



City of Nevada City

PLANNING COMMISSION AGENDA
SPECIAL MEETING
THURSDAY, JUNE 25, 2020 1:30 PM
Council Chambers – City Hall
317 Broad Street - Nevada City, CA 95959

•**AUDIENCE MEMBERS DESIRING TO ADDRESS THE PLANNING COMMISSION ON ITEMS ON THE AGENDA:** After recognition by the Chair, state your name, address and your comments or questions. Please direct your remarks to the Commission. So that all interested parties may speak, please limit your comments to the item under discussion. All citizens will be given the opportunity to speak, consistent with Constitutional rights. Time limits are at the discretion of the Chair. •**If you challenge** the Commission's decision on any matter in court, you will be limited to raising only those issues you or someone else specifically raised or delivered in writing to the Planning Commission at or prior to the meeting. •**Requests for disability-related modifications or accommodations** may be made by contacting the City Planner and should be made at least 72 hours prior to the meeting.

Mission Statement

The City of Nevada City is dedicated to preserving and enhancing its small town character and historical architecture while providing quality public services for our current and future residents, businesses and visitors.

In order to minimize the spread of the COVID 19 virus Governor Newsom has issued Executive Orders that temporarily suspend requirements of the Brown Act. Please be advised that the Council Chambers are closed to the public and that some, or all, of the City of Nevada City, City Council Members and Planning Commissioners may attend this meeting telephonically.

1. You are strongly encouraged to observe the public meeting live on PUBLIC TELEVISION CHANNEL 17, ONLINE AT THE CITY'S WEBSITE WWW.NEVADACITYCA.GOV, or Nevada City Public Meetings-YouTube Channel or at [HTTP://NEVCO.GRANICUS.COM/PLAYER/CAMERA/2?PUBLISH_ID=7](http://NEVCO.GRANICUS.COM/PLAYER/CAMERA/2?PUBLISH_ID=7)

2. If you wish to make a comment, please submit your comment via email at NEVADACITY.OLSON@GMAIL.COM.

- **Comments will be accepted at the email provided until 5pm the day before the meeting**
- **PLEASE INCLUDE REFERENCE TO "6/18 PC Meeting" IN YOUR SUBJECT LINE.**
- **For comments during the meeting subscribe to the City's youtube channel Nevada City Public Meetings and submit your public live comment during the meeting. Please limit to 200 words or less. Every effort will be made to read your comment into the record, but some comments may not be read due to time constraints.**

3. In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in this meeting, please contact the Deputy City Clerk at (530) 265-2496 x133. Notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102.35.104 ADA Title II]. Language translation services are available for this meeting by calling (714) 754-5225 at least 48 hours in advance.

The City of Nevada City thanks you in advance for taking all precautions to prevent spreading the COVID 19 virus.

PLEDGE OF ALLEGIANCE

ROLL CALL Chair Josie Andrews, Vice-Chair Jason Rainey Commissioners, Peter Van Zant, Stuart Lauters, and David Bohegian

APPROVAL OF ACTION MINUTES

1. June 18, 2020 Meeting (to be provided at meeting)

HEARING FROM THE PUBLIC: Comments on items not on the agenda are welcome and are limited to three minutes. However, action or discussion by the Commission may not occur at this time.

SIGN APPLICATION

none

TREE REMOVAL

none

ARCHITECTURAL REVIEW

none

PUBLIC HEARING

2. Consideration of an ordinance amending the Nevada City Municipal Code, Zoning Title 17, chapter 17.72 to amend regulations pertaining to Accessory Dwelling Units in compliance with state law

CANNABIS BUSINESS APPLICATIONS

3. Searls Group, LLC- amendment to add business principal

CORRESPONDENCE:

ANNOUNCEMENTS:

Next Regular Meeting – July 16, 2020

ADJOURNMENT



City of Nevada City

PLANNING COMMISSION ACTION MINUTES
THURSDAY, JUNE 18, 2020 1:30 PM
Council Chambers – City Hall
317 Broad Street - Nevada City, CA 95959

•AUDIENCE MEMBERS DESIRING TO ADDRESS THE PLANNING COMMISSION ON ITEMS ON THE

AGENDA: After recognition by the Chair, state your name, address and your comments or questions. Please direct your remarks to the Commission. So that all interested parties may speak, please limit your comments to the item under discussion. All citizens will be given the opportunity to speak, consistent with Constitutional rights. Time limits are at the discretion of the Chair. •**If you challenge** the Commission's decision on any matter in court, you will be limited to raising only those issues you or someone else specifically raised or delivered in writing to the Planning Commission at or prior to the meeting. •**Requests for disability-related modifications or accommodations** may be made by contacting the City Planner and should be made at least 72 hours prior to the meeting.

