



City of Nevada City

**PLANNING COMMISSION AGENDA
THURSDAY, NOVEMBER 17, 2016 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.

PLEDGE OF ALLEGIANCE

ROLL CALL Chair Dan Thiem, Vice-Chair Stuart Lauters, Commissioners Gail Damskey, Steffen Hawkins-Snell, Skyler Moon

APPROVAL OF ACTION MINUTES

October 20, 2016

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.

ARCHITECTURAL REVIEW

1. **418 Broad Street** - Brian & Tamra Lane, property owners - Replace metal roof with composition shingle roof

VARIANCE AND ARCHITECTURAL REVIEW

2. **215 Reward Street** – Charlie Faber, property owner – Variance request to allow a second residence to encroach into the rear yard setback area.

COUNCIL RECOMMENDATION

3. Sugarloaf Trail Route Recommendation

PRESENTATION

4. Marijuana Dispensary Ordinance – Recommend public outreach strategy

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

STAFF APPROVALS AND DETERMINATIONS – (for information only):

123 Boulder Street – re-roof
532 Main Street – Tree removal: 1 Sycamore, 3 dying Black Locusts
223 Bridge Street – residential roof-mounted solar array

CORRESPONDENCE

ANNOUNCEMENTS: Next Regular Meeting – December 15, 2016

ADJOURNMENT



City of Nevada City

PLANNING COMMISSION ACTION MINUTES
THURSDAY, OCTOBER 20, 2016 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 Dan Thiem, Vice-Chair Stuart Lauters, Commissioners Gail Damskey, Steffen Hawkins-Snell, Skyler Moon

APPROVAL OF ACTION MINUTES

September 15, 2016

Motion by S. Hawkins-Snell to approve minutes as presented

Seconded by S. Lauters

Vote: 5/0, 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.

Judith Lowry, Nevada Street (city entry beautification)

Katherine Doolittle, 100 Woods Court (safety concerns medical dispensary)

Don Bagget, Marjon Drive, Nevada County (dispensary location concerns)

Diane Verba, 105 Woods Court (dispensary location concerns)

Susan Reynolds- 523 Silva Avenue (dispensary location concerns)

David Mineri 13768 Saint , (dispensary location concerns)

John Brindley, 1456 Penn Valley (against dispensary)

David Baxley, 602 Long Street (against dispensary)

ARCHITECTURAL REVIEW

1. **321 Broad Street (Bonanza Market)** – Architectural Review Application for Exterior Lighting at Bonanza Market

Representatives: Dave Fodd, Precision Lighting

Public: none

Motion by S. Hawkins-Snell to approve as conditioned in staff report and as conditioned at the hearing.

Seconded by S. Moon

Vote: 4/0/1 abstention (S. Lauters), motion carries

Conditions:

- Remove 2 fixtures on the front of the building for a total of 4 fixtures
- Color temperature shall be 3,000 kelvin or under
- Fixtures shall be a gooseneck style as presented, though their color shall be the galvanized metal color as presented at the meeting.
- Fixtures shall be a 16-inch circumference.

Liaison: none

1. **107 Sacramento Street (Stone House)** - Architectural Review Application for re-roof to replace the existing wood shingles with composition shingles

Representatives: Earle Fallwell

Public: Robert Bergman, Boulder Street

Motion by S. Lauters as presented and as conditioned in the staff report

Seconded by S. Hawkins-Snell

Vote:5/0, motion carries

2. **356 Alexander Street** – Architectural Review of 269 square foot addition and remodel at the existing residence

Representatives: Paul Fellers, project architect

Public: None

Motion by S. Hawkins-Snell to approve the Variance application making the findings as indicated in the staff report, as well as to approve the Architectural Review application subject to conditions as provided in the staff report as modified at the public hearing.

Seconded by S. Moon

Vote:5/0, motion carries

Conditions:

- Windows shall be as presented, albeit with Jeld-wen instead of Loewen.
- Windows shall have a full-grid design on all windows as presented in the elevations.
- North side of addition shall be wood, drop-lap siding consistent with original siding; Hardi-board is okay on east, south and west elevations

Liaison: none

PRESENTATION

Bear Yuba Land Trust- Sugarloaf Trail Route Process Recommendation

Representatives: Greg Archibald, Bill Haire

Public: None

Recommendation to obtain public feedback with a public workshop, scheduled as a Special Planning Commission Meeting, to be held on November 2, 2016 at 6:30 p.m.

325 Spring Street – Miners Foundry and Nevada City Frontscape Improvement Presentation

Public: none

Recommendations:

- Consider noise attenuation measures
- Sign size
- Consider native plants in the landscaping scheme – bee and butterfly friendly
- Consider ADA improvements (may be required for building code)

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

205 York Street (Tinnery) – window/door cladding color (Commissioner Thiem)

107 Sacramento Street (Stone House) -- Apartment door (Commissioner Thiem)

214 Mill Street (Beacock residence) – Paint Color (Commissioner Lauters)

STAFF APPROVALS AND DETERMINATIONS – (for information only):

101 Argall Way - reroof like for like

415 Spring – like-for like reroof

145 Grove Street – 6 ponderosa pines – bark beetle

401 N. Pine – 1 liquid amber- within re-routed drainage channel

640 Zion – 8 Ponderosa Pines – bark beetle

403 Redbud Way – 1 Ponderosa Pine, surrounded by decking, dying threatening structure

324 Gethsemane – Like for like siding replacement

522 Sacramento Street – 1 ornamental plum, dying, to be replaced with like species.

401 N. Pine Street - 1 Liquidambar, new drainage design

CORRESPONDENCE:

ANNOUNCEMENTS:

Upcoming Projects – Marijuana Dispensary sent to PC for consideration- public outreach

Special Joint Meeting – November 16, 2016 (Nevada Street Bridge Design Options)

Next Regular Meeting – November 17, 2016 (holiday schedule)

ADJOURNMENT

Motion by S. Lauters to adjourn at 3:34 p.m.

Seconded by G Damskey

5/0, motion carries



City of Nevada City

TO: Planning Commission

FROM: Amy Wolfson, City Planner

HEARING DATE: November 17, 2016

RE: Architectural Review Application for Re-roof to replace the existing aluminum roof with composition shingles – 418 Broad Street

ACTION REQUESTED:

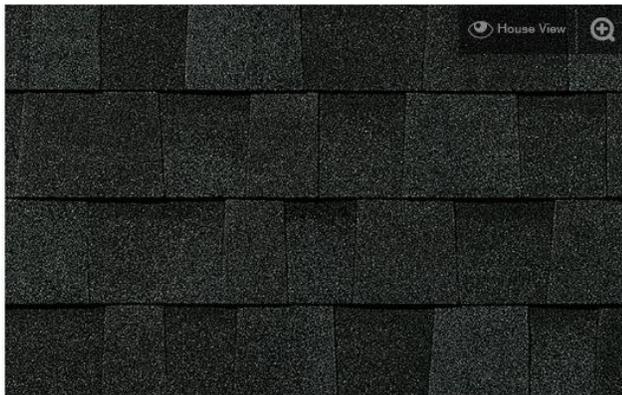
- 1) Approve the Architectural Review application to replace the existing aluminum roof with a composition material

BACKGROUND:

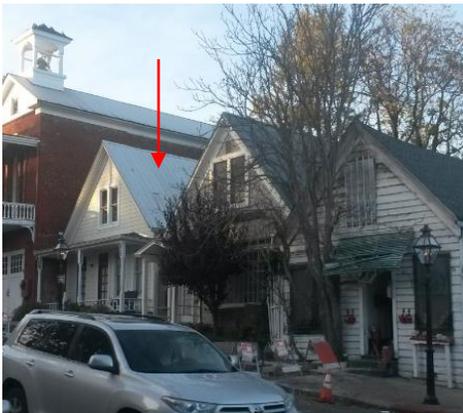
The subject property is located within the General business zoning designation and within the Historic District boundaries. It is identified on the 1898 Sanborn Map as dwelling constructed of wood. The Sanborn Maps do not identify roof materials.

PROJECT PROPOSAL:

The owners of the subject property, Brian and Tamra Lane are proposing to replace the existing aluminum, metal roof with an Owens Corning composition roof shingle in onyx black, shown below:



The roof is visible from public views along Broad Street and along Commercial Street. According to the applicant, the material is the same as that on the United Methodist Church, located at 433 Broad Street.



from Broad Street (lower)



from Broad Street (upper)



from Commercial Street.

REGULATORY CONSIDERATION:

In order to approve exterior alterations in the Historic District, the Planning Commission must find that the composition shingles are consistent with Motherlode type of architecture. While historically Motherlode roof materials were composed of wood or metal material, wood products are generally not available today due to Fire and Building Code standards.

RECOMMENDED MOTION

After discussion and hearing from the public, the Commission can make a motion to approve/deny the architectural review application, as conditioned, for the re-roof with composition shingles, making the following finding:

- A. That the exterior appearance of the proposed re-roof is/is not consistent with the Mother Lode type of architecture (17.68.070).
- B. That the hat the exterior appearance of the proposed re-roof is/is not compatible with the surrounding neighborhood (17.88.040.C)

CONDITIONS OF APPROVAL

1. Nevada City contracts with the Nevada County Building Department for issuance of permits. The County will not issue permits unless the plans have been stamped and approved by Nevada City. Therefore, prior to issuance of a building permit, submit three sets of plans to Nevada City Planning Department, along with a filing fee of \$80 (made payable to the City of Nevada City). The plans will be reviewed by the City Planner and City Engineer for consistency with the approval and will require their signatures.
2. All building plans shall substantially comply with the exhibits provided to the Planning Commission



City of Nevada City

TO: Planning Commission
FROM: Amy Wolfson, City Planner
HEARING DATE: November 17, 2016
APPLICANT: Charles Faber, property owner
RE: **Application for a Variance from Rear Setback Standards, and Architectural Review for a new carport at 215 Reward Street**

ATTACHMENTS:

1. Variance Application
2. Site Plan
3. Guest House Elevations
4. Carport Elevations
5. Photographs

ACTIONS REQUESTED

1. Approve a Variance Request to allow the proposed addition to a second dwelling to encroach into the standard 30-foot front yard setback
2. Approve the Architectural Review application for a new carport and for an addition to an existing second dwelling.

SITE DEVELOPMENT STANDARDS

| | |
|---------------------------------------------------------------------------------|-------------------------------------|
| Lot Size: 1.65 acres | Lot Coverage: 50% |
| Zoning: R1: Single-Family Residential | Building Height: 35-feet |
| Setbacks: Front yard: 30-ft, Rear Yard: 25-ft, Interior side yards: 5-ft | Historical District: Outside |

BACKGROUND

The property is developed with a single-family residence, as well as a detached art studio. In 1991 the owner converted a 486 square foot garage to the existing art studio with the addition of a bathroom. City records indicate that both the residence and studio were constructed around 1959. The subject property is not represented on historic Sanborn Maps.

PROJECT PROPOSAL

VARIANCE: The applicant is proposing to enlarge the existing studio which is currently located within the rear setback, as close as 10-feet. The addition is proposed only as close as 15-feet, but this is still within the 25-foot setback standard as measured from the rear property line. Because both the existing structure and the proposed addition are non-conforming to setback standards, the only mechanism for the applicant to expand the structure as proposed is by way of a Variance application. If approved the Variance will apply to the entire structure so that it is no longer considered a non-conforming structure and can be remodeled or expanded (though not further into a setback unless approved by a subsequent Variance process).

The applicant has submitted a site plan that identifies the constraints on the property intended to illustrate that no other feasible area of the property could accommodate the second unit. Among the

constraints of the property, are the following: 1) a steep ravine running the length of the western property line, 2) two sewer main lines and easements that run through the middle of the property, 3) several mature trees scattered throughout the property, 4) several areas of steep terrain, and 5) a boggy area in the center of the property which the City Engineer has verified to be an unsuitable building area.

Regulatory Consideration: In order for the Planning Commission to approve a Variance request the following findings must be made (staff responses in italics):

- 1) That because there are special circumstances applicable to the property, including size, shape topography, location, or surroundings, that the strict application of this title deprives such property of privileges enjoyed by other properties in the vicinity and under identical classification.
The applicant has provided a site plan intended to show the property as heavily constrained with natural features amounting to special circumstances that impact this property's development potential to accommodate a second dwelling unit. Much of the site is constrained by steep terrain, or mature trees, or encumbered by sewer easements or areas of unsuitable soils for building.
- 2) That conditions have been applied to this project that will assure that the Variance to the rear yard setback does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the such property is situated.
The enlarged square footage, from 486 sq. ft. to 710 sq. ft., remains under the City's 800 square foot standard for a detached second dwelling unit.
Second dwelling units are recognized in the City's Housing Element as being an important contributor to affordable housing. Therefore, the proposed second unit is considered a reasonable use of the property and staff recommends that a condition be placed on the Variance to ensure the use as a second dwelling as opposed to an enlarged studio.
- 3) That the use or activity which is not otherwise expressly authorized by the zone regulations governing the parcel of property.
Second units are a permitted use in the R1 zoning designation and is allowable to all surrounding R1 properties that are able to meet site development standards.

ARCHITECTURAL REVIEW: The owner is proposing to construct a one-car carport with a 108 square foot enclosed storage area, to serve as one of the required parking spaces required for the second dwelling unit. The structure will be sided with cedar shingles and will incorporate a standing seam metal roof. The carport is proposed more than 300-feet from the nearest public roadway and is obstructed from public views by mature vegetation. The architectural style and design will be similar to the primary residence which has cedar shingles and a green metal roof.

Regulatory Consideration: The R1 zoning designation allows accessory structures which are customarily appurtenant to a permitted use, without discretionary review. However, the Planning Commission, in their role as the Architectural Review Committee, is required to review proposals for the erection or exterior alterations of any structure. In order to approve a new accessory structure, the Planning Commission must find that the structure is compatible with the surrounding neighborhood and with Nevada City style of architecture.

SECOND DWELLING UNIT: The proposed addition and conversion of the studio to a second dwelling unit is not subject to architectural review pursuant to Section 17.72.022 of the City Municipal

Code. The City Planner will review the second unit application for compliance with Chapter 17.72, including development standards ensuring compatibility with the primary unit in terms of materials and colors.

ENVIRONMENTAL REVIEW:

Because residential use, including residential accessory use of a structure is allowed in the R1 zoning designation, local authority can only be ministerial in nature. Sections 21080 of the Public Resource Code, of the California Environmental Quality Act (CEQA), exempts ministerial projects from environmental review.

RECOMMENDED CONIDITIONS OF APPROVAL:

1. Nevada City contracts with the Nevada County Building Department for issuance of permits. The County will not issue permits unless the plans have been stamped and approved by Nevada City. Therefore, prior to issuance of a building permit, submit three sets of plans to Nevada City Planning Department, along with a filing fee of \$80 (made payable to the City of Nevada City). The plans will be reviewed by the City Planner and City Engineer for consistency with the approval and will require their signatures.
2. The applicant shall obtain all necessary permits to convert the existing studio to a legal second dwelling use.
3. All future structures shall conform to site development standards including setbacks unless another Variance is approved by the Planning Commission.
4. A Planning Commission member shall be appointed as a Liaison to assist the applicant with any minor modifications to the permit, if needed.

RECOMMENDED FINDINGS:

- A. Make a Motion to Approve a Variance Request making the following findings pursuant to Section 17.88.030 of the City Municipal Code:
 - a. That there are special circumstances applicable to the property, including the property's location within the designated Historical District, that the strict application of standard 30-foot front yard setback deprives the property of privileges enjoyed by other residential properties in the vicinity that are also within the Historical District; and
 - b. That the preservation of the architectural appearance of properties within the Historic District is essential to the economic and cultural life of the city; and
 - c. That conditions have been applied to this project that will assure that the Variance to the front yard setback shall not constitute a special privilege s inconsistent with the limitations upon other properties in the vicinity and zone in which the such property is situated.
- B. Make a Motion to Approve the Architectural Review Application subject to the above Conditions of Approval or as modified, making findings 1 through 3, including 3a through 3e pursuant to Sections 17.88.040 and 17.76.020 of the City Municipal Code:
 - 1) That the proposed residential structure is generally compatible with Nevada City style architecture; and
 - 2) That the proposed residence is compatible with the context of the surrounding neighborhood; and

NEVADA CITY PLANNING COMMISSION

APPLICATION FOR VARIANCE

Attachment 1

The undersigned, requests that a VARIANCE from the provisions of Ordinance No. 361 be granted, pursuant to Section 16.20 of said Ordinance, and hereby certifies as follows:

OWNER'S NAME: Lorraine Gervais + Charlie Faber

ADDRESS: 215 Reward St., Nevada City PHONE: ⁵³⁰⁻362-0811

LOCATION OF SUBJECT PROPERTY: 215 Reward St.

ASSESSOR'S PARCEL NO. 05-230-18 ZONE: Residential PRESENT USE: Home

NATURE OF REQUESTED VARIANCE: We are requesting a 224 sq. ft. addition to an existing studio within the 25 ft. backline setback.

STATEMENT OF HARDSHIP (Note: The Planning Commission is not authorized to grant a variance if the result would be to confer a special privilege inconsistent with the limitations placed upon other properties in the same zone):

(a) The following special circumstances or conditions applicable to subject property (including size, shape, topography, location or surroundings) do not generally apply to other properties in the same zone.

Due to constraints of property from steep ravine, existing mature trees, 2 main city sewer lines + conditions of topography, it is the only suitable area for studio + addition.

