



RESOLUTION No. 24-076

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION MAKING FINDINGS, ACCEPTING THE APPEAL FILED BY KEVIN YODER, ET AL., REGARDING THE DECISION OF THE NEVADA COUNTY PLANNING DEPARTMENT FOR THE CONDITIONAL APPROVAL FOR AN ADMINISTRATIVE DEVELOPMENT PERMIT AND PETITION FOR EXCEPTIONS TO ROAD STANDARDS (PLN22-0234; ADP22-0049; PFX22-0039) TO OPERATE A COMMERCIAL CANNABIS OPERATION LOCATED AT 22309 MEYER RAVINE ROAD, GRASS VALLEY, CA 95949 (APN: 057-290-006) AND TO SCHEDULE A PUBLIC HEARING ON MARCH 12, 2024 AT 1:30PM

WHEREAS, on January 10, 2024, the Nevada County Planning Department provided notice of a conditional approval for an Administrative Development Permit and Petition for Exceptions to Roadway Standards for a private driveway that does not meet Nevada County Land Use and Development Code Section L-XVII 3.4 and County Standard Drawing C-1 for minimum road width of 20-feet with 2-foot shoulders (PLN22-0234; ADP22-0049; PFX22-0039) to permit a commercial cannabis operation at 22309 Meyer Ravine Road, Grass Valley, CA 95949 (APN 057-290-006); and

WHEREAS, on January 22, 2024, Kevin Yoder filed an Appeal to the Board of Supervisors regarding the conditional approval for an Administrative Development Permit, Petition for Exceptions to Roadway Standards (PLN22-0234; ADP22-0049; PFX22-0039) to permit a commercial cannabis operation at 22309 Meyer Ravine Road, Grass Valley, CA (APN 057-290-006); and

WHEREAS the Appeal filed by Kevin Yoder included additional individuals individually named and petition list of signatures gathered against the proposed commercial cannabis operation; and

WHEREAS, pursuant to section L-II 5.12.B of the Nevada County Land Use and Development Code, the Board of Supervisors may use the provisions of such article in conducting public hearings on land use matters; and

WHEREAS, pursuant to sections L-II 5.12.D of the Nevada County Land Use and Development Code, any decision of the Planning Agency is appealable to the Board of Supervisors within 10 calendar days after the date of the decision, except amendments to the General Plan or zoning ordinance, which shall be filed within 5 calendar days; and

WHEREAS, Appellant filed a timely appeal on January 22, 2024, which included a statement on the appeal as required by sections L-II 5.12.F; and

WHEREAS, pursuant to section L-II 5.12.G of the Nevada County Land Use and Development Code, the Board of Supervisors shall determine if the appeal was filed within the applicable time limits and may set the matter for public hearing as soon as time on their agenda permits, and in accordance with any other time requirements of law.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Nevada that:

1. Appellant is an interested party who has standing to appeal the Nevada County Planning Department's conditional approval for an Administrative Development Permit and Petition for Exceptions to Roadway Standards for a private driveway that does not meet Nevada County Land Use and Development Code Section L-XVII 3.4 and County Standard Drawing C-1 for minimum road width of 20-feet with 2-foot shoulders (PLN22-0234; ADP22-0049; PFX22-0039) to permit a commercial cannabis operation at 22309 Meyer Ravine Road, Grass Valley, CA 95949 (APN 057-290-006); and
2. Appellant's appeal on the Nevada County Planning Department's conditional approval for an Administrative Development Permit and Petition for Exceptions to Roadway Standards for a private driveway that does not meet Nevada County Land Use and Development Code section L-XVII 3.4 and County Standard Drawing C-1 for minimum road width of 20-feet with 2-foot shoulders (PLN22-0234; ADP22-0049; PFX22-0039) to permit a commercial cannabis operation at 22309 Meyer Ravine Road, Grass Valley, CA 95949 (APN 057-290-006) was filed within 10 days of the decision, the appeal is deemed to be timely pursuant to section L-II 5.12.D of the Nevada County Land Use and Development Code; and
3. The contents of the appeal satisfy the minimum requirements set forth in section L-II 5.12.F of the Nevada County Land Use and Development Code which include identification of the project and decision being appealed, statement of the reason for the appeal, statement of the specific provisions being appealed, statement of the action being requested, summation of the arguments being raised and identification of the appellant; and
4. Appellant's appeal of the Nevada County Planning Department's conditional approval for an Administrative Development Permit and Petition for Exceptions to Roadway Standards for a private driveway that does not meet Nevada County Land Use and Development Code section L-XVII 3.4 and County Standard Drawing C-1 for minimum road width of 20-feet with 2-foot shoulders (PLN22-0234; ADP22-0049; PFX22-0039) to permit a commercial cannabis operation at 22309 Meyer Ravine Road, Grass Valley, CA 95949 (APN 057-290-006) is hereby accepted by the Board of Supervisors, and the Clerk of the Board is directed to schedule a Public Hearing on this appeal on March 12, 2024, at 1:30p.m. at the Nevada County Board Chambers at 950 Maidu Avenue, Nevada City, CA 95959.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 20th day of February 2024, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward C. Scofield, Lisa Swarthout,
Susan Hoek and Hardy Bullock.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

TINE MATHIASSEN
Chief Deputy Clerk of the Board of Supervisors

By: _____



Hardy Bullock, Chair

RECEIVED

cc - County Counsel, Planning

JAN 22 2024

NEVADA COUNTY
BOARD OF SUPERVISORS

COUNTY OF NEVADA

(Attach pages if needed)

APPEAL TO BOARD OF SUPERVISORS

(Per Article 5.12 of Chapter II of the Land Use and Development Code)

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

PLN22-0234; ADP22-0049; PFX22-039

January 10th 2024

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:

☒ 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

☒ 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:

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

☐ 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: _____

Conditional approval to operate commercial cannabis operation and exceptions for
private roadways that do not meet county and fire safety regulations for subject agency
file # PLN22-0234; ADP22-0049; PFX22-039

II. STATEMENT OF THE REASONS FOR THE APPEAL:

Please see attached for statement of reasons for the appeal.

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

Please see attached for reasons for the appeal.

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

Please see attached for summary statement of requested action of the Board of Supervisors.

V. SUMMATION OF THE ARGUMENTS TO BE RAISED BY THE APPELLANT(S):

Please see attached for items of concerns and arguments raised by appellants and local residents.