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PLEDGE OF ALLEGIANCE

ROLL CALL Chair Josie Andrews, Vice-Chair Jason Rainey Commissioners, Peter Van Zant (1:45), Stuart Lauters, and David Bohegian

APPROVAL OF ACTION MINUTES

1. May 21, 2020 Meeting

Public: None

Motion by S. Lauters to approve minutes as presented

2nd by D. Bohegian

Vote: 4 ayes, 0 noes, 1 absent (Van Zant), motion carries

HEARING FROM THE PUBLIC: Comments on items not on the agenda are welcome and are limited to three minutes. However, action or discussion by the Commission may not occur at this time.

SIGN APPLICATION

2. 317 Spring Street - Pioneer Solar

Public: See video record

Motion by P. Van Zant to direct staff to discuss the Conditional Use Permit option with the applicant

2nd D. Bohegian

Vote: 5 ayes, 0 noes, motion carries

TREE REMOVAL

3. 345 American Hill – five trees

Public: None

Motion by D. Bohegian to approve the tree removal application as presented

2nd J. Rainey

Vote: 5 ayes, 0 noes, motion carries

ARCHITECTURAL REVIEW

4. 210 Gethsemane – shed demolition and replacement (continued from May 21, 2020)

Public: None

Motion by S. Lauters to approve the demolition of the shed finding that it does not hold special historical interest or value

2nd by P. Van Zant

Vote: 5 ayes, 0 noes, motion carries

Motion by S. Lauters to approve the architectural review application for the replacement shed as modified by the applicant

2nd by P. Van Zant

Vote: 5 ayes, 0 noes, motion carries

5. 212 Main Street- Re-issue new windows

Public: None

Motion by J. Rainey to re-approve the window replacement at 212 Main Street as presented

2nd by D. Bohegian

Vote: 5 ayes, 0 noes, motion carries

6. 321 Park Avenue – Re-roof (material change)

Public: None

Motion by D. Bohegian to approve the reroof as presented

2nd by P. Van Zant

Vote: 5 ayes, 0 noes, motion carries

7. 214 Broad Street– Rooftop solar at Calla Lily Crepes

Public: None

Motion by P. Van Zant to approve the roof-mounted solar as presented

2nd by S. Lauters

Vote: 5 ayes, 0 noes, motion carries

8. 555 Searls Avenue – Fenced enclosure addition

Public: None

Motion by D. Bohegian to approve the new enclosure as presented

2nd by S. Lauters

Vote: 5 ayes, 0 noes, motion carries

PUBLIC HEARING

None

CANNABIS BUSINESS APPLICATIONS

9. ZYFA, Inc – Cannabis Manufacturing and Distribution at 201 Gold Flat Court

Public: None

Motion by S. Lauters to find the project exempt pursuant to CEQA Guidelines Section 15301 (existing facilities) because the building is already existing and the proposed cannabis manufacturing and distribution use is consistent with the principal permitted uses allowed in the Light Industrial Zoning District pursuant to Section 17.48.020, and there is no expansion of use beyond what is already considered a permitted use.

2nd by J. Rainey

Vote: 5 ayes, 0 noes, motion carries

Motion by S. Lauters to approve the application as presented to authorize a cannabis business permit to ZYFA, Inc for a manufacturing and distribution operation at 201 Gold Flat Court subject to the recommended Conditions of Approval, as may be modified by the planning commission, making findings “a” and “b” in the staff report

2nd by J. Rainey

Vote: 5 ayes, 0 noes, motion carries

10. Elevation 2477 – Amendment to expand with an express outdoor retail area

Public: See video record

Motion by S. Lauters to approve the amended application as presented to authorize the expanded space, subject to the previously approved Conditions of Approval making the finding “a” through “c” in the staff report

2nd by D. Bohegian

Vote: 5 ayes, 0 noes, motion carries

SITE PLAN REVIEW

11. 170 Ridge Road – Cashin’s Field Affordable Housing Project

Public: See video record

Motion by J. Rainey recommending that the City Council approve the site plan, subject to Conditions of Approval pursuant to Section 17.88.010 of the City Municipal Code, making findings “A” through “C” in the staff report.
2nd by S. Lauters

Vote: 5 ayes, 0 noes, motion carries

Motion by S. Lauters recommending that the City Council approve the Architectural Review application for the proposed 56-unit affordable housing project at 170 Ridge Road, subject to Conditions of Approval pursuant to Section 17.88.040 of the City Municipal Code, making finding “A” in the staff report

2nd D. Bohegian

Vote: 5 ayes, 0 noes, motion carries

PLANNING COMMISSION LIAISON REPORTS –Previously approved projects – **informational only**

STAFF APPROVALS AND DETERMINATIONS – (for information only):

322 Jordan Street – Tree Removal

520 Main Street – Reroof

116 Nevada – Reroof

13 Turpentine – Reroof

221 Boulder – Tree Removal

300 Austin – energy storage system

CORRESPONDENCE:

ANNOUNCEMENTS:

Next Regular Meeting – July 16, 2020

ADJOURNMENT

Motion by D, Bohegian to adjourn at 7:04 PM

2nd by P. Van Zant

Vote: 5 ayes, 0 noes, motion carries



City of Nevada City

TO: Planning Commission
FROM: Amy Wolfson, City Planner
HEARING DATE: June 25, 2020
RE: Ordinance for the Regulation of Accessory Dwelling Units

ATTACHMENTS:

1. Resolution recommending draft ordinance amendment 2020-xx, amending Nevada City municipal code sections 17.72.026 and 17.72.027 in order to update the city's accessory dwelling unit regulation

ACTION REQUESTED

1. Recommend to City Council that they adopt Draft Ordinance 2020-XX to amend Sections 17.72.026(B)(2.b), 17.72.027(A)(2.b), and 17.72.026(F) in order to update the City's Ordinance pertaining to Accessory Dwelling Units.

BACKGROUND: At the January 22, 2020 City Council meeting, the City Council passed an Ordinance pertaining to Accessory Dwelling Units (ADUs) amending Section 17.72.020 through Section 17.72.038 of the City Municipal Code in order to update the City's ADU Ordinance in compliance with adopted State legislation. In May 2020 staff received a request by a property owner to construct a small second unit above an existing garage on an existing multi-family lot. Existing regulation require ADU's on a multi-family lot to be under 16-feet in height, while single-family lots may have an ADU that extends up to 35-feet if built above a garage, not to exceed the height of the primary residence.

DRAFT ORDINANCE AMENDMENT (Accessory Dwelling Unit Ordinance): Staff is recommending that similar consideration for height be applied to ADUs on multi-family lots, particularly for those units being placed above a garage or carport and those that otherwise meet site development standards including setback standards. This requires amendment to sections 17.72.026(B)(2.b) and 17.72.027(A)(2.b) of the existing Municipal Code. A redlined copy of the proposed amendments is attached to the staff report.

The City Attorney also wanted to take the amendment opportunity to clarify section 17.72.026 (F), pertaining to owner-occupancy limitations, with a clarifying statement that this requirement will not apply to multi-family lots which are not expected to have owner-occupied units now or in the future.

HCD Review. The new law requires cities to submit their ADU ordinances to HCD for its review within 60 days from the date the ordinance was adopted. HCD may require cities to amend provisions of their ordinances that are inconsistent with the state law. While staff does not expect that HCD will find the proposed amendments inconsistent, we will need to transmit the Ordinance as amended within the 60-day deadline.

ENVIRONMENTAL REVIEW: The state legislature created a specific exemption to CEQA for adoption of ordinances to regulate accessory dwelling units in compliance with state law, found in CEQA Guidelines Section 15282(h) and in Public Resources Code Section 21080.17. The ordinance is also exempt from review under CEQA Guidelines Sections 15303 (new construction of small structures), 15305 (minor alterations to land), and 15061, because this ordinance will not have a significant effect on the environment, as ADUs will largely constitute infill housing which is exempt from CEQA.

RECOMMENDATION: Staff recommends that the Planning Commission recommend that the City Council adopt Ordinance 2020-XX, amending Sections 17.72.026(B)(2.b), 17.72.027(A)(2.b), and 17.72.026(F) of the Nevada City Municipal Code, in order to make City regulations consistent with applicable California law regarding secondary dwelling units and allow reasonable development of such units.

ORDINANCE NO. 2020-XX

AN ORDINANCE OF THE CITY OF NEVADA CITY AMENDING NEVADA CITY MUNICIPAL CODE SECTIONS 17.72.026 AND 17.72.027 IN ORDER TO UPDATE THE CITY'S ACCESSORY DWELLING UNIT REGULATIONS

WHEREAS, the City of Nevada City, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, the Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs"); and

WHEREAS, in 2017 and 2019, the California Legislature approved, and the Governor signed into law a number of bills ("New ADU Laws") that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, in January of 2020, the City Council passed Ordinance No. 2020-01 which revised Chapter 17.72 of the Nevada City Municipal Code regulating the construction of Accessory Dwelling Units and Junior Accessory Dwelling Units consistent with the New ADU Laws; and

WHEREAS, the City Council desires to adopt additional changes to Sections 17.72.026 and 17.72.027 of Chapter 17.72 of the Nevada City Municipal Code in order to allow for the construction of up to two detached or attached accessory dwelling units on lots containing legal multi-family units, which is permitted under the New ADU Laws, and to make other clarifications of the new regulations' application to multi-family units; and

WHEREAS, the City Council held a duly-noticed public hearing for a first reading on _____, 2020, and a second reading on _____, 2020 and considered the staff report, recommendations by staff, recommendations by the Planning Commission, and public testimony concerning the proposed ordinance.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF NEVADA CITY DOES ORDAIN AS FOLLOWS:

Section 1. Section 17.72.026 of the Nevada City Municipal Code shall be amended to read as follows:

"17.72.026 - Accessory dwelling units—Development standards.

