


TO: City Council
FROM: Cindy Siegfried, City Planner 
RE: Ground Floor Ordinance 2006-01, and Consideration of Extension
DATE: November 24, 2010

RECOMMENDATION: After holding the public hearing and considering the Planning Commission recommendation, the Council may adopt waive the First Reading and Adopt Ordinance 2010-XX

BACKGROUND

The City Council, on January 9, 2006, adopted Ordinance 2006-01, which required that non-retail uses at ground level within the General Business Zone be permitted only with a Conditional Use Permit.

Specifically, Ordinance 2006-01 amended Municipal Code Section 17.40.020 to remove non-retail uses at ground level as a "Principal Permitted Use" and further amended Section 17.40.040 to add (J) non-retail uses at ground level as a "Conditional Use" in the following areas: All properties along Broad, Commercial, Spring and Bridge Streets, and along Pine, York, Union Streets and Main Street from the 100 block up to and include Firehouse #1.

Ordinance 2006-01 contained an expiration date of February 9, 2011 unless extended by a vote of the City Council, after duly noticed public hearings, prior to the expiration date.

Staff determined the Commission has considered two applications to date for ground floor office uses as follows:

1. 206 Main Street – Owners Gary and Patty Anawalt submitted a use permit application in May of 2008 for an office use that was previously occupied by Mackey Real Estate. This application was withdrawn by the applicants and the building is occupied by the "Nevada City T-Shirt Company."
2. 108 Union Street – Gary Tintle, Applicant. The Commission, on October 7, 2010, approved the occupancy of this building by Coldwell Banker, who will relocate from their existing office on Broad Street

Staff has had discussions about this subject with the City Manager and Finance Director, and it is recommended that the ordinance be extended for a length of time, such as three years. That will enable time to determine how the economy will fare, and by keeping the ordinance active, the Planning Commission can continue to review a use permit and approve such use subject to the findings contained in the ordinance.

ENVIRONMENTAL DETERMINATION:

Environmental review occurred during the review of Ordinance 2006-01 in 2005. That review resulted in the adoption of a Negative Declaration, finding the project could not have a significant effect on the environment and further that the project will not individually or cumulatively have an adverse effect on wildlife resources as defined in Section 711.2 of the Fish and Game Code. As no changes to the project or its circumstances or discovery of new information has occurred requiring preparation of a subsequent negative declaration pursuant to the California Environmental Quality Act. The Planning Commission voted to reaffirm the negative declaration.

PLANNING COMMISSION ACTION

The Planning Commission held a public hearing on November 18, 2010 and unanimously voted to:

1. Reaffirm the previous environmental review and negative declaration adopted November, 2005, as no changes to the project or its circumstances or discovery of new information has occurred requiring preparation of a subsequent negative declaration pursuant to the California Environmental Quality Act; and
2. Recommend the City Council extend Ordinance 2006-01 for a period of three years.

RECOMMENDED COUNCIL ACTION:

After holding the public hearing and review and consideration of the environmental action taken by the Planning Commission, the Commission should move to waive the first reading and adopt Ordinance 2010-XX.

Attachments:

3. Ordinance 2010-XX, Ordinance Extending Ordinance 2006-01 for three years
4. Ordinance 2006-01w/Map indicating area of Ordinance
3. Draft Planning Commission meeting minutes of November 18, 2010
4. City Map indicating downtown GB General Business Area

ORDINANCE NO. 2010-XX

**AN ORDINANCE AMENDING ORDINANCE 2006-01,
REGARDING NON-RETAIL USES AT GROUND LEVEL
WITHIN THE "GB" GENERAL BUSINESS ZONE
TO EXTEND THE EXPIRATION DATE
THREE YEARS TO FEBRUARY 9, 2014**

WHEREAS, the City Council adopted Ordinance 2006-01 on January, 9, 2006,

WHEREAS, Ordinance 2006-01 amended Section 17.40 of the Nevada City Municipal Code to remove non-retail uses at ground level as a "Principal Permitted Use" and amended Section 17.40.040 of the Municipal Code to add (j) non-retail uses at ground level a "Conditional Use" for areas indicated on Exhibit "B" of Ordinance 2006-01,

WHEREAS, Ordinance 2006-01 was adopted due to a proliferation of office use in the "GB" General Business Zone which includes the historical district, and the Council found that sales tax revenue collected by the City from retail businesses in the historical district had dropped at a time when the City's expenses continued to rise; and

