

**NEVADA COUNTY PLANNING COMMISSION
NEVADA COUNTY, CALIFORNIA**

MINUTES of the meeting of May 26, 2022 1:30 p.m., Board Chambers, Eric Rood Administration Center,
950 Maidu Avenue, Nevada City, California via remote

MEMBERS PRESENT: Commissioners Greeno, Mastrodonato, Duncan, and Ingram

MEMBERS ABSENT: Commissioner Milman

STAFF PRESENT: Planning Director, Brian Foss; Principal Planner, Tyler Barrington; Associate Planner
Kyle Smith, Deputy County Counsel, Rhett Vanderploeg; Administrative Assistant, Shelley Romriell.

PUBLIC HEARINGS:

1. 49er Self Storage
PLN21-0281, RZN21-0003, CUP21-0005, PFX21-0006; EIS22-0003
2. Cannabis Ordinance Amendment
PLN22-0094; ORD22-1

STANDING ORDERS: Salute to the Flag - Roll Call - Corrections to Agenda.

CALL MEETING TO ORDER: The meeting was called to order at 1:30 p.m. Roll call was taken.

CHANGES TO AGENDA: Chair Green asked if there are any corrections to the agenda.

Principal Planner Tyler Barrington advised there is a mention of the Draft EIR for the Mine on the Agenda which was added in error.

PUBLIC COMMENT: Members of the public shall be allowed to address the Commission on items not appearing on the agenda which are of interest to the public and are within the subject matter jurisdiction of the Planning Commission, provided that no action shall be taken unless otherwise authorized by Subdivision (6) of Section 54954.2 of the Government Code. None

Chair Green opened public comment at 1:31 p.m. With no comments coming forward Chair Greeno closed public comment at 1:31 p.m.

COMMISSION BUSINESS: None

Motion by Commissioner Duncan to, approve the Resolution authorizing remote teleconference meetings of the Nevada County Planning Commission and its legislative bodies pursuant to the Ralph M. Brown Act.

Second by Commissioner Mastrodonato. Motion carried on a roll call vote 4/0

CONSENT ITEMS:

1. Adopt a Resolution authorizing an option to conduct remote teleconference meetings of the Planning Commission and its legislative bodies, when necessary, to allow for flexibility in order to comply with social distancing pursuant to the Ralph M. Brown Act.

Approved

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55 2. PLN22-0054; EXT22-0002: Extension of Time for the Event Helper Development Permit (DVP18-
56 2, EIS18-0021).

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58 *Approved*

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60 3. PLN22-0018; MIS22-0002: Annual review of the Development Agreement (DA) for the Harmony
61 Ridge Subdivision

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63 *Approved*

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65 4. PLN22-0053; EXT22-0001: Extension of Time for South Woodlands Subdivision (EIS14-010;
66 MGT14-007; MGT14-008; MGT15-011)

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68 *Approved*

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70 **PUBLIC HEARING:**

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72 **PLN21-0281, RZN21-0003, CUP21-0005, PFX21-0006; EIS22-0003.** A Rezone from Highway
73 Commercial (CH) to Neighborhood Commercial (C1) to allow for the proposed self-storage use, 2) a Use
74 Permit to allow for the development and operation of a self-storage facility with 17 permanent buildings
75 and 7 storage containers, as well as the formal approval of the existing Alta Sierra Family Automotive auto
76 repair facility, and a 3) a Petition for Exceptions from Road Standards to allow for a reduced easement
77 width on Johnson Place. **RECOMMENDED ENVIRONMENTAL DETERMINATION:** Approve the
78 Mitigated Negative Declaration (EIS22-0003). **RECOMMENDED PROJECT ACTION:** Approve the
79 Rezone (RZN21-0003), Conditional Use Permit (CUP21-0005), and Petition for Exceptions (PFX21-0006).
80 **PROJECT PLANNER:** Kyle Smith, Associate Planner

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82 *Minutes are pending*

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84 **PLN22-0094; ORD22-1** A Public Hearing to consider a recommendation to the Board of Supervisors to
85 adopt an Ordinance (ORD22-1) for text amendments to Section L-II 3.30 and Section L-II 5.23 to Chapter
86 II Zoning Regulations of the Land Use and Development Code regarding Cannabis Cultivation and
87 Administrative Enforcement in all zoning districts in the unincorporated areas of Nevada County.
88 **RECOMMENDED ENVIRONMENTAL DETERMINATION:** CEQA Statutory Exemption
89 15060(c)(2), 15061(b)(3), 15308, 15321, and 15378(b)(5). **PLANNER:** Jeff Merriman, Cannabis Program
90 Manager