(b) The granting of a variance would not be materially detrimental to the health, safety or welfare of other persons residing in the vicinity of the subject property, or to other property or improvements in the vicinity, for the following reasons:

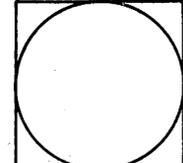
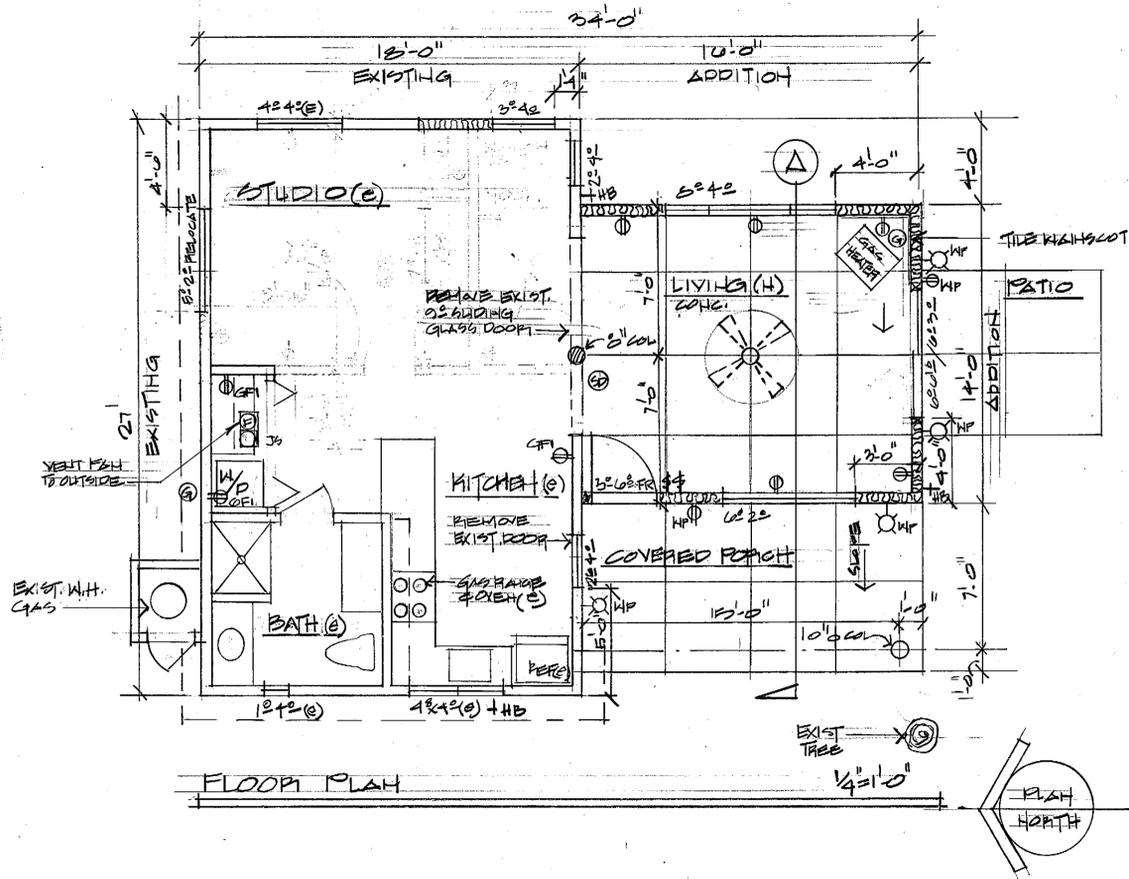
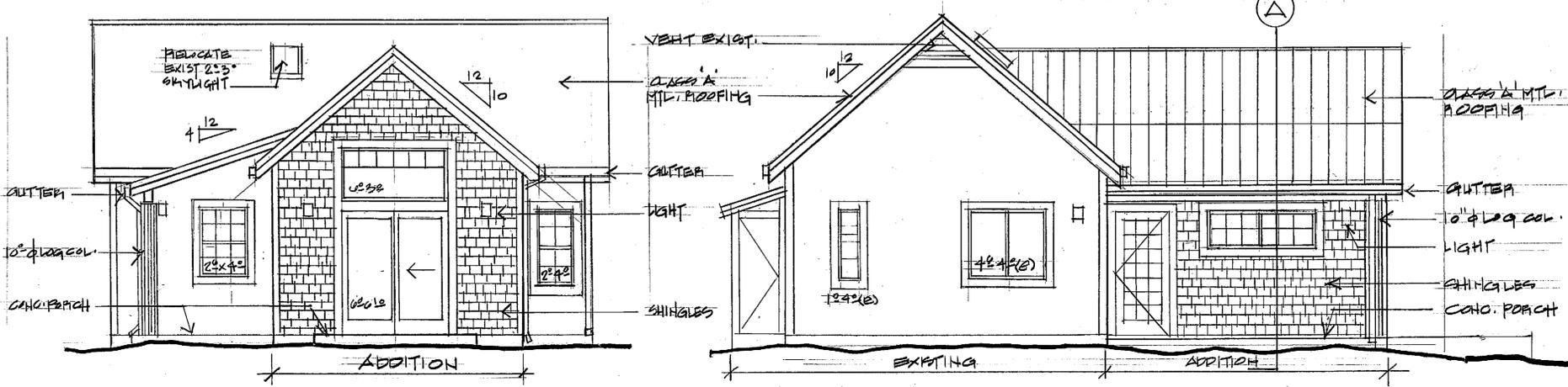
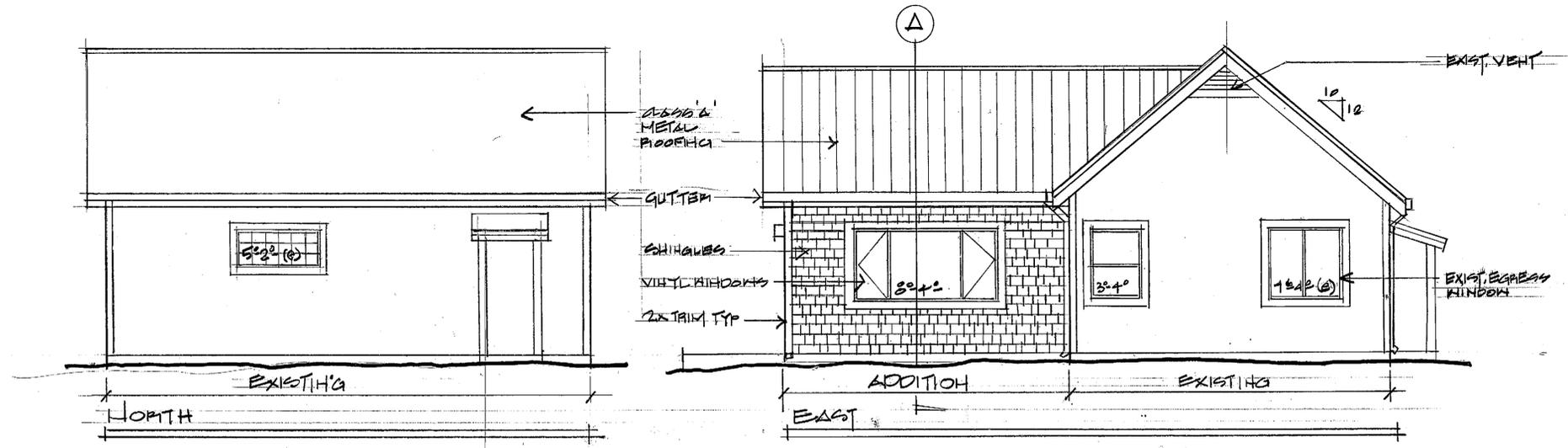
Woodpecker Ravine begins on the North border of our property + runs to Jordan St. The studio is situated at the back of our property which overlooks the continuing steep ravine. No immediate neighbors are impacted.

ATTACH MAP or SKETCH showing boundary lines of subject property, adjacent streets, and other relevant facts. SUBMIT 10 COPIES OF APPLICATION AND ACCOMPANYING DOCUMENTS.

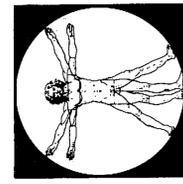
Nov. 1. 2014
Date

Lorraine Gervais Faber - Charlie Faber
Signature of Applicant



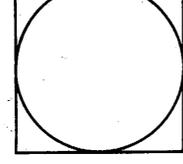
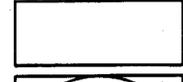


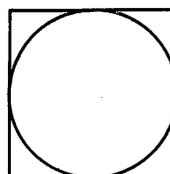
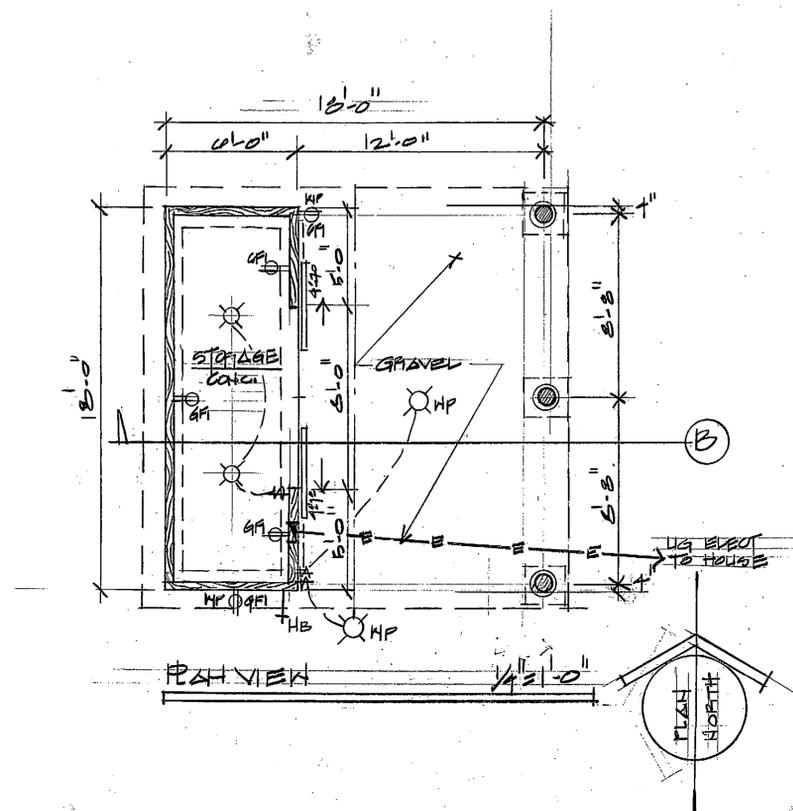
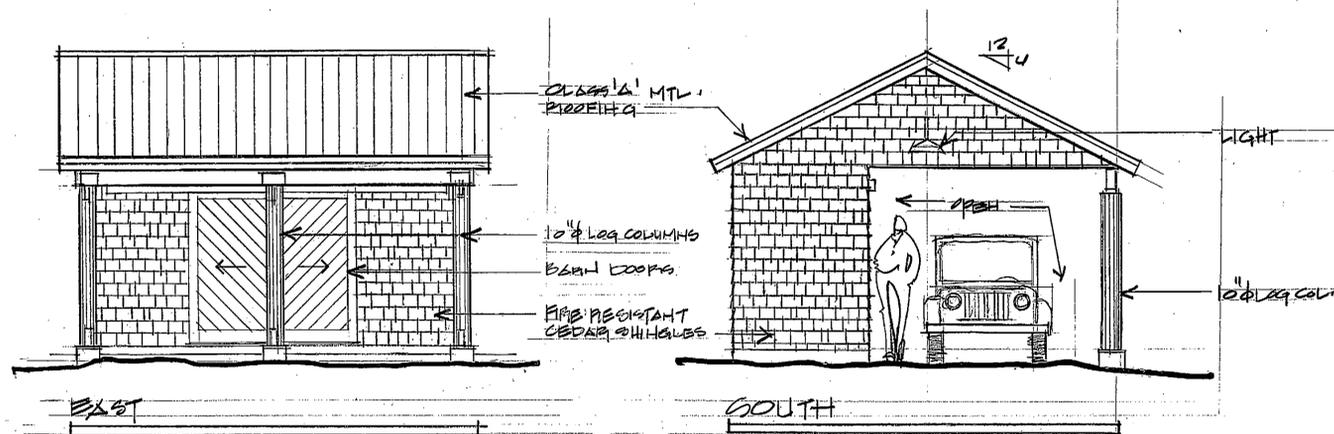
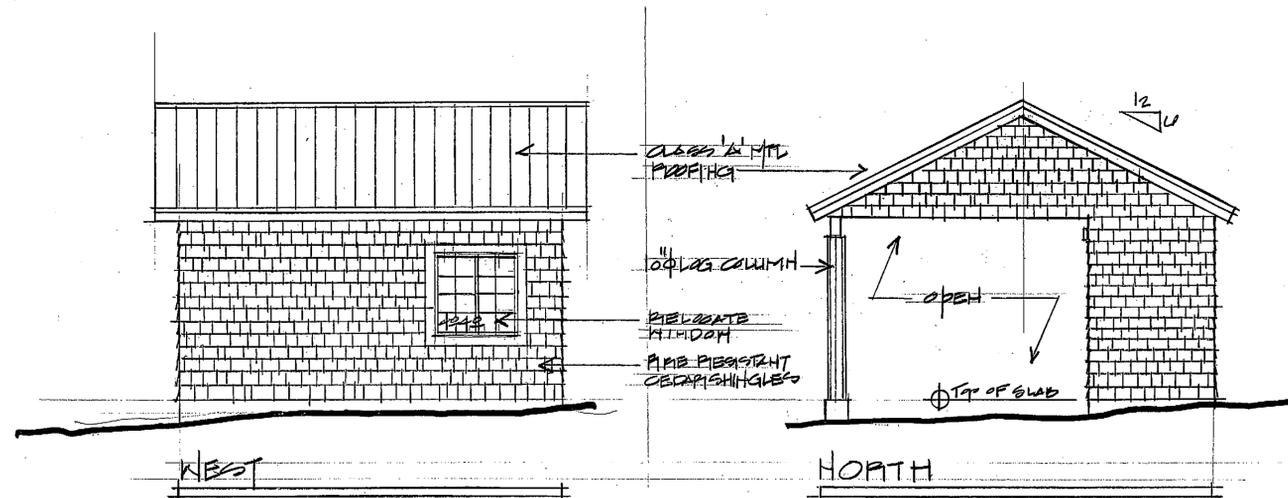
David Wright Associates, AIA
 Architecture & Planning
 Solar & Energy Engineering



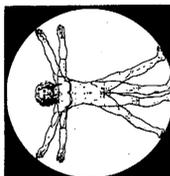
FLOOR PLAN & ELEVATIONS
 AN ADDITION TO A SECOND DWELLING FOR:
 CHARLIE FABER & LORRAINE GERVAS
 512 PENKARD STREET
 HEYWARD, CITY, CA

AUG 18, 2014



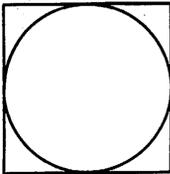
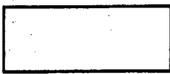


David Wright Associates, AIA
 Architecture & Planning Solar & Energy Engineering



PLAN ELEVATIONS
 A CARPORT FOR
 CHARLIE FLORENCE GEEVAIS
 512 HEWARD STREET
 HEYWARD, CA

AUGUST 22, 2016



Faber Property Photographs



Main House
215 Reward St



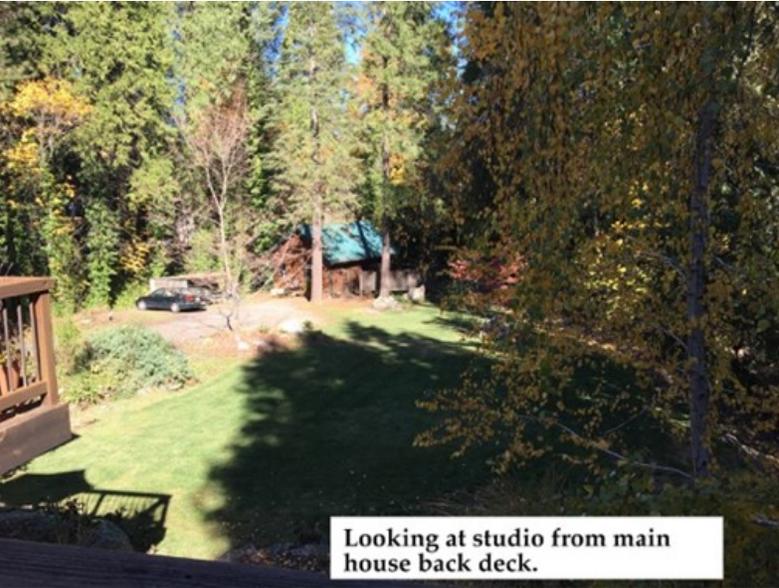
Front door / garage
on main house.



Looking down driveway
towards the studio.



Studio front door



Looking at studio from main
house back deck.



Studio with original shed
to be replaced by new garage



City of Nevada City

TO: Planning Commission

FROM: Amy Wolfson, City Planner

HEARING DATE: November 17, 2016

APPLICANT: City of Nevada City

RE: **Route Recommendation for Sugarloaf Trail**

ATTACHMENTS

1. Route Options and BYLT Proposal
2. Workshop Summary
3. Sugarloaf Master Plan – Trail Objectives
4. Public Comments

ACTIONS REQUESTED

1. Recommend categorical exemption pursuant to CEQA Guideline §15306
2. Provide Sugarloaf Trail route recommendation to the City Council

BACKGROUND

At their October 20, 2016 meeting the Planning Commission directed staff to hold a Special Planning Commission meeting on the evening of November 3, 2016. The special meeting was designed as a workshop intended to obtain public feedback on three Sugarloaf trail route options proposed by the Bear Yuba Land Trust. The workshop was well attended with approximately 40 members of the community in attendance.

WORKSHOP SUMMARY

Staff laid out a three phased process for selecting a route and building a trail including 1) general route selection, 2) formal trail proposal which will include trail construction plans and will be subject to the California Environmental Quality Act (CEQA), and finally 3) trail construction. The Land Trust presented three route options, summarized as follows:

All three trail options begin at the intersection of North Bloomfield Road and State Highway 49, then run east along the north side of Highway 49, then climb to the SW corner of the city's Sugarloaf property. From the SW corner, the three trail options are summarized as follows: 1) a switchback route across the face of Sugarloaf to a point half way up the existing Sugarloaf access road, 2) a route going over to the existing substandard trail near Coyote street, then following its approximate route to a point near the gate on the existing Sugarloaf access road, 3) a hybrid in which the first option is built to standard trail specifications, the existing substandard trail near Coyote street is retained, and a new trail section links the two.

- During a question/answer portion of the workshop staff erroneously responded to a question about trail option 3. The question had to do with the improvements planned for the existing

substandard trail to make it more accommodating to beginner and intermediate bicyclists. Staff erroneously answered that this portion of the trail would be improved to grade and width standards outlined in the Sugarloaf Master Plan. However, representatives of the Land Trust later contacted staff and requested that the record be clarified to state that in option 3) they have proposed leaving this portion of the trail essentially "as is" but slightly improved (e.g. tread repairs, brushing along trail.)