WHEREAS, Ordinance 2006-01 requires that any non-retail use to be located on the ground level of a building shall submit and receive approval of a Use Permit from the Planning Commission; and

WHEREAS, Ordinance 2006-01 included an expiration date of February 9, 2011, unless extended by a vote of the City Council, after duly noticed public hearings, prior to the expiration date; and

WHEREAS, the Planning Commission held a public hearing on November 18, 2010 and recommended that the City Council extend Ordinance 2006-01 for a period of three years; and

WHEREAS, the City Council held a public hearing on December 8, 2010 and found that the Ordinance has worked well and as the City continues to experience a declining economy, it would be desirable to extend its expiration date for three more years, and

NOW, THEREFORE, the City Council of the City of Nevada City extends the expiration date of Ordinance 2006-01 for a period of three years, so that it shall expire on February 9, 2014 unless extended by a vote of the City Council, after duly noticed public hearings, prior to the extended expiration date.

ATTACHMENT 1

PASSED AND ADOPTED at a regular scheduled meeting in the City Council in the City of Nevada City on December 8, 2010 by the following vote.

This Ordinance shall become effective 30 days after its final adoption, and a copy of this Ordinance shall be published in The Union, a newspaper of general circulation within fifteen days of the date of its passage.

AYES:

NOES:

ABSENT:

ABSTAIN:

Robert Bergman, Mayor

ATTEST:

Niel Locke, City Clerk

ORDINANCE 2006-01
(Introduced as Ordinance 2005-08)

**AN ORDINANCE UPDATING THE
NEVADA CITY MUNICIPAL CODE
RE SECTION 17.40**

THE CITY COUNCIL OF THE CITY OF NEVADA CITY DOES ORDAIN AS FOLLOWS:

1. Environmental Findings:

The City Council adopts the findings recommended by the Advisory Review Committee and Planning Commission: that the proposed project could not have a significant effect on the environment, and that a Negative Declaration be prepared and that the City Clerk be directed to file the appropriate Notice of Determination. The Council finds that the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

2. Supplemental Findings:

The City Council finds that this zoning ordinance update is necessary to protect the public's health, safety, and welfare.

3. Zoning Ordinance Amendments:

The City Council approves and adopts this additional 2005 Zoning Ordinance amendment and update as shown on the attached exhibit with the finding that the zone change is consistent with the Nevada City General Plan.

4. The Nevada City Zoning Ordinance and Municipal Code are hereby amended in accordance with the attached Exhibit A, made a part hereof and summarized as follows:

Exhibit "A" Amends Section 17.40.020 of the Municipal Code to remove non-retail uses at ground level as a "Principal Permitted Use" and amends Section 17.40.040 of the Municipal Code to add (j) non-retail uses at ground level as a "Conditional Use" in the following area: All properties along Broad, Commercial, Spring and Bridge Streets and along, Pine, York, Union Streets and Main Street from the 100 block up to and including Firehouse #1 as shown on Exhibit B.

5. Non-retail businesses on the ground level existing on October 11, 2005 shall be allowed to remain at the same location.

EFFECTIVE DATE: This Ordinance shall become effective thirty (30) days after the adoption date thereof indicated below.

EXPIRATION DATE: This Ordinance shall expire on February 9, 2011 unless extended by a vote of the City Council, after duly noticed public hearings, prior to the expiration date.

PUBLICATION: The City Clerk of the City of Nevada City shall publish a copy of this Ordinance in The Union, a newspaper of general circulation, within 15 days of the date of its passage.


PASSED AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Nevada City the 9th day of January by the following vote:

AYES: ARNETT, HARRIS, MCKAY, WEAVER
NOES: COTTRELL
ABSENT: NONE
ABSTAIN: NONE



Conley S. Weaver, Mayor

ATTEST:



Cathy Wilcox-Barnes, City Clerk

ORDINANCE 2006-01
(Introduced as Ordinance 2005-08)

Exhibit "A"
Non-Retail Uses at Ground Level
In the (GB) General Business Zone

1. **Section 17.40.020 (b) and (f) of the Municipal Code regarding Principal Permitted Uses are amended to read as follows:**