VI. IDENTIFICATION OF THE APPELLANT(S):

Kevin and Autumn Yoder

(Name)

(Mailing Address)

(Telephone)

Please see attached for list of appellants.

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

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

Kevin and Autumn Yoder

(Name/Representative)

(Mailing Address)

(Telephone)

Appellant:

Kevin Yoder

(Sign)

Dated:

1-22-2024

KEVIN YODER

(Print)

FOR OFFICE USE ONLY

RECEIVED

\$1803.61/100

Filing Fee

JAN 22 2024

Date Filed

Lauriana Cecchi

Received By

NEVADA COUNTY
BOARD OF SUPERVISORS

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 and III. STATEMENT OF REASONS FOR THE APPEAL and PROVISIONS WHICH ARE BEING APPEALLED:

The appellants represent concerned residents of Meyer Ravine Road and other neighboring communities who are adjacent to and in the vicinity of the proposed commercial cannabis site on Meyer Ravine Road. It is very frustrating and unfortunate that the county was not able to make the proposed plans and potential county conditions available prior to the Conditional Approval. The current approval process should include and be open for public comment and negative declarations for each proposed commercial cannabis facility as these can have major adverse impacts to communities.

Below are items of concern that we believe have not been addressed and should require resolution prior to approval of project.

- It appears the roadway plans do not include accurate survey data of existing conditions.
- It appears the roadway plans do not include how the proposed roadway widening will occur at the sections of Meyer Ravine where only a 20' roadway easement exists. How can construction take place without encroachment to adjacent parcels?
- How is it safe to widen a roadway closer to power poles versus relocating pole to a safe distance from roadway?
- How is the surface drainage from the widened roadway handled within the 20' roadway easement? Is the drainage plan to drain to adjacent parcels and if so, what is the impact to those parcels? Was a hydrologic and hydraulic study provided by designer?
- How is the increased surface drainage from the widened roadway handled within the 60' roadway easement? Was a hydrologic and hydraulic study provided by designer?
- What keeps the drainage from eroding the transition between existing asphalt and proposed AB fill?
- How will the proposed use of AB fill to widen roadway carry drainage without eroding quickly?
- How will the roadway be maintained at the transition edges from the existing paving to AB fill?
- Per the roadway plans the project is proposing grading limits outside of 60' easement on APN 057-010-047. Project has not received authority from property owner.
- Soil stabilization methods are not detailed where cuts are shown.
- Why do the roadway plans call for grading beyond the access point to the proposed commercial cannabis site?
- The conditional approval states that a variance from the fire standard road shall be allowed at Station 11+10 for a pole and states that no other locations shall vary from 20' minimum. The plans provided appear by scaling that the area near the pump house and culvert South of said variance are below minimum width. Please explain or provide roadway details showing this is compliant with the fire standards.
- There is a concern that widening certain sections of the road near the pump house and culvert without support of the embankment will lead to road failure/collapse as it appears the designer did not account for depth of existing ditch. There is no call out for any type of retaining wall or guardrail for safety.
- Private driveway to APN 057-010-047 appears that the width is being reduced from existing condition. What type of design vehicle was used in the design? The proposed design will not meet the needs of the property owner. Why is the county approving plans that have adverse impacts to existing property access?

- Private driveway to APN 057-010-047 appears that existing asphalt approach to Meyer Ravine Road will be removed and replaced with AB fill. This should not be acceptable, why should property owners lose an improved paved driveway?
- By what means will the project (proposed commercial cannabis) be allowed to perform the fuel modifications? Will they be allowed to use a herbicide? This is of great concern as adjacent properties next to Meyer Ravine have livestock.
- The existing paved roadway was not built with any subgrade improvements. It was constructed for the use and needs of a residential community. What work was done to verify existing roadway will support heavy commercial traffic? Was the geotechnical information provided by the designer? Does analysis provide supporting data that the existing and proposed widened areas will meet loading criteria?
- How will the county enforce / ensure that the new portion of the roadway is maintained by the proposed commercial cannabis project to meet roadway criteria?
- Was there an environmental impact study done for the roadway construction for this project?
- It appears by the plans provided that the project did not complete a full subsurface utility engineering investigation as there are several existing underground utilities that are currently in use and are in DIRECT conflict with proposed plans. These utilities do not show on the plans.
- The roadway plans do not appear to provide any details of how the roadway will be constructed with regards to phasing, proposed road closures, limits on road closures, projected delays, projected duration, traffic control plans, projected queuing, traffic holding location, truck transfer locations, and notification to residents and other road users. Was this provided?
- Please provide the county's position on who would have the authority to approve the project's ability to restrict / limit access to Meyer Ravine property owners.
- Today the roadway is paved (no dust), with the commercial cannabis project being allowed to widen roadway without paving there will be dust, will they have an obligation to control dust beyond construction, as there is not an issue today? Why should residents lose the benefit they enjoy today of a paved road?

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

The appellants request that the Board of Supervisors revoke the conditional approval for the proposed commercial cannabis site on Meyer Ravine Road.

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

The appellants believe that conditional approval was provided without due diligence. The project, if constructed as proposed, would be detrimental to the existing infrastructure and the serenity of the Meyer Ravine community. The proposed roadway widening method will last less than a year without significant maintenance. In addition, the appellants believe that because of the current approval process, significant concerns are not heard or considered as part of the process. There was no outreach done to discover what takes place within the Meyer Ravine community. Meyer Ravine Road is a residential community that is not conducive to a commercial cannabis site. The adjacent parcels have and will continue to hold 4H meetings, Nevada County Fair show practice (Cattle, goats, sheep, chickens and horses). This is not a location for commercial cannabis site.

VI. LIST OF APPELLANTS

Name	Address	City	State	Zip
Laura Barhydt		Grass Valley	CA	95949
Jeanne Franklin		Grass Valley	CA	95949
Georgann Alioto		Grass Valley	CA	95949
Jenny Rice		Grass Valley	CA	95949
Kevin and Autumn Yoder		Grass Valley	CA	95949
Sean and Lori Long		Grass Valley	CA	95949
Brian and Treece McCutcheon		Grass Valley	CA	95949
Scott Pepper		Grass Valley	CA	95949
Lisa Hamilton		Grass Valley	CA	95949
Gus Notas		Grass Valley	CA	95949
Donna Zacamy		Grass Valley	CA	95949
Inez Rodriguez		Grass Valley	CA	95949
Roger Scheevel		Grass Valley	CA	95949
Robin McManaman		Grass Valley	CA	95949
Court and Megan Worden		Grass Valley	CA	95949
Bob & Ruthanne Free		Grass Valley	CA	95949
Vinney and Angela DiNicola		Grass Valley	CA	95949
Cal and Barbara Rowland		Penn Valley	CA	95946
Willie and Deb Disselhoff		Grass Valley	CA	95949
Orren and Cindy Sage		Grass Valley	CA	95949

Listed below are signatures gathered through change.org that are against the proposed commercial cannabis site on Meyer Ravine Rd.