WORKSHOP FEEDBACK

Workshop participants were divided into three groups. Each group was assigned to review one of the trail routes and make a list of pros and cons of that particular option. At approximately 10 minute intervals, the groups swapped to evaluate the remaining two options. Each participant was then provided with a total of four "dot" stickers: two green dots and two red dots. They were asked to weight their two most important "cons" and two most important "pros." A summary of the pros and cons and their weighted "dot" importance is attached. Finally, participants were asked to raise their hands to show support for their preferred trail route. Overwhelmingly, participants favored route option 3, which received a total of 22 votes. Route 1 received zero votes. While route option two received seven votes, it is worth noting that five people in this identified themselves as living directly adjacent to the Sugarloaf property. Sixteen people identified themselves as living within City limits and 20 participants indicated they lived in the outlying County area.

Both the highest-weighted pro and highest weighted con were identified for trail option 3. In terms of pros, with 15 dots participants favored this option because it connected trail users as close to the top of the mountain as possible. Close behind with 11 "pro" dots, participants favored option 3 because it provided more choices for hiking. While option 3 was the clear favorite amongst workshop participants, the most heavily weighted con was placed on this option because of the proximity of the route to adjacent residences.

ENVIRONMENTAL

The CEQA Guidelines for Categorical Exemption §15306 consists of data collection and research which do not result in a serious or major disturbance to an environmental resource. This exemption applies to activities intended for information gathering that may lead to an action that a public agency has not yet approved. Consistent with this exemption, the selection route is only the preliminary phase before a formal trail proposal is made. Once a formal trail is proposed, it will be subject to CEQA review.

RECOMMENDED MOTIONS

1. In recommending a general trail route option for Sugarloaf Mountain, the Commission finds that the project is categorically exempt pursuant to §15306 of the California Environmental Quality Act (CEQA) guidelines because route selection is the preliminary phase prior to a formal trail proposal;
2. In recommending trail route option [choose 1,2,3, or other] as may be conditioned, the Planning Commission finds that it is generally compatible with the goals of the Sugarloaf Master Plan and representative of received public feedback.

APPLICATION TO NEVADA CITY PLANNING COMMISSION

Meeting Date: September 15, 2016

Applicant: Bear Yuba Land Trust
Marty Coleman Hunt, Executive Director
Bill Haire, Trails Coordinator
Greg Archbald, Trails Volunteer

Subject: Sugarloaf Mountain Trail

Actions requested: Select a route for the Sugarloaf Mountain Trail from the alternatives presented in this application. Recommend this route to City Council. Recommend that Bear Yuba Land Trust (BYLT) be selected to build the trail, in coordination with City staff.

BACKGROUND

Nevada City acquired the Sugarloaf Mountain property in January 2011. The Sugarloaf Mountain Master Plan was adopted January 10, 2016. People have been using this property for many years, both prior to and after acquisition by the City.

There are presently two primary trails on Sugarloaf Mountain:

- Road to the top. A graded and well-graveled road to the top, beginning near the intersection of Coyote St and North Bloomfield Rd. This "road to the top" built by former owners of the property is wide with a gentle grade, suitable for a wide range of users. It is now serving as the City's official trail to the top of Sugarloaf.
- User trail. An informal, user-created, trail along the east side of the property, beginning near the driveway into the Tahoe National Forest headquarters on Coyote St and ending at the "road to the top" near Coyote St. This "user trail" has existed for many years and has been used by mountain bikers, hikers, as well as homeless people camping on the mountain. It is narrow, unmarked, with variable grade -- mostly moderate with several short steep stretches.

In this application, BYLT proposes three alternative routes for a new Sugarloaf Mountain Trail -- a trail that would connect mountain and town with a user-friendly route with safe and legal access. BYLT staff believes the question of route selection is one that should be debated and decided by the City and interested public, due to the prominence and importance of the location.

ACCESS FROM TOWN

In terms of legal access, the City's property on Sugarloaf Mountain is isolated from the town of Nevada City by a large strip of private land between Highway 49 and the lower line of the City's property (see Appendix A, page 1.)

The City's property *appears* to be connected to town by the user trail that starts on lower Coyote St but the connection is physical only -- not legal. That is because the user trail was built across several parcels of private land without any owner approval. The part of the trail that lies on the City's property is now legal, but the part that passes over two private parcels near the foot of Coyote St (about 1/4 mile in length) has no right of way or easement. As a result, there is presently no legal access across private property to the south line of the Sugarloaf Mountain property from the vicinity of Highway 49 and Coyote Street.

Presently, the only legal and practical public access way into the Sugarloaf Mountain open space is high up the mountain near the intersection of Coyote St and North Bloomfield Rd. An easement, secured by the City from private owners there, allows the public to walk up a driveway to where the present "road to the top" starts behind a gate.

This access situation forces people who want to use Sugarloaf Mountain to the top of Coyote St for access. Since it is dangerous and unpleasant to walk or ride a bike up Coyote St, this means most people will drive to the top of Coyote St and try to find a place to park. There is no way now that they can legally walk or ride up the mountain from its base except on public streets.

The straight line distance from Robinson Plaza in Nevada City to the top of Sugarloaf is just three quarters of a mile; and to the south line of the Sugarloaf property is just a little over half a mile. In short, Sugarloaf Mountain is so close to town that it clearly and obviously begs to be connected. This is undoubtedly why, at the December 2015 workshop that led to the Sugarloaf Mountain Master Plan, "The top priority...was that Sugarloaf Mountain provide connectivity to town, bike lanes, sidewalks or other trails."

SECURING LEGAL ACCESS

Early in the summer of 2013, the Bear Yuba Land Trust began working on the challenge of securing legal access for a trail that could connect the town to Sugarloaf.

For several reasons, BYLT focused attention on the north side of Highway 49 west of the Tahoe National Forest headquarters. The City was then planning to construct a sidewalk from Main Street to the stop-lighted intersection at North Bloomfield. The county was building a wide new trail from the NW corner of that intersection to the Rood Center which would connect the intersection to Hirschman trail and Tobiassen Park. This intersection was also the only one with a high standard pedestrian crossing in the vicinity of Sugarloaf and by far the safest way to cross Highway 49. In addition, there was a natural ravine less than 100 yards east of this intersection where a trail could start up the hill toward Sugarloaf.

BYLT's first approach was to the owner of the property where the ravine is located. After a long and sometimes encouraging negotiation, BYLT had to abandon the effort due to the eventual unwillingness of the landowner to grant an easement. The land trust turned next to the owner immediately east of the ravine, where the Tahoe National Forest leases its headquarters. These negotiations were successful, as were negotiations with the owners of the parcel up the hill that adjoins the Sugarloaf Mountain property. In October, 2015, easements were granted to BYLT which made legal and safe access to Sugarloaf possible from the vicinity of Highway 49.

NATURE OF THE EASEMENTS

As a non-profit organization, BYLT works only with landowners who voluntarily agree to allow their property to be used in some way for the public benefit. In the case of trail easements, this means looking for ways to cross an owner's property while still leaving the owner with fully acceptable economic and practical use of the property.

The easements granted to BYLT are shown in Appendix A, pages 3 & 4. They pass through western portions of the two private parcels, located away from the main economic and practical uses of those parcels.

The easements are 20' wide; 10' on either side of a center line, shown in the Appendix pages just mentioned, that follows a route laid out by BYLT and agreed to by the landowners. The center line was located in such a way that the constructed trail would maintain an average 6 to 8 percent grade across both parcels to the SW corner of the City's Sugarloaf Mountain property. (Though the legal easement is 20' wide, the trail itself would be 4' wide and built to US Forest Service standards -- like similar trails built by BYLT in the area.)

Full public access to Sugarloaf from town is nearly, but not completely, accomplished by these two easements. The final and essential link will be permission from Caltrans to construct a section of trail from the NE corner of North Bloomfield and Highway 49 to connect with these easements. The Caltrans legal right of way here is much wider than the actual roadway, which provides a strip of state-owned land along the north side of the road where the trail can be located. If the City Council approves a Sugarloaf Mountain Trail project, BYLT will ask that the City take the lead in negotiations with Caltrans to secure an encroachment permit for trail construction.

THINKING ABOUT A ROUTE

With Caltrans permission, and with the two BYLT easements over intervening private land, full public access will be accomplished from the corner of North Bloomfield to the SW corner of the City's Sugarloaf Mountain property. The question then arises: *Where to from there?*

In planning a possible route, or routes, to the top of Sugarloaf BYLT has carefully considered the Sugarloaf Mountain Master Plan adopted January 20, 2016. Key policies for establishing a trail route and the type of trail are summarized below:

- It is recommended that rather than constructing multiple trails on the property, any trail development should adopt the following policies to allow for a shared trail as well as good trail management.
- Development of more than one trail could interfere with other recommended policies included in this Master Plan that embrace the efforts of being “light on the land”.
- To minimize development and disturbance to the property there should not be separate trails for bikers & hikers.
- The steep slope of the property will most likely not allow for trails that would meet ADA requirements. However, every effort should be made to design trails that can be used by as many people as possible.
- Any new trails that are considered should integrate with existing or future regional non-motorized trails. (See Appendix F)
- Only trails for pedestrians and bikers should be constructed. Equestrian and trails for motorized vehicles are not appropriate for this property.
- Trails should be constructed at a minimal slope to discourage excessive speeds by bikers. A 5% slope (5 foot drop per 100 feet of trail) is recommended and all slopes should be below 20%.
- Trails shall be constructed at no more than 4 feet wide. Narrow, winding trails, like narrow, winding roads, encourage slower travel speeds.
- Existing trails should be mapped with attempts made to incorporate those trails into new trail development

The clear intent of these policies is to favor strongly, though not absolutely require, the construction of a single trail on the mountain that is designed to accommodate both hikers and bikers, has "minimal slope" and other design features to discourage bicycle speeds, and can be used by many people.

While not stated directly in the policy language quoted above, this trail would be the principal trail by which the top priority of providing "connectivity to town, bike lanes, sidewalks or other trails" is achieved. In other words, this trail will become the main "Sugarloaf Mountain Trail" connecting mountain to town and integrating with "existing or future regional non-motorized trails."

If the policies above are followed in letter and spirit, only one main route will go up the mountain from the south boundary line to the top (or to meet the existing "road to the top.") Only one high standard trail will exist on that route.

While many alternative routes are theoretically possible, there are three main elements that tend to limit the alternatives to just a few practical choices. The three elements are:

- The easements held by BYLT lead to a starting point on the City's Sugarloaf Mountain property that is in the lower left (SW) corner near the ravine mentioned earlier.
- The existing "road to the top" crosses the south face of the mountain near the top and is the logical end point for any new trail construction.
- The *general route* of the existing "user trail" paralleling Coyote Street on the eastern side of the property (within the boundaries of the City's Sugarloaf Mountain property) is an obvious alternative that should be seriously considered.

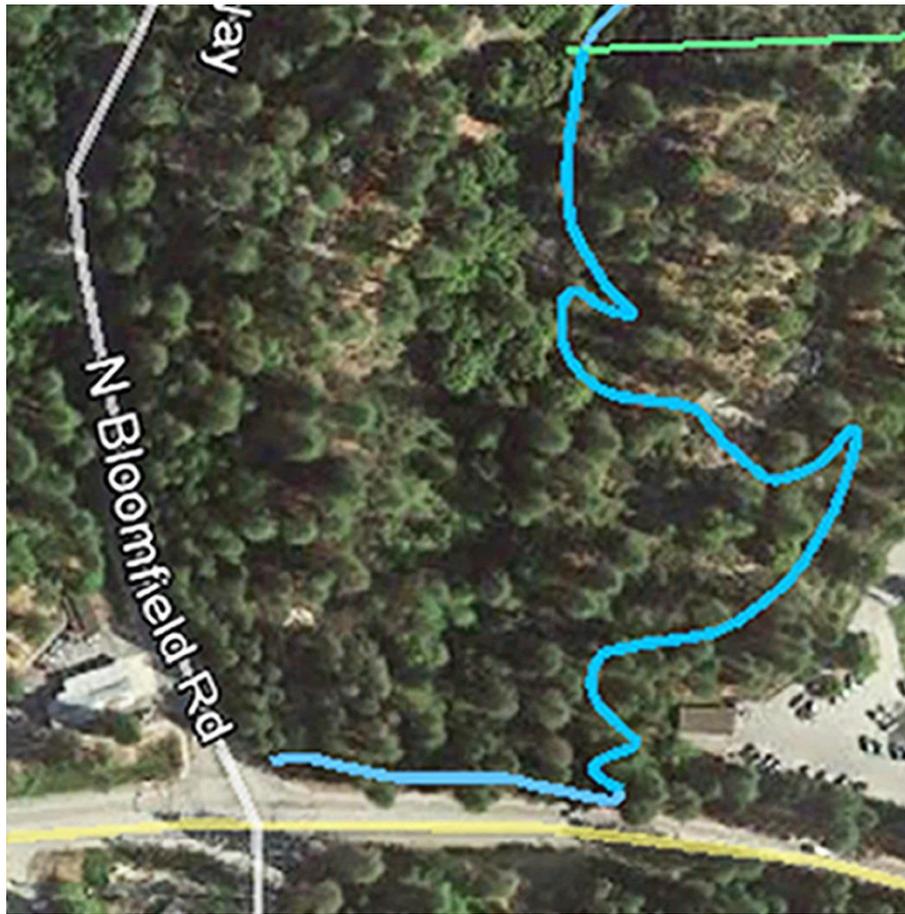
It is important to add here that simply utilizing the full length of the existing "user trail" as the Sugarloaf Mountain Trail is not, in the opinion of BYLT staff, an alternative. Along its present route and as constructed, the existing "user trail" on the City's property cannot possibly meet the trail policies quoted above without major alterations. South of the City's property where the "user trail" runs across private property to lower Coyote Street, the trail offers no utility at all because it lacks a legal easement to cross those lands. Finally, even in the improbable event a legal and feasible route could be secured in the lower Coyote Street area, the problem of public safety would remain. In the foreseeable future, a safe way of crossing the state highway at Coyote Street is highly unlikely to be developed because of its proximity to the busy intersection with Highway 20. The driveways of the USFS office and Consolidated Fire Station 84 are a further complication.

FIRST SECTION OF THE ROUTE

In considering alternatives, BYLT staff has taken the first part of the route as a given. It starts at the NE corner of Hwy 49 and North Bloomfield, runs east within the Hwy 49 right of way to where the private easements begin, and then climbs up to the SW corner of the City's Sugarloaf Mountain property.

[See illustration, next page.]

First Section of Route -- to SW Corner of City Property



First section of the proposed route. Green line is *approximate* south boundary of the City's Sugarloaf Mountain property.

The blue line above shows the key section of trail that bridges the private property gap between Hwy 49 and the City's Sugarloaf Mountain property. It connects the town to the mountain. It also connects the mountain to trails and public open spaces to the west. From the NW corner of Hwy 49 and North Bloomfield, an excellent paved, trail goes west to the County Government Center where connections are made to Tobiassen Park and Wet Hill Rd, and then further west to the Hirschman's Pond open space and its trails. For bicycle riders, it's a short connection from the west end of the Hirschman Trail to Newtown Rd and a whole range of other connections in the county.

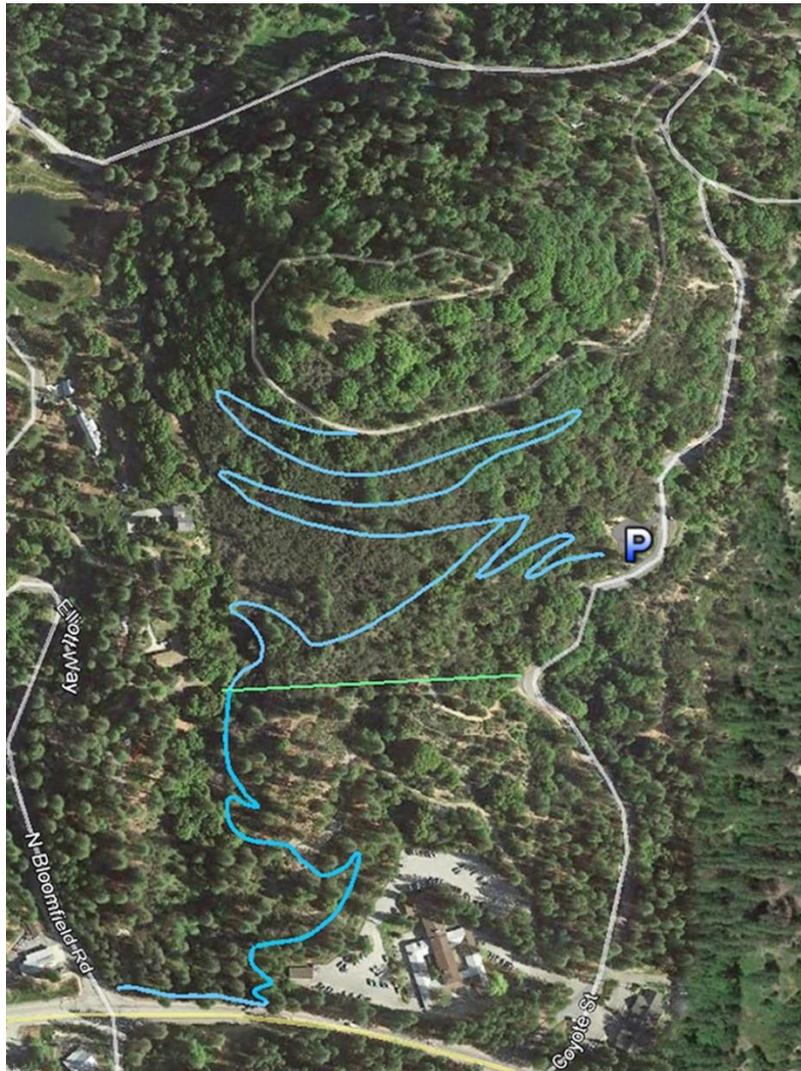
FROM THE SOUTH LINE TO THE TOP

As shown in the illustration above, the first section of the proposed route enters the City's Sugarloaf Mountain property at the lower left or SW corner of that property. ***The question of where to go from here is now the main issue before the City and the interested public.***

BYLT staff has scouted one possible route, shown in light blue on the following photo. This was done in the field by cutting brush and using clinometer readings to establish a route with a moderate 6 to 8 percent grade from the SW corner to a point well up on the existing "road to the top." The route offers several excellent viewpoints as it crisscrosses the upper slopes of Sugarloaf to meet the "road to the top" at a point slightly more than 1/4 mile up that road from Coyote St, maximizing the user experience of a relatively narrow trail through a natural setting as opposed to walking on the exposed grade of the "road to the top." This route also offers a significant public safety advantage. It provides access that would enable crews to initiate vegetation management activities including hazardous fuels reduction and removal of hazard trees. It would also provide an access for firefighting or law enforcement if this should be necessary.

