



**COUNTY OF NEVADA  
COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT**

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Planning Director

July 13, 2017

**TO:** Planning Commission

**FROM:** Patrick Dobbs, Senior Planner  7/13/17

**HEARING DATE:** July 13, 2017

**SUBJECT: PLN17-0026; and ORD17-1;  
ADU and Transitional/Supportive Housing Project:  
Public Comments Received After Planning Commission Packet Mailing**

Dear Commissioners,

After the completion of the project staff report two public comment letters were received and are being provided to the Planning Commission for your consideration and review (*Attached*). The comments are from local affordable housing advocates Pauli Halstead and Greg Zaller and generally request the County provide more incentives to construct affordable housing, including removing the owner occupancy requirement. Additionally, Cody Curtis speaking on behalf of Tenants of Nevada County, left a voicemail supporting construction of second units for long-term rentals, and expressed concern about on-line short term rentals removing housing stock availability for locals.

Patrick Dobbs

Enclosures: 7/10/17 Comments from Pauli Halstead  
7/13/17 Comments from Greg Zaller

July 13, 2017

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COMMUNITY DEVELOPMENT AGENCY

Dear Decision Makers of Nevada County:

I request the following planning policy changes that make it feasible for me to build a supportive housing Accessory Dwelling Unit (ADU) at 14209 North Meadowview Drive, with more to follow.

1. Waive a planning requirement that prevents non-occupying owners from building an ADU.
2. Waive mitigation fees that make building ADU's cost prohibitive.
3. Make it a requirement in exchange for these concessions that there be a deed restriction ensuring low rent and professional, supportive management

We are in a housing crisis that is creating stress on our community for a variety of reasons. ADU's can address this crisis, requiring little development costs or delay compared to any other housing solutions. If well managed, they can also contribute to diverse and healthy neighborhoods. This is why the state passed AB 1069. Earlier the state passed Senate Bill 2 which requires local governments to remove planning obstacles that make affordable housing not feasible. The mandates of SB 2 are incorporated in the Nevada County Housing Element and they are the basis my request.

Historically, homeowners occupying their properties only build ADU's for personal use, and, without allowing non-occupying owners to build them, the mandates of AB1069 alone will do little to make building affordable ADU's feasible. This effectively limits them as a means to address the affordable housing shortfall as mandated in SB 2 and the Nevada County Housing Element.

To correct this, non-occupying owners must be allowed to build ADU's and the costs made low enough to make them attractive to build with a deed restriction that they are rented affordably and are properly managed as supportive housing.

Pacific Grove recently waived the requirement that ADU's can only be built by occupying owners because it is not enforceable after the property is sold. Other local governments are expected to follow. I am requesting that Nevada County also waives this requirement along with mitigation fees, and then requires that the ADU's be used as supportive housing as mandated by SB 2.

CHAPTER 6.7. Multifamily Housing Program [50675 - 50675.14] defines supportive housing.

(2) "Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Even with the loss of mitigation fees the county will experience a net gain from the many savings and benefits of allowing supportive housing including an increased tax base, lower homelessness costs, less crime, and more employment.

I have created a professional nonprofit 501C3 real estate company called Community Real Estate Network that is dedicated to providing supportive housing as one option for supportive management.

Mitigation fees on low-cost housing create a disproportionate and counterproductive obstacle compared to high-cost housing. Making it feasible for both non-occupying owners and occupying owners to build ADU's will lower the cost of housing overall by increasing the supply, and requiring management and affordability will make for a better community.

Let's develop a policy that allows ADU's as supportive housing and use the inherent cost advantages along with the savings of waiving mitigation fees to compensate for effective regulations that address the affordable housing crisis and to build a better community.

Sincerely,



Greg Zaller

Excerpts from the Nevada County Housing Element:

Program HD-8.1.2013 The County shall review the feasibility of providing incentives to second unit owners and builders who volunteer to maintain their second unit for an unspecified duration as transitional or emergency housing.

Program HD-8.1.14 Once feasible incentives have been developed and adopted for the use of Second Dwelling Units as housing for low and very-low income residents or transitional/emergency housing pursuant to Programs HD-8.1.12 and HD-8.1.13, the County should send notification to homeowners, potentially through tax bills or other annual mailings, outlining these incentives and providing a contact for more information.