LINKs

<https://www.change.org/NoCommercialGrow>

LIST OF PETITION SIGNATURES FOR CHANGE.ORG

Name	City	State	Postal Code
Jeanne Franklin	Grass Valley	CA	
Treece McCutcheon	Grass Valley	CA	95949
Lori Picardi	Novato	CA	94947
Georgann Alioto	Grass Valley	CA	95736
Delphi Whittle	Roseville	CA	95747
Lisa Hamilton	Grass Valley	CA	95949
Julia Hamilton	Casey Corner	CA	95946
Jenny Rice	Grass Valley	CA	95949
McKenna Wertzler	Rutland		5701
Kay Omar			
Jacqueline Rizo	Los Angeles		90009
Donna Weger	Grass Valley	CA	95949
Danny Weger	Grass Valley	CA	95949
Autumn Yoder	San Francisco	CA	94107
Austin Ward	Corvallis	OR	97330
Stephanie golden	New Port Richey	FL	34652
Rosemary Sheward	Grass Valley	CA	95949
Mark Shew			
Michelle Prechter	Grass Valley	CA	95949
Thomas Holden	Grass Valley	CA	95949
Heath Mullen	Grass Valley	CA	95949
Connie Leonard	Grass Valley	CA	95949
Julia Yoder	Grass Valley	CA	95949
Janet Riley	Grass Valley	CA	95949
Barbara Rowland	Penn Valley	CA	95946
Kelly Zimmermann	Thousand Oaks	CA	91360
Misty Cork	Walnut Creek	CA	94597
Ryann Riley	Auburn	CA	95603
Maggie Garcia	TO	CA	91330
Gregg Mitchell	Grass Valley	CA	95949
Della Mitchell	Kansas City	MO	64109
Breanne Johnson	Grass Valley	CA	95949
Jayne Swearingen Swearingen	Fairfield	CA	94533
Vickie Terruso	San Jose	CA	95126
Jake Cammon	Grass Valley	CA	95949
Sierra Gardner	Gardner	KS	66030
Sharan Gradek	San Mateo	CA	94403
H Wilcox Corbett	Grass Valley	CA	95949
Audra Koopmans	Auburn	CA	95602
Renee Boice	Auburn	CA	95602
Rebekah Gregory	Auburn	CA	95603
Sharon Rounds	San Jose	CA	95141
Angelina Gerster	Grass Valley	CA	95945

Maddie Prechter	Los Angeles	CA	90060
Mark Prechter	Los Angeles	CA	90060
Edie Kodet	Grass Valley	CA	95949
Gary Rice	Grass Valley	CA	95949
Jay Hannan	Grass Valley	CA	95949
Melissa Knudsen	Los Angeles	CA	90060
Terri Klauer	Grass Valley	CA	95949
Adron Klauer	Grass Valley	CA	95949
Angela Rowland	Sacramento	CA	94203
Brooke Kelley	Crestline	CA	92325
Gordon Rowland	Sacramento	CA	94203
Cheyenne Klauer	Grass Valley	CA	95949
Samantha Tracy	Auburn	CA	95602
Julia Wildenrad	Sacramento	CA	94203
Cheryl LaCoste	Roseville	CA	95661
Eve Mello	Lincoln	CA	95648
Carrie Ramsour	Grass Valley	CA	95949
Tim Rice	Grass valley	MA	95949
Diana Osborne	Auburn	CA	95602
Carlos Mendoza	Auburn	CA	95602
Suzanne Carrington	Grass Valley	CA	95949
Amanda Messlein	Auburn	CA	95602
Linette Rubidoux	Sacramento	CA	94203
Brad Fowler	Sacramento	CA	94203
Wayne Klauer	Grass Valley	CA	95949
Brett Green	Sacramento	CA	95842
Susan Street	Oakland	CA	94603
Michael Street	Oakland	CA	94603
Elaine Tuoto	Auburn	CA	95603
Cheryl Powers	Grass Valley	CA	95949
Angela Neeb	Meadow Vista	CA	95722
Rylee Prechter	Sacramento	CA	94203
Dyan Hogan	Meadow Vista	CA	95722
Lori Long	Grass Valley	CA	95949
Jadyn Hull	Grass Valley	CA	95949
Katia Hull	Grass Valley	CA	95949
Chad Young	Grass Valley	CA	95949
Roxanne Young	Auburn	CA	95604
Emily Ventura	Roseville	CA	95747
Mellissa Pierce	Huntsville	AL	35806
Linda Mitchell	San Jose	CA	95111
Jeremy Johnson	Roseville	CA	95678
dena corey	Auburn	CA	95604
Laura Barhydt	Sacramento	CA	94203
Sean Long	Grass Valley	CA	95949
Jeff Beaubier	Lincoln	CA	95648
Jeannie Vranes	Grass Valley	CA	95667

Christina Menth	Grass Valley	CA	95949
Tanya Beaubier	Lincoln	CA	95648
Marianne Boll-See	Grass Valley	CA	95945
Jeanette Derobertis	San Francisco	CA	94124
Brian McCutcheon	Grass Valley	CA	95949
Roger Scheevel	Grass Valley	CA	95949
David BARHYDT	Sacramento	CA	94203
Deborah Disselhoff	Grass Valley	CA	95949
Lee G			
Nadra Mohamed	Minneapolis		55443
Debra Johnson	Duluth		
Grace Duffy	Hingham		2043
Tenzin Dolkar	Cranford	NJ	7016
Kiara Hampton	Lake Elsinore		92530
Kaya jensen	Hastings		49058
Humberto Giraldo	Orlando		32818
Andrea vargas Vargas	Richardson		75081
Alice Zeiger	Ballston Spa		12020
Nevaeh Henderson	New Middletown		44442
Lindsey Yonich	Pittsburgh		15212
Ariel Salgado			
Hamid Mohammad	Syracuse		13210
cayla M	Ann Arbor		48103
kadin romine	st.pete		33614
cindy laverde	Houston		77063
Kari Woodral	Sacramento		95825
Andrew Floyd			
G. Diane Matthews-Marcelin	Carson		90746
Joshua Curphey	Peterborough	PE7	
Gil Ahmad	San Francisco		85202
Dawson Abbitt	Evergreen Park		60805
William J. Valmont	Jonesboro		30238
Audrey Luan	Aptos		95003
Atigan Peter	Harris		77084
Annaliese Dasari			
Valentina Magri			
James Rice	Acworth		30102
Emanuel Santana	Clermont		34714
Oumar Ba	Pickerington		43147
Ethan Coe	Newnan		30265
Ann Rhomberg	Evanston		60201
Gary Ware	Grass Valley	CA	95949
Dana Behlmer	Clayton	CA	94517
Mario Valenzuela	Grass Valley	CA	95949
Monique Valenzuela	Grass Valley	CA	95949
Kirsten Pickford	Grass Valley	CA	95949
Denell Nawrocki	Sacramento	CA	94203