[See illustration, next page.]

Alternative 1



Possible route (light blue) to a point well up the "road to the top." *Approximate* south boundary of City property in green. Route shown is schematic. The built trail would not have long, straight, stretches -- as required by City guidelines. Parking is shown on Coyote street with a connector to the main trail.

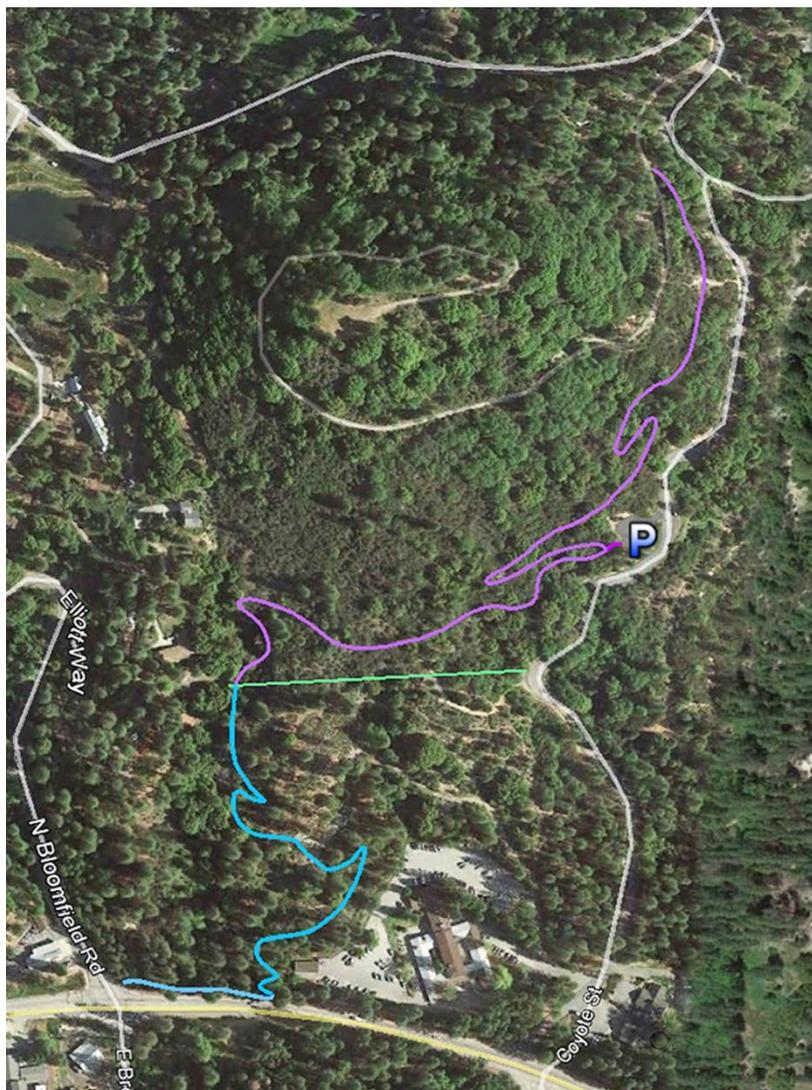
Readers may ask if the proposed route could have gone around the west side of the mountain and joined the "road to the top" on the north side, very near where it comes up to the flat top of the mountain. This possibility was studied and rejected because a 6 to 8 percent grade on the trail would never reach the road. The route shown in blue is, in the judgment of BYLT staff, an excellent route offering the most direct route to and from the top of the mountain for hikers and bikers.

If Alternative 1 were built, what would happen to the "user trail" along the east side of the Sugarloaf Mountain property? If we read the Sugarloaf Mountain Master Plan policies correctly, they strongly suggest one trail only for shared use by walkers and bikers -- which leads to the conclusion that the "user trail" should be abandoned through trail deconstruction and habitat restoration. Over time, the present narrow trail would become naturalized and absorbed back into the landscape while the new trail would become established as the one Sugarloaf Mountain Trail.

The City and the public may wonder at the practicality and wisdom of abandoning this "user trail." It may be encouraged by policy, but is it the best thing to do? BYLT staff believes and recommends that consideration be given to an alternative route to the top that incorporates parts of the existing "user trail." At the time of this application, staff had not proven such a route by measurements on the ground. However, based on the knowledge gained in flagging the Alternative 1 route and review of a basic contour map the staff is convinced that such a route is feasible. The route shown on the following illustration was drawn using very basic topographic information. (A route laid out by cutting through brush and making ground measurements could differ significantly in detail although the general concept and orientation of the trail would not.)

[See illustration, next page.]

Alternative 2



Alternative trail route on City property (in purple) utilizing parts of existing "user trail." *Approximate* S boundary of City property in green. Route is illustrative only and has not been proven by ground measurements. Built trail would not have long, straight, stretches -- as required by City policy.

The primary disadvantage of this or a similar alternative is that it reaches the "road to the top" near the entry gate by Coyote St which significantly lengthens the distance that trail users have to travel on the "road to the top" to reach the flat top of the mountain. This detracts from the sense of being on a typical hiking and biking trail in an undeveloped, natural landscape, that Alternative 1 provides. There are several advantages, however, to this alternative. It incorporates some parts of the existing "user trail" (although significant portions would need to be decommissioned) and it is somewhat "lighter on the land." It also runs close to the potential parking area on Coyote St, thus making a shorter and easier connection to the potential parking

area than would be the case with the first route suggested above where a connector segment more than 500' long would be required.

This or a similar alternative, which tops out near Coyote St, would provide the shortest way to reach proposed trails that could go easterly from the intersection of Coyote St and North Bloomfield Rd. If the proposed Pines to Mines trail between Nevada City and Truckee becomes a reality, it may well connect with Nevada City through this intersection. The new Sugarloaf Mountain Trail, in whatever form adopted, would serve as a key link between downtown Nevada City and the extension of the Pines to Mines trail east along Harmony Ridge.

A HYBRID ALTERNATIVE

Many runners and mountain bikers appreciate the existing "user trail" in its present state. It is narrow, well established, has some great views and goes through many lovely stretches with overarching trees and shrubs which lend a "tunnel" effect to the trail. Little of this would remain if the alternative just mentioned were adopted and built to standard multi-use trail specifications.

BYLT staff suggests the City consider interpreting the Sugarloaf Mountain Master Plan Policies in such a way that two active trails could remain on the south face of the mountain. The first would follow the BYLT route suggested above. This would be the main Sugarloaf Mountain Trail, connecting with the "road to the top" well up that road from Coyote St. The second trail would be the existing "user trail" -- *only the part which is on the City-owned property* -- slightly improved but essentially as it is today. It would be connected at the base (above the south property line) by a new single track trail, built narrow like the existing user trail, running between the base and the main Sugarloaf Mountain Trail.

If this configuration were adopted, trail users would potentially have the best of both worlds. The main trail would be the preferred route for most users with its wider track, moderate grade and its more direct route to the top of the mountain. Others could take the narrower and occasionally steeper route along the old "user trail" for a more rustic experience, or to go more directly to the corner of Coyote St and North Bloomfield.

The hybrid alternative is shown below. The main Sugarloaf Mountain Trail, as proposed by BYLT staff in Alternative 1 is shown in blue. The trail would be 4' wide, moderate in grade and built to specifications of the Sugarloaf Mountain Master Plan. The pink line on the right is the existing, narrow and substandard "user trail" with a new section at the base to connect it to the main trail.

[See illustration, next page.]

Alternative 3



Hybrid alternative. Main trail in blue. Existing "user trail" in pink with a new connecting section linking it to the main trail. *Approximate S boundary of City property in green.*

PARKING PLAN

People who live in the town of Nevada City can easily walk or ride from their homes to the start of the Sugarloaf Mountain Trail using city streets and sidewalks. Area residents and visitors from out of town will need parking options near town when they come to use this trail.

Public parking is presently not available at the intersection of Hwy 49 and North Bloomfield where the trail begins. For this reason, the Sugarloaf Mountain Trail will have no formal

trailhead with trailhead parking. There are two good parking options for this trail, however, which can serve the trail. They are:

(1) Ample parking at the Nevada County Government Center, connected directly to the start of the Sugarloaf Mountain Trail by a 1/4 mile paved, dedicated pathway from Helling Way in the government center to the intersection at North Bloomfield Rd and Hwy 49.

(2) An excavated area on City property (perhaps a former borrow pit) on the west side of Coyote St about 0.3 mile uphill from Hwy 49, that could be improved as a parking lot for the trail. There is an existing dirt driveway into this area which measures about 60' x 70'. The area is shown in all the trail alternative photos with the "P" parking symbol, and each alternative has been presented with a trail link shown to this parking area. The potential parking area is similar in size to the parking area that has served well for the Hirschman Trail.

The possibility of parking at the Tahoe National Forest headquarters on lower Coyote St has been raised by various parties. BYLT staff has not included it as a parking option for several reasons. This is private property leased by the U.S. Forest Service. Any arrangement to utilize the parking would have to be negotiated with both the owner and tenant. Additional easement(s) for trail connection would need to be secured, and a new trail segment would have to be built. It is uncertain whether the needed permissions would be given. Further, the parking lot closest to the trail is a fenced off area for fleet parking, and the parking area behind and uphill of the main buildings is a potentially challenging location for out-of-town visitors to find. BYLT staff believes that the main trail is much better served by the ample parking at the county government center and its direct link to the intersection of Hwy 49 and North Bloomfield.

TRAIL CONSTRUCTION

The trail will incorporate construction standards developed by and used by the USDA, Forest Service. These are the same standards that were used for the construction of the Hirschman Trail and for sections of the Tribute Trail built by the BYLT. These standards also conform to the Sugarloaf Mountain Master Plan policies.

The trail will be constructed so that the average grade over the length of the trail is about 6 percent. There will be places where the trail that must be constructed at steeper grades to circumvent obstacles but, in all cases, the grade will be kept moderate and sustainable and safe for mixed use.

Trail tread width will be 4 feet. Brush screening between legs of the trail will be maintained to prevent trail users from cutting from one leg to another. Long clear runs will be avoided so that the trail does not facilitate increased speeds by mountain bike riders. The trail will be constructed with reverse grades to insure drainage and to temper speeds. As much as possible, the trail route will wind around rocks, trees, and brush while following the contour of the land,

gently climbing to the top or descending to the bottom. This will add interest to the trail while controlling speed.

Residents of homes on Elliott Way, and any home east of North Bloomfield facing Sugarloaf Mountain, will be given an opportunity to consult with BYLT prior to trail construction to locate trail sections and switchbacks across the ravine from them in a way that protects their privacy.

The trail will be constructed by a combination of methods including the use of hand tools exclusively in some areas and the use of mechanized equipment with finish work by hand in other areas. It is anticipated that much of the trail will be built by volunteers, however funding will be sought to allow the purchase of construction services by a qualified trail construction contractor.

Brush clearing should be limited to the fall, winter, and spring months when there is adequate moisture to reduce fire danger to an acceptable level. Trail construction will also be limited to those times when there is adequate soil moisture to insure that the soils can be worked and compacted to meet the construction standards. Because of the nature of the site, little or no work will be accomplished during summer or early fall.

VISUAL IMPACT OF TRAIL CONSTRUCTION

Concern has been expressed that the trail might be visible from the streets of Nevada City. There is no reason to expect that any portion of the alternative trails described in this application will be seen from town as long as the vegetation on the mountain continues to look much as it does today. Trail clearing will be localized to the trail, leaving trees and large shrubs in place, routing the trail around and under them. This will naturally screen the trail from view as seen from town. (Vegetation management projects in the future to reduce hazardous fuels on Sugarloaf Mountain might temporarily expose small sections of trail to view from town but these would soon be screened again by re-growth of vegetation along the trail.)

SIGNS

There have been suggestions that artwork be placed along the trail and that artistic features be constructed in the trail improvements. Signage would be limited and there would be no artwork placed along or designed into the trails. (Sugarloaf Mountain Master Plan, policy 7, page 10 of 10.) Mile markers at intervals, directional signs, and regulatory signs would be installed in collaboration with City staff, and with the City's approval, in accordance with the Sugarloaf Mountain Master Plan.

CULTURAL RESOURCES SURVEY

In June 2016, BYLT contracted with professional archaeologist Mark D. Selverston to carry out a cultural resource survey of the trail route described in Alternative 1, above. He was also asked to evaluate the potential along the route for hazardous residues from historic mining activities.

His detailed report "Sugar Loaf Mountain Trail Cultural Resources Survey, Nevada County, California" is included with this application as Appendix B.

Selverston found "no relevant cultural resources studies or cultural resources [for this site] filed with the state" prior to his investigation. (p 1) In his field work he discovered four separate remnants of mining activity on the mountain from the gold rush era that, in his opinion, were historically significant for their "potentially important data." (p 15) These remnants include "a segment of a substantial water conveyance ditch," a "depression that appears to be a prospect for locating gold deposits," a "water conveyance ditch segment," and "an abandoned earthen road segment cut into the slope." (p12-13) He noted that in addition to these specific items, "assorted elements of placer mining were identified across the lower portion of the trail route, including overgrown sluice channels, races feeding into one of the sluice channels, steep banks where mining has washed away large volumes of soil and rock, and irregular and undulating ground surface left from various placer mining activities, also called diggings." (p11)

Summing up his cultural resource findings, Selverston concluded: "The identified cultural resources do not appear to be threatened by the proposed trail, in the opinion of the author. While they are associated with California's gold-mining legacy, they do not retain integrity to convey that association. They are potentially eligible under Criteria 4, for their archaeological data, but this value does not appear to be threatened by trail construction and use. Therefore it appears the project would not alter any of the characteristics that potentially qualify the sites for listing to the state's inventory of important cultural resources." (p 1)

With respect to toxic mining legacy, he added: "With regard to the potential for the trail alignment to contain potentially dangerous remains left over from the gold-mining era, no evidence of gold processing, such as mill remains or tailings, was observed anywhere during the survey or found in the literature. The type of mining activity that occurred in the trail alignment would likely not have left toxic remains. Similarly, there is no evidence of hard rock mining at this location, and none was observed, so there are no potentially harmful waste dumps present." (p1)

CONCLUSION

In preparing this application, BYLT staff was very much aware of the historic opportunity that the City now has to unite the town directly with its iconic mountain backdrop. Important choices are being made here. It is a "big deal" for the City, its residents and for the visitors it will attract.

We have emphasized what we see as the key facts and issues in this application, rather than advocating a particular outcome. BYLT stands ready to work with the City through all the needed planning, environmental review, and trail construction -- whichever route is selected.