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COMMUNITY DEVELOPMENT AGENCY

**Nevada County Housing Element**  
Incentives for ADU's

The following programs are in the Nevada County Housing Element. Are the Board of Supervisors and the City Councils aware that the city council of Pacific Grove recently adopted an ordinance to ease limitations on owners of ADU's, eliminating the requirement that the property had to be owner occupied? This is important to consider if we want to have housing in the very low or low-income category and also transitional and supportive housing. The main house and the ADU would be subject to restrictions that would disallow the ADU to be used as short-term (vacation rentals).

Also, some cities are reducing the lot size requirement to 5000 sq. ft. so that more property owners can participate. Expediting the planning process and reducing or eliminating some fees would also encourage homeowners to build ADU's. An advantage of providing incentives is that more people will build, thus creating local jobs. A win-win situation for everyone.

**Program HD-8.1.1912** The County shall review the feasibility of providing incentives to second unit owners and builders who volunteer to maintain their second unit for an unspecified duration as affordable to the low and very low-income groups.

Responsible Agency: Planning, Housing and Community Services Health and Human Services Agency, Building Department, Tax Collectors Office  
Timeframe: FY 2010/11  
FY 2016/17 Financing: General Fund

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Responsible Agency: Planning, Health and Human Services Agency, Tax Collector's Office, and County Assessor's Office  
Timeframe: Following implementation of Programs HD-8.1.12 and HD-8.1.13. Financing: General Fund, State or Federal Grant funding if available.

Pauli Halstead, Nevada City

## **Accessory Dwelling Units: A Way to Increase Rental Housing Stock**

*Pauli Halstead, Nevada City*

“California’s housing production is not keeping pace with demand. In the last decade less than half of the needed housing was built. This lack of housing is impacting affordability with average housing costs in California exceeding the rest of the nation. As affordability becomes more problematic, people drive longer distances between a home that is affordable and where they work, or double up to share space, both of which reduces quality of life and produces negative environmental impacts. Beyond traditional market-rate construction and government subsidized production and preservation there are alternative housing models and emerging trends that can contribute to addressing home supply and affordability in California.” *Housing and Community Development Memorandum.*

One such example gaining popular acceptance is to build Accessory Dwelling Units (ADU’s), popularly known as granny units. ADU’s are a different form of housing that can help California meet its critical housing shortage. Young professionals, students, and single adults want to live in neighborhoods close to jobs, shopping and schools. Now homeowners can build an ADU on a portion of their lot or convert an underutilized part of their home.

“New laws regulating accessory dwelling units went into effect late last year, and the new regulations would be part of bringing local regulations into compliance with the State. The two State Bills—AB2299 and SB 1069—would limit the ability of local municipalities and counties to regulate such units. Governor Brown signed these bills into law with the intention of increasing the state’s supply of affordable housing by further facilitating the construction of accessory dwelling units. The units are also excluded from density limits in the city’s General Plan.

The laws also mandate that local accessory dwelling unit ordinances are invalidated if not in full compliance with the requirements of the amended State Law; and that accessory dwelling units created by converting existing space, or “Interior Accessory Dwelling Units,” must be allowed in all single-family zoning districts without any restriction.” *From an article by Eddie Rivera, in Pasadena Now.*

It is clear that affordable housing, and low-income should be at the very top of the city and county agendas. Creating more housing will relieve pressure on limited rental stock. Cities should also create incentives and remove constraints in order to encourage homeowners to build ADU’s. What are the city councils currently doing to incentivize the construction of accessory dwelling units?

The city council of Pacific Grove recently adopted an ordinance to ease limitations on owners of ADU’s, eliminating the requirement that the property had to be owner occupied. This ordinance falls in line with the State mandate to ease limitations on ADU’s in terms of size, parking requirements, zoning and whether they have to be owner

occupied. Vacation rentals, however, are not allowed and neither the main home or the ADU can be a short-term rental.

There are several ways cities can work with homeowners. One way is to reduce the minimum lot size requirement to 5000 sq. ft. Previously homeowners, with large lots, who could afford to build ADU's, had the advantage. Since homes in Nevada City and Grass Valley do not normally have large lots, reducing the lot size requirement makes sense and will make it possible for more homeowners to build.