Kristen Ganskie	Los Angeles	CA	90013
Gail Carmone	Grass Valley	CA	95949
Peggie Hartig	Grass Valley, CA	CA	94203
Justine Martin	Grass Valley	CA	95949
Mary Taylor	Grass Valley	CA	95949
michael martin	Sacramento	CA	94204
Frank Hartig	Grass Valley	CA	95949
Ella Nawrocki	Grass Valley	CA	95949
Sharon Hapai	Sacramento	CA	94203
Tara Stewart	Grass Valley	CA	95949
David Stewart	Grass Valley	CA	95949
Lonna Morrissey	Grass Valley	CA	95949
Thomas Morrissey	Grass Valley	CA	95949
Bill Pickford	Grass Valley	CA	95949
Melanie Franklin	Grass Valley	CA	95949
Everett Mathews	Grass Valley	CA	95949
Peeman Franklin	Roseville	CA	95678
Susan Evans	Sacramento	CA	94203
robin mcmanaman	grass valley	CA	95949
Colin Light	Andover		67002
Logan Winston	Fleming Island		32003
Sonic Son	Oroville		95966
Cooper Schmidt	Phoenix		85014
Megan Hudek	Kansas City		66103
Jody Shelton	Saint Joseph		64506
Matthew Gray	Mississauga		L5G 2R9
Kelly Glomson	Sacramento	CA	94203
Ruthanne Free	Los Angeles	CA	90060
Bob Free	Grass Valley	CA	95949
Court Worden	Los Angeles	CA	90060
Lynn Forbes	Gras Valley	CA	95949
Lana Corless	Grass Valley	CA	95949
Elena Leibowitz	Greenville		29607
Megan Worden	Sacramento	CA	94203
Sara Noah	Grass Valley	CA	95949
alexis VON ZIMMER	Grass Valley	CA	95949
Michael Riley	Grass Valley	CA	95949
Jenna Barnard	Sacramento	CA	95842
Thomas MacRunnel	Sacramento	CA	95819
Marilyn Smith	Grass Valley	CA	95949
William Burns	Grass Valley	CA	95949
Judy Wilson	Meadow Vista	CA	95722
Sonya Graham	Grass Valley	CA	95945
Johnnie Graham	Grass Valley	CA	95945
Jeanne Wilson	Fort Collins	CO	80528-4529
Dora Cividino	Penn Valley	CA	95946
Jayson Wedge	Auburn	CA	95602

Vinny DiNicola	Grass Valley	CA	95949
jill angelichio	charlotte		28204
Melissa Clark	Auburn	CA	95602
Kristen Whitehead	Grass Valley	CA	95949
Angela Dinicola	Grass valley	CA	95949
Justine Smith	Grass Valley	CA	95949
TOM OConnell	Grass Valley	CA	95949
Michael Orton	Lincoln	CA	95648
John Barnes	Auburn	CA	95602
Craig Uithoven	Los Angeles	CA	90060
Connie Collier	Grass Valley	CA	95949
Steve Pietrobono	Grass Valley	CA	95949
Anne Knox	Grass Valley	CA	95949
Donna Abreu	Grass Valley	CA	95945
Michelle Green	Grass Valley	CA	95949
Lisa Doenecke	Grass Valley	CA	95949
Adam Brodel	Grass Valley	CA	95945
Sean Tener	Auburn	CA	95602
Stephanie Moellman	Grass Valley	CA	95945
Elizabeth Arvonen	Auburn	CA	95603
Elizabeth Rehkop	Auburn	CA	95602
Susan Logoluso	Sacramento	CA	95822
Beki Ramos	Riverside		92506



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

950 MAIDU AVENUE, SUITE 170, PO BOX 599002
NEVADA CITY, CA 95959-8617
(530) 265-1222

<https://nevadacountyca.gov>

Trisha Tillotson
Community Development Agency Director

Brian Foss
Planning Director

**NOTICE OF CONDITIONAL APPROVAL
ADMINISTRATIVE DEVELOPMENT PERMIT**

January 10, 2024

Emily Porter
532 Coyote Street
Nevada City, CA 95959

File No: PLN22-0234; ADP22-0049;
PFX22-0039
APN: 057-290-006

Dear Ms. Porter,

The application submitted on December 30, 2022, resubmitted on July 7, 2023, resubmitted on October 17, 2023, and resubmitted again on December 11, 2023, for an Administrative Development Permit to operate a commercial cannabis operation and a Petition for Exceptions to Road Standards for a private roadway that does not meet Nevada County Land Use and Development Code Section L-XVII 3.4 and County Standard Drawing C-1 for minimum road width of 20-feet with 2-foot shoulders at 22309 Meyer Ravine Road, Grass Valley, CA 95949, **is hereby approved subject to the conditions of approval provided below.**

The Nevada County Land Use and Development Sec. L-VII 2.2 defines a private road as vehicular access constructed pursuant to Chapter XVI, Fire Safety Regulations, of the Land Use and Development Code that serves more than two (2) parcels or connects two (2) or more roads, whether providing access or not, and is not within the County maintained road system. Meyer Ravine Road serves more than two (2) parcels and is not part of the County's maintained mileage, therefore it is a private road. Typically, parcels with commercial development such as a commercial cannabis cultivation operation are required to improve roads to meet Fire Standard Access Road standards that are outlined in Section L-XVII 3.4 Design Geometrics of the Land Use and Development Code and are supplemented by County Standard Drawings. These standards specify requirements including but not limited to right-of-way width, lane width, shoulder width, fuel modification area, maximum grade, and surfacing requirements. Section L-XII 3.12 outlines the process for considering any exceptions to these standards. Specifically, Section L-IV 2.6 Petition for Exception requires specific justification of the facts and reasons supporting the proposed exception. The proposed project proposes road improvements and exceptions to Fire Standard Access Road standards to meet the same practical effect criteria. The Nevada County Department of Public Works and Nevada County Fire Marshal have reviewed and approved the

proposed improvements and exceptions to Fire Standard Access Road standards identified in the project description below.