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92 Cannabis Program Manager Jeff Merriman introduced himself and began his presentation introducing, for
93 consideration, several amendments to the Land Use Administrative Code and Commercial Cannabis Code
94 sections. He advised the Nevada County Board of Supervisors has identified elicit Cannabis enforcement
95 as a Board priority for 2022. Cannabis Program Manager Merriman advised his goal is to highlight their
96 attempt to further bolster the Administrative Enforcement abilities, making various sections of the code
97 more easily understandable, in addition to some general language and overall clean up to the code sections.
98 He advised the County's Land Use Administrative Enforcement Code sections provide tools to ensure
99 compliance with Local, State and Federal regulations and are used to maintain compliance of Land Use
100 Entitlements such as Use Permits. He stated in 2021, several ordinance changes were brought forward, to
101 the Planning Commission, to improve effectiveness and creating a streamlined and centralized enforcement
102 code section. For consideration, is a continued attempt to create an effective, fair and easily understandable
103 Administrative Enforcement Code section. He advised one of the proposed changes is to further clarify
104 Service of Notices through mailings, postings, etc and what those methods look like and further clarifying
105 Date of Service. For example, mailings, in the Ordinance Section, specifically states that when the mail is
106 placed in the mailbox, that date of service begins. He continued by stating they further clarified
107 Administrative Costs and the ability for Staff to recover costs related to enforcement, administrative

108 hearings, nuisance abatements, etc. Judicial Review was modified to allow the County to seek additional
109 review following a hearing body decision. As of now, the code allows the appellant to seek judicial review
110 after a decision but does not allow the County to seek that same review. He stated that process should be
111 equal so they made the modification to allow for that. Lastly, there is some general language ordinance
112 clean up in this specific section.

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114 Moving onto the Commercial Cannabis Ordinance, Program Manager Merriman advised the County's
115 Commercial Cannabis Ordinance was adopted in 2019 making Commercial Cannabis a legitimate land use
116 activity in Nevada County. As with Administrative Enforcement, this ordinance contains provisions to
117 ensure compliance with Local and State regulations and to ensure the safety of the public and the
118 environment. He stated this ordinance supports those that are permitted, and have gone through the
119 permitting process, as this ordinance provides tools to hold those accountable who decide not to come into
120 the permitting process. He stated that in 2021, as with the Administrative Enforcement Section, several
121 ordinance changes were brought forward to the Planning Commission for this section of code. Since this
122 ordinance is still fairly new, staff continue to identify necessary modifications to ensure accountability and
123 for streamlining the enforcement process. Program Manager Merriman advised the biggest change they are
124 proposing is to remove the 5-day grace period for illicit cannabis enforcement. This grace period currently
125 allows those found in violation 5 days before penalties can be imposed in an attempt to let them self-abate.
126 He stated over the last several years they have found this 5-day grace period is abused and often these 5
127 days are used to harvest illicit cannabis, to move plants to other sites and then move them back once the
128 case is closed. Program Manager Merriman advised no other jurisdiction in California, that they are aware
129 of, allows for a 5 day grace period once you are found in violation. They are proposing to remove that grace
130 period so that day 1, when the violation is verified, penalties can be imposed on that same day. He stated
131 they have also added in some flexibility into the denial and revocation qualifiers. Currently, it is pretty strict
132 and they are proposing to allow discretion from staff and the ability to work with cultivators to bring them
133 into compliance. Also added into the proposed changes is a probationary period for applicants and permitted
134 cultivators. They have found that for some applicants, it is very difficult when they go against county code
135 and regulations and cultivate cannabis illicitly or outside of their approved permit. For those that continue
136 to violate willfully they would like to add a 2-year probationary period option to be imposed by Staff. The
137 final proposed changes are more of a clean up of modifying the enforcement code to cross-reference the
138 previous Land Use Enforcement Code Section that he just spoke about which is 5.23. Last year, they tried
139 to make section 5.23 the main section for enforcement so there are not multiple sections to cross-reference.
140 Program Manager Merriman advised this does not change their overall goal with Cannabis. Voluntary
141 compliance is still the overall goal this just gives staff more tools to hold people accountable. These
142 proposed modifications improves the ability to support permitted farmers and be more able to address the
143 illicit cultivators. He advised they worked with County Counsel to create and propose these ordinance
144 changes and have been in communication with stakeholders such as Cannabis Alliance, Nevada County
145 Contractors Association, South Yuba River Cleanup League (SYRCL) and Bear Yuba Land Trust.
146 Program. Manager Merriman explained the noticing requirements, which provided a 30-day comment
147 period from April 1st- May 2nd 2022 in which 3 public comments were received. One letter is from the
148 Cannabis Alliance in support of these changes, one from SYRCL which was also a letter of support, and
149 one public comment with a lot of questions that weren't really relevant but they did their best to address
150 those questions and provide explanation on the proposed changes. He advised the ordinance changes being
151 proposed today are exempt per CEQA guidelines. Program Manager Merriman stated Staff Recommends
152 the Planning Commission take the following actions; recommend that the Board of Supervisors find the
153 project categorically exempt from CEQA Guidelines and Recommend that the Board of Supervisors adopt
154 Ordinance ORD22-01 with modifications on record amending Chapter II of Title 3 of the Nevada County
155 Land Use and Development Code. He concluded his presentation and offered to answer any questions the
156 Commissioners may have.