“A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, be established by ordinance for either attached or detached dwellings that does not otherwise permit an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.” “Parking requirements would not exceed one parking space per unit or per bedroom.” SB 1069

If done properly ADU's will not have a major impact on our cities and the historic character of Nevada City or Grass Valley, but will greatly relieve the desperation people are now facing in securing rental housing. “Accessory dwelling units will provide housing for family members, students, in-home health care providers, and the disabled. Homeowners will also benefit when adding an ADU to their property from added income and an increased sense of security.” Allowing accessory dwelling units in single family or multi-family neighborhoods will provide needed rental housing stock in California. It's up to our Board of Supervisors and City Councils to make sure this gets done.

We have a choice of slightly more dense and healthy neighborhoods or a lack of availability of rental stock and potentially more problems with homelessness. We can either choose to build, or suffer the consequences of delay.

**Housing: We need some!**  
*Pauli Halstead, Nevada City*

The Board of Supervisors moved Homelessness to an A category this year promising solutions. With a goal of Housing First, the elephant in the room is we have no very low and low-income housing under construction. According to the Nevada County Housing Element, "The total number of new housing units constructed in the County over the prior planning period fell well short of the total projected need, and the number of units rehabilitated were much less than what was expected to be rehabilitated. The lack of new construction in the very low and low-income categories was at least partially attributable to County funding and staffing limitations, as well as a lack of interest from affordable housing developers to propose affordable housing projects in the unincorporated area."

There is a reason builders are not applying for permits for low-income housing. The County is not offering incentives. They are waiting for someone to apply for a permit first with no guarantee they will work with the builder to reduce costs. This is a backward approach. What is the Board of Supervisors doing proactively to attract low-income housing developers? Just having a Housing Element in which all the policies are spelled out, but no implementation of those policies, will not solve our housing crisis.

The following are just a few of the policies in the current Nevada County Housing Element.

"The element shall consist of identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement and development of housing. The housing program details a five-year schedule of actions the community is undertaking or plans to undertake to achieve housing goals and objectives." What actions are the Board of Supervisors taking?

"Policy RC- 8.4.9 was modified so smaller affordable single-family units could be considered for a reduction of development permit fees (previously only multi-family development was included in the policy)."

HD 8.1. 11 The County shall coordinate with the three cities to identify publicly owned surplus land to determine its suitability for low and very low-income households and to develop procedures for land swaps, if sites more suitable for affordable workforce housing are identified. Surplus public lands within Community Regions that are found to be feasible for lower-income housing shall be considered for re-designation to an appropriate residential zoning designation.

HD 8.1.13 Review the feasibility of developing an Affordable Housing Trust Fund Program to be used for affordable housing development. The Board of Supervisors should initiate discussions about appropriate sources for affordable housing trust funds (such as impact fees, in lieu fees, etc.) and affordable housing incentives.

HD 8.1.14 Where possible, the County will partner with existing non-profit and for-profit corporations that are interested and able to construct and manage very low and low-income households throughout the County.

HD 8.1. 16 The County will investigate and, where deemed eligible, apply for State and Federal monies for direct support of low-income housing construction and rehabilitation. The Housing and Community Services Department and the Human Services Agency will continue to assess potential funding sources, such as, but not limited to the Community Development Block Grant (CDBG), HOME, CalHOME, and others.”

RC 8.4.3 The Department of Housing and Community Services shall work with affordable housing developers, County Departments and other public agencies to help expedite the processing of affordable housing development applications.

RC- 8.4.4 The County shall request that schools, fire districts, park districts, NID and other special districts adopt a policy to allow for deferred payment and/or partial or full waiver of planning, mitigation, building permit and connection fees as incentives to for-profit and non-profit builders of affordable housing for development of five or more units per application. *The Planning Department received responses from all special agencies indicating that they did not desire to reduce their fees.*

RC-8.4.8 The County shall annually review its land use regulations, policies, practices and development review process to determine areas where constraints can be removed on the development of housing for lower income, senior citizen and households with persons with disabilities. Special emphasis shall be placed upon removing constraints on the development, retention, and/or rehabilitation of housing affordable to extremely low-income households.

