

APPEAL TO BOARD OF SUPERVISORS
(Per Article 5.12 of Chapter II of the Land Use and Development Code) **OCT 10 2023**

NEVADA COUNTY
BOARD OF SUPERVISORS

cc: coco
Planning

Any applicant or interested party may file an appeal with the Board of Supervisors requesting review of any final action taken by Various County Agencies. Such appeal shall be filed with the Clerk of the Board of Supervisors within **ten (10) calendar days** from the date of the Agency's Action, except amendments to the General Plan or Zoning Ordinance, which shall be filed within **five (5) calendar days**. (If the final calendar day falls on a weekend or holiday, then the deadline is extended to the next working day.) Filing shall include all information requested herein and shall be accompanied by the appropriate filing fee. The statements (required below) must contain sufficient explanation of the reasons for and matters being appealed in order to facilitate the Board of Supervisors initial determination as to the propriety and merit of the appeal. Any appeal which fails to provide an adequate statement may be summarily denied. The filing of such an appeal within the above stated time limit shall stay the effective date of the action until the Board of Supervisors has acted upon the appeal.

I. APPEAL: I/We, the undersigned, hereby appeal the decision/recommendation of the Nevada County Planning Department

Agency Name	
PLN20-0042:ADP20-0012	29 Sept 23
Agency File No.	Date of Decision

PLANNING AGENCY DECISIONS:

- Environmental Impact Report
L-XIII California Environmental Quality Act; County CEQA Guidelines and Procedures, 1.20 Appeals of the Adequacy of the EIR
- Floodplain Management Regulations (Floodplain Administrator)
L-XII Floodplain Management Regulations; 1.4 Administration
- Historic Preservation Combining District
L-II Zoning Regulations; Zoning Districts; 2.7.2 HP Combining District
- Inoperable Vehicles
L-II Zoning Regulations; Administration and Enforcement, 5.20 Abatement and Removal of Inoperable Vehicles
- Land Use Applications
L-II Zoning Regulations; 5.12 Administration and Enforcement
- Negative Declaration
L-XIII California Environmental Quality Act; County CEQA Guidelines and Procedures, 1.12 Negative Declaration
- Rules of Interpretation
L-II Zoning Regulations; 1.4 Rules of Interpretation

PUBLIC WORKS DECISIONS:

X Roadway Encroachment Permit
G-IV General Regulations; 4.A Regulating Roadway Encroachments;
15.1 Appeals

CDA DECISIONS:

_____ Outdoor Events
G-V Revenue; 2 Outdoor Events; 2.14 Appeal Process

FIRE AGENCY DECISIONS:

_____ Fee Assessments (Fire Protection District)
L-IX Mitigation and Development Fees; Fire Protection Development
Fees; 2.6 Appeal from Fee Assessment

X Fire Safety Regulations; General Requirements (Fire Safety Reg. Hearing Body)
L-XVI Fire Safety Regulations; General Requirements; 2.7 Appeals

_____ Hazardous Vegetation Abatement (Lodal Fire Official)
G-IV General Regulations; 7.9 Appeals Process (No Fee to File Appeal)

ENVIRONMENTAL HEALTH DECISIONS:

X Sewage Disposal (Sewage Disposal Technical Advisory Group)
L-VI Sewage Disposal; 1.18 Appeals

X Water Supply and Resources (Health Officer)
L-X Water Supply and Resources; 5.1 Appeal Procedures

List All Agency Action(s) Taken That Are Being Appealed: _____

Approval of Petition for Exceptions to driveway standards; Conditional Approval from Public Works;

Approval of the Management Plan MGT23-0023, Eligibility of Legal Residence in 1965 unpermitted

Horse Barns, Conditional Approval of PLN20-0042 and ADP20-0012.

II. STATEMENT OF THE REASONS FOR THE APPEAL:

See attachment for statement of the reasons for the appeal.

VII. NOTICE: (Multiple appellants should select one representative for purposes of notice.)

All notices to appellant(s) should be mailed to: (Please Print)

Court Worden 13561 McCourtney Road Grass Valley, CA 95949 (620) 245-6086
(Name/Representative) (Mailing Address) (Telephone)

Appellant:

Courtney L. Worden
(Sign)

Dated: 10 Oct 2023

Courtney L. Worden
(Print)

FOR OFFICE USE ONLY

\$1803.61
Filing Fee

Date Filed

C. Swanson, Board clerk
Received By

Appeal form to be returned to: Nevada County Board of Supervisors Office, Eric Rood
Administrative Center, 950 Maidu Avenue, Nevada City, CA 95959-8617. (530) 265-1480

II. STATEMENT OF REASONS FOR THE APPEAL:

The appellants represent the 6B Ranch Estates and other neighbors who border the proposed commercial cannabis site. We collectively recognize that the “conditional approval” for PLN20-0042; ADP20-0012 could bring the property into full compliance within a three year period ending in 2026. However over the past four years, numerous prerequisite requirements for this property’s project approval have been misrepresented or misportrayed thus resulting in misleading the county staff into granting an approval based on inaccurate information.

Nevada County (NC) has created an ordinance to allow for responsible cannabis cultivation through the use of reasonable regulations. Per appellants’ conversation with NC staff, at no point does NC’s staff have the authority to exercise discretion in the approval process.

Unfortunately, the first opportunity to apply discretion in the administrative permitting process of a commercial cannabis permit is to appeal the Conditional ADP approval with the Board of Supervisors. The appellants have met alongside District IV Supervisor Hoek, with NC staff to debunk many of the mistruths presented on the site plan; however years later these mistruths have taken precedent and have ultimately led to the granting of “Conditional Approvals” on this project. The following is a list of reasons documenting that PLN20-0042; ADP20-0012 does not adhere to NC California County Code, Title 3 Land Use and Developmental Code, Chapter II. Zoning Regulations, Article 3 Specific Land Use, Section L-II 3.30 Cannabis Cultivation and California Environmental Quality Act Guidelines and Procedures, G-IV General Regulations Sec. 4.A. Fire Safety Regulation, General Requirements L-XVI Fire Safety Regulation, General Requirements. As this appeal outlines, there are multiple grounds for denial in an attempt to safeguard the environment and the neighboring 6B Ranch Estates Community.

