

PLANNING COMMISSION STAFF REPORT

TO: Planning Commissioners
FROM: Cindy Siegfried, City Planner
Hal DeGraw, City Attorney

DATE: September 8, 2010

APPLICATION: REVISED DRAFT ORDINANCE ADDING SECTION 17.72.071
TO THE NEVADA CITY MUNICIPAL CODE ALLOWING
REOPENING OF FORMER BED & BREAKFAST FACILITIES

STAFF SUMMARY

The Planning Commission, at their meeting of September 2, 2010, reviewed the revised draft ordinance to allow the reopening of former B&B facilities within the City. Below is a staff summary of the Commission direction to staff. Attached is a draft copy of the ordinance as revised by the Commission at the September 2, 2010 meeting, and a clean copy of the draft ordinance. The revised draft includes language as to additional rooms and parking plans, special events plan, and payment of water/sewer fees for up to the last three years. The draft ordinance also removed the Broad Street boundaries.

PROPOSED PLANNING COMMISSION ACTION

Below is draft language the Commission can review and edit if they wish to forward the draft ordinance and proposed caveats the City Council:

DRAFT WORDING: The attached proposed ordinance, if passed by the Council after a properly noticed public hearing, would allow the Sargent House to reopen as a B&B again upon acquiring a use permit to do so in response to Council direction at its July 14, 2010 meeting, to wit:

“Staff to draft an ordinance to provide that they acquire use permit specifically to the Sargent House becoming a B&B business again and come back to Council; and provide public noticing to all of the neighbors within a 300’ radius.”

The proposed ordinance applies to all former B&Bs that secured permits to open and commenced operations as a B&B pursuant to §17.72.070 of the Nevada City Municipal Code before it was repealed by Measure G. It does not limit itself to just the Sargent House property, because the Planning Commission felt being that specific would result in an inequitable outcome with regard to other properties similarly situated.

Caveat: Although the Council can adopt the attached proposed ordinance, the Commission cannot recommend that it should do so immediately because it deals with one specific aspect of B&B regulation in Nevada City without looking more broadly at the whole issue of comprehensive regulation of B&Bs. It would have limited application to former B&Bs without addressing whether or how applications for new B&Bs should be handled.

There is a need to deal with the B&B issue comprehensively, either by ordinance or initiative, rather than addressing only reopening of former B&Bs.

Attachments

ORDINANCE NO. 2010-XX

AN ORDINANCE OF THE CITY OF NEVADA CITY ADDING SECTION 17.72.071 TO THE NEVADA CITY MUNICIPAL CODE ALLOWING REOPENING OF FORMER BED & BREAKFAST FACILITIES

WHEREAS, prior to 1984 there were no provisions in the Nevada City Municipal Code regulating Bed & Breakfast guest facilities; and

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WHEREAS, Bed & Breakfast guest facilities were allowed with a conditional use permit by regulations approved pursuant to initiative Measure "B" approved by the voters in 1984; and

WHEREAS, those regulations allowing Bed & Breakfast guest facilities were repealed by initiative Measure "G" approved by the voters in 1994; and

WHEREAS, no new Bed & Breakfast guest facilities have been established since 1994, but some of those facilities permitted between 1984 and 1994 and operating in 1994 have lost, or are in danger of losing, their entitlement to continue to operate as Bed & Breakfast guest facilities with no procedure in place allowing them to recommence operations;

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NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Nevada City as follows:

Deleted: WHEREAS, one of those former Bed & Breakfast guest facilities conspicuously located on the main street close to downtown activities is uniquely well suited to that use and has experienced difficulties being marketed as single family residential properties, becoming a potential blight rather than an asset to the community due to not being allowed to reopen as Bed & Breakfast guest facilities.

Section 1.

There is hereby added to Title 17 of the Nevada County Municipal Code, a Section 17.72.071 which is to read as follows:

Section 17.72.071 Reopening of former bed & breakfast facilities.