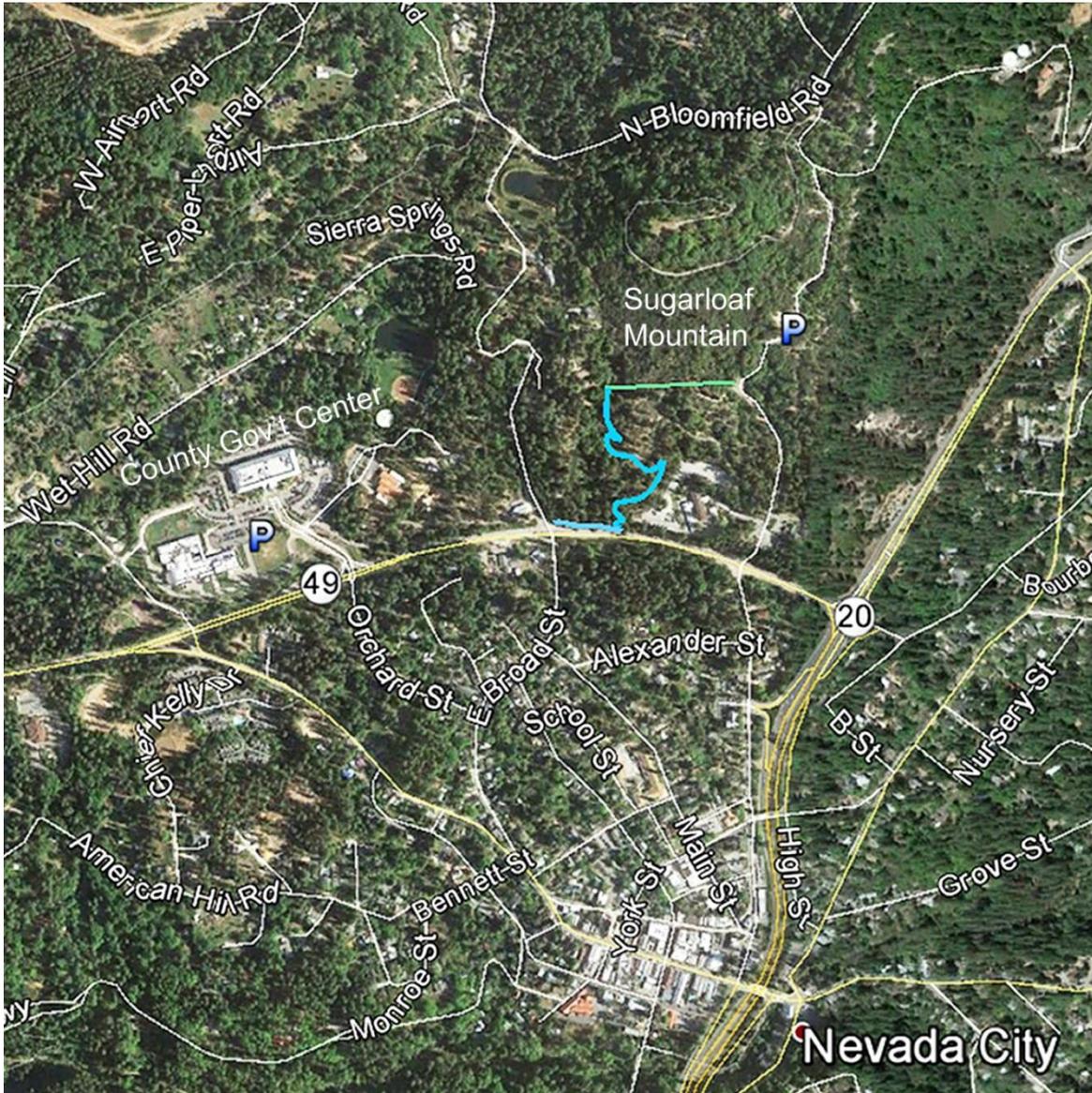
APPENDIX A

**Application Of Bear Yuba Land Trust
To Nevada City Planning Commission**

regarding

**Sugarloaf Mountain Trail
September 2016**

Vicinity Map



Center Line of Easement over APN 05-310-09



Center Line of Easement over APN 05-310-10



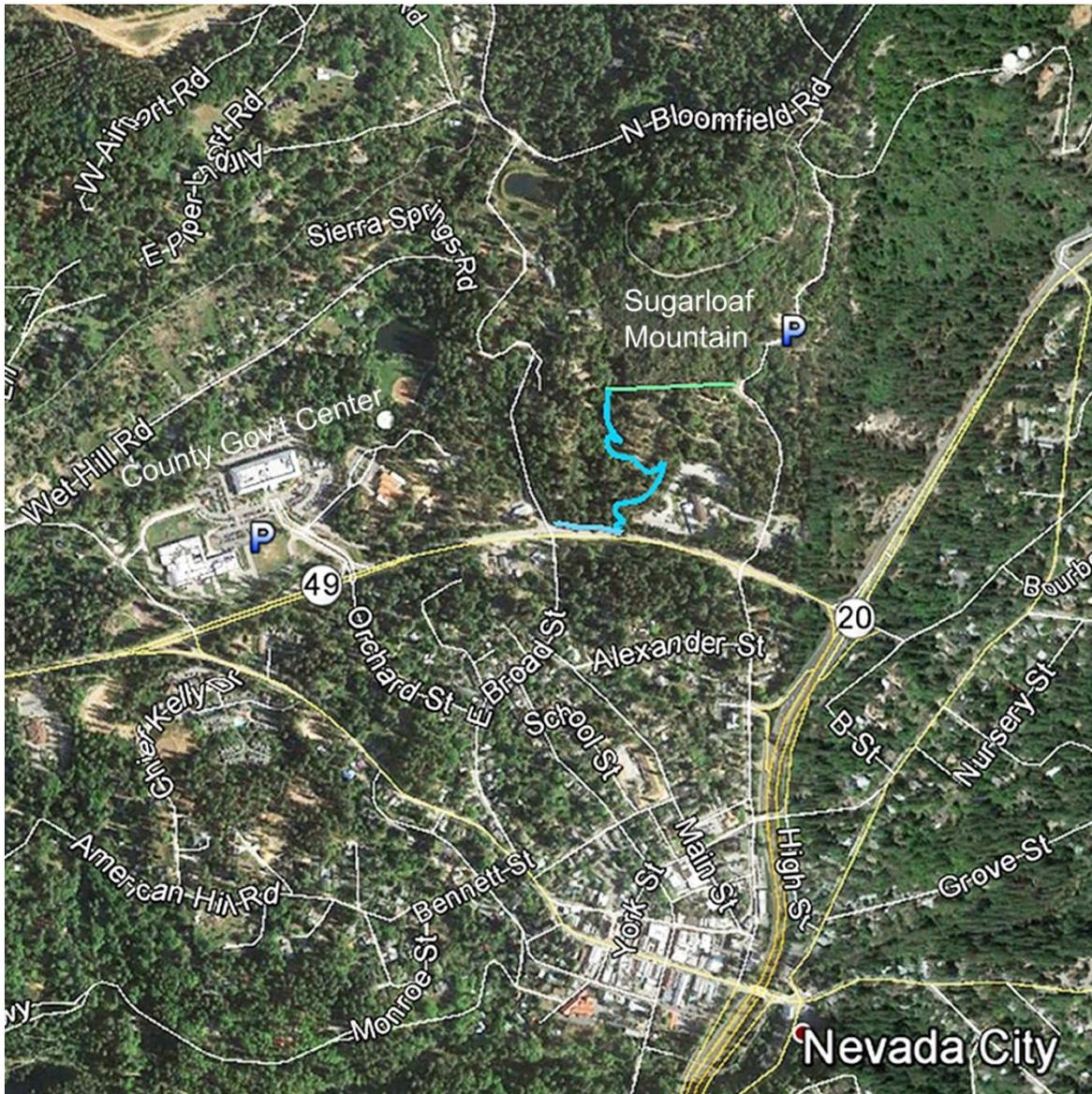
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September 2016**

Vicinity Map



Assessor's Parcels in Vicinity



Center Line of Easement over APN 05-310-09



Center Line of Easement over APN 05-310-10



Sugarloaf Mountain Workshop

November 2, 2016

Trail Route Discussion

Trail Route Alternative 1

PROS

Seemingly low impact

Trail is off the road

Access to parking (potentially)

Wide angle and multiple viewpoints of Nevada City

Longer trail

Switch backs could allow for a fuel break – fire safety

Gets to the road at a higher point

Developing parking sooner to minimize impact on neighborhoods nearby

CONS

Possible erosion due to switch back short cutting 2 dots

Not exploiting pre-existing and appreciated trail 1 dot

Not preferential for up and down 1 dot

Biking, hazardous to dual use 1 dot

Switchbacks & not using pre-existing trail = more \$ and more work hours

Not a loop trail

Switchbacks themselves are too broad

Potential for off shoots to other properties

Switchbacks get too close to the ravine 1 (red) dot

Closer to neighbors more often/more noise 1 dot

Get to the road too high which encourages too much activity at top by bikers

Too steep: 4-5% would be better

Creates close edge environments by having multiple switchbacks

Trail Route Alternative 2

PROS

More wild space minimal impact because we can use existing user trail 5 dots

Nice long walk

Better connection for regional bike riders

Access to future parking site

Less mountain bike impact on peaceful top 1 dot

Old road still provides flat grade

Fewer switchbacks 2 dots

Traverses a more varied terrain

Accessibility from downtown

Opportunity for fuel reduction in case of fire danger 2 dots

Reduces the potential for homeless camps

Good opportunity for wild life/native plant restoration

Less costly 1 dot

Larger separation from neighbors along west side 1 dot

CONS

Too steep 3 dots

Does not maximize views

Concerns about noise & proximity to neighbors 2 dots

Does not minimize homeless camps

Intersects far down on the existing road that makes it less appealing

Might encourage people to park at top of Coyote St. 2 dots

Not a loop 8 dots

Concern over impact of wildlife

Combined hikers & bikers 3 dots (2 green/1 red)

Trail too steep for hikers/biker trail

Road noise on most of trail

Requires too heavy a use on the road

Not suitable for beginner & intermediate bikers

Trail Route Alternative 3

PROS

| | |
|-----------------------------------------------|---------|
| Uses existing trail without decommissioning | 5 dots |
| As close to top as possible | 14 dots |
| Preserve existing trail | 3 dots |
| Enhance property value | |
| Disburse impact/increase usage with 2 trails | 5 dots |
| Better access for mountain bikers (pink line) | 1 dot |
| More choices for hiking | 11 dots |
| Potentially safer for dual use with 2 trails | 2 dots |
| Fuel/fire breaks | 1 dot |
| Blue line is a nice, long walk | 1 dot |
| Best promotes tourism | 1 dot |

CONS

| | |
|----------------------------------------------------------------|-------------------------|
| Impacts wildlife & plants | 7 dots |
| Too many multiple parallel cuts | |
| Too impacting on mountain | 1 dot |
| Mountain bikers too close to top | 1 dot |
| Too many switchbacks | 1 dot |
| Lack of single-use trail (bike only trail) | 1 dot |
| Road noise on pink | 2 dots |
| Potential self-made trail from parking to blue | 2 dots (1 red, 1 green) |
| Nice to have less average grade than 6-8% especially with kids | 1 dot |
| Blue too close to residences on/off Elliott Way | 15 dots |

Sugarloaf Master Plan Considerations

Pursuant to the Sugarloaf Master Plan, the following policies are recommended in relation to any trail construction:

1. All trail development should be presented to the public for review.
In addition to several public meetings staff welcomes public feedback at any stage of the trails project from route selection to a formal trail proposal. BYLT has included in their proposal that they will communicate with neighbors about the trail alignment.
2. Environmental review should be completed on any trail project.
This will be completed after a trail alignment is approved.
3. Trails shall be constructed at no more than 4 feet wide. Narrow, winding trails, like narrow, winding roads, encourage slower travel speeds.
The 4 foot width is acknowledged and listed as the trail width under "Trail Construction" on page 13.
4. Trails should be constructed at a minimal slope to discourage excessive speeds by bikers. A 5% slope (5 foot drop per 100 feet of trail) is recommended and all slopes should be below 20%.
The proposal suggests that slopes would be a moderate 6 to 8 percent grade.
5. The brush and tree cover along the trail route should be managed so that the vegetation provides a visual and physical barrier to cutting switchbacks, creating new trail routes, etc. and the trail clearing should be used to both provide a visual barrier ahead, so that excessive speeds are discouraged, as well as taking efforts to clear specific areas to provide a view of the trail ahead for the safety of the user but not encourage faster speeds.
Brush clearing and visual aesthetics of the trail are discussed on page 13 & 14 of the Proposal.
6. Use reverse grades throughout the trail route (ie: downhill trail should reverse and become an uphill trail for 20 to 35 feet before returning to the downhill). This will assist with draining the trail and the uphill sections of trail will moderate speed of trail users.
Reverse grades will be constructed to insure drainage and to temper bicycle speeds. (page 13)
7. To minimize development and disturbance to the property there should not be separate trails for bikers & hikers.
Although the Hybrid Alternative shows an option for two trails, this is addressed in the proposal "Thinking about a Route", page 3
8. Signs at trailheads with reminders about trail etiquette.
Signs would be addressed after a trail alignment is decided upon and is will be covered within the actual project proposal.
9. Mile markers shall be placed on trails.
Included in the proposal in the "Signs" section on page 14.
10. Accessibility to the property should be improved by creating parking spaces.

A parking plan has been proposed in the proposal.

11. The steep slope of the property will most likely not allow for trails that would meet ADA requirements. However, every effort should be made to design trails that can be used by as many people as possible.

The commitment to a 4' wide trail and 6to8 percent slopes, allows for the trail to be as accessible as possible considering the overall slopes of the property.

12. Any new trails that are considered should integrate with existing or future regional non-motorized trails. (See Appendix F)

13. Trails should be discrete, cleverly designed and not scar the mountain as it is viewed from town.

Visual Impact of the proposed trail is discussed on page 14 of the proposal.

14. Only trails for pedestrians and bikers should be constructed. Equestrian and trails for motorized vehicles are not appropriate for this property.

No suggestion for equestrian use has been made.

15. Existing trails should be mapped with attempts made to incorporate those trails into new trail development.

Alternative 2 and the Hybrid Alternative make use of the existing trail on the property.

Reasons why the BYLT should investigate an eastern alignment along the existing Sugarloaf trail route as reflected in the priorities for a trail as set forth in the [Sugarloaf Master Plan](#):

1. *The City hopes to preserve the environmental attributes of the space by reducing non-native plants, allowing native plants and wildlife to flourish on the current landform, and by protecting the biological integrity. (Pg. 1)* The proposed BYLT routes #1 and #3 put a trail through the least developed part of the City's property. The proposed alignments maximize the human footprint to cover most of the entire south side of the mountain. There are no trails there currently and minimal to no human impact. On the adjoining properties to the south requiring easements, the BYLT proposed alignment puts the trail through a ravine that is an important wildlife corridor. There is a unique ecosystem running from this ravine up to the park and covering much of the southern face of the mountain, if not more. As has been commented at prior City meetings, there are lynx's, mountain lions, bears, coyotes, coywolves, foxes, and a range of birds that utilize the western side of the property and the ravine. It is filled with an abundance of native plants that are flourishing there – coffee berry bush, extensive deer grass, toyon, fields of mariposa lilies and other native flowers and herbs, soap root, etc. This is important habitat and open space, especially to have so close to town. The ravine is a breeding ground for coyotes and lynxs. Will 1000's of hikers and bikers a year push these animals out of this habitat? Is it not the mission of the Land Trust and the obligation of the City to protect these plants and animals and their habitat?
2. *Development of more than one trail could interfere with other recommended policies included in this Master Plan that embrace the efforts of being "light on the land". It is recommended that rather than constructing multiple trails on the property, any trail development should adopt the following policies to allow for a shared trail as well as good trail management. (Pg. 5)* As BYLT has noted in their proposal, the Master Plan favors one trail over multiple trails. The existing trail on the eastern part of the property has been in use for many years. It is a fully functional trail that may need some improvements, but, as anyone who has hiked it can attest, it works well. Given that the vast majority of the human footprint (homeless camps, trash, hikers, bikers, hydraulic mining scars, and past clearing) is located on and around the existing trail, doesn't it make the most sense to prioritize this corridor for a trail alignment to go "light on the land" and to clean up and restore the damaged areas in the process?
3. *Environmental review should be completed on any trail project. (Pg. 5)* How is it better to build a trail through important wildlife habitat, than to utilize and improve upon an existing trail that goes through an area already heavily impacted by humans? Is the park space large enough to include a trail AND a wildlife corridor, perhaps even one off limits to

people? Perhaps a Sugarloaf Mountain Preserve could be created with signs asking people: "Please remain on the trail, sensitive wildlife corridor."

4. *Accessibility to the property should be improved by creating parking spaces. (Pg. 6)* Because the existing trail follows along Coyote Street, it offers at least as many, if not more parking options and access points than the BYLT proposed alignment. Has anyone spoken with the Forest Service employees about whether they would be open to letting trail users utilize their parking lot or public restroom?
5. *The steep slope of the property will most likely not allow for trails that would meet ADA requirements. However, every effort should be made to design trails that can be used by as many people as possible. (Pg. 6)* According to Bill Haire, 50% of the existing trail would need to be improved or modified in order for him to "put his name on it." So, the existing trail is not critically flawed in this regard and renovating it is likely cheaper and easier than building an entirely new trail.
6. *Any new trails that are considered should integrate with existing or future regional non-motorized trails. (See Appendix F) (Pg. 6)* The existing trail currently connects with a branch of the Emigrant Trail at the top of Coyote Street that continues up Harmony Ridge and several other access roads and trails that descend into Manzanita Diggins. Further, Appendix F of the Master Plan shows a conceptual "County Trail Plan trail" that parallels Highway 49 that would go through the Forest Service parking lot and connect to the intersection at N Bloomfield and Highway 49.
7. *Existing trails should be mapped with attempts made to incorporate those trails into new trail development. (Pg. 6)* In their conversations with property owners BYLT has not presented them with more than the one option and to our understanding did not discuss a route connecting the N Bloomfield crosswalk to the Forest Service parking lot and then up the existing trail.
8. *It is recommended that any trail project that is presented to the City Council must include a parking plan to avoid having parking issues in nearby neighborhoods. (Pg. 7) No parking in E. Broad/N. Pine neighborhood: It is unclear how this would be enforced. If any trails are developed on the property, trail users should be encouraged to park in a more appropriate location. (Pg. 9)* This is explicitly mentioned four times in the plan and implied multiple other times. It is a difficult problem to address and one that other trails in the region also face. Parking along Coyote Street could help to alleviate this issue. It is something the planning commission needs to consider carefully with an eye towards long-term solutions.
9. *Appendix F.* Shows the conceptual "County Trail Plan trail," which follows along Highway 49 and seems to indicate that a trail north of the highway and running parallel to it is needed. This would connect into the

trail along the north side of the highway from N Bloomfield to Coyote Street.

There are also broader issues, outside the scope of the Sugarloaf Master Plan, that would seem to favor doing additional due diligence for an eastern alignment utilizing the existing trail:

1. Pines to Mines – How does it get into and out of Nevada City? Is it a possibility that the Sugarloaf Trail is also the beginning of the Pines to Mines trail? If so, what are the implications for trail traffic and for alignment?
2. Manzanita Diggins – The City's long term plan to annex and develop the 70+ acre parcel in the Manzanita Diggins northwest of the intersection of Highway 49 and Highway 20 has strategic implications for a Sugarloaf Trail. The existing Sugarloaf user trail seems to provide better access points for pedestrians, hikers, and bikers coming from Manzanita Diggins to the east. If the City plans to include trails and open space in the Manzanita Diggins master plan, it should link these points to the Sugarloaf trail where possible and reduce the need for people to climb in elevation before accessing the trail if they are trying to get into town, as opposed to going up the mountain. That implies an advantage to an eastern alignment along the existing trail up Sugarloaf, as well as the need for a trail corridor connecting N Bloomfield and Coyote Street.
3. Parking is one aspect of trail accessibility, but law enforcement and emergency services, if they are needed on the trail, is another. Has anyone asked the Chief of Police what he thinks? Given the intractable homelessness issue on the mountain, shouldn't the City be considering trail alignments from law enforcement's perspective, too?
4. A trail along the north side of Highway 49, connecting N Bloomfield and Coyote Street provides access and a great way for the Fire Department and Forest Service employees to walk into town.
5. Homelessness – The Land Trust's position is that trails are helpful in areas chronically utilized by the homeless because they create a public presence that results in homeless camps leaving. If that is true, then the existing trail is also the best location for a trail because it is heavily utilized by homeless people.
6. Crossing Highway 49 – The crosswalk at N Bloomfield and E Broad is a welcome addition and enables the possibility of a connected trail up Sugarloaf. However, it is also a pinch point and the City should be looking at other longer-term solutions for connecting the parts of the City north of the highway with the downtown south of the highway. Much of Land Trust's initial trail alignment work revolved around finding a route as close to that cross walk as possible. However, hikers and bikers often cross at Coyote Street because it is easier and/or more direct depending on their route or they walk or ride along the highway on the side of the road. Both are dangerous and it is unlikely that users coming

from or going to the east side of town will change their route and go out of their way to access the crosswalk. The City needs a strategy to address this over time, particularly if the flow of walkers and bikers expands from the Sugarloaf Trail to also include the Manzanita Diggins and the Pines to Mines trail. From a long-term planning perspective, we propose that the City explore the option of putting a path on the north side of 49 connecting N Bloomfield and Coyote Street. In addition, there is already an existing trail heavily utilized by the homeless along the south side of 49 between East Broad and Coyote, which could be developed later, also within the Caltrans right of way. In the middle, the highway is cut into the hillside and both trails are well above the car traffic, which affords the potential for a pedestrian footbridge over the highway and connecting the trails on the north and south of the highway. While pedestrian overpasses are expensive, if the City begins planning for it now, it creates opportunities to seek grant funding as it becomes available, as well as request funding from project developers of the Manzanita Diggins. One estimate puts the cost of a pedestrian overpass at \$3M, but if the City raised 10% of that, it would make it much easier to secure grants for the remainder. A pedestrian overpass would make a statement that Nevada City highly values its trails, the accessibility of its community, and its strategic urban planning, plus it's much safer and convenient. Raising \$300k is no small feat, but a future feasibility study to determine if and how much money could be raised from private donors and or developers would be the first step. None of this needs to be done immediately: start with a simple trail connecting N Bloomfield and Coyote street on the northern side of the highway and go from there.

