



BANNER MOUNTAIN
Homeowners Association
P.O. Box 833 Nevada City, CA 95959



July 27, 2011

Tyler Barrington, Senior Planner
Nevada County Planning Department
950 Maidu Avenue
Nevada City, CA 95959

RE: ORD10-001 Revised Draft for the Accessory Storage Ordinance

Dear Mr. Barrington,

The Banner Mountain Homeowners Association hereby recommends that the proposed Section L-II 3.29 Incidental Storage, be abandoned for the following reasons:

- There *has not been* a clear need or justification demonstrated for this ordinance that allows the otherwise prohibited commercial outdoor storage of materials, large vehicles, heavy equipment and/or machinery in zones: R1, RA, AG and FR.
- It is apparent that residential zoned districts are intended for residential housing. **Sec. L-II 2.2** The purpose of the residential zoned districts is, “To protect residential neighborhoods from incompatible land uses and excessive noise, illumination, unsightliness, odors, smoke, and objectionable influences; and retain the scale and character of existing neighborhoods. This was codified by Measure A in 1983.
- **General Plan Policy 1.28** states, “Commercially operated facilities for storage of goods, machinery, equipment, or personal property are prohibited in all areas of the County other than in areas designated for commercial or industrial use. No expansion shall be permitted of any existing storage facilities except for facilities already in areas so designated as commercial or industrial.”
- In addition, agricultural uses and structures including, but not limited to, equipment storage structures, farm stands for the sale of products grown on-site, packing facilities for products grown on-site, wholesale plant nurseries, private stables are not permitted in R1 zoned areas.
- Contractor’s Equipment Yards were deliberately left out of all other “Allowable Land Use” tables within the Zoning Code to indicate that the use was prohibited in those zones. “Contractor’s Equipment Yards” are allowed as a specific use with either a Use Permit or Development Permit within Commercial and Industrial base zoning districts.

- Incidental Storage is inconsistent with both Measures A, a voter initiative, and with the General Plan - a violation of State code.

The BMHA recognizes that while it is obvious that residentially zoned areas are not intended to be used as “Contractor Equipment yards”, the lack of a definition within the Zoning Code has been cited as leading to difficulty in enforcing the intention of Measure A and General Plan Policy 1.28. In 2009 the Nevada County Board of Supervisors directed the Planning Dept. to review the intent of Measure A and General Plan Policy 1.28 and suggests remedies that would eliminate the ambiguity in the definition.

There is a significant difference between clarifying a definition and changing the fundamental intent of current residential zoning regulations, particularly when there are less than 10 instances in which this ambiguity has lead to zoning enforcement problems. It is not logical to change the zoning code affecting tens of thousands of residential parcels when clarification of the definition of a Contractor’s Equipment Storage Yard will accomplish the same end.

According to (Section L-II 1.4 – Rules of Interpretation) any determination or interpretation by the Planning Director may be appealed to the Board of Supervisors consistent with article 5 of this chapter.

Sec. L-II 6.1 Definition of Contractor’s Equipment Yard:

Banner Mountain Homeowners Association’s Proposed Definition of a “Contractor’s Equipment Yard”

A Contractor’s Equipment Storage Yard is a parcel of land that is used for the storage of materials, supplies, heavy equipment, machinery and/or the onsite parking, storage maintenance or repair of large equipment or vehicles used in a commercial trade business.

The Banner Mountain Homeowners Association Board of Directors, our membership and surveyed Banner Mountain residents are opposed to the use of an ordinance process to formally allow “Commercial” storage in our residential neighborhoods. We would be better served by further examination of the causal incidents and examination of alternative solutions such as Special Use Permits.

Banner Mountain Homeowners Association requests that **Section L-II 3.29 Incidental Storage** be abandoned by the Nevada County Planning Dept. and the Nevada County Board of Supervisors.

Sincerely,

Helene Hall,
President
Banner Mountain Homeowners Association

Jim Bair, Vice President Hosea Bostic, Treasurer Sylvia Pichitino, Secretary
Bob Bogart, Board of Director Willy Kollmeyer, Board of Director Chuck Staetz, Board of Director

cc: Nate Beason, Supervisor District One
 FONA, Federation of Neighborhood Associations of Nevada County