

AFFORDABLE HOUSING IN NEVADA CITY

REASON FOR INVESTIGATION

Last year the Grand Jury investigated the status of affordable housing in Nevada County. This year, the Grand Jury wanted to investigate the status of affordable housing in Nevada City since the city had recently performed an update of its Housing Element. The Grand Jury wanted to determine the priority given to the affordable housing issue by Nevada City and the extent to which efforts and resources have been applied to that priority on behalf of the residents.

BACKGROUND

The Housing Element is one of the seven General Plan elements mandated by the State of California. Sections 65580 to 65589.8 of the California Government Code contain the legislative mandate for the Housing Element. State law requires that a Housing Element consist of “an 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” (Section 65583). Every local jurisdiction is required to update the Housing Element component of its general plan every five years and submit it for approval to the Department of Housing and Community Development. The Housing Element must address the following subject areas:

- review of the prior housing element
- housing needs assessment
- land inventory by zoning type
- government and non-government constraints on housing
- quantified objectives of housing units by income level
- public participation, general plan consistency and other general topics, and
- local housing program policies and goals

The 2002 Little Hoover Commission Report entitled *Rebuilding the Dream: Solving California’s Affordable Housing Crisis* makes this observation: “Two fundamental problems hinder the effectiveness of the housing element law. First, the law requires local governments to plan for housing, but contains no enforcement mechanism. There are few incentives to encourage reluctant communities to adequately plan and no meaningful consequences when they fail to do so.

Second, the focus of the housing element law is on planning rather than performance. So

even when jurisdictions have plans approved by the State, local communities do not have to demonstrate that they have done their part to ensure that planned housing actually gets built. General Plans are easily amended to accommodate specific projects, undermining on a project-by-project basis the long-term housing goals.”

METHOD OF INVESTIGATION

The Grand Jury reviewed the Nevada City Housing Element 2003-2008, adopted July 14, 2003, against the subject areas specified by the Department of Housing and Community Development. The Grand Jury also interviewed members of the planning staff, Planning Commission, and Advisory Review Committee (ARC) of Nevada City.

The Grand Jury chose to focus on those subject areas that appeared to have the largest impact on the development of affordable housing.

FINDINGS

1. Advisory Review Committee:

Nevada City has an added layer of bureaucracy to the Planning Commission in the form of the ARC. Nevada City Council Resolution No. 89-36 gave the ARC authority to implement the requirements of the California Environmental Quality Act, including AB 3180. The ARC is composed of the Planning Commission Chairman, the City Planner and a member who may change from one meeting to another based on availability. This committee is the first step in the approval process for an applicant. The ARC makes their decisions regarding an application and brings them to the Planning Commission. Attendance at the ARC meetings is not mandatory, and often there is only the Chairman and one other member.

2. Review of prior housing element:

Nevada City previously adopted a Housing Element in 1986. Although the next update was due in 1992, Nevada City did not publish a new Housing Element document until 2003.

Regional Allocation Housing Goals performance 1992-2000

Program	Very Low	Low	Moderate	Above Moderate	Total
1992 New Housing Construction Goals	0	16	42	101	159
Actual Production 1992 to June 2003	0	13*	21	38	72

Source: Housing Element

* “Sweat Equity” housing – Providence Mine Court

In 1993 and 2001, public hearings were held on two Subsidized Project Applications. Although there was some public apprehension, both applications were denied without any attempt to work with the applicants regarding the concerns.

3. Housing needs assessment:

- a. Despite an abundance of “tables” in the Housing Element, Nevada City did not give actual numbers, only estimates and target figures.

Nevada City Regional Housing Needs Allocation Target

Year	Total Units	Very Low Total	Low Total	Moderate Total	Above Moderate Total
New Units to be created 2001-2008	200	38	36	46	80
Permits for new homes 2001-June 2003	16	1*	0	3	12
New units to be created June 2003-2008	184	37	36	43	68

Source: Housing Element

* As of June 2003, the City entered into agreement with Habitat for Humanity. The Planning Commission approved a rezone to create **one** home for a very low-income buyer.

- b. The following table shows greater detail on the “target” numbers for the time period 2001 to June 2003. Note that the numbers are of housing units approved for construction, not the actual number of units built. These units are to be owner-occupied and/or rentals.

Nevada City Target 2001-June 2003

Income Category	Target Number	Percent of Total Units	Actual Number
Very Low (Below \$29,500)	38	19%	1*
Low (\$29,500 to \$47,200)	36	18%	0
Moderate (\$47,200 to \$70,800)	46	23%	3
Above Moderate (Above \$70,800)	80	40%	12
Total	200	100%	16

Source: Housing Element

* As of June 2003, the City entered into agreement with Habitat for Humanity. The Planning Commission approved a rezone to create **one** home for a very low-income buyer.