Any permit for an accessory dwelling unit shall be subject to the development standards listed below.

- A. Legal lot/residence. An accessory dwelling unit shall only be allowed on a lot within the city that contains a legal, single-family or multi-family residence as an existing or proposed primary unit on a lot.
 - B. Number of accessory dwelling units per lot.
 - 1. For lots with proposed or existing single-family residences, no more than one (1) attached or detached accessory dwelling unit shall be permitted on the lot.
 - a. Notwithstanding the above, a lot with a single-family residence may have one (1) junior accessory dwelling unit and (1) detached accessory dwelling unit.
 - 2. For lots with existing multi-family residential dwellings:
 - a. No more than twenty-five percent (25%) of the number of the existing units, but at least one (1) unit, shall be permitted as accessory dwelling units constructed within the non-livable space of the existing building provided that applicable building codes are met; or
 - b. Up to two (2) of either of the follow types of units: a detached accessory dwelling units or a new construction attached unit that adds square footage to the footprint of an existing building may be constructed. ~~No more than two detached accessory dwelling units,~~ provided that ~~no~~ such unit shall ~~be more than~~not exceed sixteen (16) feet in height, and must have a minimum of four-foot side and rear yard setbacks. If such a unit complies with standard setbacks of the zoning designation, then a newly constructed unit may be constructed over an existing, permitted garage or carport-, not to exceed twenty-five feet (25') in height. The maximum square footage of detached accessory dwelling units on lots with existing multi-family residential dwellings shall comply with the limits set forth in Section 17.72.024.
- C. Building Code Compliance. All new accessory dwelling units must satisfy the requirements contained in the building code and fire code as currently adopted by the city, including applicable energy efficiency standards associated with Title 24 of the California Code of Regulations. However, fire sprinklers shall not be required if they are not required for the primary residence.
- D. Fees and Charges.
 - 1. City/public utilities.
 - a. All accessory dwelling units must be connected to public utilities, including water, electric, and sewer services.
 - b. Except as provided in subsection c below, the City may require the installation of a new or separate utility connection between the accessory dwelling unit and the utility. The connection fee or capacity charge shall be proportionate to the burden of the proposed accessory dwelling unit based on either its square feet or number of drainage fixture unit values.
 - c. No separate connection between the accessory dwelling unit and the utility shall be required for units created within a single-family dwelling,

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unless the accessory dwelling unit is being constructed in connection with a new single-family dwelling.

- d. Regardless of where it is located, for the purposes of calculating utility connection fees or capacity charges, accessory dwelling units shall not be considered a new residential use unless the accessory dwelling unit was constructed with a new single-family dwelling.

2. Impact Fees.

- a. For accessory dwelling units of seven hundred fifty (750) square feet or larger, all impact fees applicable to accessory dwelling unit's construction shall be paid to the city in amounts proportional to the size of the accessory dwelling unit relative to the square footage of the primary dwelling unit.
- b. For accessory dwelling units seven hundred forty-nine (749) square feet or smaller, no impact fees shall be charged, unless otherwise allowed by state law.
- c. For purposes of this subsection, "impact fee" has the same meaning as specified in Government Code section 66000(b) and also includes in-lieu park fees as specified in Government Code section 66477.

3. Application Fees. Application fees for an accessory dwelling unit shall be paid in an amount specified by resolution of the City Council.

4. Exception for lower income housing. Newly permitted accessory dwelling units shall not be required to pay application, or sewer and water hookup fees if accompanied by a deed restriction ensuring affordable rent to low or very low income household, as defined in Sections 50105 and 50079.5 of the California Health and Safety Code. Said deed restriction shall be effective for a minimum of 30 years. (2003 Housing Element Policy 2b).

E. Parking.

1. The City shall not require the owner to provide more than one additional parking space per accessory dwelling unit or per bedroom, whichever is less. The required parking space may be provided as:
 - a. Tandem parking on an existing driveway; or
 - b. Within a setback area or as tandem parking in locations determined feasible by the City for such use. Locations will be determined infeasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the City.
2. No parking shall be required for a studio accessory dwelling unit that does not have a separate bedroom.
3. Notwithstanding the foregoing, no parking spaces shall be required for accessory dwelling units in the following instances:
 - a. It is located within one-half mile walking distance of public transit;
 - b. It is located within an architecturally and historically significant district;
 - c. It is part of a proposed or existing primary residence or an accessory structure;