Title 3 Land Use and Development Code Appendix: Land Use Code Ordinance History Chapter XIII: California Environmental Quality Act

Appellant Statement–The Management Plan was generated from the site plan provided by the applicants. The site plan does not illustrate the perennial waterway, the French Ravine Creek per the Management Plan. This waterway which flows through the property from the northeast and passes within the 50 feet of the water well setback, then passes within a few feet of a 200+ gallon propane tank and continues to run within feet of the unpermitted horse barn/proposed living quarters and finally passes within the required setback of the proposed cannabis canopy. Finally the French Ravine Creek reaches a confluence with another perennial stream, straddling the cannabis canopy and eventually drains the entire property into Wolf Creek.

The only waterway depicted on the eastern portion of the site plan is the James Ditch, labeled as an underground pipeline. This pipeline has existed for over a half a century and did not replace any perennial waterway which runs above ground 12 months out of the year.

The Management Plan explains the owner of the ranch, Ms. Justina Dunne’s (note: not the legal owner) reason for the report is an attempt to bring the original, unpermitted septic system into compliance because the owner could not locate the old septic line, but that’s not what the site plan details. The applicant notes the need for a proposal of a septic system to be pumped across

the French Ravine Creek because they can't determine where the existing leach field is located. The existing septic line was located by the previous owner and is believed to empty into a marshy area in close proximity to the proposed cannabis canopy. Ms. Dunne, the applicant could easily locate the previous septic line or demolition and reconstruct a leach field and mitigate the need for a septic line to cross over the French Ravine Creek, however that would have implications on the location of the cannabis canopy. Now it appears NC staff has approved plans for the septic system to be laid over a perennial creek so applicants can facilitate cannabis cultivation over the top of the old septic lines that will remain in place.

This is not an environmentally friendly plan. Instead the proposed septic line will be pumped over the French Ravine Creek and up the steep hill where gravity will play a part and eventually the leach field will gravity feed back in close proximity to the French Ravine Creek. The site plan suggests the current leachfield is adequately displayed and easily located for demolition however the management plan contradicts the site plan. This management plan is insufficient and appears as an exercise in administrative approval authority. This project is in clear contrast to responsible, environmentally-friendly cannabis cultivation and requires an extensive, in-person investigation and deserves a full review under the California Environmental Quality Act (CEQA).

Sec. L-II 3.30 Cannabis Cultivation

B. Purpose and Intent. It is the purpose and intent of this Section to implement State law by regulating the cultivation of cannabis in a manner consistent with State law. It is also the intent of this Section to balance the needs of adult uses and medical patients and their caregivers and to promote the health, safety, and general welfare of the residents and businesses within the unincorporated territory of the County of Nevada. This Section is intended to be consistent with State law. The intent and purpose of this Section is to establish reasonable regulations regarding the manner in which cannabis may be cultivated, distributed and processed including non-volatile manufacturing, and retail sales, including restrictions on the amount and location of cannabis that may be cultivated on any premises, in order to protect the public health, safety, and welfare in Nevada County, and to address the adverse impacts previous local regulations have failed to curtail.

Appellant Statement— As background, Mr. Karim Mazu/legal owner, a Chilean citizen residing in Newport Beach, who deals in imports/exports from China, as described to the community by the applicants on this project, purchased the property in December of 2018. Since then he has leased out the property, with no legal residence to his tenants, Mr. Justin Dunne and his daughter, Justina Dunne and her partner/spouse. The tenants claim they are Mr. Mazu's business partners but Mr. Mazu claims they are simply tenants, not partners.

Mr. and Mrs. Court and Megan Worden, two of the listed appellants share a driveway with Mazu's property and have had to retain legal counsel on numerous occasions because of Mr. Mazu's tenants' disregard to property rights and continuously denied them access to an existing driveway easement deeded to the Worden parcel in the 1960s. The Worden's have also had to retain counsel to ensure Mazu's tenants stop inhibiting the flow of irrigation water per the previously mentioned underground pipeline.

During the summer months previous to any cannabis cultivation approvals, the shared driveway's gate located on the Worden parcel and powered by the Worden's utility meter has been known to open up to 50 times a day with unknown employees entering and exiting the property with trailers loaded full of grow bags headed for an illicit cannabis cultivation site off of Deadman's Flat and S. Ponderosa Rd where Mr. Mazu owns an additional large plot of acreage, also without cultivation licenses.

Last year, one of the tenants, Mr. Justin Dunne, was accused by a neighbor there of ramming a vehicle through a recently installed gate off S. Ponderosa in an attempt to gain access to an illicit site on Mazu's property. The Worden's parcel is no longer secure after Mr. Dunne dismantled the Worden's gate assembly over a year ago. Mr. Worden has contacted Mr. Mazu regarding the destruction of personal property and the increased risk of fire endangering his property as a result of the lack of vegetation management by his tenants. Mr. Mazu's proposed solution was for Mr. Worden to put his property on the market and then his tenants will do a better job of land management. Clearly this property owner and his tenants have little understanding or regard for the property or the neighborhood.

NC's 'Get Legit' campaign is a reasonable attempt to encourage illegal cannabis cultivation growers to come into full compliance with local and state regulations and join the industry of legal cannabis farmers. This project on paper may appear as a harmless, family-run operation with no employees yet the reality of the last four years of this particular parcel reveals a far different story and demands denial if the county expects to protect the public health, safety, and welfare in our rural neighborhood in Nevada County as is a stated goal of the ordinance.

D. Nuisance Declared; Cultivation Restrictions

(D)(2) Cannabis Cultivation is prohibited on any Parcel or Premises within the unincorporated territory of Nevada County except on Parcels or Premises with a legally established Residence or an adjacent Parcel with direct access to a Parcel or Premises with common ownership or control that has a legally established Residence.