4. Resource inventory:

Site Inventory and the Regional Housing Needs Plan

Maximum potential	Very Low	Low	Moderate	Above Moderate
Multi-Family Units	16	16	17	49
Single Family Units	8	16	49	169
Secondary Units	120	150	180	120

Estimate of Actual	Very Low	Low	Moderate	Above Moderate
Multi Family Units	11-12	11-12	11-13	33-37
Single Family Units	5	10-11	29-31	101-110
Secondary Units	120	150	150	22-32

Source: Housing Element

5. Constraints on housing:

- a. “Historically, small second units in single-family homes were interspersed in the City’s neighborhoods. These second units blended in well with the diversity of housing types typically found in each neighborhood. In 1978, a City survey was taken in order to install water metering throughout the town. At that time, 61 second units were identified. Over the years, several of those units were lost, usually because new owners chose not to continue them. In 2003, the City bills for water and/or sewer 41 homes with seconds units and five homes with two second units each (sic).”
- b. Secondary units have a maximum range of 300 to 640 square feet, must have one parking space, and when the unit is sold or no longer rented to moderate/low income residents, the owner will be required to pay *all* the deferred fees, in some cases with interest.
- c. Permit and mitigation fees affect housing costs. The fee structure for Nevada City is shown in the following table.

Estimation of Public Agency Fees for New Housing Unit

Item Description	Est. cost for 1,600 sq. ft. Single Family	Est. cost for 640 sq. ft. Second Unit	Est. cost for 1,000 sq. ft. Unit in 4-plex
Environmental Review	N/A	N/A	140
Architecture Review	100	N/A	25
Site Plan/Public Hearing	N/A	N/A	400
Nevada City Mitigations	7,750	6,300	6,300
Regional Transportation Mitigation	475	475	475
School District Mitigation	2,400	1,370	2,140
Nevada City Water Hook-up	1,130	N/A	280
Nevada City Sewer Hook-up	1,250	N/A	310
Nevada County Building Dept. Plan Review & Inspection	1,100	600	700
Total	\$14,205	\$8,745	\$10,770

Source: Nevada City Staff & Nevada County Building Department

6. Local housing program policies & goals

a. The following strategy was adopted by the General Plan Committee to meet Nevada City’s housing needs during the Housing Element update period:

- “...conserve existing older homes by a careful demolition policy
- “...preserve small homes in Nevada City
- “...require new subdivisions to include 30% homes under 1,500 square feet and 20% second-unit rentals under 640 square feet affordable to moderate income and lower income residents
- “...encourage second units that meet zoning requirements and defer required fees for as long as the owner agrees to rent at moderate/low income ranges

b. Goals (Nevada City Housing Element):

- “Nevada City is basically a city of single-family homes, all within a reasonable walk from the center of town. A goal of the City is to preserve this quality, yet recognize that new forms of housing can offer economies in both housing cost and land requirement.”
- “In addressing the question of housing, the City shall seek means to preserve its residential neighborhoods and to maintain the diversity of people and of economic strata within each neighborhood.”
- “The multi-family areas of most cities are near the city center. In Nevada City, the single-family areas are at the very edge of the central commercial area. Multi-family housing should have a minimum impact on the perception of the downtown area.”

c. Policies: “The city shall consider a mix of housing types within a development designated Planned Development.” The Housing Element lists 22 policies/programs to be implemented. The listed sources of funding for these programs are General

Fund, application fees permit applications, grants, non-profits, banks and other agencies. The majority of time frames listed are “ongoing,” “in response to...,” “keep a list.” **No actual dates are indicated.**

CONCLUSIONS

1. The Grand Jury found the Nevada City Housing Element to be poorly organized and badly written.
2. Nevada City’s Housing Element pushes the state requirements to the maximum and provides little effective and/or useful information. The Housing Element creates confusion by referring the reader from one table or section to another with little specific content.
3. The Nevada City Housing Element consistently uses words and phrases that make no clear commitment to take any action, i.e., “consider,” “target,” “can,” “proposed.” The Housing Element clearly makes few promises of actually building affordable housing.
4. The ARC is made up of members of the Planning Commission. There is no justifiable reason to have two committees made up of the same people.
5. Project applicants would be subjected to a less complicated process if they dealt with just the Planning Commission.
6. Nevada City has demonstrated their contempt for following guidelines. For example the state guideline (cited in “Background”) clearly states that the Housing Element is required to be updated every five years. Nevada City had 18 years between updates.
7. Although Nevada City considers itself “unique” in many respects, this “uniqueness” must not be used to exclude the City from following state requirements.
8. The “not in my back yard” (NIMBY) school of thought appears to be the theme of the Nevada City Housing Element. This is demonstrated in the table that shows a “target” housing figure of 200 units from 2001 to June 2003. Of the 200 “target” units, only 16 units were approved. There is no indication that any units have been built.
9. Secondary Units are the only category where there appears to be any possibility of implementation, and these must be rentals.