There's much more information in the Housing Element, but it's apparent the Board of Supervisors has work to do to implement the policies put forth, policies which the State of California has mandated by law. We have been promised solutions to homelessness, not to mention solutions to lack of affordable rentals for our work force. It's high time to be proactive.



## **Preventing NIMBY Housing Policies in Local Government**

Pauli Halstead, Nevada City

Everyone knows there's a housing shortage that has resulted in skyrocketing housing costs that hurt everyone, but especially people existing below the poverty level. In recent years several California laws have been adopted that place important limitations and obligations on local decision makers in the area of affordable housing. However, are Nevada County, (Board of Supervisors), and the cities of Grass Valley and Nevada City, doing everything they can to implement these laws?

Local governments often deny approval of affordable and low-income developments. In communities misinformation and prejudice can generate fierce opposition to proposed projects. California state law now prohibits a local agency from disapproving a low-income housing development, or imposing conditions that make the development infeasible. Gov Code, Sec. 65008 prohibits localities from discriminating against housing developers, or potential residents, by local agencies when carrying out their planning and zoning powers. Those agencies may not discriminate based on race, sex, age, religion, low-income, or whether the development is subsidized.

These laws apply even if the discrimination is not intentional, but is a matter of unwritten policy by a Board of Supervisors or a City Council who wish to please some of their constituency, by subtly blocking developments, or by non-action in incentivizing affordable and low-income housing construction. The laws apply to any land use action that has a disproportionate impact on assisted developments or the potential minority or low-income occupants, as in multi-family housing. As it stands now we have little or no very low or low-income housing being built in Nevada County.

One law, Senate Bill 2 (SB2, 2008), allows for Emergency Shelters to be built in designated zoning areas. "The bill ensures that local governments do not unreasonably deny approval for needed emergency shelters, transitional housing or supportive housing. **The California Housing Accountability Act** (formerly referred to as the Anti-NIMBY statute) prohibits discrimination against certain types of permanent housing for lower-income households.

As a result, except under very limited exceptions, if a new emergency shelter is proposed on a site that is zoned to allow that use, and the local government has not met the need for emergency shelter identified in its housing element, the local government must approve the shelter. Similarly, transitional or supportive housing projects that are consistent with the zoning for the proposed site may not be denied if the city has not yet met its need for new housing units affordable to the income levels to be served by the proposed project, except under limited circumstances."

Senate Bill 619—(2003) includes a number of important measures to increase housing affordability in California. For instance, many communities require a conditional use permit for multi-family Housing. "SB 619 prohibits conditional use permits on multi-family housing developments that meet the CEQA affordable housing farmworker or

infill exemption and on affordable multi-family housing with 100 or fewer units, and a density of at least 12 units per acre, located on an infill site in an urbanized area, consistent with the zoning and general plan, and has a negative declaration or a mitigated negative declaration.”

“State Anti-NIMBY law limits the ability of local governments to deny or impose conditions on affordable housing developments. SB 619 applies Anti-NIMBY law, (Gov Code Sec. 65589.5), to affordable mixed-use developments as well as residential developments.

SB 619 prohibits local governments from denying or conditioning affordable housing developments based on race, ethnicity, or income of occupants. SB 619 specifically disallows discrimination based on the situation that the proposed development is multi-family, very low or low-income. The law also prevents neighborhood groups from filing frivolous lawsuits to overturn local approval of affordable and low-income housing developments. It provides that local governments and non-profits, which provide funding for development, may receive attorney’s fees levied against the neighborhood group.

As incentives, local governments must grant projects with a prescribed minimum percentage of affordable units up to a 35% increase in density and up to “three” incentives. (Gov Code Sec. 65915) The incentives may include a reduction in in development, parking or design standards, modification of zoning requirements or direct financial aid. Permit streamlining is also a requirement and mandates a timeline for making a decision on the application. If the local government fails to act within the prescribed time limits, a development project is then deemed “approved”. (Gov Code Sec. 65920)

Now that we all understand the laws a little better, perhaps our County and City governments and communities will more readily embrace development of affordable and low-income housing thus providing more housing stock in Nevada County. Time is of the essence before matters get worse.