Appellant Statement--This property was zoned AG-X when the 6B Ranch Estates was subdivided in 1979-1980. The ranch parcel in question has never had a legal residence on the property but there has always been an office and trophy room on one side of the horse barn with a breakroom on the opposing side of the 12,000sq/ft unpermitted structure.

Previous owners, Dave and Sandy Ferguson, sold the property to Mr. Mazu, knowing it could not be remodeled and updated with living quarters and plumbing to facilitate running water per NC staff, prior to 2019, because of the close proximity to a perennial waterway which precluded construction necessary to meet the requirements of a legal residence. Over the past five decades the entire ranch property was sold several times and the horse barns were never advertised to include any of the features necessary to make it a legal residence.

District IV Supervisor Sue Hoek, alongside Mr. Craig Griesbach, former building department and cannabis compliance director visited the site between 2020-2021. Supervisor Hoek offered personal testimony suggesting ranch hands once resided in the front of the horse barn when Ms. Hoek lived in the foreman house during the 1970s or 1980s. The foreman house was previously located on the adjacent Worden parcel. This testimony should not hold any relevance to the permitting process or the requirement for the certificate to occupy, however following this visit NC staff proceeded to permit the horse barn as a legal residence.

Following the initial approval of the horse barn as a legal residence, neighbors of the ranch met with the NC Staff to inquire about how the approval of an unpermitted horse barn built in 1965, progressed into a legal residence, based on an inaccurate construction timeline seemingly geared to satisfy Land Use Development Code L-II 3.30 Cannabis Cultivation para D.2.

The meeting included Supervisor Hoek, Ms. Trisha Tillotson, Mr. Craig Greisbach in order to debunk the inaccuracies of the fraudulent construction timeline that conveniently predated the 1962 implementation of Plans/Permits in NC. Mr. Frank Heilmann's daughter and previous ranch owner from 1964-1970s, Ms. Robin Pinney, provided an affidavit testifying to the construction of the first horse barn by her father in 1965 and the additional horse barn built after 1967. At no time was the barn permitted or remodeled to facilitate an apartment. The legal residence was rescinded in 2021, however now two years later, with no apparent rationale, NC staff is granting approvals on the same inaccurate construction timeline despite having been made aware of the discrepancies several times both via email and numerous in person visits.

The applicants have not provided valid evidence to substantiate their claims and are required to present evidence before the process can continue. Additionally, the remodel of the horse barn has been in review since February 2022. Most building permits would have expired in accordance with the county's implemented timeline. Why hasn't this permit expired or been voided out for the inaccuracies previously discussed? Pictures are available to substantiate Ms. Pinney's affidavit.

Sec. L-II 3.30 Cannabis Cultivation

D. Nuisance Declared; Cultivation Restrictions

(5)(a) Cultivation of Cannabis is prohibited on any Premises located within the following areas: Upon any premises located within 600 feet of any sensitive site. This setback is measured from the edges of the designated canopy area and from any support area to the property line of the Sensitive Site.

Appellant Statement—The cannabis cultivation ordinance defines many sensitive sites, such as a *youth-oriented facility as any facility that caters to or provides services primarily intended for minors, or where the individuals who regularly patronize, congregate or assemble at the establishment are predominately minors.* (Sec L-II 3.30 C.Definitions 50). All NC rural

neighborhoods should not have to apply for youth oriented facility determinations for common sense to prevail. Any neighborhood can be considered sensitive sites by virtue of the obvious truth that this is where people live and raise their children and grandchildren. Many of these residential estates are in fact sensitive sites and a few are located within 600' of the conditionally approved commercial cultivation site.

Sec. L-II 3.30 Cannabis Cultivation

D. Nuisance Declared; Cultivation Restrictions

(5)(b) Cultivation of Cannabis is prohibited on any Premises located within the following areas: In any location where Cannabis, or any portion thereof and whether mature or Immature, is visible and clearly identifiable from public right-of-way or publicly travel private roads at any stage of growth.

Appellant Statement–The conditional ADP granted for a canopy area will have to be shielded on all 4 sides as well as from above given its location in the valley in clear view from McCourtney Road. It will be easily identifiable and may be the most viewed cannabis site in all of NC. Attached pictures demonstrate the lack of regard for a neat and orderly property and it would be willfully naive to assume the shielding of the cultivation site to be done by any other standard not yet demonstrated.

Unfortunately for farmers working hard to change negative perception of cannabis operations due to the prime location off McCourtney Road, Thoroughbred Loop and aerial view traveling from the transfer station, this unkempt property will be on display for all to observe. As residents of the 6B estate Community, we can tell you from first-hand and long-term observation that the applicants have not conducted themselves as the responsible or model cannabis farmers you would want on display to all of the county. As can be seen on the attached pictures, the care and maintenance of the property is not on par with all the other estates in the community, as well as being well below the bar of other responsible cannabis farmers. If allowed to proceed, it will only solidify negative opinions of the industry, as well as a perception of bias by NC to give precedence to growers over managing adverse neighborhood impacts.

Sec. L-II 3.30 Cannabis Cultivation

D. Nuisance Declared; Cultivation Restrictions

(6)(b) All Cannabis Cultivation areas shall comply with the following requirements: Cannabis Cultivation shall not adversely affect the health, safety, or general welfare of persons at the Cultivation site or at any nearby residence by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, light, or vibration, by the use or storage of hazardous materials, processes, products or wastes, or by any other way. Cannabis Cultivation shall not subject residents of neighboring parcels who are of normal sensitivity to reasonably objectionable odors.

Appellant Statement–The proposed parcel in question sits in a valley directly surrounded by at least 8 residences, zoned residential/agriculture. Smoke from burn piles, early morning fog, sound and odor not only linger but are exacerbated in this fishbowl. The normal odor present in a commercial cannabis grow is already extremely noxious and with the limited airflow due to the topography and location of this parcel, it will undoubtedly violate this portion of the statute. There is no measure in the conditional approval of PLN20-0042; ADP20-0012 that mitigates the noxious odor which will negatively impact all of the surrounding neighbors.