RECOMMENDATIONS

The Grand Jury recommends:

1. The Nevada City Council should direct the Planning Commission to be more user friendly to new housing applicants and develop a process that is easier to navigate.
2. The Nevada City Council should direct the Planning Commission to publish a Housing Element that is useful to readers.
3. The Nevada City Council should eliminate the ARC. There is no justifiable reason for having more than one layer of planning commission.
4. The Nevada City Council should direct the Planning Commission to be proactive in the building of affordable housing.
5. The Nevada City Council should direct the Planning Commission to be consistent in their decision making process and to make decisions based on rationale other than regulations/requirements.
6. The Nevada City Council should adopt a Below Market Rate (BMR) Ordinance to require a fixed percentage of affordable housing units in all new single-family housing developments.
7. The Nevada City Council should direct the Planning Commission to examine other housing programs such as the Grass Valley Workforce Housing Project and apply the best features of these programs to Nevada City's housing needs.
8. The Nevada City Council should direct the Planning Commission to waive and/or reduce permit and/or mitigation fees to encourage the development of affordable housing.

RESPONSES

Nevada City, City Council by October 2, 2004



Nevada City
A Bicentennial
Community

CITY OF NEVADA CITY

CALIFORNIA

RECEIVED

September 27, 2004

REV 10-14-04

Honorable Ersel L. Edwards
Presiding Judge of the Civil Grand Jury
201 Church Street
Nevada City, CA 95959

RE: City Council Response to Grand Jury Report -- 2003/2004

Honorable Judge Edwards:

The City Council reviewed the recent release of the 2003 Grand Jury Report concerning Affordable Housing in Nevada City along with a staff report from our Administrative Office. Nevada City has long been concerned about providing for a mix of housing for our residents while maintaining the special qualities that attract people desiring to live in Nevada City. While we feel our Housing Element is crafted to do just that, we also appreciate the hard work done by the Grand Jury and their constructive comments. Our response is as follows:

RESPONSE TO FINDINGS:

Finding 1 – Advisory Review Committee (ARC)

The City Council respectfully disagrees with this finding. We do not believe the ARC is an added layer of bureaucracy and it is not always the first step in the approval process for an applicant. ARC is only required when a project requires extensive CEQA review. This is less than 10% of the projects reviewed by the Planning Commission each year. On projects that do require this level of environmental review, the ARC allows for more efficient interaction in an informal setting with the applicant, the Committee members and staff. The ARC work supplements the City's part-time planning staff in identifying benefits, impacts and mitigation measures on the small number of projects submitted with potentially significant impacts. The ARC furthers administrative economy by focusing City resources on CEQA review prior to Planning Commission action on the typically more complex issues. Many cities have similar committees with limited focus on environmental, or sometimes design review issues that help expedite the public review process. A quorum of the ARC committee members is required to be present and the meeting is publicly noticed for each committee meeting.

Page 1 of 6



CITY OF NEVADA CITY

CALIFORNIA

Nevada City
A Bicentennial
Community

Grand Jury Response
2003 Report
September 27, 2004

Finding 2 – Review of Prior Housing Element

The City Council respectfully disagrees with portions of this finding. The finding states that the City did not publish a new Housing Element until 2003. The City did, in fact, adopt a new 1992-1997 Housing Element in June 1992. The City staff worked with the applicants of the 2001 project to assist in modifying the application to meet City zoning standards. The applicants were reluctant to change the project and proceeded with an application requiring variances to City zoning standards. The City is unaware of a project in 1993 that had subsidized housing as a part of the application.

Finding 3 Housing Needs Assessment

The City Council respectfully disagrees with portions of this finding. The Planning and Zoning Law prescribes that local governments quantify housing objectives and recognizes that housing needs may exceed those objectives. Government Code section 65583. The Grand Jury's analysis substitutes total housing needs for the quantified objectives which the City believes is the maximum number of units that can be provided in the planning period.

The City adopted a second-unit ordinance which aggressively promotes the inclusion of second units for rental in the construction of new housing. Municipal Code 2003-04. This ordinance has already succeeded in producing additional housing which meets the goals of the housing element.

In addition, there are other methodological issues with the Grand Jury's finding. The number of projects actually approved and constructed are so small that statistical analysis may distort the actual status of City housing efforts.



CITY OF NEVADA CITY

CALIFORNIA

Nevada City
A Bicentennial
Community

Grand Jury Response
2003 Report
September 27, 2004

Finding 4 – Resource Inventory

We agree with this finding.

Finding 5 – Constraints on housing

We respectfully partially disagree with this finding. The finding states that the City bills for 41 second units, while the City actually bills for 71 second units. Additionally, second units must provide two (2) parking spaces, not one (1) as stated. An exception may be made for senior restricted housing.