- b) Offices on the second floor and above, stores and shops supplying commodities or performing services, such as department stores, specialty shops, bakeries, and including regional shopping centers or major elements of such centers.
- f) Any other similar business or service enterprise, except offices on the ground floor, consistent with the purpose of this Article and which will not impair the present or potential use of adjacent properties shall be deemed a permitted use under this section upon an adopted motion of the Planning Commission. Such business or service establishments will be characterized by the following for ground level use:
 - 1) Nature of business depends upon walk in traffic; and
 - 2) Nature of business provides sales-tax revenue to the City of Nevada City; and
 - 3) Business provides products to a broad spectrum of the general public; and
 - 4) The proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not break up an important shopping frontage; and
 - 5) If a manufacturing, assembly, fabricating or handcrafting process is involved, then the major retail outlet for such products will be on the premises where such processes are performed.

Section 17.40.020 of the Municipal Code is amended to add Section (g) which shall read as follows:

(g) Restrictions on ground-level uses.

- 1) No new or expanded office of any type may be located on the ground level of any building, unless the approving authority grants a Conditional Use Permit and finds the use complies with Section 17.40.040(j). The cost of a Conditional Use Permit for a ground level office shall be one hundred dollars (\$100.00).

3. **Section 17.40.040 of the Municipal Code regarding Conditional Uses is amended to add Section (j) which shall read as follows:**

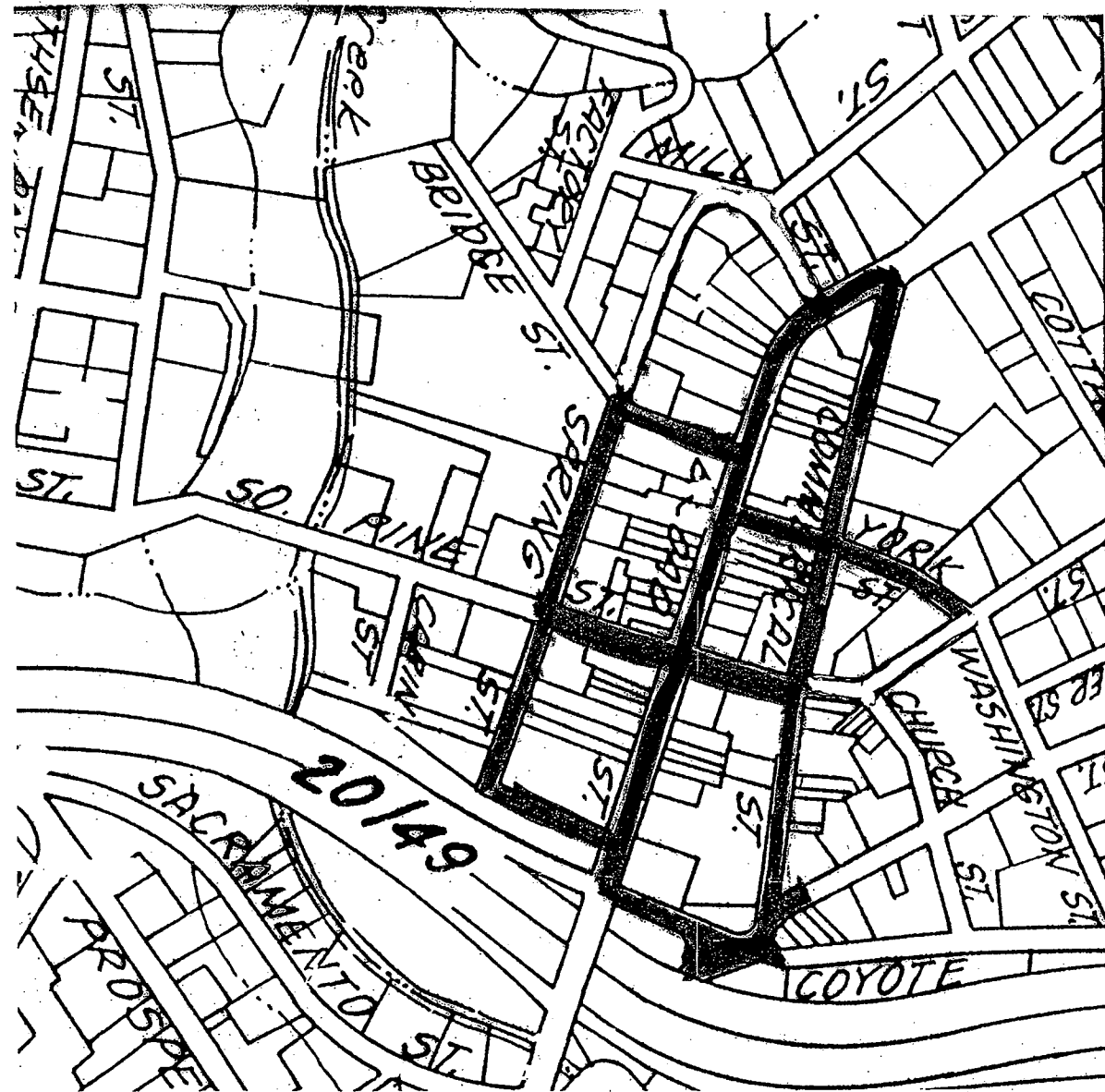
(j) Ground Level offices performing services including, but not limited to, mortgage lending, legal, insurance, real estate and bookkeeping upon written and adopted findings of the Planning Commission meeting the following criteria:

- 1) The proposed office use will not detract from the compact, integrated character of the retail area; and
- 2) The proposed office will not impair a generally continuous wall of building facades; and
- 3) The proposed office will not weaken the concentration and continuity of retail facilities at ground level, and will not break up an important shopping frontage; and
- 4) The proposed office will not interfere with the movement of people along an important pedestrian walkway; and
- 5) The proposed office will conform in all significant respects with any applicable specific plans and ordinances that have been adopted by the City Council pertaining to the Historical District; and

ORDINANCE 2006-01
(Introduced as Ordinance 2005-08)

- 6) The proposed office will not upset the balance of facilities and enterprises so as to conflict with the purpose as described in Section 4.07-01 of the Zoning Ordinance (Section 17.40.010 of the Municipal Code) as herein- before stated.
- 7) Or, The business demonstrates an overriding public benefit.

Ordinance 2006-01
(Introduced as Ordinance 2005-08)
Exhibit "B"



DRAFT EXCERPT MINUTES
NOV 18 2010 PC MTG

William J. Falconi, City Engineer, provided a review of the application. This matter was heard by the Commission in 2008 and the proposed colors and materials will match those that exist on the current buildings.

No public testimony was received.

MOTION and Second Made to approve application as submitted, with the colors and materials to match existing. Vote: 5-0.

PUBLIC HEARING

1. **Public Hearing to consider Extension of Ordinance 2006-01, Prohibiting Conversion of Ground Floor space to Office Use within the "GB" General Business Zoning District as contained within Chapter 17.40 of the Nevada City Municipal Code.** Said Ordinance contains an expiration date of February 9, 2011 unless extended by a vote of the City Council. The Commission will make a recommendation to the Council.

Planner Siegfried reviewed the staff report. The Commission has reviewed only two applications to date and one application was withdrawn (Mackey Building) and the other was just recently approved (Coldwell Banker moving off Broad Street to Union Building).

Chair Wright opened the meeting for any public testimony.

Laurie Oberholtzer, Nevada Street, stated she favored extending the ordinance. She was on the Commission when the ordinance was adopted and the result is that the retail will stay on the ground floor and keeps the upstairs of the buildings occupied.

There being no further testimony, the public hearing was closed.

The Commissioners all spoke in agreement as to extending the ordinance. Commissioner Phelps appreciated Ms. Oberholtzer's comments about keeping the upstairs occupied.

MOTION by Commissioner Phelps, Second by Commissioner Sullivan and carried to reaffirm the previous environmental review as noted in the staff report, and to recommend to the City Council that Ordinance 2006-01 be extended for a period of three years. Vote: 5-0.

PUBLIC HEARING:

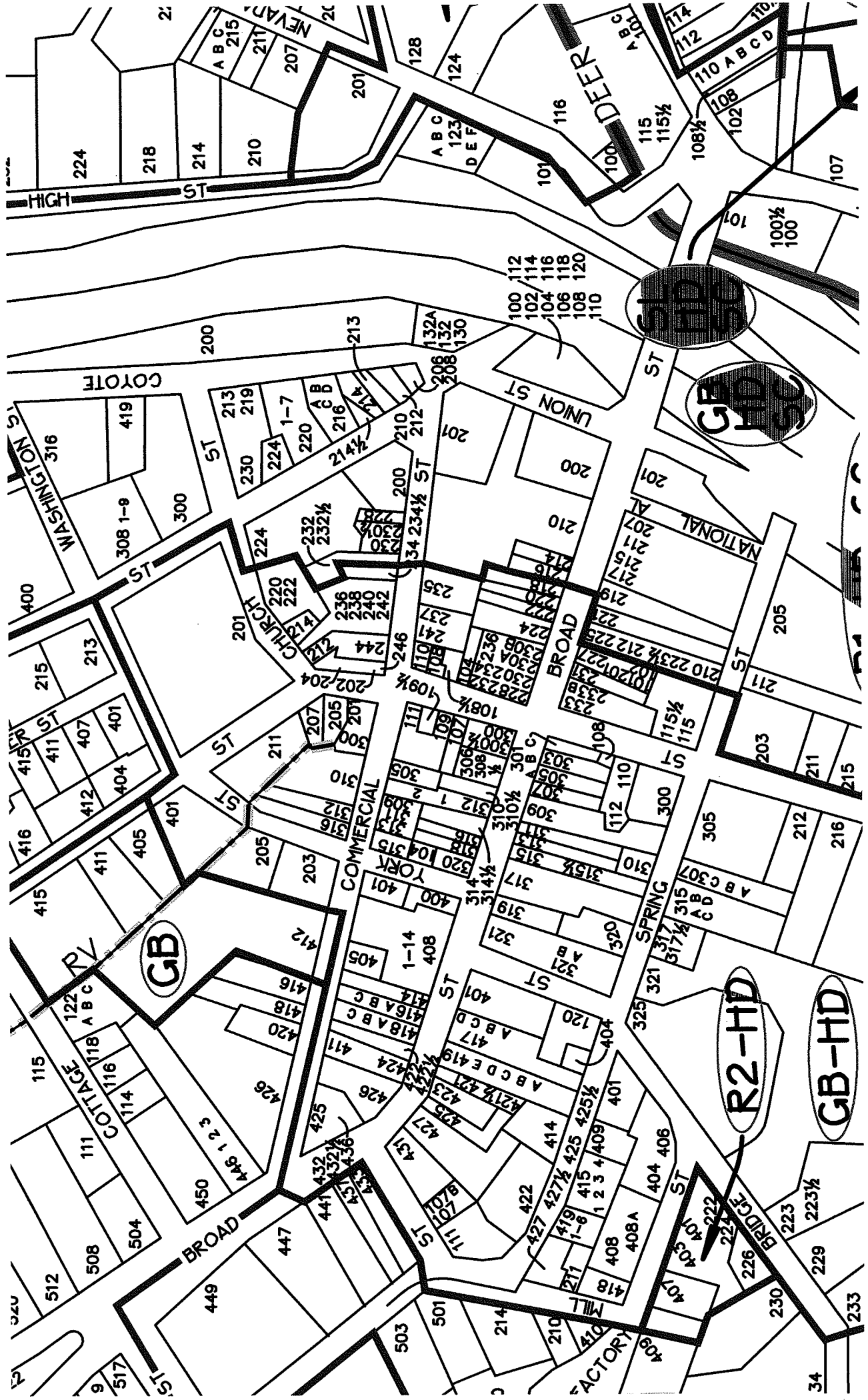
1. **Public hearing to consider a General Plan Amendment and Rezoning of Properties located at 646 Searls Avenue, Nevada City and 210 Providence Mine Road, Nevada City, as follows:**

- A. **Site #1 646 Searls Avenue – 1.0 acre – Mark Howell, owner**
General Plan Amendment from the current MF-Mixed Residential to UHD-Urban High Density Multiple Family Residential and a Zone Change Application from the current R2-AN-PD to R3 High Density Multiple Family Residential. In addition, an amendment to Section 17.30.100, "Site Development Standards applicable to Individual Properties," of the newly adopted R3 zoning district is required to establish development and design standards for future ministerial development within the zone. The rezoning will accommodate up to 16 various sized, multi-family housing units. An existing home and garage are on the site.

Mr. Mark Howell was present/

Planner Siegfried reviewed the staff report and history of these projects; both are a program within the City's 2009-2014 Housing Element. The Commission has reviewed these sites several times, including a site visit. Site development standards have been drafted and the projects were reviewed by the Advisory Review

ATTACHMENT 3



DOWNTOWN NEVADA CITY ATTACHMENT 4