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158 Chair Greeno thanked Program Manager Merriman for his presentation and asked if the Commissioners
159 have any questions for staff.

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161 With no questions coming forward, Chair Greeno opened up for Public Comment.

Patricia Rockwell introduced herself as the newly appointed member of the Penn Valley MAC and a legal cannabis cultivator. Ms. Rockwell stated she is serving on the Penn Valley MAC to better understand the opportunities and challenges in the Penn Valley area. She stated she is also looking forward to the robust conversation around legal cannabis as there is a lot of room for education of the legal industry. Her farm, Green Gift Gardens, was one of the first farms to be licensed in the county in 2019. She stated her farm is a family farm comprised of herself and 3 of her adult children. Ms. Rockwell also advised she co-founded one of the two local cannabis cooperatives in the County, Sierra Sun Grown. She stated that for her farm to enter the legal market they had stringent State and Local requirements to meet. For examples, they are held to commercial standards so any building that is used for processing their product must meet commercial building and fire standards, for example, fire alarms, fire walls, access to buildings, etc. Along with the Commercial building standards, they also had to meet fire road standards. She advised that each of the steps they took required site plans, grading permits, building permits, electrical permits and an Administrative Development permit. She stated they worked with local professionals to get this done. Ms. Rockwell also advised they were required to have commercial fire hydrants and water storage on the property. She advised that on the state level, they had to satisfy Fish and Wildlife, Water Board, Cultural Resources, Department of Cannabis Control and many other departments' requirements in order to get licensed which was no small task and took a lot of time and a lot of financial investment. She stated they are happy to be licensed and contributing to the welfare of their environment and community. In contrast, the non-licensed egregious farms do not have to meet any of these standards. Many of these egregious operations degrade the environment with impunity as well as infiltrating the Cannabis market which has a large impact on their bottom line. She stated they do not like to see illegal grow operations any more than the community does. She continued by stating she is excited to see the proposed changes to enforcement that Staff has presented today and feels it is important for there to be a differentiation between legal and egregious unpermitted farms. She stated it often feels like the public perception lumps all of the farms together. She thanked the Commissioners for the opportunity to introduce herself and to speak on this topic. She also thanked Staff for the changes that they are bringing to the impacts to the egregious grows and to mitigate those.

Chair Greeno thanked Ms. Rockwell for her comments.

Abraham Valensky introduced himself as a legal cultivator and processor in the County. He stated he has 5000 sq. ft. of mixed light and 5000 sq. ft. of outdoor light. He is also the vice chair of the road association on Wolf Mountain. He stated he supports the proposed changes by Staff. Due to the negative experience in their neighborhood, on Wolf Mountain, with egregious grows he stated these changes will provide much better tools for the County Staff to deal with such properties and their owners. Mr. Valensky stated he has seen similar changes in other counties that decided to go after the property owners and make them responsible for damages these egregious grows cause. Some of the specific ways these grows cause damage is by grading and changing waterways by laying culverts improperly. Mr. Valensky stated he has seen some of these changes done on Wolf Mountain. Mr. Valensky advised he appreciates the creating of addition tools for the cannabis enforcement on the egregious grows to help the County Staff to have better tools.