This study could illuminate other options for the City or it could strengthen the case for BLYT's proposed alignment. In either case, it would go a long way toward alleviating our concern as neighbors that all options were explored and presented to the community and the City.

From Lisa McCandels, Nevada County resident

Hi Dawn and Amy,

After reading through BYLT's proposal for trail alternatives on Sugarloaf Mountain my preference is for alternative 1. Pros of this alternative are that it follows what is set forth in the goals of the Master Plan, it limits impacts to the site with it's straightforward route, it is well connected to the parking area, and it provides continuity in the trail experience.

I also am in favor of alternative 3 and working with the existing trail to provide a varied experience for trail users. This route does give users the "best of both worlds" for bikers/hikers and also creates a loop alternative for users.

Thank you both!
~Lisa



City of Nevada City

TO: Planning Commission

FROM: Amy Wolfson, City Planner

HEARING DATE: November 17, 2016

RE: **Cannabis Dispensary Ordinance Public Outreach Recommendation**

ACTIONS REQUESTED

Review and authorize a public outreach strategy for obtaining feedback on a potential cannabis dispensary ordinance

BACKGROUND / DISCUSSION: At the August 25, 2016 City Council Strategic Planning Workshop, staff was directed to research the possibility of allowing a medical cannabis dispensary. On September 28, Council was presented with a draft ordinance that outlines a process for allowing one such dispensary within City Limits. At that meeting, Council referred review of the draft ordinance to the Planning Commission for their recommendation. There are two key components to the proposed ordinance that require evaluation: 1) the parameters needed to regulate the operation of a dispensary business (i.e. required permits, location limitations, employee background, etc.), and 2) the method in which the City Council uses to select a dispensary operator.

Under current state law (the Medical Cannabis Regulation and Safety Act), the City is permitted to allow medical cannabis businesses including cultivators, manufacturers, distributors, transporters, testing facilities, and dispensaries to operate within the City. Currently, the City prohibits all types of medical cannabis businesses within the City, and explicitly bans medical marijuana dispensaries in Chapter 9.22 of the Nevada City Municipal Code. A copy of the current Chapter 9.22 is attached hereto as Exhibit "A" for your reference.

DISPENSARY ORDINANCE SUMMARY: The draft Ordinance would amend Chapter 9.22 of the Nevada City Municipal Code to repeal the ban on medical marijuana dispensaries and would replace the language with a permitting procedure for medical cannabis businesses, whereby interested parties will submit an application, submit to a criminal background check, and provide other information necessary to determine eligibility.

As drafted, the Ordinance would permit a single medical cannabis dispensary to locate within the City, but allow the City Council to authorize more than one, immediately or after a specified trial period if preferred. Any successful permittee must also comply with the operational and other requirements contained in the draft ordinance. As currently drafted, the requirements include:

- Payment of a permit fee, and all required City business license fees, development fees, and applicable taxes;
- Record keeping requirements;
- Verification of customer status as 18 and older, and with a valid medical recommendation or valid primary caregiver status.

- Security requirements such as retention of licensed security guards, security cameras, alarm system, panic buttons, and cannabis products must be securely stored to prevent loss or theft.
- No alcohol can be sold on-site.
- Operating hours are limited to 8 a.m. to 8 p.m. daily.
- Cannabis or cannabis-containing products may not be consumed on the premises.
- Minors are prohibited from being on the premises in any capacity.
- Odor controls devices and techniques must ensure that there are no odors released from the building that can be detectable off-site.
- Owner(s)/employees of the business must also obtain a permit after undergoing a background check and meeting requirements set forth in the ordinance.

In addition to the amendments to Chapter 9.22, the draft Ordinance will also amend the Zoning Code to add Chapter 17.142 to the Municipal Code to designate Light Industrial areas as the appropriate zone for medical marijuana dispensaries to locate. Chapter 17.142 would require that dispensaries be located at least 600 feet from schools as required by State law. The City may be more restrictive in its distance requirements, but is not permitted to be less restrictive than the State law.

PUBLIC OUTREACH: The September City Council meeting was well-attended and included public comment which was interspersed with impassioned testimony from several members of the public. Staff anticipates that this process will spark significant public interest. Staff is therefore recommending the Planning Commission take the following minimum steps toward obtaining public feedback: 1) open a public comment period from November 18 through December 6, 2016, and 2) hold at least one informational meeting structured as an evening Special Planning Commission Meeting prior to the end of the comment period. In order to allow adequate time for public review of the current draft ordinance, and with consideration of the Thanksgiving holiday, staff recommends that the special meeting be held the evening of Tuesday, November 29 or Thursday, December 1. Staff is seeking direction on the workshop scheduling, as well as any other recommended method for public outreach

RECOMMENDATION: Staff is primarily seeking direction on how to approach public outreach, and recommends opening up a public comment period and a minimum of one evening informational meeting to be held as a Special Planning Commission meeting.

ATTACHMENTS:

1. Draft Cannabis Dispensary Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 9.22 OF TITLE 9 OF THE NEVADA CITY MUNICIPAL CODE ENTITLED “PROHIBITING MEDICAL MARIJUANA DISPENSARIES,” AND RENAMING IT “MEDICAL MARIJUANA DISPENSARIES AND OTHER MARIJUANA BUSINESSES AND ACTIVITY” AND ADDING CHAPTER 17.142 ENTITLED “MEDICAL MARIJUANA USES AND ACTIVITY” TO THE NEVADA CITY MUNICIPAL CODE AND AMENDING CHAPTER 17.48 ENTITLED “LIGHT INDUSTRIAL ZONE”

WHEREAS, the City of Nevada City is a general law city organized pursuant to Article XI of the California Constitution; and

WHEREAS, pursuant to the authority granted the City by Article XI, Sections 5 and 7 of the California Constitution, the City has the power to make and enforce within its limits all ordinances and regulations in respect to municipal affairs not in conflict with general laws; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property lie within the City’s police powers; and

WHEREAS, on November 5, 1996, California voters approved Proposition 215, the Compassionate Use Act of 1996 (CUA), codified at California Health and Safety Code section 11362.5, the intent of which was to enable persons with a demonstrated need for marijuana for medical/therapeutic purposes, as recommended by a health care provider, to obtain and to use marijuana, or marijuana-derived compounds, under limited and specified circumstances; and

WHEREAS, on January 1, 2004, Senate Bill 420 codified as California Health and Safety Code section 11362.7 et seq. and entitled the “Medical Marijuana Program Act” (MMPA) became law to clarify the scope of the CUA. Pursuant to California Health and Safety Code section 11362.77(a), a qualified patient or primary caregiver was permitted to possess no more than eight (8) ounces of dried marijuana plant material per patient. In addition, they were also able to maintain no more than six mature or twelve immature marijuana plants per patient unless a doctor authorized an additional amount; and

WHEREAS, the CUA is limited in scope in that it only provides a defense from criminal prosecution for possession and cultivation of medical marijuana to qualified patients and their primary caregivers. The MMPA also is limited in scope in that it establishes a statewide identification program and affords qualified patients, persons with recommendation cards, and their primary caregivers, an affirmative defense to certain enumerated criminal sanctions that would otherwise apply to transporting, processing, administering or distributing marijuana; and

WHEREAS, on October 9, 2015, Governor Brown signed into law the Medical Marijuana Regulation and Safety Act (MMRSA) which consisted of three interrelated

pieces of legislation (SB 643, AB 243, and AB 266), intended to provide a comprehensive regulatory framework for the licensing, control, and taxation of medical marijuana related businesses in California; and

WHEREAS, effective June 27, 2016, SB 837 changed the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act (“MCRSA”).

WHEREAS, the MCRSA expressly protects a City’s local licensing practices, zoning authority, and other local actions taken under the City’s constitutional municipal and police powers; and

WHEREAS, the MCRSA contains statutory provisions that:

- (1) Allow local governments to enact ordinances expressing their intent to allow or prohibit the cultivation of marijuana and their intent to administer or not administer a conditional permit program pursuant to California Health and Safety Code section 11362.777 for the cultivation of marijuana;
- (2) Expressly provide that the Act does not supersede or limit local authority for local law enforcement activity, enforcement of local ordinances or enforcement of local permit or licensing requirements regarding marijuana per California Business and Professions Code section 19315(a);
- (3) Expressly provide that the Act does not limit the civil or administrative authority or remedies of a local government provision of law regarding marijuana including, but not limited to, a local government’s right to make and to enforce within its limits all regulations not in conflict with general laws per California Business and Professions Code section 19316(c);
- (4) Specifically requires, as a condition of state licensure, compliance with any and all local requirements for all cannabis-related operations;

WHEREAS, the California Supreme Court has made clear that neither the CUA nor the MMPA expressly or impliedly preempts the authority of cities or counties, under their traditional land use and police powers, to allow, restrict, limit or entirely exclude facilities that distribute medical marijuana. The MMPA allowed cities and counties to adopt local ordinances that regulate the location, operation or establishment of medical marijuana collectives and to enforce such ordinances. (City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. (2013) 56 Cal.4th 729; Health and Safety Code section 11362.83). The same authority encompasses the regulation, operation, or establishment of marijuana cultivation. (Maral v. City of Live Oak (2013) 221 Cal.App.4th 975.) That authority remains undisturbed under MCRSA; and

WHEREAS, marijuana remains an illegal substance under the Federal Controlled Substances Act, 21 USC 801 et seq., which makes it unlawful for any person to cultivate,

manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense marijuana. The Federal Controlled Substances Act contains no statutory exemption for the cultivation of marijuana for medical purposes. Federal law lists marijuana as a Schedule I drug, meaning that it has a high potential for abuse, it has no currently accepted medical use in treatment, and there is a lack of accepted safety for use under medical supervision; and

WHEREAS, despite this classification and treatment under federal law, federal executive and law enforcement agencies have issued memoranda and other guidelines allowing for the development of state-specific regulatory schemes that include the provision of marijuana and marijuana-derived products for medical purposes, as long as the administration of those schemes is consistent with the aims of federal law; and

WHEREAS, the City has received inquiries from individuals and incorporated entities inquiring about the ability to open medical marijuana related businesses within the City, including dispensaries, cultivation locations, and manufacturing/processing businesses. Other than a general prohibition of dispensaries and cultivation, the City has not yet adopted land use controls or regulations or other requirements for the operation of these businesses once established; and

WHEREAS, without sufficient regulations and standards in effect and which are enforceable pursuant to an adopted ordinance, there is a current and immediate threat to the public health, safety, and welfare of current and future residents of the City, from the establishment of medical marijuana related businesses in the City in a manner which is likely to lead to confusion, public harm, and possible violation of federal executive guidelines; and

WHEREAS, the California Attorney General's 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be impacted negatively by nuisance activity such as loitering, or more significant levels of crime; and

WHEREAS, Nevada City Municipal Code Section 17.04.040 provides that no land may be used for any purpose other than as permitted and in conformance with the City's zoning laws and other ordinances; and

WHEREAS, the City Council recognizes that the investigation and research of the therapeutic uses for medical marijuana and natural marijuana-derived compounds continues to progress, with at least some demonstrated positive impact on users following the advisement and encouragement of their health care providers, for a variety of ailments, including severely debilitating and terminal illnesses; and

WHEREAS, the City Council recognizes, upon consultation with law enforcement, that supply chains for medical marijuana and marijuana-related products as they currently exist, in the absence of state and local regulatory schemes, can and do benefit criminal

elements to the detriment of residents of the State of California, the County of Nevada, and very likely the City of Nevada City, without full regard for public safety, health, and welfare issues; and

WHEREAS, the City Council recognizes the individual freedom and privacy interests that surround the choice of what to take into one's body, following consultation with one's chosen health care provider(s), and for one's own health-related purposes, and in a manner that is responsible in its impacts on others in the community, including children; and

WHEREAS, the City Council also recognizes its obligation to provide guidance on appropriate community standards of health, safety, and welfare, and, where appropriate, to protect residents—especially residents of particularly vulnerable populations like children—from violation and abuse of those community standards; and

WHEREAS, the City Council desires to establish reasonable land use controls and reasonable regulations on the operation of medical marijuana related businesses which are intended to operate in conjunction with the zoning and land use regulations of the City of Nevada City, and which are intended to address the negative impacts, nuisance impacts, and criminal impacts of unregulated cannabis-related businesses; and

WHEREAS, medical marijuana related businesses will be subject to the zoning and land use regulations of the zoning district in which such business establish and operate, as set forth in Chapter 17 of the Nevada City Municipal Code (the Nevada City Zoning Code), and as otherwise established by the City; and

WHEREAS, the City Council finds that the activities permitted under this ordinance are consistent with and implement the goals and policies of the Nevada City General Plan; and

WHEREAS, the City Council finds that the adoption of this ordinance is not a “project” under California Environmental Quality Act (CEQA), because the ordinance will allow for the establishment of a limited number of medical marijuana dispensaries to operate in a similar manner as traditional pharmacies and/or plant nurseries will not cause a director physical change in the environment nor a reasonably foreseeable indirect physical change in the environment (Public Resources Code section 21065).

WHEREAS, the City Council finds that the adoption of this ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to the following sections of the CEQA Guidelines, 14 Cal. Code of Regulations, Chapter 3:

A. The ordinance is exempt under Section 15061(b) (3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The ordinance permits only one medical marijuana dispensary which business will have impacts similar to traditional pharmacies which are already

authorized within the City. Furthermore, the ordinance contains requirements that prevent any potential impacts on the environment that may be unique to businesses involving medical marijuana. For example, the ordinance establishes prohibitions on nuisance odors, glare, excess energy usage, and establishes safety protections to prevent crime or deterioration of the business area into blight. Further, there is no possibility that this ordinance would create cumulative impacts that are significant because this ordinance only allows one medical marijuana dispensary, does not authorize construction or other related activities or any other activities that are not already permitted, except that the ordinance allows the same activities but with a different material (medical marijuana) that is being sold for medical use; there are no other significant impacts that could occur as a result of this ordinance, and there are no unusual circumstances that would cause any such significant impacts;

B. The ordinance is also exempt under Section 15183 (projects consistent with a community plan, general plan, or zoning) since the type of business permitted by the ordinance is consistent with those contemplated by general plan and zoning, such as traditional pharmacies;

C. The ordinance is also exempt under CEQA Guidelines Section 15301 (existing facilities) since the permitted medical marijuana dispensary business under the ordinance may locate in existing facilities, and any additions to structures would be expected to be also exempt under 15301; and

D. The ordinance is exempt under Section 15303 (new construction or conversion of small structures). The medical marijuana business will be established in an urban area, and given the build out of the existing city, and sufficient existing leasable property, the amount of construction that would occur is minimal to non-existent, and any such construction would be less than the thresholds established in Section 15303.

NOW THEREFORE, The City Council of the City of Nevada City does ordain as follows:

SECTION 1. Chapter 9.22 of the Nevada City Municipal Code entitled “Medical Marijuana Dispensaries,” is hereby repealed in its entirety, shall be retitled “Medial Marijuana Dispensaries and other Marijuana Businesses and Activity” and replaced with the following language:

Chapter 9.22 MEDICAL MARIJUANA DISPENSARIES AND OTHER MARIJUANA BUSINESSES AND ACTIVITY.

9.22.010. General Provisions.

A. Purpose and Intent.

It is the purpose and intent of this Chapter to accommodate the needs of medically-ill persons in need of marijuana for medical purposes, as advised and recommended by their health care provider(s), while imposing regulations on the use of land to protect the City's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter to regulate the cultivation, manufacturing, processing, testing, transporting, delivery, and distribution of cannabis and cannabis-related products in a manner which is responsible, which protects the health, safety, and welfare of the residents of Nevada City, and to enforce rules and regulations consistent with state law. In part to meet these objectives, an annual permit shall be required in order to own and/or to operate a medical marijuana business within Nevada City. Nothing in this Chapter is intended to authorize the possession, use, or provision of marijuana for purposes which violate state or federal law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval required under state, county, or other law.

B. Legal Authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, and the provisions of the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"), the City of Nevada City is authorized to adopt ordinances that establish standards, requirements and regulations for local licenses and permits for cannabis and cannabis-related activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Nevada City to cannabis, and/or cannabis-related activity.

C. Marijuana cultivation and medical marijuana business activities prohibited unless specifically authorized by this Chapter.

Except as specifically authorized in this Chapter, the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, dispensing, distribution, delivery, or sale of cannabis or a cannabis product is expressly prohibited in the City of Nevada City.

D. Compliance with Laws.

It is the responsibility of the owners and operators of the medical marijuana business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions which violate federal, state law or local law with respect to the operation of a medical marijuana business. It shall be the responsibility of the owners and the operators of the medical marijuana business to ensure that the medical marijuana business is, at all times, operating in a manner compliant with all applicable federal, state and local laws, the 2008 Attorney General Guidelines, any subsequently enacted state law or regulatory, licensing, or certification requirements, and

any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the medical marijuana business permit. Nothing in this Chapter shall be construed as authorizing any actions which violate federal or state law with regard to the operation of a medical marijuana business.

9.22.020. Definitions.

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder, and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

- (a) “Cannabis” means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, “cannabis” does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- (b) “Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency. An edible medical cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.
- (c) “Caregiver” or “primary caregiver” has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.
- (d) “City” or “City of Nevada City” means the City of Nevada City, a California general law City.
- (e) “Cultivation” means any activity, whether occurring indoors or outdoors, involving the propagation, planting, growing, harvesting, drying, curing, grading, and/or trimming of cannabis plants or any part thereof for any purpose, including medical marijuana.

- (f) “Cultivation site” means a facility where medical cannabis is cultivated, propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.
- (g) “Delivery” means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined to be authorized by the State of California, or any of its departments or divisions, to anyone for any purpose. “Delivery” also includes the use by a dispensary of any technology platform owned, controlled, and/or licensed by the dispensary, or independently licensed by the State of California under the MCRSA (as the same may be amended from time-to-time), that enables anyone to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.
- (h) “Dispensary” means a medical marijuana business facility where cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, medical cannabis and medical cannabis products as part of a retail sale.
- (i) “Dispensing” means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.
- (j) “Distribution” means the procurement, sale, and transport of medical cannabis or medical cannabis products between entities licensed pursuant to the MCRSA and any subsequent State of California legislation regarding the same.
- (k) “Distributor” means a person engaged in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a license manufacturer, for sale to a licensed dispensary.
- (l) “Dried flower” means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (m) “Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible medical cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.
- (n) “Live plants” means living medical cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.