The project was distributed to responsible agencies and departments for their review. Based on the review of the application materials and agency comments, the approval of both the Administrative Development Permit and Petition for Exceptions to Road Standards is limited to the development and uses described in the project description and is required to adhere to the following conditions:

A. PLANNING DEPARTMENT:

1. Project Description: An Administrative Development Permit for a commercial cannabis operation located at 22309 Meyer Ravine Road, Grass Valley, CA 95949. The project is located on a rural, 43.47-acre parcel in the Agricultural (AG) zoning district. This approval is for 4,987.5 square feet of mature cannabis canopy and 4,043 square feet of support area. All 4,987.5 square feet of the mature cannabis canopy will be mixed-light flowering within three (3) proposed 30' by 96' greenhouses. The 4,043 square feet of support area will be comprised of 1,865 square feet of immature plant area, 862 square feet of drying area, 178 square feet of trimming area, 788 square feet of harvest storage area, 30 square feet of chemical and pesticide storage area within a 5,000 square foot metal structure, and three (3) 3,000 gallon proposed water storage tanks for cannabis irrigation (320 square feet). The proposed residence, support areas, and cultivation areas will be accessed by a proposed fire safe standard driveway.

The project is irrigated by a private well, three (3) water storage tanks for cannabis only, and by NID irrigation water from Meyer Ravine via account #23351, and the residence will use a septic system for sewage disposal. There will be three (3) full-time employees and three (3) part-time employees associated with the cannabis operation to help with full-time tasks on site, in addition to the owner/applicant. The operation will be located within a large, open area of the project parcel dominated by annual grassland and a few small interior live oak trees are proposed for removal; however, none of the trees proposed for removal qualify as landmark oaks or oak grove. The project parcel has a large pond and a segment of Meyer Ravine in the northeast portion of the parcel, which are both located well outside the proposed area of disturbance for the proposed residence, cannabis operation, and driveway.

The operation will include two (2) 42-inch QuietAire end wall fans, a 24-inch QuietAire wall fan, and up to seven (7) HAF-18 circulation fans within the three (3) proposed greenhouses, and two (2) mini-split heat pumps within the proposed metal support structure. The operation will utilize acoustic curtain blankets that are 10-feet in height along the proposed chain link fence to the north of the proposed greenhouses. An Environmental Noise Assessment prepared by Saxelby Acoustics determined that the proposed project would comply with the Nevada County noise standards. Six (6) LED fully shielded and downward facing motion sensor exterior lights will be used on the proposed metal support structure at the cultivation premises, two (2) of the proposed 30' by 96' greenhouses will utilize 24 1,200 watt Fohse 06i lights internally, and one (1) of the proposed greenhouses will utilize 26 1,200 watt Fohse 06i lights internally.

A Notice of Applicability was issued by the Central Valley Regional Water Quality Control Board for the cannabis cultivation operation which contains requirements that the applicant must meet to ensure water quality is not impaired. An analysis by the North Central Information Center determined that the proposed project area has moderate potential for containing cultural resources or tribal resources; however, the Cultural Resource Study prepared by Historic Resource Associates determined that no prehistoric or historic archaeological sites, features, or artifacts were identified within the project footprints, and, therefore, no further archaeological work is recommended.

The proposed project proposes road improvements to meet the same practical effect criteria beginning at the intersection between Garden Bar Road and Meyer Ravine Road for a total length of approximately 3,319 feet to be constructed within the limits of the easement area. The proposed improvements include curve widening and road width widening to a minimum of two (2) 10-foot lanes with a variance from Nevada County Standard Drawing C-1, LUDC Sec. L-XVII 3.4 Table II, and LUDC Sec. L-XVII 3.4E for the removal of the requirement for curve widening and 2-foot shoulders where obstructions are present, a variance from improving the southern approach of the intersection of Meyer Ravine Road and Garden Bar Road to the Private Road Approach (Standard Drawing B-1) provided the applicant performs vegetation maintenance within the right-of-way of Garden Bar Road to improve sight distance at this intersection, and a variance from the Fire Standard Access Road minimum two 10-feet (total of 20-feet) lane width per LUDC Sec L-XVII 3.4 Table II where the utility pole restricts the roadway to a minimum of 18.2-feet width; no other locations shall vary from the minimum 20-feet width.

2. Owner to provide a boundary line verification form to the Building Inspector, prepared by a licensed land surveyor for the north, west, and southwest property lines, which shall be flagged in the field by a licensed surveyor prior to first inspection.
3. Prior to Annual Cannabis Permit Issuance, road improvements shall be completed as specified in the improvement plans.
4. DCC License: Prior to issuance of the Annual Cannabis Permit (ACP) to begin cultivation, provide documentation that an annual cultivation license from the California Department of Cannabis Control (DCC) has been obtained.
5. Defense and Indemnification Agreement: Within 15 days after project approval, the applicant shall sign and file with the Planning Department the attached Defense and Indemnity Agreement, in the form approved by County Counsel.
6. Fees: All fees incurred in the processing of this project shall be paid in full within 10 days of action on the project. Project approval does not become effective unless and until the applicant has complied with this condition.

B. NEVADA COUNTY AGRICULTURAL COMMISSIONER:

1. **Ag Department Plan Review:** This will orient you to safe pesticide use, review your proposed list of pesticides, and issue your Operator ID Number, aka a Pesticide Permit. There is no additional fee for this permit. Use the provided link to schedule your one-on-one meeting: Department of Agriculture Cannabis Appointments
2. **Private Applicator Certificate:** If the operation will have employees, contract labor or volunteers that are involved in the cultivation of cannabis, the person responsible for the operation must become a qualified trainer and train those people prior to potential pesticide exposure. To become a qualified trainer, you must receive a private applicator certificate, by passing a certifying exam. Details will be discussed during the Operator ID meeting.
3. **Scale Certification:** Weighing Devices (scales) that meet the suitability and legal requirements for commercial weighing devices must be inspected and sealed for use. Once scales are ordered and on site, request inspection from Ag Department.