Chair Greeno thanked Mr. Valensky for his comments.

Diane Gamzon introduced herself as the Executive Director of the Nevada County Cannabis Alliance. Ms. Gamzon stated her organization, founded in 2016, is a trade association representing the legal Cannabis Industry. She stated the values of their organization are rooted in rural economic sustainability, craft, cannabis farming and environmental stewardship. She stated she supports the proposed changes to the enforcement language and would like to thank County Staff for their diligence in hearing the concerns from the entire community, which represents many different stakeholders, as well as the Supervisors for prioritizing enforcement changes that will create a healthier and safer community. Ms. Gamzon advised the need to differentiate legal cannabis farming from unpermitted and egregious cultivation sites is essential. She stated there are still many uninformed biases that exist lumping all cannabis farming together. The reality is a much different picture. She advised these unpermitted egregious grows often trespass on public lands and private properties with evidence of criminal behavior and violence. There are often haphazard

electrical wiring on these cultivation sites that pose significant fire risk. Egregious cultivation sites are a true threat to the public safety of our community and needs to be prioritized. This was seen recently when Fish and Wildlife, the Water Board, Nevada County Code Compliance along with Nevada County Sheriffs Office was able to take necessary enforcement actions at a site in North San Juan in which there were multiple environmental violations. These violations included illegal pesticide use, solid waste hazards and cultivation in close proximity to the river. Ms. Gamzon stated that given the limited resources of County Staff, they strongly encourage prioritizing egregious farms for enforcement while continuing to seek resources to encourage compliance from unpermitted farmers. Ms. Gamzon thanked the Commissioners for hearing this item and is very excited for the changes and for what it will do for our entire community. She advised they continue to support our legal industry.

Chair Greeno thanked Ms. Gamzon for her comments.

Chair Greeno asked if there were any further public comments. With none coming forward, Chair Greeno closed public comment.

Commissioner Mastrodonato thanked Patricia Rockwell for stepping up and serving on the Penn Valley MAC as he was one of the founding members and served as the Chair for 3 years. He stated he also worked with Diana Gamzon by serving on the Cannabis Citizen Advisory Board to help draw up the original ordinance. Whether you are for or against this industry, legalizing this particular industry. He stated at the time of the ordinance creation setting up a program for people to come into compliance would likely end up being the easier part. The illegal grows were still going to be there and there was no way they were going to be able to go after those grows without the help of the community. He stated he is pleased to see people that are in compliance, trying to do the right thing and stepping up to become advocates to get the rest of the people, that are not doing it, either in line or out of here. Commissioner Mastrodonato stated it means a lot to him that we have the help of the Community stepping up.

Commissioner Ingram stated he has been around a lot of illegal grows in the woods while working and he does not like them. He stated this proposed amendment was done very timely and very professional and thanked Staff.

Chair Greeno also thanked Staff for getting this done right by helping with enforcement and helping the community.

Motion by Commissioner Mastrodonato to, Recommend that the Board of Supervisors find the project categorically exempt pursuant to Sections 15060(c)(2), 15061(b)(3), 15308 and 15321.

Second by Commissioner Duncan. Motion Carried on a 4/0 vote.

Motion by Commissioner Mastrodonato to, Recommend that the Board of Supervisors adopt the attached Ordinance (ORD22-01) amending Chapter II of Title 3 of the Nevada County Land Use and Development Code.

Second by Commissioner Duncan. Motion Carried on a 4/0 vote.

Commissioners and staff discussed upcoming meetings and pending projects. Director Foss advised the next Planning Commission meeting is scheduled to be on June 23rd to discuss the Quick Quack car wash.

Chair Greeno adjourned the meeting at 3:34pm

There being no further business to come before the Commission, the meeting was adjourned at 3:40 p.m. to the next meeting, June 23, 2022 in the Board of Supervisors Chambers, 950 Maidu Avenue, Nevada City.

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Passed and accepted this day of , 2022.

Brian Foss, Ex-Officio Secretary

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