The 6B Ranch Estates community is comprised of nearly 40 residential agriculture estates which will also bear the brunt of the negative impact of a 10,000 sq/ft commercial cannabis cultivation site at the entrance of the community

Sec. L-II 3.30 Cannabis Cultivation

D. Nuisance Declared; Cultivation Restrictions

(6)(j). All Cannabis Cultivation areas shall comply with the following requirements: All Premises used for Cannabis Cultivation shall have a legal and permitted water source and shall not engage in unlawful or unpermitted drawing of surface or piped water or permit illegal discharges of water. For purposes of engaging in Cannabis Cultivation pursuant to this Section, water delivery is prohibited.

Appellant Statement–The barns that the applicants have been residing in without a certificate to occupy are serviced by a garden hose as there is no underground plumbing to deliver potable water inside the barns. The water well has also been contaminated at least 3 times in the past 4 years with E. Coli and Coliform. The water well is also within 50’ of a perennial waterway, a clear violation for a Commercial cannabis cultivation site. The waterway is not depicted on the site plan.

Sec. L-II 3.30 Cannabis Cultivation

G. Permitting of Commercial and Non-Remuneration Cannabis Activities

(1)(xx)Administrative Development Permit requirements are as follows: Payment of applicable fees.

Appellant Statement–As detailed below, the landowner, Mr. Mazu is estimated to be approximately \$40K delinquent in permitting fees, building fees and property taxes at the time of the conditional approval of the ADP. This would seem to be grounds for disapproval as it would be for other NC taxpayer’s accountability for permitting. In this case, Mr. Mazu does not even reside in Nevada County so he is not a stakeholder in his proposed commercial cultivation site which would ensure devaluation of the nearly 40, million dollar estates, meanwhile he remains in-debt to the county. This is simply bad business for NC taxpayers and an untenable perception of bias by NC.

Sec. L-II 3.30 Cannabis Cultivation

M. Change in Land Use. To the extent feasible, the County shall encourage any person proposing to construct or operate a new or relocated School, Sensitive Site, Church, Park, Day Care, or Child Care Center, or Youth-Oriented Facility to consider whether the proposed location of such use is within 600 feet of a Premises upon which Cannabis Cultivation is permitted or where a Notice to Abate has been issued within the past year. Upon request, the Enforcing Officer shall inform any person proposing to construct or operate a new or relocated School, Church, Park, Daycare, Childcare Center, or Youth-Oriented Facility regarding whether there is such a Premises within 600 feet of the proposed location of such use, and, if so, shall also inform the person, owning, leasing, occupying, or having charge or possession of that Premises that such a use is being proposed within 600 feet of the Premises.

Appellant Statement—Many of the homes in the 6B Community have been in existence for several decades. Mr. and Mrs. Worden reside in the original 6B ranch house, built in 1952, and owned since 2015. They have 3 daughters residing in the house under the age of 10 yrs old. On any given birthday, holiday or play date there have been and will continue to be dozens of innocent minors within 600 feet of a commercial cultivation site. Many of the closest parcels also have children living there or frequently visited by young grandchildren. While not technically defined as a sensitive site, this property in particular should give serious pause to the Board of Supervisors' approval when considering the change in land use would invite a commercial cannabis cultivation into the center of this family-oriented community. In addition, the Worden property owns a portion of the shared driveway. More to follow on property boundaries.

Our 6B Ranch community is diligently waiting for the Board to apply discretion relating to paragraph *M. Change in Land Use*. The cannabis ordinance warns against building sensitive sites near cannabis cultivation, therefore it would be without basis to interject a commercial cannabis cultivation site in the middle of an established neighborhood where youth reside. The proposed site with a Thoroughbred Loop address should not be granted access to ingress/egress the cultivation site via a shared driveway where minors under 10 years old ride their bicycles. Youth-oriented neighborhoods are cornerstones of healthy communities and are wisely warned against operating near an approved cannabis cultivation property. The same should hold true in reverse.

Sec. L-II 3.30 Cannabis Cultivation

N. Denial, Suspension, and Revocation of Permits

1. Denial – Initial Application for Any Permit. An application for any permit to be issued pursuant to this Section may be denied following review of the application if the Permitting Authority determines that the applicant has not complied with the requirements of this Section or makes any of the findings listed in Subsection (N)(5) below.

(5)(a) Discovery of untrue statements submitted on a permit application.

Appellant Statement—The applicants’ numerous false or misstatements on site plans over the past four years are immediate grounds for denial, not merely delay.

For instance, former NC Public Works project manager, Ms. Jessica Hankins, inquired with Ms. Justina Dunne questioning the driveway boundary line bordering the Worden parcel. Ms. Hankins, questioned the driveway boundary line and commented on the “Corrections” memo dated March 23, 2020 *“No part of the driveway may be outside the applicant’s property boundaries, and no grading may occur outside the property boundary for driveway improvements.”* When questioned, Ms. Justina Dunne submitted a convenient, but inaccurate boundary line sketch, signed by Ms. Jo Garst, to affirm that Mr. Mazu owned the entire driveway. The inaccuracy of the boundary line sketch eventually led to a “conditional approval” dated January 12, 2021.

After learning of the conditional approval, the Worden’s hired Nevada City Engineering to conduct a record of survey to clearly delineate the property boundaries and prove the driveway in question is partially on the Worden’s property. Additionally, the Worden parcel has a driveway easement to use up to 20’ of the Mazu property for ingress/egress of their property, however Mazu’s property does NOT have any easement to use the Worden’s portion of the driveway. At the time of this appeal, Public Works employee, Mr. Steven Whittlsey, has been researching how and why the “conditional approval” was granted on behalf of Public Works based on this inaccuracy. This project has been handed off to multiple project managers over the years as a result of staffing turnover.