C. NEVADA COUNTY DEPARTMENT OF PUBLIC WORKS:

1. Roadway Design & Details:

- a. Roadway traveled surface shall be constructed within the limits of the easement to a minimum of two 10-foot lanes with variance from Standard Drawing C-1, and LUDC Sec L-XVII 3.4 Table II and 3.4.E for removal of the requirement for curve widening and 2-foot shoulders where obstructions are present (as detailed on the plans).
- b. Fuel modification areas shall be provided for a distance of ten (10) feet on each side of the roadway to the limits of the easement areas where the applicant has legal access for maintenance. Fuel modification areas are measured from the shoulder per LUDC Sec L-XVII 3.4 Table II, and Standard Drawing C-1.
- c. Variance from improving the southern approach of the intersection of Meyer Ravine Road and Garden Bar Road to the Private Road Approach (Standard Drawing B-1) shall be granted provided the applicant performs vegetation maintenance within the right-of-way of Garden Bar Road to improve sight distance at this intersection. Please see photos of vegetation at this intersection requiring maintenance in the attached documents from the Department of Public Works.
- d. Applicant shall install a Standard Street Sign per Standard Drawing A-5 at the intersection of Meyer Ravine Road and Garden Bar Road.
- e. Variance from the Fire Standard Access Road minimum two 10-feet (total of 20-feet) lane width per LUDC Sec L-XVII 3.4 Table II shall be allowed at Station

11+10 where the utility pole restricts the roadway to a minimum of 18.2-foot width. No other locations shall vary from the minimum 20-foot width.

- f. Although portions of the existing Meyer Ravine Road were constructed outside of easement areas and upon private property, the applicant shall not utilize these private property areas for access without first obtaining all necessary easements. The applicant and their land surveyor shall flag/stake and delineate the easement boundary during construction to ensure the required widths are constructed within the easement areas. This petition for exception's conditional approval is based on the applicant not utilizing or relying upon private property to meet the same practical effect criteria.
2. **Road Maintenance Agreement (Prior to Final Occupancy):** Due to the Meyer Ravine Road remaining private after this improvement, the applicant shall form a maintenance entity per LUDC Sec. L-XVII 3.11 to ensure continued maintenance of the road system to the approved plans of this Petition for Exception to Road Standards. The maintenance entity shall include the applicant at a minimum and shall be in effect until the permitted land use which required improvement of Meyer Ravine Road to Fire Safe Road Standards is terminated.
 3. **Access Improvements:** Prior to building occupancy, the applicant shall improve access to the site from the project driveway to the nearest County-maintained Road to a minimum of current Fire Standard Access Road standards, which includes two 10-foot lanes with 2-foot shoulders, with a surface capable of supporting a 75,000 pound vehicle with a minimum of 6" AB compacted to 95%.

Where only the residential unit is served by the access road, the access shall meet current Fire Standard Driveway standards, which includes one 10-foot lane with 1-foot shoulders, with a surface capable of supporting a 40,000 pound vehicle with a minimum of 4" AB compacted to 95% placed on subgrade compacted to 90%.

4. **Construction SWPPP (for 1+ ac disturbance during construction):** Prior to issuance of the Grading Permit, the applicant shall apply for coverage under the Construction General Permit due to the project having land disturbance areas greater than 1 acre (see sheet CR-3). The applicant shall submit evidence of enrollment under Order No. 2009-009-DWQ, such as a WDID, or evidence of exemption from the Order by the State Water Resources Control Board.

Cannabis as defined by Nevada County LUDC Sec. L-II 3.30.C.3 is not considered an agricultural product and cultivation thereof is not considered an agricultural operation. Therefore, cannabis projects that disturb one or more acres or where projects less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, may be required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction

activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. Coverage under the Construction General Permit shall require the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

5. **Encroachment permit required:** Prior to any work within the County right of way and prior to issuance of building permits, the applicant shall obtain an Encroachment Permit from the Department of Public Works.
6. **Traffic fees:** Applicant shall pay traffic impact fees based on the latest fee schedule adopted by the Nevada County Board of Supervisors, in the amount of 12 ADT times the non-residential trip rate for local and regional traffic impacts. Applicant will be invoiced for these fees.

D. OFFICE OF THE FIRE MARSHAL:

1. Ensure all Fire related site notes are met, as they will be inspected prior to final.
2. Provide the deferred submittal of the Transmitting Fire Alarm (compliant with NFPA72) Plans to this office for review. This system will include all 4 commercial structures.
3. Provide one 2A, 10 B:C or 5lb Fire Extinguisher to each of the commercial structures.

E. NEVADA COUNTY CANNABIS COMPLIANCE/BUILDING DIVISION:

1. Pursuant to Land Use and Development Code Section L-II 3.30 of Article 3 of Chapter II, failure to comply with all requirements of this section may result denial, suspension, or revocation of Annual Cannabis Permits.
2. The support structure and greenhouses must have a passing final inspection prior to ACP approval.

F. NEVADA COUNTY ENVIRONMENTAL HEALTH DEPARTMENT:

1. Portable toilet permit, payment and contract will be required for ACP approval. No employees are allowed until portable toilet requirements are fulfilled or septic system EH22-0269 is finalized (septic is sized for 5 employees).
2. Future Propane and Future Septic are not part of this review and are not approved at this time.
3. Compost location is very close to septic system, it is recommended to relocate compost area to prevent possibility of damage to septic system.

4. Owner is responsible for any damage done to septic system during development or operations of commercial farming; Do not grade near or below system; Do not drive over system.
5. No employees are allowed at Operation, until portable toilet permit requirements are fulfilled or septic permit EH22-0269 is finalized.
6. **Storage of Hazardous Materials and Propane Tank Installation Requirements:** All hazardous waste (such as fuels, chemicals or other) that are stored upon the property shall comply with **PROPANE TANKS USED FOR COMMERCIAL OPERATIONS**: Propane tanks that exceed 500 gallons are required to have a permit with the Environmental Health Department. Permit applications are on-line or available at the County.
7. **Residential Well Setbacks from commercial cannabis grow footprint:** Residential Well Setbacks from commercial cannabis grow footprint: All commercial growing operations shall maintain a 50' set back from the existing residential well upon the property. In addition, the setbacks for watercourses, wetlands, and riparian areas specified in Section 4.3.17 of the Nevada County Land Use and Development Code also apply.
8. **Composting Operations:** CalRecycle requirement “*compost on-site at any one time shall not exceed 100 cubic yards and 750 square feet*” must be followed at all times.