- d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or
 - e. Where there is a car share vehicle located within one block of the accessory dwelling unit.
4. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the off-street parking spaces do not have to be replaced.
- F. Occupancy. Until January 1, 2025, the City shall not impose an owner-occupancy requirement on any newly permitted accessory dwelling unit on a lot with a single family dwelling. After that date this prohibition shall no longer be of force and effect unless otherwise prohibited by state law, and one of the units on the property must be occupied by the property owner. The city shall require the property owner to file a deed restriction outlining the owner-occupancy requirement. The purpose of the deed restriction is to create a perpetual notice to the new purchasers of the requirement to maintain the owner-occupancy requirement. This requirement shall not apply to lots zoned for multifamily residential use.
- G. Prohibition on separate sale of accessory dwelling unit. Accessory dwelling units may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
- H. Conversion of existing primary unit. An existing primary dwelling may be converted to a dwelling unit if it complies with all applicable requirements of this ordinance. If so, a new, larger primary residence may be constructed.
- I. Design requirements for new units. All new accessory dwelling units must comply with the following design requirements:
- 1. The materials, colors, and architecture shall be similar to and compatible with those of the primary unit.
 - 2. Accessory dwelling units shall not exceed 16-feet in height unless constructed over a garage, in which case the ADU shall not exceed the height of the primary residence or 35-feet
 - 3. Accessory dwelling unit entrances shall be oriented to face the street except that if topographic or other site constraints prevent such orientation, the entrance shall be screened from neighboring properties.
 - 4. Lighting shall not spill on to neighboring lots.
- J. Accessibility standards. New construction of any ground level accessory dwelling unit shall be designed and constructed to allow for disability/accessibility standards. Plans shall demonstrate future entrance capability and actual construction shall include adequate door and hallway widths, maneuvering space in kitchens and bathrooms, and structural reinforcements for grab bars.
- K. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- L. For residential development, the garage door shall remain in place and look functional, or the garage door shall be removed. If the door is removed, the project shall include

architectural features (including siding, doors, windows, trim and accent details), and landscaping (such as a landscape strip to disconnect the driveway from the building wall) so it is not apparent that the structure was originally a garage.

- M. Any ADU taking advantage of reduced setbacks pursuant to Section 17.72.027 shall not have doors or windows within such setback unless required to meet health and safety requirements
- N. Limitation on Use as a Hosted Short-term Rental: The following types of accessory dwelling units shall not be permitted to operate as a hosted short-term rental pursuant to Chapter 17.72.080.
 - 1. Any detached accessory dwelling unit in excess of 800 square feet;
 - 2. Any attached unit in excess of 640 square feet; or
 - 3. Any unit permitted under the provisions allowed by Section 17.72.027.
- O. Setback requirements.
 - 1. No setbacks are required for accessory dwelling units that are created by converting existing living area or existing accessory structures to new accessory dwelling units or constructing new accessory dwelling units in the same location and to the same dimensions as an existing structure.
 - 2. For all other accessory dwelling units, there must be a minimum of four feet from side and rear lot lines, and comply with all other applicable front yard setbacks.
 - 3. Any ADU or JADU that does not meet the setback standards of the base zoning designation shall not be permitted to utilize yard exceptions pursuant to Section 17.84.040 or be permitted for any further projections into side or rear yards pursuant to Section 17.84.050
- P. A detached ADU may include an attached unconditioned garage that does not exceed 250 square feet.”

SECTION 2. Section 17.72.027 of the Nevada City Municipal Code shall be amended to read as follows:

“17.72.027- Accessory dwelling units—Permitted regardless of compliance with other development standards and regulations.

- A. Accessory dwelling unit permits shall be approved for the following types of accessory dwelling units, regardless of whether the application meets the development standards contained in this Title 17
 - 1. For lots with single family dwellings, one of the following:
 - a. One interior accessory dwelling unit or one junior accessory dwelling unit per lot constructed within an existing or proposed single-family or accessory structure, including the construction of up to a one hundred fifty (150) square foot expansion beyond the same physical dimensions as the existing accessory dwelling structure to accommodate ingress and egress. The accessory dwelling unit or junior accessory dwelling unit must have exterior access and side and rear setbacks sufficient for fire safety. If the unit is a junior accessory

dwelling unit, it must also comply with the requirements of section 17.72.032 below; or

b. One new, detached accessory dwelling unit with a minimum four-foot side and rear setbacks, up to eight hundred (800) square feet and no more than sixteen (16) feet high on a lot with an existing or proposed single family dwelling. A junior accessory dwelling unit may also be built within the existing or proposed dwelling of such residence in connection with the accessory dwelling unit.

2. For lots with existing multifamily dwellings:

a. Accessory dwelling units may be constructed in areas that are not used as livable space within an existing multi-family dwelling structure (i.e., storage rooms, boiler rooms, passageways, attics, basements, or garages), provided the spaces meet state building standards for dwellings. The number of interior accessory dwelling units permitted on the lot shall not exceed twenty-five percent (25%) of the current number of units of the multi-family complex on the lot and at least one such unit shall be allowed. Units constructed pursuant to this subsection shall not exceed eight hundred (800) square feet in floor area; and

b. Up to two (2) of either of the follow types of units: a detached accessory dwelling units or a new construction attached unit that adds square footage to the footprint of an existing building may be constructed, provided they, do not exceed eight hundred (800) square feet in floor area, are no taller than sixteen (16) feet, and they have at least four (4) feet of side and rear yard setbacks.