- (o) “Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as defined in this section, or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container.
- (p) “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate or manufactured product intended for internal consumption or topical application.
- (q) “Manufacturing site” means a location that produces, prepares, propagates, or compounds medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- (r) “Marijuana” means “cannabis,” as that term is defined in this Chapter.
- (s) “Medical cannabis”, “medical marijuana,” “medical cannabis product” or “cannabis product” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code (as the same may be amended from time-to-time). For purposes of this Chapter, “medical cannabis” does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- (t) “Medical marijuana activity” includes cultivation, manufacture, processing, laboratory testing, transporting, delivery, distribution, or sale of medical cannabis or a medical cannabis product, within the meaning of California Business and Professions Code 19300 et seq.
- (u) “Medical marijuana business” means any business or operation which engages in medical marijuana activity.
- (v) “Medical marijuana business permit” means a regulatory permit issued by the City of Nevada City pursuant to this Chapter to a medical marijuana business, and is required before any medical marijuana activity may be conducted in the City. The initial permit and annual renewal of a medical marijuana business permit is made expressly contingent upon the business’ ongoing compliance with all of the requirements of this Chapter and any regulations adopted by the City governing the medical marijuana activity at issue.

- (w) “Patient” or “qualified patient” shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5. For purposes of this ordinance, qualified patient shall also refer to qualified patients who have obtained an identification card from the State Department of Health Services, as that term is defined by California Health and Safety Code Section 11362.7 et seq.
- (x) “Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.
- (y) “Person with an identification card” shall have the meaning given that term by California Health and Safety Code Section 11362.7.
- (z) “State License” means a permit or license issued by the State of California, or one of its departments or divisions, under MCRSA to engage in medical marijuana activity.
- (aa) “Topical cannabis” means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- (bb) “Testing laboratory” means a facility, entity, or site that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:
 - (1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state.
 - (2) Registered with the State Department of Public Health.
- (cc) “Transport” means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting medical marijuana activity authorized by the MCRSA.
- (dd) “Transporter” means a person authorized to transport medical cannabis or medical cannabis products in amounts authorized by the State of California, or by one of its departments or divisions under the MCRSA.

9.22.030. Medical Marijuana Business Permits Required for Owner/Operator; Medical Marijuana Work Permit Required for Employees.

A. Medical Marijuana Business Permit Required to Engage in Medical Marijuana Business.

- (a) No person may engage in any medical marijuana business or in any medical marijuana activity within the City of Nevada City including cultivation, manufacture, processing, laboratory testing, transporting, dispensing, distribution, or sale of medical cannabis or a medical cannabis product unless the person (1) has a valid medical marijuana business permit from the City of Nevada City and (2) is currently in compliance with all applicable state and local laws and regulations pertaining to the medical marijuana business and the medical marijuana business activities, including the duty to obtain any required state licenses.
- (b) Until Health & Safety Code Section 11362.775, subdivision (a), is repealed, the City intends that persons eligible to operate collectives or cooperatives under that subdivision shall be eligible to apply for a City permit to conduct medical marijuana activities, but only to the degree those activities are authorized under state law for collectives and cooperatives. When the Health & Safety Code Section 11362.775, subdivision (a), is repealed, or as soon as collectives and cooperatives are no longer permitted under state law, any City permit holder operating as a collective or cooperative who has not already obtained a state license for the medical marijuana business activities they are engaged in shall automatically forfeit his or her City medical marijuana business permit. At that point they shall no longer be authorized to engage in any medical marijuana activities in the City until they obtain both a City issued medical marijuana business permit and a state license for that medical marijuana activity.

B. Medical Marijuana Employee Permit Required.

1. Any person who is an employee or who otherwise works or volunteers within a medical marijuana business must be legally authorized to do so under applicable state law. Employees, workers, or volunteers at a business that is permitted by the City of Nevada City as a medical marijuana dispensary operating pursuant to Health & Safety Code section 11362.775 (a) as a collective or cooperative until that subsection is repealed must be qualified patients or primary caregivers as required by state law.

2. Any person who is an employee or who otherwise works or volunteers within a medical marijuana business must obtain a medical marijuana employee work permit from the City prior to performing any work at any medical marijuana business.

3. Applications for medical marijuana employee work permits shall be developed and made available by the City Manager, and shall include, but not be limited to, the following information:

- (1) Name, address, and phone number of the applicant;
- (2) Age and verification of applicant. A copy of birth certificate or other proof that the applicant is at least eighteen (18) years of age must be submitted with the application;
- (3) Name, address of the medical marijuana businesses where the person will be employed, and the name of the primary manager of that business;
- (4) A list of any crimes for which the applicant has been convicted;
- (5) Name, address, and contact person for any previous employers from which the applicant was fired, resigned, or asked to leave and the reasons for such dismissal or firing;
- (6) The application shall be accompanied by fingerprints and a recent photograph of the applicant in a form and manner as required by the City Manager or his/her designee(s)
- (7) A signed statement under penalty of perjury that the information provided is true and correct.
- (8) If applicable, verification that the applicant is a qualified patient or primary caregiver.
- (9) A fee paid in an amount set by resolution of the City Council in an amount necessary to cover the costs of administering the employee work permit programs. The fee is non-refundable and shall not be returned in the event the work permit is denied or revoked.

4. The City Manager or his or her designee shall review the application for completeness, shall work with the police department to conduct a background check to be conducted pursuant to California Penal Code sections 11105(b)(11) and 13300(b)(11) which authorizes city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation to verify the criminal record, and shall contact previous employers from which the applicant was fired or resigned in order to determine whether the applicant was convicted of a crime or left a previous employer for reasons that show the applicant:

- (a) Is dishonest or untrustworthy; or
- (b) Was convicted of a felony, a violent crime, or crime of moral turpitude.

If the City Manager or his or her designee discovers documented evidence showing that the applicant was terminated or resigned from previous employment for dishonest or untrustworthy conduct that would indicate that the employee may not be trusted to follow all of the requirements of this Chapter and other applicable laws pertaining to the operation of medical marijuana dispensaries, or if the employee has been convicted of any of the types of crimes described in subdivision (b) above, the City Manager or his or designee may deny the permit on those grounds.

5. The City Manager shall issue the medical marijuana work permit or a written denial to the applicant within ninety (90) days of the date the application was deemed complete. The City Manager shall issue a temporary work permit valid for no more than ninety (90) days to employees who have filed a completed application for an employee work permit. The employee may begin work with the temporary work permit while the City Manager or his or designee conducts the background investigation and completes the review of the application. The temporary work permit shall automatically and immediately be revoked upon notification that City has denied of the application for the work permit application or upon ninety (90) days, whichever occurs first.

6. A work permit shall be valid for a twelve (12) month period and must be renewed on an annual basis. Renewal applications shall contain all the information required for initial applications, including the payment of a renewal application fee in an amount to be set by resolution of the City Council.

7. In the event a person changes employment from one medical marijuana business in the City to another, the work permit holder shall notify the City Manager or his/her designee(s) in writing of the change within ten (10) days, or the work permit shall be suspended or revoked and such person shall not be permitted to work at any medical marijuana business in the City.

8. The City may immediately revoke the medical marijuana work permit should the permit holder be convicted of a crime listed in subsection (c) above. If facts become known to the City Manager or his/her designee that the permit holder has engaged in activities showing that the he or she is dishonest or untrustworthy tending to show that the employee may not be trusted to uphold the requirements of this Chapter or other laws, the medical marijuana work permit shall be immediately suspended. The employee shall have ten (10) days from the suspension to request a hearing to appeal the suspension of the medical marijuana work permit. If the employee does not request a hearing to appeal the suspension, the work permit shall be revoked at the end of the ten (10) appeal hearing. If the employee requests an appeal hearing, the hearing shall be held by the City Manager or his or her designee within thirty (30) days from the date of the appeal hearing request is made. The City Manager shall hear evidence of the alleged dishonest or untrustworthy conduct, and shall hear a response from the employee along with evidence refuting or explaining the allegations. At the conclusion of the hearing, the City Manager or his or her designee shall render his or her decision in writing whether to overturn the suspension and reinstate the employee work permit, or to revoke the work permit within ten (10) days

of the hearing date. The decision shall be fair and well-reasoned, based on the credibility of the evidence presented at the hearing. The decision of the City Manager shall be final.

9. The City Manager or his/her designee(s) is hereby authorized to promulgate all regulations necessary to implement the work permit process and requirements.

10. The applicant may appeal the denial or revocation of a medical marijuana work permit by filing a notice of appeal with the City Clerk within ten (10) days of the date the applicant received the notice of denial, which appeal shall be conducted as set forth in Section 9.22.060 entitled "Appeals" of this Chapter.

11. The City Manager or his or her designee shall issue a permit in the form of a personal identification card that can be worn by the employee. The personal identification card shall be worn approximately chest-high on their outermost garment, in a prominent and visible location. The identification card shall be maintained in good and readable condition at all times.

9.22.040. MEDICAL MARIJUANA DISPENSARIES

The City may authorize one (1) medical marijuana dispensary to operate within the City of Nevada City. The medical marijuana dispensary must obtain a medical marijuana business permit from the City before commencing operations, must be in compliance with all applicable state and federal laws pertaining to its operation, including obtaining all necessary licenses from the state, and shall comply with all applicable operational and zoning requirements set forth in the Nevada City Municipal Code. Nothing in this Chapter creates a mandate that the City Council must issue a medical marijuana business permit to a medical marijuana dispensary.

9.22.050. Application for Medical Marijuana Business Permit: Renewal Applications; and Effect of Revocation or Suspension of State License.

A. Initial Application Procedure.

- (1) The City Council shall adopt by resolution the procedures which will govern the application process, and the manner in which the decision will ultimately be made regarding the issuance of any medical marijuana business permit(s). The resolution shall authorize the City Manager or his or her designee to prepare the necessary forms, adopt any necessary rules, regulations and processes, solicit applications, conduct initial evaluations of the applicants, and to ultimately provide a final recommendation to the City Council.

- (2) At the time of filing, each applicant shall pay an application fee established by resolution of the City Council, to cover all costs incurred by the City in the application process.
- (3) After the initial review the City Manager or his designee will make a recommendation to the City Council, and the City Council shall make a final determination in accordance with the selection procedure set forth in the Resolution adopted by the City Council.
- (4) THE CITY'S RESERVATION OF RIGHTS:

The City reserves the right to reject any or all applications. The City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to any other justification provided a failure to comply with other requirements in this Chapter, an application RISKS BEING REJECTED for any of the following reasons:

- (1) Proposal received after designated time and date.
- (2) Proposal not containing the required elements, exhibits, nor organized in the required format.
- (3) Proposal considered not fully responsive to this request for permit application.
- (4) Proposal contains excess or extraneous material not called for in the request for permit application.

B. Expiration of Medical Marijuana Business Permits. Each medical marijuana business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. Medical marijuana permits may be renewed as provided in subsection D below.

C. Revocation of Permits. Medical Marijuana Business Permits may be revoked for any violation of any law and/or any rule, regulation and/or standard adopted pursuant to this Chapter 9.22.

D. Renewal Applications.

- (1) An application for renewal of a medical marijuana business permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.
- (2) The renewal application shall contain all the information required for new applications.
- (3) The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.
- (4) An application for renewal of a medical marijuana business permit shall be rejected if any of the following exists:
 - (a) The application is filed less than sixty (60) days before its expiration.
 - (b) The medical marijuana business permit is suspended or revoked at the time of the application.
 - (c) The medical marijuana business has not been in regular and continuous operation in the four (4) months prior to the renewal application.
 - (d) The medical marijuana business has failed to conform to the requirements of this Chapter, or of any regulations adopted pursuant to this Chapter.
 - (e) The permittee fails or is unable to renew its State of California license.
 - (f) If the City or state has determined, based on substantial evidence, that the permittee or applicant is in violation of the requirements of this Chapter, of the City's Municipal Code, or of the state rules and regulations, and the City or state has determined that the violation is grounds for termination or revocation of the medical marijuana business permit.
- (5) The City Manager or his designee is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager or his designee is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the City Manager or his designee shall be handled pursuant to Section 9.22.060 entitled "Appeals."

- (6) If a renewal application is rejected, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the rejection.

E. Effect of state license suspension, revocation, or termination.

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a medical marijuana business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a medical marijuana business, such revocation or termination shall also revoke or terminate the ability of a medical cannabis business to operate within the City of Nevada City.

9.22.060. Appeals.

A. Appeals from Decisions of the City Manager or his Designee under this Chapter. Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this Chapter from a decision of the City Manager or his or her designee, the appeal shall be conducted as prescribed in this Section.

B. Written request for Appeal.

- (1) Within ten (10) calendar days after the date of a decision of the City Manager or his designee(s) to revoke, suspend or deny a permit, or to add conditions to a permit, an aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.
- (2) At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.

C. Appeal Hearing.

- (1) Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.
- (2) The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.

- (3) At the hearing the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
- (4) At the conclusion of the hearing the City Council may affirm, reverse or modify the decision appealed. The decision of the City Council shall be final.

9.22.070. Permittee Selection Process.

A. Selection and Review of Finalists.

- (1) The City Council shall adopt by resolution a procedure by which the top three applicants applying for a medical marijuana business to operate a medical marijuana dispensary in the City will be presented to the City Council for a final determination at a public hearing.
- (2) The top three finalists shall be invited to attend the City Council meeting, where they will be expected to make a public presentation introducing their team and providing an overview of their proposal. In order to provide adequate time, presentations may be divided over more than one meeting over multiple days as determined to be necessary.
- (3) At least ten (10) days prior to the hearing, notice of the hearing shall be sent to all property owners located within three hundred (300) feet of the proposed business locations of each of the finalists to be considered by the City Council.
- (4f) The City Council shall rank the final three candidates and shall select the top candidate, which candidate shall become the prevailing candidate. The City Council's decision as to the selection of the prevailing candidate shall be final.
- (5) Official issuance of the medical marijuana business permit to the medical marijuana dispensary, however, is conditioned upon the prevailing candidate obtaining all required land use approvals. Following the Council's selection, the prevailing candidate shall apply to the City's planning department to obtain any required land use approvals or entitlements for the permittee's location, if any. Land use approvals shall include compliance with all applicable provisions of the California Environmental Quality Act (CEQA). The City Manager shall formally issue the medical marijuana business permit once the City Manager and Chief of Police have both affirmed that all of the required land use approvals have been obtained.
- (6) Issuance of a medical marijuana business permit does not create a land use entitlement. The medical marijuana business permit shall only be for a

term of twelve (12) months, and shall expire at the end of the twelve (12) month period unless it is renewed as provided herein. Furthermore, no permittee may begin operations, notwithstanding the issuance of a permit, unless all of the state and local laws and regulations, including but not limited to the requirements of this Chapter and of the permit, have been complied with.

- (7) Notwithstanding anything in this Chapter to the contrary, the City Council reserves the right to reject any or all applications if it determines it would be in the best interest of the City, taking into account any health, safety and welfare impacts on the community. Applicants shall have no right to a medical marijuana business permit until a permit is actually issued, and then only for the duration of the permit's term. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the City Council may terminate or delay the program created under this Chapter.
- (8) If an application is denied, a new application may not be filed for one (1) year from the date of the denial.
- (9) A person granted a medical marijuana business permit shall be required to pay the permit fee established by resolution of the City Council, to cover the costs of administering the medical marijuana business permit program created in this Chapter.

B. Prohibition on Transfer of Medical Marijuana Business Permits.

1. No person may transfer ownership or control of a medical marijuana business or transfer any medical marijuana business permit issued under this Chapter. Medical marijuana business permits are not a property right, and permittees have no economic interest in any permit issued to them. Permittees have no right to sell or transfer a medical marijuana business permit to another party, or to have the City Council consider whether they should authorize the transfer of a medical marijuana business permit to another party. Any attempt to transfer ownership of a medical marijuana business or of a medical marijuana business permit shall render the medical marijuana business permit void.
2. Any attempt to transfer a medical marijuana business permit or a medical marijuana business shall result in the medical marijuana business permit being declared immediately revoked and/or it is void and no longer of any effect.
3. In any situation where a permit has been lost as a result of an attempted transfer of the medical marijuana business permit or of the medical marijuana business, or as a result of the abandonment or revocation of the permit, any new permit shall be issued using the standard process for the issuance of permits in the first instance. No preference shall be given to any person proposed as new owner or assignee by the former permit holder. In such case, prior to accepting any new

applications, the City shall post the availability of the medical marijuana business permit at issue on the City's website. The City Manager or his/her designee may take other actions to help ensure the broadest pool of applicants for the new permit.

9.22.080. Requirements Before Permittee May Commence Operations.

A. City Business License. Prior to commencing operations a medical marijuana business shall obtain a City of Nevada City business license.

B. Building Permits and Inspection. Prior to commencing operations a medical marijuana 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, Health Department approvals and other zoning and land use permit(s) and approvals.

C. Certification from Planning Director. Prior to commencing operations, a medical marijuana business must obtain a certification from the Planning Director certifying that the business is located on a site that meets all of the requirements of the City's Zoning and Municipal Code, including Chapter 17.142 (Medical Marijuana Uses and Activities).

D. Right to Occupy and to Use Property. As a condition precedent to the City's issuance of a medical marijuana business permit pursuant to this Chapter, any person intending to open and to operate a medical marijuana business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location will be leased from another person, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this Chapter and consents to the operation of the medical marijuana business on the owner's property.

E. Limitations on City's Liability. To the fullest extent permitted by law, the City of Nevada City shall not assume any liability whatsoever with respect to having issued a medical marijuana business permit pursuant to this Chapter or otherwise approving the operation of any medical marijuana business. As a condition to the approval of any medical marijuana business permit, the applicant shall be required to meet all of the following conditions before they can receive the medical marijuana business permit:

- (1) They must 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 medical marijuana business permit, the City's decision to approve the operation of the medical marijuana 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 medical marijuana business or any of its officers, employees or agents.

- (2) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the city attorney.
- (3) Reimburse the City of Nevada City for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the City of Nevada City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's medical marijuana business permit, or related to the City's approval of a medical marijuana activity. The City of Nevada City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

9.22.090. Operating Requirements for Medical Marijuana Dispensaries.

A. Records and Recordkeeping.

- (1) Each owner and operator of a medical marijuana dispensary shall maintain accurate books and records, detailing all of the revenues and expenses of the dispensary, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a medical marijuana business permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each medical marijuana dispensary shall file a sworn statement detailing the number of sales by the medical marijuana dispensary during the previous twelve month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid.
- (2) Each owner and operator of a medical marijuana dispensary shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the medical marijuana dispensary, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the medical marijuana dispensary. The register required by this paragraph shall be provided to the City Manager or his/her designee(s) upon a reasonable request.
- (3) Each medical marijuana dispensary shall maintain a record of all persons, patients, collectives and primary caregivers served by the medical marijuana dispensary, for a period of no less than four (4) years.