Owner Advisories:

Please be aware that commercial farming uses high volumes of water and may result in dry wells, EH recommends having water storage tanks available for irrigation purposes.

Prevent fires from composting by carefully monitoring temperature and moisture; noticing and correlating weather events; restricting pile size; maintain moisture levels; and turn piles to release heat.

ENVIRONMENTAL REVIEW:

Based on the information provided in the application materials, the project (ADP22-0049) complies with the Nevada County Commercial Cannabis Cultivation Ordinance (NCCO) and any environmental impacts of the project are within the scope of the Program Environmental Impact Report (EIR18-0001, SCH#2018082023) that was certified on May 14, 2019, by the Nevada County Board of Supervisors (NOD attached) and the Addendum to the Environmental Impact Report that was adopted by the Nevada County Board of Supervisors on January 10, 2023. The Program EIR (PEIR) identified mitigation measures that were incorporated into the ordinance as development standards and requirements. The Addendum determined that updates to the NCCO will not result in any new or substantially more significant effects or require any new mitigation

measures. The project has been reviewed for consistency with the requirements of the ordinance and the project does not present any new environmental impacts that were not thoroughly analyzed and disclosed in the Program EIR or Addendum. Pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15168, when an EIR has been certified, a subsequent EIR shall not be prepared unless the lead agency determines that there are substantial changes to the project. This project has been determined to be within the scope of the Program EIR and creates no new significant impacts and does not contribute to the cumulative impacts identified by the PEIR. All mitigation measures that were incorporated into the ordinance shall be imposed by the activity description, the conditions of approval, and as shown on the approved site plan (attached). Attached is a site-specific analysis and checklist for the project site that addresses potential environmental impacts and is the basis for the determination (along with the activity description, site plan, project operations plan and security plan and applicable management plans) that all of the environmental impacts of the proposed commercial cannabis operation are within the scope of the PEIR, and a subsequent environmental document is not required to evaluate the environmental impacts of the proposed commercial cannabis operation.

In approving the Exception to the Roadway Standards, the following findings are made pursuant to Section L-IV 2.6 of the Nevada County Land Use and Development Code, permitting the proposed commercial roadway to include sections that do not meet county Standard Drawing C-1:

- I. That there are special circumstances and conditions which affect the subject parcel including the length of the road, the remote location of the road, and the minimal increase in traffic associated with the permitting of the commercial cannabis operation; and,
- II. That this exception is necessary for the preservation of the substantial property right of the owner, including the operation of a commercial cannabis operation; and,
- III. That the granting of this exception will not be detrimental or injurious to other property in the local area because it was approved by the County and with specific input and conditions from the Nevada County Department of Public Works and has been conditioned to provide the same overall practical effect as strict compliance with the Driveway Standards; and,
- IV. That the granting of this exception will not constitute a grant of special privilege that is inconsistent with the limitations upon other similar properties; and,
- V. That this exception will provide the same practical effect of fire protection and is supported by the Nevada County Office of the Fire Marshal/CalFire, which is responsible for assuring compliance with California Code of Regulations Title 14, Division 1.5, Chapter 7 Fire Protection, Subchapter 2, Articles 1-5.

ADMINISTRATIVE DEVELOPMENT PERMIT FINDINGS:

This approval only applies to the commercial cannabis cultivation described in the Administrative Development Permit application submitted to the Nevada County Planning Department. No further development or cultivation activities been permitted. Any future commercial cannabis disturbance

or operations shall obtain the appropriate permits required by the Nevada County Land Use and Development Code (LUDC). In granting this Administrative Development Permit, the Planning Department finds:

- I. That as proposed, all cannabis cultivation areas are adequately secure to prevent unauthorized entry, including a secure locking mechanism that shall remain locked at all times when the Cultivator is not present within the cultivation area;
- II. That the cannabis cultivation will 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. Further, cannabis cultivation at this location would not subject residents of neighboring parcels, who are of normal sensitivity, to reasonably objectionable odors;
- III. That all structures and utilities have been reviewed for compliance with and/or the project is conditioned to ensure compliance with the California Building Standards Code as adopted by the County of Nevada;
- IV. That the applicant is the legal owner of the parcel, or the legal owner has provided authorization and consent for the commercial cannabis activities that have been included in this application;
- V. That the project does not require the use or production of hazardous materials or will only use a limited amount that is below the State of California threshold levels as determined by the County Department of Environmental Health, and that the storage of use of any hazardous materials shall maintain a minimum setback from water sources;
- VI. That the premises has a legal and permitted water source and sewage disposal system, and does not include the unlawful drawing of surface water nor permit illegal discharges of water;
- VII. That the project does not exceed the amount of cannabis canopy area or square footage of the support areas allowed by regulation and is allowed within the zoning district where it is located, as identified in the Nevada County Land Use and Development Code, subject to the permitting requirements and standards of the County Commercial Cannabis Ordinance; and
- VIII. The project as conditioned, meets all setback requirements for commercial cannabis cultivation.

Pursuant to the requirements of the Land Use and Development Code, you are hereby notified that the decision of the Planning Agency is not final until the expiration of ten (10) days from the date of this approval. If the granting of this Administrative Development Permit is appealed or submitted to the Board of Supervisors for final action, the effective date is stayed until final action by said Board. Any appeal must be submitted on the proper form, which is available from the Clerk to the Board of Supervisors, Eric Rood Administrative Center, Nevada City, California

95959 (Deadline for appeal: Monday, January 22, 2024, by 5:00 p.m.). You are advised not to commence any work on this project until the ten-day period expires, all conditions of approval have been met and all required permits have been obtained.

Construction pursuant to this permit approval must be completed within three (3) years from the effective date of the approval of the permit, which is by (January 22, 2024), unless an extension of time for reasonable cause is requested prior to the expiration date, and granted by the Planning Department, pursuant to Sec. 5.10 of the Nevada County Land Use and Development Code. If an extension of time is not applied for and granted, the permit shall become null and void, as to any portion of the approved use not completed. If you have any questions, please feel free to contact Zachary Ruybal, Assistant Planner, at 530-470-2488 or Zachary.Ruybal@nevadacountyca.gov.

Very truly yours,

Brian Foss
Planning Director

By: _____
Zachary Ruybal, Assistant Planner

Enclosed: Defense and Indemnification Agreement
 Notice of Determination
 CEQA Checklist
 Agency Conditions
 Site Plan

Sec. L-II 5.12. - Appeals.