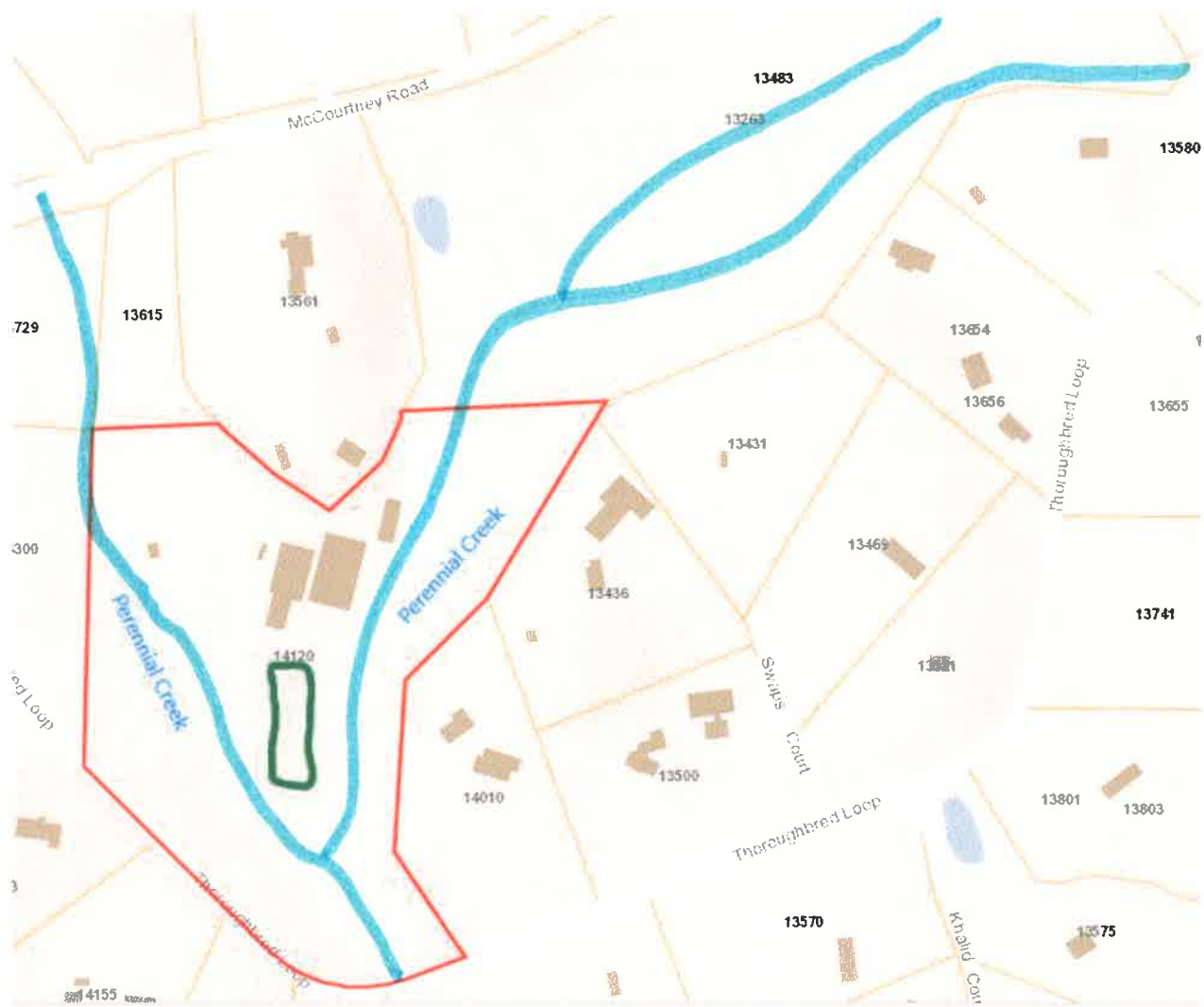
Mr. and Mrs. Worden are both DoD service members stationed at Beale AFB and at no time have they given permission to the applicants to transport a federally banned substance via the Worden parcel. Consequently, the approval of a commercial cannabis cultivation on this parcel violates federal criminal law when drug transportation occurs along the shared driveway.

The applicants in question have represented countless mistruths that defy the laws of probability as the falsehoods always seem to be to their benefit. As character background from public information, the (illegal) tenant listed on the cannabis application, Ms. Justina Dunne, has been previously convicted in the Commonwealth of Virginia in 2016 for “knowingly giving a false report of a crime to a law enforcement official with the intent to mislead.” Additionally Justin Dunne was quoted in the The Union in 2018, stating falsely that he was the owner of the ranch and that he intended to use the facilities for breeding as well as for events and weddings—however the commercial cannabis site plan predates his comments.

Deliberate or otherwise, the applicants’ consistently high level of misrepresentations on site plans over the past four years would seem immediate grounds for denial and should not be mistaken for innocent mistakes for this proposed project *IAW Sec L-II 3.30 Denial*. Neighbors

of the ranch have lent picture books that detail the ranch back to the 1950s to the applicants after they moved into the property. There are numerous telling depictions of deceit and mistruths if left unaddressed will have egregious environmental impacts on our waterways and our neighborhood, in addition to impacting the reputation of NC as impartial evaluators.

The prospective cannabis canopy is sandwiched between two perennial waterways, flowing 365 days out the year. The perennial waterway on the east/northeast side of the horse barn and cannabis canopy is labeled on the site plan as an underground irrigation pipeline, the James Ditch. In reality, the waterway is apparent and flowing to anyone who walks the property or reviews the parcel map below. Both waterways have been labeled “perennial creek” to easily illustrate the waterways in question and the green square is the proposed 10,000 square feet of cannabis canopy.



It is obvious the cannabis canopy will not be able to achieve the necessary 150' waterway setback per the *State Water Resources Control Board Attachment A, Cannabis Cultivation*

Policy pg 29. The site plan does not identify the above ground waterway and identifies the setback as 100 feet vs the required 150 feet for perennial waterways.