- (4) Medical marijuana dispensaries shall maintain records of their inventory acquired, including the name and address of each supplier, the date of acquisition and the quantity acquired from each supplier, and the location of the cultivation of the supplier, and shall maintain a copy of the supplier's state license to cultivate (if required).
- (5) Subject to any restrictions under the Health Insurance Portability and Accountability Act regulations, each medical marijuana dispensary shall allow City of Nevada City officials to have access to the dispensary's books, records, accounts, together with any other data or documents relevant to its permitted medical marijuana activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City.

B. Security Measures.

- (1) A permitted medical marijuana dispensary shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing medical cannabis or medical cannabis products, and to deter and prevent the theft of medical cannabis or medical cannabis products at the medical marijuana dispensary. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
 - (a) Preventing individuals from remaining on the premises of the medical marijuana dispensary if they are not engaging in an activity directly related to the permitted operations of the medical marijuana dispensary.
 - (b) Establishing limited access areas accessible only to authorized medical marijuana dispensary personnel.
 - (c) All medical cannabis and medical cannabis products shall be stored in a secured and locked room, safe, or vault. All medical cannabis and medical cannabis products, shall be kept in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes or for immediate sale at a dispensary.
 - (d) Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the medical marijuana dispensary which are open and accessible to the public, and all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis. The medical marijuana dispensary shall be

responsible for ensuring that the security surveillance camera's footage is remotely accessible by the City Manager or his/her designee(s), and the City's Police Department, and that it is compatible with the City's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the City Manager or his/her designee(s) and to the City's police department. Video recordings shall be maintained for a minimum of forty-five (45) days, and shall be made available to the City Manager or his designee upon request.

- (e) Sensors shall be installed to detect entry and exit from all secure areas.
- (f) Panic buttons shall be installed in all medical marijuana dispensaries.
- (g) Having a professionally installed, maintained, and monitored alarm system.
- (h) Any bars installed on the windows or the doors of the medical marijuana dispensary shall be installed only on the interior of the building.
- (i) Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld.
- (j) Each medical marijuana dispensary shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- (k) Entrances into the dispensary shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the dispensary, to separate it from the reception/lobby area. Individuals must show their cannabis card in order to gain access into the dispensary.
- (l) Uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities.

- (2) A medical marijuana dispensary shall identify a designated security representative/liaison to the City of Nevada City, who shall be reasonably available to meet with the City Nevada City or his/her designee regarding any security related measures or and operational issues.
- (3) As part of the application and permitting process a medical marijuana dispensary shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
- (4) The medical marijuana dispensary shall cooperate with the City whenever the City Manager or his designee makes a request, upon reasonable notice to the medical marijuana dispensary, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
- (5) A medical marijuana dispensary shall notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
 - (a) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee.
 - (b) Diversion, theft, loss, or any criminal activity involving the medical marijuana dispensary or any agent or employee of the medical marijuana dispensary.
 - (c) The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the medical marijuana dispensary.
 - (d) Any other breach of security.

C. Restriction on Alcohol Sales.

No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the medical marijuana dispensary.

D. Compliance with Laws.

It is the responsibility of the owners and operators of the medical marijuana dispensary to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions which violate state law or local law with respect to the operation of a medical marijuana dispensary. It shall be the responsibility of the owners and the operators of the medical marijuana dispensary to ensure that the medical

marijuana dispensary is, at all times, operating in a manner compliant with all applicable state and local laws, the 2008 Attorney General Guidelines, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the medical marijuana business permit. Nothing in this Chapter shall be construed as authorizing any actions which violate state law with regard to the operation of a medical marijuana dispensary.

E. Fees, Charges and Taxes.

- (1) No person may commence or continue any medical marijuana activity in the City, without timely paying in full all fees, charges, and any applicable taxes required for the operation of a medical marijuana business. Fees and charges associated with the operation of a medical marijuana activity shall be established by resolution of the City Council which may be amended from time to time.
- (2) A medical marijuana dispensary authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Medical marijuana dispensaries shall cooperate with City with respect to any reasonable request to audit the medical marijuana dispensary's books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

F. Miscellaneous Operating Requirements.

- (1) Hours of Operation. Medical marijuana dispensaries may be open for access to the public only between the hours of 8:00 A.M. and 8:00 P.M. Monday through Sunday.
- (2) Restriction on Consumption. Cannabis shall not be consumed on the premises of any medical marijuana dispensary or elsewhere in the City of Nevada City other than within private residences.
- (3) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a medical marijuana dispensary, or on any of the vehicles owned or used as part of the medical marijuana dispensary. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (4) Reporting and Tracking of Product and of Gross Sales. Each medical marijuana dispensary shall have in place a point-of-sale tracking system to track and report on all aspects of the medical marijuana dispensary including, but not limited to, such matters as cannabis tracking, inventory

data, and gross sales (by weight and by sale). The medical marijuana dispensary shall ensure that such information is compatible with the City's record-keeping systems. The system must have the capability to produce historical transactional data for review by the City Manager or his/her designee.

- (5) All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.
- (6) There shall not be a physician located in or on the grounds of any medical marijuana dispensary at any time for the purpose of evaluating patients for the issuance of a medical marijuana prescription or card.
- (7) Prior to dispensing cannabis or cannabis products to any person, the medical marijuana dispensary shall obtain verification from the recommending physician that the person requesting cannabis or cannabis products is a qualified patient.
- (8) Emergency Contact. Each medical marijuana dispensary shall provide the City Manager or his/her designee(s) with the name, telephone number (mobile preferred, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
- (9) Signage and Notices.
 - (a) In addition to the requirements otherwise set forth in this section, business identification signage for a medical marijuana dispensary shall conform to the requirements of the Nevada City Municipal Code, including, but not limited to, seeking the issuance of a City sign permit.
 - (b) No signs placed on the premises of a medical marijuana dispensary shall obstruct any entrance or exit to the building or any window.
 - (c) Each entrance to a medical marijuana dispensary shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the medical marijuana dispensary is prohibited.
 - (d) Business identification signage shall be limited to that needed for identification only, and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No medical marijuana dispensary shall advertise by having a person holding a sign and advertising the business to passersby, whether

such person is on the premises of the medical marijuana dispensary or elsewhere including, but not limited to, the public right-of-way.

- (e) Signage shall not be directly illuminated, internally or externally. No banners, flags, billboards or other prohibited signs may be used at any time.
 - (f) Holders of medical marijuana business permits agree that, as an express and ongoing condition of permit issuance and subsequent renewal, the holder of the permit shall be prohibited from advertising any medical marijuana business located in the City of Nevada City utilizing a billboard (fixed or mobile), bus shelter, placard, aircraft, or other similar forms of advertising, anywhere in the state. This paragraph is not intended to place limitations on the ability of a medical marijuana business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.
- (10) Minors.
- (a) Persons under the age of eighteen (18) years shall not be allowed on the premises of a medical marijuana dispensary and shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Chapter for any person to employ any person at a medical marijuana dispensary who is not at least eighteen (18) years of age.
 - (b) The entrance to the medical marijuana dispensary shall be clearly and legibly posted with a notice that no person under the age of eighteen (18) years of age is permitted to enter upon the premises of the medical marijuana dispensary.
 - (c) Owners and Operators are required to verify the age and the necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years, and to verify that the potential customer has a valid doctor's recommendation.
- (11) Odor Control. Odor control devices and techniques shall be incorporated in all medical marijuana dispensaries to ensure that odors from marijuana are not detectable off-site. Medical marijuana dispensaries shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the medical marijuana dispensary that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other

areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the medical marijuana dispensary. As such, a medical marijuana dispensary must install and maintain the following equipment, or any other equipment which the City Manager or his/her designee(s) determine is a more effective method or technology:

- (1) an exhaust air filtration system with odor control that prevents internal odors from being emitted externally. The dispensary applicant shall provide a statement from the exhaust air filtration manufacturer that the system has been designed to achieve the above standard based on the specific building size and layout;
 - (2) An air system that creates negative air pressure between the medical marijuana dispensary's interior and exterior, so that the odors generated inside the medical marijuana dispensary are not detectable on the outside of the medical marijuana dispensary. The dispensary applicant shall provide a statement from the air system manufacturer that the system has been designed to achieve the above standard based on the specific building size and layout
- (12) Display of Permit and City Business License. The original copy of the medical marijuana business permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the medical marijuana dispensary in a location readily-visible to the public.
- (13) Background Check. Pursuant to California Penal Code sections 11105(b)(11) and 13300(b)(11), which authorizes city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes, and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, manager, supervisor or employee of the medical marijuana dispensary must submit fingerprints and other information deemed necessary by the City Manager or his/her designee(s) for a background check by the Nevada City Police Department. Pursuant to California Penal Code sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record, no person shall be issued a permit to operate a medical marijuana dispensary or a related work permit unless they have first cleared the background check, as determined by the Chief of Police, as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the City of Nevada City to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a medical marijuana

business permit is submitted. The applicant(s) shall provide an initial deposit in an amount the City Manager or his/her designee(s) estimates will cover the cost of the background investigation, which shall be used and drawn upon as a retainer to cover the actual costs of such investigation. If this amount is not sufficient, the applicant shall provide additional amounts that are necessary and if the applicant is unable to provide the additional amounts necessary to complete the investigation, the investigation shall cease and shall not continue until such additional amounts are paid. Upon completion of the investigation or in the event the applicant withdraws their application, any fees paid for this process will be deemed non-refundable.

- (14) Loitering. The owner and/or operator of a medical marijuana dispensary shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises of the business.
- (15) Permits and other Approvals. Prior to the establishment of any medical marijuana dispensary or the operation of any such business, the person intending to establish a medical marijuana dispensary must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such medical marijuana dispensary intends to establish and to operate.
- (16) If a medical marijuana dispensary permittee is operating as a collective or cooperative under Health and Safety Code Section 11362.775, subdivision (a), members of the applicant authorized to possess cannabis shall sign an agreement with the medical marijuana dispensary which states that members shall not distribute cannabis or cannabis products to non-members or in violation of the "Memorandum for all United States Attorneys," issued by the United States Department of Justice, from James M. Cole, Deputy Attorney General and any other applicable state and federal laws, regulations, or guidelines.
- (17) If the medical marijuana dispensary permittee is operating as a collective or cooperative under Health and Safety Code Section 11362.775, subdivision (a), the medical marijuana dispensary shall terminate the membership of any member violating any of the provisions of this Chapter.
- (18) Dispensaries may have on-site, in the retail sales area of the dispensary, only that quantity of cannabis and cannabis products reasonably anticipated to meet the daily demand readily available for sale. Dispensaries may also sell non-cannabis products, such as cannabis and health related educational books and publications, inhalation/ingestion delivery devices, apparel, and the like. However, sales of non-cannabis products shall constitute no more than 15% of the sales floor area, not to exceed 300 square feet.

- (19) All restroom facilities shall remain locked and under the control of management.

G. The City Manager or his/her designee may develop other medical marijuana dispensary operational requirements or regulations as are determined to be necessary to protect the public health, safety and welfare.

9.22.100 Application of Chapter; Other Legal Duties.

A. Promulgation of Regulations and Standards.

- (1) In addition to any regulations adopted by the City Council, the City Manager or his/her designee is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of medical marijuana business permits, the ongoing operation of a medical marijuana dispensary and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.
- (2) Regulations shall be published on the City's website.
- (3) Regulations promulgated by the City Manager shall become effective upon date of publication. A medical marijuana dispensary shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or his designee.

B. Community Relations.

- (1) Each medical marijuana dispensary shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the medical marijuana dispensary can be provided. Each medical marijuana dispensary shall also provide the above information to all businesses and residences located within one hundred (100) feet of the medical marijuana dispensary property and shall provide opportunity for those businesses and residents within one hundred (100) feet to visit and to tour the medical marijuana dispensary at least once on a mutually convenient date and time. Any additional request shall be at the sole discretion of the dispensary operator.
- (2) During the first year of operation pursuant to this Chapter, the owner, manager, and community relations representative from the medical marijuana dispensary holding a permit issued pursuant to this Chapter shall attend a quarterly meeting with the City Manager or his/her designee(s) to

discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from the medical marijuana dispensary shall meet with the City Manager or his/her designee(s) when and as requested by the City Manager or his/her designee(s).

- (3) The medical marijuana dispensary to which a permit is issued pursuant to this Chapter shall develop and make available to youth organizations and educational institutions a public education plan that outlines the risks of youth addiction to marijuana, and that identifies resources available to youth related to drugs and drug addiction.

C. Fees Deemed Debt to City of Nevada City.

The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City of Nevada City that is recoverable via an authorized administrative process as set forth in the Municipal Code, or in any court of competent jurisdiction.

D. Permit Holder Responsible for Violations.

The person to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Nevada City, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the medical marijuana business whether or not said violations occur within the permit holder's presence.

E. Inspection and Enforcement.

- (1) The City Manager or his/her designee(s) are charged with enforcing the provisions of the Nevada City Municipal Code, or any provision thereof, may enter the location of a medical marijuana business at any time during the hours of operation without notice, and inspect the location of any medical marijuana business as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.
- (2) It is unlawful for any person having responsibility over the operation of a medical marijuana dispensary, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a medical marijuana dispensary under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be

maintained by a medical marijuana business under this Chapter or under state or local law.

- (3) The City Manager or his/her designee(s) charged with enforcing the provisions of this Chapter may enter the location of a medical marijuana dispensary at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City of Nevada City shall be logged, recorded, and maintained in accordance with Nevada City Police Department standards for evidence.

F. Concurrent Regulation with State. It is the stated intent of this Chapter to regulate medical marijuana activity in the City of Nevada City concurrently with the state of California.

9.22.110. Violations and Enforcement.

- A. Violations declared a public nuisance.

Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.

- B. Each violation a separate offense.

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Nevada City Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any permit issued pursuant to this Chapter being deemed null and void, disgorgement and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Nevada City may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the medical marijuana business or persons related to, or associated with, the medical marijuana activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, his/her designee, or the Chief of Police, may take immediate action to temporarily suspend a medical marijuana business permit issued by the City, pending a hearing before the City Council.

- C. Remedies cumulative and not exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

SECTION 2. Chapter 17.142 (Medical Marijuana Businesses and Activity) of Title 17 of the Nevada City Municipal Code is enacted as follows:

Chapter 17.142 MEDICAL MARIJUANA BUSINESSES AND ACTIVITY

17.142.010. Purpose. The purpose of this part is to further fulfill the purposes and intents set forth in Chapter 9.22 of the Nevada City Municipal Code. No person shall operate a medical marijuana dispensary without first obtaining a City medical marijuana business permit and complying with all the requirements of Chapter 9.22 of the Nevada City Municipal Code and complying with all applicable state law requirements including obtaining a license or permit required by the state to operate a medical marijuana business.

17.142.020. Definitions. Unless otherwise provided herein, the terms used in this part shall have the meanings ascribed to them in Chapter 9.22 of the Nevada City Municipal Code.

17.142.030. Location of Medical Marijuana Dispensaries.

Medical marijuana dispensaries shall be permitted only as follows:

- (a) In the Light Industrial (LI) Zones.
- (b) No closer than six hundred (600) feet from any portion of any parcel in the City limits containing any of the following:
 - (1) A school, including pre-school, transitional kindergarten, and K-12;
or
 - (2) A public park that is managed by the City of Nevada City

17.142.040. Other Medical Marijuana Businesses Prohibited.

All other types of medical marijuana businesses including those engaged in cultivation, manufacturing, testing facilities, distributors and transporting businesses are prohibited in all zones within the City.

17.142.050. Distances measured; Applicable properties.

The distance between parcels shall be the horizontal distance measured in a straight line from any property line of the sensitive use to the closest property line of the lot on which the medical marijuana business is to be located, without regard to any intervening structures. The distance requirements in this Chapter shall only be applicable with respect to properties located in the City's limits, unless otherwise required by state law. The distance requirements shall not be applicable with respect to any property located outside the City limits.

17.142.060. Certification from Planning Director. Prior to commencing operations, a medical marijuana dispensary must obtain a certification from the Planning Director certifying that the business is located on a site that meets all of the requirements of this Title.

SECTION 3. Chapter 17.48 of the Nevada City Municipal Code entitled “Light Industrial Zone,” is hereby amended to include medical marijuana dispensaries as a permitted use, subject to the requirements of Chapter 17.142:

Chapter 17.48 LIGHT INDUSTRIAL ZONE

17.48.020. Principal Permitted Uses.

In the LI zone, the following uses are permitted:

- A. Automobile and truck service stations and terminals;
- B. Business services, including advertising, credit, bookkeeping, employment and similar agencies, business and management consultants, stenographic, duplicating, blueprinting, photocopying and messenger services;
- C. Building materials sales yards;
- D. Light construction and special trade contractors, offices and shops, ornamental iron works, and sheet metal shops;
- E. Offices, administrative and executive;
- F. Refrigerators, furnaces and water heaters, repairs and servicing;
- G. Electrical transmission and/or substations;
- H. Warehousing, except mini-storage, including storage of furniture and household goods, but excluding feed and grain when handled in bulk;
- I. Public utility service yard or garage;
- J. Light manufacturing uses and all uses allowed in the EC zone;
- K. Artists' studios, craft workshops, and cabinet shops.
- L. Emergency shelters.
- M. Medical Marijuana Dispensaries pursuant to the provisions outlined in Chapter 17.142.

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

SECTION 5. Effective Date. This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in the _____, a newspaper of general circulation printed and published in the County of Nevada and circulated in the City of Nevada City and hereby designated for that purpose by the City Council.

This Ordinance was introduced and read by title only on the ___th day of _____, 2016 and was passed and adopted on this ___th day of _____, 2016 by the following vote:

AYES:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

, Mayor

ATTEST:

, City Clerk

APPROVED AS TO FORM:

, City Attorney

STATE OF CALIFORNIA)
COUNTY OF NEVADA) ss.
CITY OF NEVADA CITY)

I, _____, City Clerk of _____, do hereby certify that the foregoing ordinance was introduced on the _____th day of _____, 2016, was regularly adopted at a meeting thereof on the _____th day of _____, 2016 and was published/posted pursuant to law.

, City Clerk