- A. *Purpose.* To establish procedures to be used by the Board of Supervisors in conducting public hearings on appeals of land use matters. These procedures provide for a fair and orderly hearing process in which all interested parties are accorded an opportunity to be heard.
- B. *Application.* The provisions of this Article apply to all appeals of land use applications and the action taken thereon by the Planning Agency. Additionally, the Board of Supervisors may use such provisions of this Article in conducting public hearings on other land use matters before them.
- C. *Standing to Appeal.* Any applicant for a land use permit or other approval, including a petition for a General Plan amendment or rezoning, and any interested party in any such application or petition, shall have the right to file an appeal to the Board of Supervisors on any decision of the Planning Agency.
- D. *Appeal Periods.* An appeal of any decision of the Planning Agency shall be filed with the Clerk of the Board of Supervisors, in the manner specified in this Article, within ten calendar days from the date of the Planning Agency's action, except amendments to the General Plan or zoning ordinance which shall be filed within five calendar days. Any such appeal shall be accompanied by the appropriate fee, which shall be paid to the Clerk of the Board of Supervisors.
- E. *Stay of the Planning of Agency's Action.* The filing of such an appeal within the above stated time limits shall stay the effective date of the Planning Agency's action until the Board of Supervisors has acted upon the appeal.
- F. *Requirements for Statement on Appeal.* An appeal shall only be filed on the official form provided by the Clerk of the Board of Supervisors together with such additional information as may be necessary. A statement of appeal shall include, but not limited to:
 - 1. Identification of the project and the decision of the Planning Agency action which is the basis of the appeal.
 - 2. A statement of the reasons for the appeal.
 - 3. A statement of the specific provisions which are being appealed.
 - 4. A statement of the changes or action requested of the Board of Supervisors.
 - 5. A summation of the arguments to be raised by the applicant.
 - 6. Identification of the appellant.
- G. *Review of Notice of Appeal by Board of Supervisors.* Upon the filing of an appeal with the Board of Supervisors, the Clerk shall present such appeal to the Board of Supervisors at their next regular meeting. At that time the Board shall determine if the appeal was filed within the applicable time limits and shall summarily reject any appeal that is filed beyond the time limits

prescribed herein. Further, the Board shall determine if the appeal contains sufficient information as required by this Section. If the Board determines that the information as supplied in the appeal is incomplete, it may:

1. Summarily reject the appeal for any such insufficiency of statement on appeal; or it may
 2. Instruct the Clerk of the Board of Supervisors to immediately notify the appellant of the insufficiency and allow the appellant an additional seven working days in which to correct any such deficiency. If upon the expiration of any additional time, the Board determines that the statement on appeal is still insufficient, it shall summarily reject the appeal.
- H. *Board's Authority to Summarily Reject or to Set Appeal for Hearing.* Upon presentation of the Notice of Appeal, together with the required statement on appeal, to the Board of Supervisors, the Board may summarily reject the appeal if they find that the matter being appealed is a requirement of law, or if they by unanimous vote find the appeal unmeritorious; or the Board may set the matter for public hearing as soon as time on their agenda permits, and in accordance with any other time requirements of law.
- I. *Board's Authority to Review Planning Agency Matters.* The Board of Supervisors shall have the right, by majority vote within ten calendar days from the date of the Planning Agency's action, to review any decision of the Planning Agency. Any such review as initiated by the Board shall be regarded as a full hearing de novo (new hearing), excepting that the provisions of Subsections E, J, and K of this Section shall apply.
- J. *Notice and Hearing.* Following a determination by the Board to set the matter for public hearing, the Board shall hold such hearing pursuant to Section 5.13.
- K. *Hearing Procedures.* At the time and place set for any hearing as provided for herein, the Board of Supervisors shall conduct any such appeal hearing as a full hearing de novo on the project, without limitation as to the issues that may be raised, or as to the evidence that may be received. Any such hearing shall be conducted as follows:
1. Staff presentation.
 2. Presentation by appellant which shall be limited to 15 minutes.
 3. Presentation by project proponent (if different party than appellant) which shall be limited to 15 minutes.
 4. Public hearing: The Board may limit any person's input to not less than three minutes in which to give testimony.
 5. Summation by project proponent - ten minutes.
 6. Summation by appellant - ten minutes.
 7. Rebuttal by members of the public - two minutes.
 8. Staff summation.

In the event that anyone desiring to testify before the Board of Supervisors desires to present more information to the Board than may be accomplished within the time limits set forth above, such person shall be permitted to present such information to the Board in writing, within five working days prior to the date set for the appeal hearing. Any such information shall be submitted to the Clerk of the Board of Supervisors no later than the end of the fifth working day prior to the date of the hearing.

L. Action by the Board.

1. At the conclusion of the appeal hearing, the Board of Supervisors may sustain, overrule or modify any action of the Planning Agency. The power of the Board to modify shall include the authority to change, delete or add to the conditions of approval as set out by the Planning Agency. Any action by the Board shall be pursuant to Government Code § 25005, by not less than three affirmative votes, provided, however, that in the event that the Board's action culminates in a two to two or two to 1 vote, such vote shall constitute action by the Board which shall be deemed to be a denial of the appeal and which shall result in a reinstatement of the Planning Agency's action on the project.
2. Any appeal hearing set before the Board pursuant to Government Code § 66452.5 shall be held within 30 days from the date of filing the appeal. Thereafter, within ten days following the conclusion of the hearing, the Board of Supervisors shall render its decision on the appeal. The time limits set forth herein shall not be extended.

M. *Statute of Limitations.* The decision of the Board of Supervisors shall be final on all matters unless an appeal therefrom is filed with the Superior Court of the County of Nevada within 90 days after the decision of the Board of Supervisors.

N. Refund of Appeal Fees.

1. Upon the conclusion of any appeal, where the Board of Supervisors upholds the appeal and overturns the decision of the Planning Agency, the Board may also authorize the return of all appeal fees filed by the appellant. The Board shall not authorize the return of the appeal fees if it finds that the Board's decision was, in whole or in part, based upon new evidence submitted by the appellant at the appeal hearing and which evidence was not provided to the lower hearing body.
2. Upon the conclusion of any appeal, where the Board denies the appeal but finds that appellants raised issues of substantial merit causing some affirmative change in the decision of the Planning Agency, the Board may also authorize the return of any portion of the appeal fees it deems just. (Ord. 2370 § 1, 2013)