The misrepresented timeline of the barn construction conveniently allows the tenants to claim that it predates the 1962 permitting code allowing the unpermitted structures to exist in such a state. They also claim the barns were remodeled to include apartments but this is also false. By claiming this, they are attempting to be subject to more lenient building codes when that should not be the case as in actuality the barns were constructed post 1962. The county has been aware of this error for years via documentation from the previous owners and continues to allow improper building codes to be applied while the tenants reside in the unpermitted barns, remodeling offices and trophy rooms into living quarters, without work permits and without a certificate to occupy, placing the entire 6B Ranch community at an elevated risk of fire danger.

The site plan has numerous falsehoods, to include the failed septic leach field, which is non-existent and likely the current septic system drains back to the proposed cannabis canopy but that would be inconvenient information for the site plan so it too is misportrayed. The perennial waterway is absent in the site plan and as a result the canopy cannot meet the required setbacks nor does the water well meet the appropriate setbacks from the waterway. The construction timeline and inaccurate boundary lines along the shared driveway are among the list of the inaccuracies in this timeline. It's worth noting Ms. Justina Dunne, works for an engineering firm and is well-versed in drawing boundary sketches and site plans so for a site plan to be so error-filled without other motives is not realistic.

Sec. L-II 3.30 Cannabis Cultivation

N. Denial, Suspension and Revocation of Permits

(5)(f) Any ADP may be revoked if... Violation of, or failure to comply with, any land use or other permit requirements associated with the licensee's Commercial Cannabis Activities, including but not limited to zoning, building, fire, and agricultural permits as may be required for the activity and the operations site.

Appellant Statement—In early 2019, Mr. Mazu, leased the property to commercial cannabis applicants, Mr. Justin Dunne and his daughter, Ms. Justina Dunne. The leasing occurred without a certificate to occupy and the tenants have continued living in the unpermitted horse barn constructed in 1965, without a permitted septic system despite many code violations and discussion with NC staff as to the illegitimate nature of this arrangement. As of this appeal, the tenants continue to live in the unpermitted horse barn while completing unpermitted work in an effort to add bathing facilities, plumbing, etc. These actions alone are grounds for Revocation according to current code.

In June of 2020, Mr. Thomas Maoli, NC Cannabis Enforcement officer, conducted an inspection and noted the unpermitted work inside the proposed living quarters in an attempt to convert the tack room and office for residential use. A demolition permit was required to be

submitted, issued and approved within the transition period to rectify the unpermitted work or file an “As-Built” permit to be considered for residential use. The applicants later filed an “As-Built” permit for the unpermitted horse barn built in 1965, although it was falsely claimed the actual construction timeline, in an apparent attempt to expedite the process, claiming the horse barns were built in the 1950s, predating the 1962 permitting process. Additionally, it was falsely claimed the horse barn was remodeled in 1967 to include an apartment. The inconvenient fact is the applicants were the ones to make the unpermitted structure into a makeshift living quarters after they started residing in the barn in 2019 without filing any work permits with the county.

In February of 2023, NC staff sent the seventh Incomplete Letter, noting the lack of a permitted residence and the requirement for the horse barn/residence (Bldg Permit #220464) to receive a certificate to occupy prior to ADP20-0012 approval. However, ADP20-0012 has now received a “conditional approval” after the applicants have been residing in the barn for nearly five years without a certificate to occupy. Bldg Permit 220464 is full of inaccurate claims based upon a convenient, but false, barn construction timeline predating the need for building permits in NC.

Living in the barn without a certificate to occupy as required by NC Code is a violation of L-II 3.30 Cannabis Cultivation, Section N, paragraph 1, subsection(N)(5) and is grounds for denial.

Sec. L-II 3.30 Cannabis Cultivation

N. Denial, Suspension, and Revoking of Permits

(5)(f) Any ADP may be revoked if... Violation of, or failure to comply with, any land use or other permit requirements associated with the licensee’s Commercial Cannabis Activities, including but not limited to zoning, building, fire, and agricultural permits as may be required for the activity and the operations site.

[California Code of Regulations, Title 19, Division 1, §3.07(b)] Clearances.

(b) Ground Clearance. The space surrounding every building or structure shall be maintained in accordance with the following:

Any person that owns, leases, controls, operates, or maintains any building or structure in, upon, or adjoining any mountainous area or forest-covered lands, brush covered lands, or grass-covered lands, or any land which is covered with flammable material, shall at all times do all of the following:

Maintain around and adjacent to such building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This section does not apply to single specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

Maintain around and adjacent to any such building or structure additional

fire protection or firebreak made by removing all bush, flammable vegetation, or combustible growth which is located from 30 feet to 100 feet from such building or structure or to the property line, whichever is nearer, as may be required by the enforcing agency if he finds that, because of extra hazardous conditions, a firebreak of only 30 feet around such building or structure is not sufficient to provide reasonable fire safety. Grass and other vegetation located more than 30 feet from such building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.

Appellant Statement—As a result of the inaccurate timeline, the unpermitted horse barn claim has been in circulation within the Planning Department’s approval process for nearly two years with inaccurate applications of building codes. In short, if approved as a legal residence, this barn will result in approximately 12,000 sq/ft of an unpermitted structure being grandfathered into the commercial cannabis site as a legal residence. This continues to be an imminent fire danger to the surrounding neighborhood not only because of the age and construction material but it also violates the fire code with all the overgrown vegetation within feet of the barn. Recently an overhanging tree fell through the roof of the barn with the living quarters. Are the three individuals living in the unpermitted wooden barn without any fire suppression?

Lastly, there is an additional unpermitted wooden horse barn, approximately 10,000 sq/ft of space located adjacent to the barn with living quarters, claimed to predate the barn with the living quarters. Again, the Heilmann’s, owners of the ranch in the 1960s, built this barn on or after 1967, you’ll notice the barn has yet to be built in the picture taken before the Sutter Bar R Ranch Horse Sale in 1968. This barn would also need to be permitted before any conditional approvals are authorized for an PLN/ADP. The risk of fire on this project is an ever present danger and is not being properly mitigated by allowing applicants to currently live in and to continue to push through “As Built” permits for horse barns to be transformed into legal residence without any work permits and the overgrown vegetation throughout the 60 acres requires immediate attention.