B. Accessory dwelling units approved under this Section 17.72.027 shall not be rented for a term of less than thirty (30) days.

C. Accessory dwelling units or junior accessory dwelling units approved under this Section 17.72.027 shall not be required to correct legal nonconforming zoning conditions."

SECTION 3. CEQA. This Ordinance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines section 15061 because CEQA only applies to projects which have the potential to have a significant impact on the environment and because the environmental impact of each individual project will be analyzed at the time that the project is submitted. There are no impacts of this ordinance which have the potential to cumulatively cause a significant effect on the environment because the city is so small, and it is not anticipated that there will be enough facilities to cause such an impact.

SECTION 4. Effective Date. This ordinance shall become effective on the 31st day after adoption.

SECTION 5. Severability. If any portion of this ordinance is found to be unenforceable, each such provision shall be severed, and all remaining portions of this ordinance shall be enforced to the maximum extent legally permissible.

SECTION 6. Certification. The City Clerk shall certify to the passage and adoption of this ordinance as required by law.

PASSED, APPROVED AND ADOPTED this ____th day of _____ 2020 by the following vote:

AYES:
NOES:
ABSENT:
ATTEST:

, MAYOR

Niel Locke, City Clerk

APPROVED AS TO FORM

Crystal Hodgson, City Attorney



City of Nevada City

TO: Planning Commission

FROM: Amy Wolfson, City Planner

MEETING DATE: June 25, 2020

RE: Searls Group, LLC – Amendment Adding Principal

ATTACHMENTS:

1. Amendment Request Email string
2. Existing authorization letter

APPLICATION REVIEW: The subject application was originally authorized by the planning commission on January 18, 2018 and subsequently amended at the March 15 and April 19, 2018 meetings for a distribution and manufacturing business involving hazardous material. The applicant also fulfilled the requirements for amending your application from a medical-only business to also include an adult-use Cannabis business. Staff has also approved you for operating in a phased manner pursuant to Amended Application dated February 26, 2019. The applicant is currently requesting to add Daniel Bachelor to the principal management structure, joining existing principals Joseph and Kevin Bundy. The applicant has indicated that the change in principal does not change any aspect of their operation. Therefore, staff is not recommending any changes to existing conditions of approval. Bachelor is an active principal for at least three other cannabis businesses within the City and as such has already undergone a Live Scan background check whereby no disqualifying information was reported pursuant to Section 9.22.090 (M) of the City Municipal Code.

Regulatory Consideration: Section 9.22.070 (B) of the City Municipal Code prohibits the transfer of ownership or control of a cannabis business or transfer any cannabis business permit issued under this Chapter. The Municipal Code does not provide parameters for circumstances that constitute a “transfer.” Staff is working with Consulting Attorney Hodgson to develop policies and procedures from a legal perspective so that staff has a more defined process for directing applicants proposing these types of business changes in the future.

RECOMMENDED MOTIONS:

- 1) Make a Motion to approve the amended application as presented to authorize the principal management structure change of Searls Group, LLC, of an existing cannabis manufacturing and distribution operation at 569 Searls Avenue, suite C, as previously authorized subject to the previously approved Conditions of Approval, attached, making the findings a & b.
 - a) As presented and conditioned, there is no reasonable argument that approval of the amended application is likely to be detrimental to the city, taking into account any health, safety, and welfare impacts on the community.
 - b) Finding that the amended application is consistent with Chapter 9.22 of the Nevada City Municipal Code.

From: Amy Wolfson
Sent: Wednesday, June 17, 2020 8:49 AM
To: Daniel Batchelor <daniel@latitudemanagement.com>; Kevin Bundy <kbundy@ivy-group.org>
Cc: Jonathan Hogander <Jonathan@latitudemanagement.com>; Maria Herrera <maria@latitudemanagement.com>; jbundy@ivy-group.org
Subject: RE: Searls Group ownership changes

Hi Daniel,

I need to talk to the City Attorney who is out of town. I believe we previously determined that a change involving less than 50% of the original principals can occur administratively. I will let you know soon how we will proceed.

Amy Wolfson
City Planner
(530) 265-2496 x130

From: Daniel Batchelor <daniel@latitudemanagement.com>
Sent: Sunday, June 14, 2020 9:35 AM
To: Kevin Bundy <kbundy@ivy-group.org>
Cc: Amy Wolfson <Amy.Wolfson@nevadacityca.gov>; Jonathan Hogander <Jonathan@latitudemanagement.com>; Maria Herrera <maria@latitudemanagement.com>; jbundy@ivy-group.org
Subject: Re: Searls Group ownership changes

Hello Amy,

I did not see this on the agenda for the next planning commission meeting. Was this something that is going to be approved at staff level?

Daniel

On Fri, May 29, 2020, 6:24 PM Kevin Bundy <kbundy@ivy-group.org> wrote:
Hi Amy,

We don't expect any changes at this time, but a premises diagram amendment may be in store in the future.