As noted in 3 above, the current second-unit ordinance is roughly contemporaneous with the housing element reviewed by the Grand Jury. Its effect on the provision of affordable housing is still coming on-line, but appears to be very good. The City believes that this and other ordinances will significantly improve the provision of affordable housing in Nevada City.

Finding 6 – Local Housing Program Policies and Goals

We agree with this finding.

RESPONSE TO RECOMMENDATIONS:

Recommendation 1: The Nevada City Council should direct the Planning Commission to be more user friendly to new housing applicants and develop a process that is easier to navigate.

The City of Nevada City has recently made changes in the processing of applications and has made staff more readily available to meet with applicants to discuss projects. The City Council will review Resolution 94-37 (Establishing Public Relations Program for the Nevada City



CITY OF NEVADA CITY

CALIFORNIA

Nevada City
A Bicentennial
Community

Grand Jury Response
2003 Report
September 27, 2004

Planning Commission) with the Planning Commissioners. They will also encourage greater attendance at Planning Commissioner training seminars.

Recommendation 2: The Nevada City Council should direct the Planning Commission to publish a Housing Element that is useful to readers.

The City Council feels that the present Housing Element is both effective and useful. We are in the process of developing more user-friendly guidelines for the entire planning process which may be of additional assistance to lay persons.

Recommendation 3: The Nevada City Council should eliminate the ARC. There is no justifiable reason for having more than one layer of planning commission.

Review prior to the full Planning Commission is common in many agencies. It is designed to save everyone time and money. Only planning applications requiring CEQA review (less than 10% of applications) are processed through the ARC.

Recommendation 4. The Nevada City Council should direct the Planning Commission to be proactive in the building of affordable housing.

The City Council believes the City Housing Element has a proactive approach to affordable housing. In actively administering the Housing Element, the Planning Commission and City staff are therefore proactive, so these recommendations are already being used.

Recommendation 5. The Nevada City Council should direct the Planning Commission to be consistent in their decision making process and to make decisions based on rationale other than regulations/requirements.



CITY OF NEVADA CITY

CALIFORNIA

Nevada City
A Bicentennial
Community

Grand Jury Response
2003 Report
September 27, 2004

The City Council believes very strongly that the Planning Commission is appointed to follow the regulations and requirements of the City. Only by following regulations and requirements can they act consistently. To do otherwise would render the Ordinances useless and would be unfair to the citizens of the City of Nevada City. The City is not sure what other "rationale" is being recommended to supplant regulations and requirements.

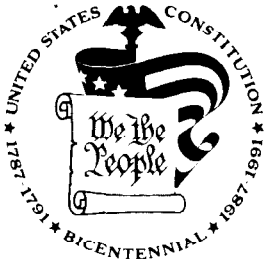
Recommendation 6. The Nevada City Council should adopt a Below Market Rate (BMR) Ordinance to require a fixed percentage of affordable housing units in all new single-family housing developments.

The City does currently have an ordinance requiring 30% of all new lots in subdivisions creating three or more new parcels to be restricted to homes no larger than 1,500 sq. ft. Additionally 20% of all new lots must contain a second unit no larger than 640 sq. ft. The intent of this ordinance is to create smaller, affordable housing. This regulation is working. The City could consider amending the Ordinance to require a fixed number of these units contain a deed restriction requiring them to be available to low to very low-income residents.

Recommendation 7. The Nevada City Council should direct the Planning Commission to examine other housing programs such as the Grass Valley Workforce Housing Project and apply the best features of these programs to Nevada City's needs.

The City of Nevada City is always willing to explore new ideas and programs. However, due to lack of staffing, implementation of such programs is sometimes difficult and cost-prohibitive.

Recommendation 8. The Nevada City Council should direct the Planning Commission to waive and/or reduce permit and/or mitigation fees to encourage the development of affordable housing.



CITY OF NEVADA CITY

CALIFORNIA

Nevada City
A Bicentennial
Community

Grand Jury Response
2003 Report
September 27, 2004

The City of Nevada City provides services to our citizens under severe financial limitations. Development without permit or mitigation fees would place a significant burden on the existing residents of the City and would further serve to degrade the infrastructure. This could have the effect of actually increasing costs to existing residents of fixed income and/or limited means. We feel it would be irresponsible to waive or reduce fees without other funding sources identified to replace them.

Affordable housing is a concern to citizens throughout California. As you are aware, there are no easy answers and Nevada City is working hard to find solutions just as other communities are. We feel we have adopted an approach that will help us to obtain our housing goals while retaining the quality of life we value. Again, we would like to thank you for your concern for Nevada City, the comprehensive review and the valuable suggestions. If you have any questions, please don't hesitate to contact us.

Sincerely,

Conley S. Weaver
Mayor