The only source of fire suppression on the property will be supplied by an underground pipeline. While not annotated on the map this pipeline should be serious cause for concern because this source of water also supplies neighbors on Thoroughbred Loop and the Worden parcel. This pipeline is in constant need of repair as many parts of the line have severe leaks after 50 years of age and is definitely not a dependable source of water. The fire suppression plan is woefully inadequate for a parcel with over 30,000 sq/ft of unpermitted wooden structures.

Sec. L-II 3.30 Cannabis Cultivation

N. Denial, Suspension, and Revoking of Permits

(5)(k). Any ADP may be revoked if...Failure to timely pay any local, State, or federal tax associated with or required by the licensee's Cannabis business activities, including any taxes required to be paid under the Nevada County Code, as may be established or amended.

Appellant Statement—The owner and applicants granted the conditional approval for ADP—which in its very existence decreases the property values of the 6B estate community, are an estimated \$40,000 delinquent in property taxes and permitting fees. Meanwhile all of those properties current on taxes and upstanding community participants are required to pay \$1800 appeal fee to, again, point out the glaring misrepresentation and risk to the neighborhood which were previously addressed in 2021. A few of the appellants have been forced to pay thousands in legal fees after the Mazu's tenants continue to disregard the neighboring property rights. **In short, the appellants have paid nearly as much in county fees to appeal within 10 days than the owner/tenants have paid over the past four years for the ADP/PLN.**

Sec. L-II 2.7.9 Subdivision Limitation Combining District (X)

A. Purpose. The purpose of the X District is to prohibit further subdivision of the property in order to mitigate the cumulative adverse environmental impact of successive divisions of land and to preserve the rural character of the property.

B. Standards.

1. When property is zoned with the X Combining District, there shall be no changes to the parcels shown on the final or parcel map which would increase overall density or create additional building sites. (Ord. 2090, 7/9/02.)

Appellant Statement—The 70-acre ranch combines the two legal residences on the Worden parcel with the pastures and barns on Mazu's ranch property. They were both zoned AG-X when the 6B Ranch estates were subdivided in 1979-1980. Mr. Andy Cassano, authored the Environmental Information Report and noted in 1979, "It would be of utmost importance to prevent the redivision of the 70-acre proposed 'Parcel A' which is an existing horse ranch operation and a valuable agricultural and aesthetic resource to the citizens of Nevada County." He noted the topography of the 70 acres and the broad open streams that drain the entire property to the south.

Approximately 40 years later this is the exact location where NC staff has conditionally approved a 10,000 sq/ft commercial cannabis canopy. In order to legitimize the site, the county must repurpose the horse barns and subdivide the party into makeshift apartments, completely eliminating the possibility of revitalizing the horse ranch. Instead, this conditional approval will continue to transform a once scenic and vibrant property into a noxious eye sore

for our entire county. Even NC's Cannabis Alliance agrees this property is not the place for a commercial cannabis cultivation site when there are numerous other appropriate and available sites.

Adding residences and/or building sites not only would be inconsistent with previous precedents but also set a poor precedent for other X zoned parcels in the county.

Roadway Encroachment Permit G-IV General Regulations; 4.A Regulating Roadway Encroachments

Appellants Statement—It is unclear the details of the exception to driveway standards because the document is not available on the county's website, but as has been discussed previously in this appeal the driveway property is a shared driveway and does not meet the county standards and presents an immediate danger to residents of the property and passerby because of the reduced vision when entering or exiting the driveway onto McCourtney Road.

The appellants would also appreciate a better explanation of the Exception to the Policy for Driveway Standards, recently approved by county staff. As previously stated, during warmer seasons this driveway has been used up to 50 times a day far in excess of the 2 times per day as proposed by the site plan and must meet all standards.

If this project continues forward , a new (and permitted) driveway should be added for primary access from Thoroughbred Loop in an attempt to uphold neighbors property rights and reduce the traffic danger by allowing this blind driveway to be approved without meeting county standards.

III. STATEMENT OF THE SPECIFIC PROVISIONS WHICH ARE BEING APPEALED:

Title 3 Land Use and Development Code Appendix: Land Use Code Ordinance History Chapter XIII: California Environmental Quality Act; Sec. L-II 3.30 Cannabis Cultivation Sec. B, Sec. D. (D)(2), Sec. D. (5)(a), Sec. D. (5)(b), Sec. D. (6)(b), Sec. D. (6)(j), Sec. G. (1)(xx), Sec. M., Sec. N. 1. (5)(a), Sec. N. (5)(f)x2, Sec. N. (5)(k), Art 2 Zoning Sec. L-II 2.7.9 Subdivision Limitation Combining District (X) Sec. A & (B)(1), Roadway Encroachment Permit, G-IV General Regulations Sec. 4.A. Fire Safety Regulation, General Requirements (Fire Safety Reg. Hearing Body) L-XVI Fire Safety Regulation; General Requirements.

IV. STATEMENT OF THE CHANGES OR ACTION REQUESTED OF THE BOARD OF SUPERVISORS

The appellants request the Board of Supervisors' review the contents of the applicant's site plan and apply reasonable and legitimate discretion so as to mitigate the negative impact this project will have on our community and on NC's legal cannabis industry. The appellants strongly encourage you to place neighborhood integrity and the youth of our community at the forefront of your decision and urge you to deny the "Conditional Approval" and any further progress on ADP20-0012; PLN20-0042 due to inconsistencies and false information in project

documentation. This parcel should not be considered for future commercial cannabis cultivation as it does not meet the requirements according to Title 3 Land Use and Development Code.