Thanks,

Kevin

On Fri, May 29, 2020 at 3:36 PM Amy Wolfson <Amy.Wolfson@nevadacityca.gov> wrote:
Hi Kevin,

Please indicate whether or not the addition of Daniel Bachelor to your principal management structure will change any aspect of your previously authorized application.

Amy Wolfson
City Planner
(530) 265-2496 x130

From: Kevin Bundy <kbundy@ivy-group.org>
Sent: Wednesday, May 27, 2020 9:37 PM
To: Amy Wolfson <Amy.Wolfson@nevadacityca.gov>
Cc: Daniel Batchelor <daniel@latitudemanagement.com>; Jonathan Hogander <jonathan@latitudemanagement.com>; Maria Herrera <maria@latitudemanagement.com>; jbundy@ivy-group.org
Subject: Searls Group ownership changes

Hello Amy,

We hope this email finds you well. We wanted to begin the process of placing a change of ownership item in the next possible planning commission agenda.

We would like to add Daniel Batchelor as 80 percent owner of Searls Group, LLC at [569 Searls Ave. Suite C](#). Please let me know if you have any questions or if I need to submit further documentation leading up to the next available Planning Commission meeting.

Regards

Kevin Bundy

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Thanks,

Kevin Bundy
Principal Broker, Ivy Group
cell (415) 999-0695
CA BRE License #01482134
OREA License #201212856
NMLS #1247921



City of Nevada City

July 25, 2019

Joseph Bundy
Searls Group, LLC
104 B New Mohawk Road
Nevada City, CA 95959

Via email: jbundy@ivy-group.org

Subject: Nevada City Cannabis Business Authorization for ‘Searls Group , LLC’ at 569 Searls Avenue, Suite C

Dear Mr. Bundy:

At their January 18, 2018 meeting and as amended at the March 15 and April 19, 2018 meetings, the Nevada City Planning Commission voted to approve your application to operate a cannabis manufacturing and distribution business at 569 Searls Avenue, suite C for a term of one year from the date of permit issuance. Subsequent to that decision by the Planning Commission you fulfilled the requirements for amending your application from a medical-only business to also include an adult-use Cannabis business. Staff has also approved you for operating in a phased manner pursuant to Amended Application dated February 26, 2019. Unless otherwise noted, the following requirements must be satisfied prior to issuance of a cannabis business permit and prior to commencement of business operations:

A. PLANNING DEPARTMENT

1. Provide proof of California State Licensing that verifies the license type issued.
2. Prior to commencing operations, you are required to complete all tenant improvements as detailed in your application. A cannabis business shall be subject to a mandatory building inspection, and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building permit(s), fire department approvals, Environmental Health Department approvals and other zoning and land use permit(s) and approvals.
3. Provide evidence of the right to occupy and to use the property for purposes of a cannabis manufacturing business. As a condition precedent to the City's issuance of a cannabis business permit pursuant to this Chapter, any person intending to open and to operate a

cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location.

4. Execute an agreement, in a form approved by the city attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Nevada City, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the cannabis business permit, the City's decision to approve the operation of the cannabis business or activity, to process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the cannabis business or any of its officers, employees or agents.
5. Provide proof of liability insurance and liability agreement. You are required to maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the city attorney.
6. Operation of your business shall be consistent with the submitted application material or as otherwise presented at the public meeting and as approved by the planning commission.
7. Packaging and Labeling:
 - a. Before a cannabis manufacturer delivers any edible cannabis or edible cannabis product to a dispensary, the same shall be labeled and placed in tamper-evident packaging which at least meets the requirements of California Business and Professions Code section 19347, as the same may be amended from time-to-time or superseded or replaced by subsequent State legislation or by any department or division of the State of California
 - b. All items to be sold or distributed shall be individually wrapped at the original point of preparation by the business permitted as a cannabis manufacturer
 - c. Labeling must include a warning if nuts or other known allergens are used, and must include the total weight (in ounces or grams) of cannabis in the package
 - d. A warning that the item is a medication and not a food must be clearly legible on the front of the package
 - e. The package must have a label warning that the product is to be kept away from children
 - f. The label must also state that the product contains cannabis and must specify the date of manufacture
 - g. Any edible cannabis product that is made to resemble a typical food product must be in a properly labeled opaque (non-see-through) package before it leaves the marijuana manufacturing business
 - h. Deliveries must be in a properly labeled opaque package when delivered
 - i. The City Council may impose additional packaging and labeling requirements on cannabis or cannabis products by resolution, as permitted by law

8. Provide to staff a contract agreement with a licensed/reputable hazardous waste management company.
9. Post the Hazard Material Data Safety Sheet (HMDS) at the facility.

