be located on an adjacent parcel of land that is zoned for the same uses as the parcel of land on which the main structure is located.

BACKGROUND

The location of detached accessory structures (which excludes a detached accessory dwelling) and detached garages relative to a main structure is not clearly identified in the Development Code. For example, a detached garage is identified as an example of a detached accessory structure. Yet, when a comparison of the location of detached accessory structures and detached garages relative to the lot that a main building (which is required for both detached uses) occurs, there is a distinction drawn in the Development Code. This interpretation is intended to establish the rule for the location of both types of detached uses.

The definition of a detached accessory structure (110.304.15(3)) states that “A detached accessory structure refers to a building or structure on the same lot as the main residential structure...” Therefore, it is clear from the definition that a detached accessory structure must be located within the same parcel line boundaries as the main structure. The question then is raised whether a detached accessory structure must be within the same boundary lines as a main structure. The answer is no. The reason is found in the definition of Lot (110.902.15). “Lot means a distinct part or *parcel of land* divided with the intent to transfer ownership or for building purposes and which abuts upon a permanent means of access.” (*emphasis added*) Parcel of land is defined as “...any unit or *contiguous units of land* in the possession of or recorded as the property of one person.” (110.902.15) (*emphasis added*) It is, therefore, possible for a detached accessory structure to be located on land with distinct boundaries separate from the land that the main structure is located, but which is contiguous and is considered as part of a parcel of land on which the main structure is located. The most effective way of determining if a detached accessory building meets the location guidelines is to determine if the main structure and the detached accessory building are located on land with the same parcel number as assigned by the County Assessor’s Office.

Although detached garages are defined as an example of a detached accessory structure, separate rules for their location are enumerated in 110.410.20(a). This section states “For dwellings, motels, automobile-oriented services, and elementary, junior high, and high schools, required parking spaces shall be provided on the same lot as the main building(s) or on an

adjoining lot or lots zoned for the main use of the property.” Unlike the detached accessory structure’s location rules, a detached garage can be located on a separate parcel of land as long as it is adjacent to the main structure’s parcel of land and is zoned for the same use as the parcel of land on which the main structure is located.

Limitations of Interpretation

This interpretation shall supersede all previous interpretations of Chapter 110 of the Washoe County Code concerning the above referenced subject and be in effect unless and until a subsequent interpretation concerning the above referenced subject is made by the Director of the Department of Development Review, the interpretation is reversed through a successful appeal pursuant to Article 808, or the Washoe County Code is amended to include the subject matter referenced in this interpretation.

Michael A. Harper, AICP, Director
Department of Development Review

Dated: May 7, 1996

071-281-02 (APN with existing Primary Use)
071-281-01 (Vacant contiguous APN)

WHEN RECORDED, MAIL (DELIVER) TO:
Washoe County Community Services Department
Planning and Development Division
1001 E. Ninth St., Bldg A
Reno, NV 89512-

**DEED RESTRICTION AND COVENANT AGAINST
SEPARATE SALE OF PROPERTIES UNTIL POTENTIAL
NONCONFORMANCE HAS BEEN RESOLVED
(Washoe County Code § 110.306.15(b))**

This Deed Restriction and Covenant is made the ___ day of the Month of _____, 202__
by Applicant
(Hereinafter "Owner")

RECITALS

1. Owner is the owner of certain real property located in Washoe County, State of Nevada, Assessor's Parcel Numbers (APNs) 071-281-02 and 071-281-01 described as follows:

335 and 345 Main St.
Gerlach, Nevada 89412
2. The Owner desires to receive approval to establish an accessory use pursuant to WCC 110.306.15(b) on a vacant parcel that is contiguous to a parcel with an established main structure or principal use, where both parcels are under the same ownership and have the same regulatory zone.
3. Pursuant to Washoe County Code (WCC) § 110.306.15(b), and as a condition of the above approval by Washoe County, an appropriate deed restriction is recorded documenting that the Owner shall not sell or convey either of the parcels separately unless or until any nonconformance resulting from such a sale or conveyance has been resolved.
4. The term "accessory use" as used herein shall have the meaning ascribed to it in WCC § 110.306.05 and 110.902.15.

NOW, THEREFORE, in consideration of the foregoing and as a condition for the approval referenced above, Owner hereby executes this deed restriction and covenant against separate sale of these properties until potential nonconformance has been resolved as provided below:

1. Owner covenants that the use is and shall continue to be an accessory use to the primary (main) residence on the adjacent Property and shall not sell or otherwise convey ownership of either property separately until potential nonconformance resulting from such a transfer is resolved.

Transferring ownership of either property separately without resolving the nonconformance shall constitute a violation of Washoe County approval.

2. This Deed Restriction and covenant shall be deemed a covenant running with the land and an equitable servitude, as the case may be, and in any event shall constitute benefits and burdens to the Properties described above and shall be binding on the Owner and Owner's successors and assigns and all persons hereafter acquiring or owning any interest in the Properties.
3. This Deed Restriction may not be revoked or modified without prior express written and recorded consent of Washoe County or its successor agency, if any. Washoe County is deemed and agreed to be an intended third-party beneficiary of this Deed Restriction and as such, can enforce the provisions of this Deed Restriction. Washoe County will agree to the removal of the Deed Restriction only once the owner has resolved any potential nonconformance that would result from separate sale or conveyance of the Properties.
4. Potential nonconformance issues may be resolved through one or more of the following methods prior to a property transfer:
 - a. Reversion to Acreage combining the two lots into one;
 - b. Boundary Line Adjustment resulting in the main structure and the accessory use being located on the same lot;
 - c. Removal of the accessory use;
 - d. Construction of a main structure or establishment of a principal use on the same lot as the accessory use;
 - e. Conversion the accessory use into a main use; or
 - f. Other methods, as approved by the Director of Planning and Building, which resolve the potential for nonconformance but may not have been contemplated at the time this deed restriction was initially recorded.

Note: In addition to any other necessary actions to resolve any other nonconformance issues, if Owner locates a dwelling's required enclosed garage on an adjacent lot per the provisions of WCC § 110.306.15 and 110.410.20, Owner may also be required to construct a garage on the same Property as the main dwelling prior to the separate sale or conveyance of the Properties.

IN WITNESS WHEREOF, Owner has executed this Deed Restriction on the day and year written.

OWNER(S)' SIGNATURE(S):

Applicant Name

Dated: _____

Applicant Name

Dated: _____

STATE OF NEVADA
COUNTY OF _____

This instrument was acknowledged before me on this ____ day of _____, 20____
by_____.

Notary