V. SUMMATION OF THE ARGUMENTS TO BE RAISED BY APPELLANTS:

The intent of the cannabis ordinance is to have reasonable regulation applied to cannabis cultivation and to simultaneously protect the public health, safety and welfare of Nevada County residents. The citizens of the 6B Estates are not anti-cannabis but we expect the ordinance to be applied fairly to both parties and for proper discretion to be applied for specific and infrequent circumstances, this being one.

The applicant's varied, numerous, and repeated misstatements over the past four years have been repeatedly documented and refuted with independently verifiable information by the neighborhood stakeholders, with significant financial, legal and time impacts. The "Conditional Approval" of this ADP violates federal criminal law as it pertains to the Worden parcel and may subject NC to legal liabilities as a result. The denial of this project will reinstate the integrity of a questionable administrative approval process and will demand future cannabis applicants properly study a parcel before purchasing.

Thousands of county citizens pass by this property every week enroute to the transfer station and have taken note of the continued deterioration of the ranch property. Couple the dilapidated appearance with the potential for rogue illegal operations to coalesce inside the estimated 30,000 sq/ft of barn concealment with an outdoor legal cannabis operation in full view from McCourtney Road and this has the potential to endanger our citizens while tarnishing the image of a legal cannabis industry in dire need of public support. Too many responsible, legal farmers have worked too hard to have their image destroyed in the public eye by irresponsible, deceitful applicants who only have their own interests in mind. Finally, parents are attracted to the 6B Ranch Estates for the opportunity to provide their children with a childhood filled with memories of exploring the creeks and swimming holes along Thoroughbred Loop and riding horses at the ranch, however all of this is in jeopardy if Nevada County BoS decide to interject a commercial cannabis cultivation site into the middle of the 6B Ranch Estates neighborhood. We strongly urge you to carefully consider our appeal and deny all agency actions listed in Section I of the appeal.

VI. IDENTIFICATION OF THE APPELLANTS:

Marilyn & Jack Scholl, 13436 Swaps CT, Grass Valley, CA 95949

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Irv & Linda Baran, 13555 Thoroughbred Loop, Grass Valley, CA 95949 530 274-2952

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Emily Tadena, 13615 Khalid Ct, Grass Valley, CA 95949 925-813-9760

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Robin Pinney, 11079 Empire Star Mine Road, Grass Valley, CA 95949 530-826 -6299

Kevin & Beverly Couper, 13580 Thoroughbred Loop, Grass Valley, CA 95949 530-274-2809

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**Richard and JoAnn Thompson, 13614 McCourtney Rd Grass Valley CA 95949
530-272-4159**

Lauren Drutz, 13656 Khalid Court, Grass Valley CA 95949 530-559-5460

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Dan & Kathleen Foxx, 12111 Wells Drive, Grass Valley CA 95949 530-615-1427

Sharon Davis, 17072 Norlene Way, Alta Sierra CA 95949

Claude & Mary Lou Gilbert, Asphodel Ct, Grass Valley CA 95949

Carol Callendar, 12111 Wells Drive, Grass Valley CA 95949

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Lana Corless, 13655 Khalid Ct Grass Valley, CA 95959 530-277-0137

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Keeley Schmidt, 13775 Hidden Valley Rd Grass Valley, CA 95949

Jeff & Amanda Thayer, 15446 Lakewood Ln Grass Valley CA 95945

Erin Swartzendruber, 14303 Greenhorn Access Rd Grass Valley CA 95945

Ben & Allie Aguilar, 112 Dorsey Drive Grass Valley CA 95945

Troy Peterson, 11312 Lake Wildwood Drive Penn Valley CA 95946

Robert & Lynn Haight, 14949 Oak Meadow Drive Penn Valley CA 95946

Paulette Snyders, 11295 Eddy Ranch Road Penn Valley CA 95946

William Snyders, 11295 Eddy Ranch Road Penn Valley CA 95946

Gladly Martinez, 17404 Penn Valley Drive Penn Valley CA 95946

Tim & Jan Reeves, 14975 Krystal Kourt Grass Valley CA 95949



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY**

950 MAIDU AVENUE, SUITE 170, NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 265-9854 <http://www.mynevadacounty.com>

Planning Department Environmental Health Building Department Department of Public Works Agricultural Commissioner

**AGREEMENT TO PAY
LAND USE APPEAL**

Nevada County Community Development Agency (NCCDA) Appeal fees are based on Board of Supervisor approved fee schedules. Hourly fees and fees for services by departments not included in the original appeal fees are billed to the applicant based on the Board approved fee schedule in effect at the time services were performed and once the final appeal decision has been rendered by the Board. This *Agreement To Pay* form must be signed and original signatures submitted to the Clerk of the Board along with the completed forms and the initial payment of fees. Copy of current fee schedule is attached to the appeal packet.

I/We understand that the NCCDA may bill for services not included in the original appeal fee, and I/We agree to pay such billing within thirty (30) days of the mailing of such billing. All fees must be paid prior to the granting of any permits, approvals, or any land use entitlement for which services are required. The collection of fees, however, will have no effect upon the decision of the appeal by the Board of Supervisors.

Appellant Information:

Invoices and/or notices to be mailed to:

Project: <u>ADP20-0012</u>	Name: <u>Court Warden</u>
<u>PLN20-0042</u>	Address: <u>13561 McCourtney Rd</u>
<u>14120 TB Loop</u>	Telephone: <u>620 245-6086</u>

NCCDA staff is authorized to consult with necessary governmental agencies concerning this project. They are also authorized to consult with the following individuals concerning this appeal:

I certify under proof of perjury that I am the party authorized to enter into this fee agreement. I have read the conditions concerning Nevada County Community Development Agency fees and I understand that in the event that the billing party I have indicated does not pay required fees, I will be responsible for payment. I further agree to advise the department in writing should I no longer be associated with the above referenced project/property, rendering this agreement invalid as of the change of the date the letter is received by the Nevada County Community Development Agency.

Courtney L. Warden

Signature

Date: 10 Oct 2023 DL#: 144479564

Courtney L. Warden

Printed Name

PH#: (620) 245-6086