B. ENGINEERING DEPARTMENT

1. Demonstrate compliance with State regulations regarding water quality and discharge to wastewater (i.e. City Sewer). The following is a link to the permit regulations:
https://www.waterboards.ca.gov/centralcoast/water_issues/programs/cannabis_cultivation/index.html
2. Pursuant to the General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities Order (General Order):
 - “Unless authorized by separate waste discharge requirements, the Cannabis General Order, or a CWA section 404 permit, the following discharges are prohibited:
 - Any waste that could affect the quality of the waters of the state; or
 - Wastewater from cannabis manufacturing activities defined in Business and Professions Code section 26100, indoor grow operations, or other industrial wastewater to an onsite wastewater treatment system (e.g., septic tank and associated disposal facilities), to surface water, or to land.”

C. FIRE DEPARTMENT

1. Flammable and combustible liquids will be used for extraction of cannabis concentrated products. Hazards involved are the release of solvent and low level ignition sources. There are classified locations where flammable liquids are stored, handled and dispensed. These locations shall meet the requirements of the California Fire Code (CFC), Chapters 50 and 57.
2. A building code analysis shall be performed to determine the correct use and occupancy classification per Chapter 3 of the California Building Code (CBC). Parts of the facility may be classified as H-3 (combustion hazard), F-1 (moderate hazard factory) or B (business).
3. Once the occupancy classifications have been established, the fire protection systems, such as fire sprinklers, fire alarm and kitchen hood, can be determined.
4. As stated on Sheet 15 of the proposal, the existing fire sprinkler system shall be modified to meet the new fire code requirements and remodeled tenant improvement. Fire sprinkler shop drawings and hydraulic calculations shall be submitted to the Fire Department for review by a licensed C-16 contractor or a California registered engineer.
5. As stated on page 15 of the proposal, fire extinguishers with a minimum rating of 2-A:10-B:C shall be provided such that no point in the building is further than 75-foot travel distance to an extinguisher.

6. If a Type I commercial kitchen hood duct system is installed, fire suppression plans shall be submitted to the Fire Department for review prior to installation.
7. Walls separating the adjacent tenants and within the facility shall be constructed to the required fire-safety rating per CBC Tables 508.4.

D. COUNTY ENVIRONMENTAL HEALTH DEPARTMENT

1. The Nevada County Environmental Health Department does not have any opposition to the proposed applications. All hazardous materials stored, utilized and wastes generated as a result of the manufacturing operations will require permitting through the Environmental Health Department CUPA program per California Health and Safety Code. Retail sales of edible food product requirements will be determined upon the approval of the County of Nevada Cannabis Ordinance.
2. The manufacturing operation must adhere to existing California Department of Public Health - Manufactured Cannabis Safety Branch (MCSB) regulations governing the manufacture of cannabis-infused edibles for both medical and nonmedical use. The regulations released on November 16, 2017.
3. Any retail cannabis operation, in conjunction with the manufacturing operation, must be licensed with the Bureau of Cannabis Control.
4. The applicant and/or facility operator must adhere to all applicable codes and regulations regarding the storage of hazardous materials and the generation of hazardous wastes set forth in California Health and Safety Code Section 25500-25519 and 25100- 25258.2 including the electronic reporting requirement to the California Environmental Reporting System (CERS).
5. The applicant and/or facility operator must apply for and obtain a permit for the storage of hazardous materials and the generation of hazardous wastes from the Nevada County Department of Environmental Health (NCDEH), Certified Unified Program Agency (CUPA).
6. The applicant and/or facility operator shall secure and annually renew the permit for this facility within 30 days of becoming subject to applicable regulations. Routine compliance inspections, conducted by NCDEH inspectors, will occur at the facility and compliance inspections are typically unannounced inspections during regular business hours: Monday - Friday, 8:00am -5:00pm.
7. The County of Nevada Cannabis Ordinance, once codified, may require additional permitting, registration and reporting to the Environmental Health Department.

E. POLICE DEPARTMENT

1. Vault plans shall be provided and reviewed by the Police Chief prior to issuance of a permit to operate.
2. Provide enhanced security plans on second level due to potential roof access from various locations

3. Develop a cash deposit plan for Police Chief's review.
4. Formalize the product reception process.

Please note that under United States Law, the operation of a cannabis business, regardless of whether it is for medical or recreational purposes, is illegal and may be subject to criminal prosecution and civil enforcement actions. Property involved in such operations has been subject to seizure by and forfeiture to the United States.

Operation of your business may not commence until the above requirements are satisfied to the satisfaction of Nevada City staff. Issuance a **Nevada City Business License** and issuance of a **Cannabis Business Permit** shall not occur until all of the above requirements have been completed. Please note that the City has the right to revoke a permit issued for a cannabis business at any time should any disqualifying information regarding the application or its principals be presented to the City. Finally, please be aware that sixty days prior to the expiration of your permit (twelve months from permit issuance), you must apply for renewal of your business permit in order to avoid a lapse in operation.

Sincerely,



Amy Wolfson
City Planner
(530) 265-2496 x130

CC: Kevin Bundy