A. Former Bed and Breakfast facilities defined. For purposes of this section, "former Bed & Breakfast facilities" shall mean any building issued a use permit pursuant to former Municipal Code Section 17.72.070 to operate and having commenced operations in whole or in part for sleeping and living facilities for not more than six guest units, available to the public for hire on an overnight or limited-term basis, sometimes permitting meal service limited to guests.

B. Where Permitted. Former Bed & Breakfast facilities whose entitlement to continue has lapsed due to a disruption of the use for any reason shall be allowed to reopen and resume operations as a Bed & Breakfast guest facility, subject to a new conditional use permit, provided that the special findings provided in this section can be made.

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Deleted: located on Broad Street, from the base of Broad Street to the "Y" of West Broad and East Broad.

C. Additional Requirements. In addition to the requirements applicable to all conditional use permits, applications for a conditional use permit shall be subject to the following additional requirements:

ATTACHMENT 1

1. Additional rooms. If an applicant requests a permit for more rooms than were allowed in the original permit, a detailed parking plan must be submitted and approved demonstrating the ability to accommodate the required parking on site.

2. Water/sewer fees. If an applicant requests a permit to reopen a former Bed & Breakfast facility for which less than the commercial water/sewer rate has been paid for any of the past three (3) years, any such permit shall be conditioned upon paying an amount equivalent to the amount of the underpayment.

3. Special events. If an applicant requests a permit allowing special events to be allowed, a detailed special events plan shall be submitted and approved specifying the nature, extent and frequency of such events and measures to be taken to minimize impacts on the surrounding neighborhood.

D. Special Findings for Grant of Use Permit to Reopen. In order to approve or conditionally approve any application for reopening of a former Bed & Breakfast facility, the following findings must be made:

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1. The property has scenic or historical characteristics that serve, or have served, as a tourist attraction and positive influence on the economic well-being of the City while operated as a Bed & Breakfast facility.

2. Use of the property as a Bed & Breakfast facility has not, and will not, damage the historical or scenic character and appearance of the property and the neighborhood.

3. Adequate parking, equivalent to that required for hotels under this title, will be provided on-site.

4. The bed & breakfast use can be conducted without unduly interfering with the surrounding residential neighborhood.

5. The use has been subjected to all the conditions imposed on the original permit, except for the limitation to six (6) guest units which may be exceeded where adequate parking is provided pursuant to an approved parking plan as provided for in subsection C.1 and such other additional conditions as may be necessary to address adverse impacts reported during former operation of a Bed & Breakfast guest facility on the property.

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6. To the extent the former permit allowed special events and special events are to be allowed upon reopening, the nature, extent and frequency of those events has been limited by the approved special events plan and conditions have been imposed to restrict noise levels to those compatible with the neighborhood, including a prohibition of amplified music.

7. There will be an owner or manager on-site at all times.

E. Building Standards. Buildings proposed for operation as Bed & Breakfast facilities shall be required to comply with residential building code standards and, where full meal service is to be provided, higher standards may be applied to kitchen facilities where necessary to protect the public health and safety.

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Section 2.

This Ordinance shall take effect 30 days after the date of its adoption, and prior to the expiration of 15 days from the passage thereof shall be published at least once in the Union, a newspaper of general circulation, published and circulated in the City of Nevada City and henceforth and therefore the same shall be in full force and effect.

ADOPTED AND APPROVED this __ day of _____, 2010 by the following
vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Robert Bergman, Mayor

ATTEST:

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WHEREAS, Bed & Breakfast guest facilities were allowed with a conditional use permit by regulations approved pursuant to initiative Measure "B" approved by the voters in 1984; and

WHEREAS, those regulations allowing Bed & Breakfast guest facilities were repealed by initiative Measure "G" approved by the voters in 1994; and

WHEREAS, no new Bed & Breakfast guest facilities have been established since 1994, but some of those facilities permitted between 1984 and 1994 and operating in 1994 have lost, or are in danger of losing, their entitlement to continue to operate as Bed & Breakfast guest facilities with no procedure in place allowing them to recommence operations;

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2. Use of the property as a Bed & Breakfast facility has not, and will not, damage the historical or scenic character and appearance of the property and the neighborhood.

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