



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

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**NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memorandum**

MEETING DATE: February 11, 2020

TO: Board of Supervisors

FROM: **Brian Foss, Planning Director**

SUBJECT: A public hearing to consider the Planning Commission's January 9, 2020, 4-0 recommendation to the Nevada County Board of Supervisors, to adopt a Resolution approving the proposed Negative Declaration (EIS19-0005), prepared in accordance with the California Environmental Quality Act (CEQA) for the proposed amendments to the Nevada County General Plan, Chapter 10, Safety Element; and to adopt a Resolution approving the revisions to the Nevada County General Plan, Chapter 10, Safety Element (GPT 19-0002).

RECOMMENDATIONS: The Planning Commission has recommended that the Board of Supervisors take the following actions:

- I. **Environmental Action:** After reviewing and considering the proposed Negative Declaration (EIS19-0005), adopt the attached Resolution approving the proposed Negative Declaration (EIS19-0005) (*Attachment 1*).
- II. **Project Action:** Adopt the attached Resolution approving the proposed amendments to the Nevada County General Plan, Chapter 10, Safety Element update (GPT19-0002) (*Attachment 2*).

FUNDING: This project was prepared as part of the Planning Department's Fiscal Year 19/20 Budget. No Budget amendments are required.

ATTACHMENTS:

1. Proposed Resolution and Initial Study / Negative Declaration (EIS19-0005)

2. Proposed Resolution and Safety Element Update (GPT19-0002)
 3. Proposed Safety Element with Track Changes
 4. Board of Forestry and Fire Protection Assessment
 5. Public and Agency Comments
 6. January 9, 2020 Planning Commission Hearing Minutes
 7. January 9, 2020 Planning Commission Staff Report without Attachments
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BACKGROUND:

The last update to the Safety Element occurred in 2014. This update is required pursuant to Government Code Section 65302(g), upon the County's recent adoption of the Housing Element (2019) and the 2017 update to the Local Hazard Mitigation Plan (adopted in 2018). This code section has requirements for what a Safety Element must contain and when updates are required. The draft Safety Element has been prepared to meet the requirements of Government Code Section 65302(g).

PROJECT DESCRIPTION:

The project being proposed is for an update to the General Plan's Safety Element (Chapter 10). The Safety Element addresses potential and existing hazards in the County, which are outlined in the following categories: Emergency Preparedness, Geological Hazards/Seismic Activity, Flood Hazards, Airport and Military Airspace Hazards, Hazardous Material and Mining Hazards, Public Safety Services and Facilities, Fire Hazards and Protection, and Severe Weather Hazards. Senate Bill 379 (approved in 2015) requires that the risks of climate change are identified in the Safety Element update, and Senate Bill 1000 (approved in 2016) requires that environmental justice policies and goals are integrated into elements of the General Plan. To comply with these requirements, two additional categories for Climate Change Resiliency and Mitigation, and Environmental Justice have been added to the Safety Element. Throughout the rest of the Safety Element there have been several other revisions, to include but not limited to: 1) updating the data, information and references with more current sources; 2) incorporating additional language to comply with new and/or amended California State Laws; 3) revising policies where progress has been made or where changes in situations have occurred; and 4) incorporating the 2017 Local Hazards Mitigation Plan. With these updates, additional information on the following topics has been included: statutory requirements, land use influences, Nevada County evacuation notification categories, earthquakes, subsidence, dam failure, mining hazards, wildland fires, fire protection plans and programs, power outages, and severe weather hazards. The goals, policies and programs in the Safety Element have been updated to reflect the current discussion and hazards in the Safety Element revisions.

Among several sections that have been updated to include more relevant information, the draft Safety Element removed specific details and requirements that are in policies and

regulations that can frequently change. By referencing these requirements instead of listing the specific details of the requirements, the Safety Element will maintain relevancy and can be utilized appropriately as a long-term policy guide. Specifically, there are several proposed revisions to the fire protection policies that include specific requirements of the Nevada County Defensible Space Standards. Instead of listing all of the defensible space requirements in the Safety Element, the draft has proposed policies that require application and enforcement of these regulations. Therefore, as fire safety standards are updated over time, the Safety Element will stay current with a reference to these regulations and it will not have policies that become outdated.

PROPOSED AMENDMENTS:

The draft Safety Element and the attached version with track changes (*Attachment 3*) has all of the proposed revisions to the Safety Element. The list of proposed amendments below is a brief summary of revisions to each category in the Safety Element.

1. Introduction and Setting

- Provided the purpose of the Safety Element and added Climate Change Resiliency and Mitigation, and Environmental Justice to the list of categories.

2. Statutory Requirements

- This section has been added to the Safety Element to explain statutory requirements by the Governor’s Office of Planning and Research, the Federal Emergency Management Agency, the Nevada County Office of Emergency Services, the California Department of Forestry and Fire Protection, and the California Geological Survey of the Department of Conservation.

3. Emergency Preparedness

- Land Use Influences – Discussion on Land Use Influences has been added.
- Emergency Plans and Guides – Hazards from the Local Hazard Mitigation Plan (LHMP) have been updated in the Emergency Plans and Guides discussion, along with minor text edits and the removal of expired information/dates.
- Emergency Notification System – Minor text edits and updated information.
- Evacuation Planning – Minor text edits and additional information on local roads.
- Nevada County Evacuation Notification Categories – This section was added to provide information on evacuation notification categories and rescue services.
- Policies – Several policy updates have been made.

4. Geological Hazards/Seismic Activity

- Avalanches – No changes.
- Landslides, Debris and Mud Flows – Minor text amendments and additional information on soil and infrastructure hazards have been included.
- Earthquakes – Updated this section to more current information.
- Subsidence – This section was added to discuss hazards from subsidence, with descriptions of areas that are more prone to risks, including mining sites, karst, and the drawdown of groundwater.
- Policies – Redundant and impractical policies were removed.

5. Flood Hazards

- Flooding – Minor text amendments and added information on frequency, causes of flooding, and impacts.
- Dam Failure – There have been several revisions to this section, including the categories for downstream hazard potential, a list of dams in Nevada County that have a hazard rating of high and extremely high, and discussion of additional laws and requirements in place after the failure of the Oroville Dam.
- Seiches – No changes.
- Policies – Slight text amendments to current policies and a policy has been added.

6. Airport Hazards

- Airport Land Use Compatibility Plan – Minor text amendments.
- Military Airspace Compatibility – No changes.
- Program – One program has been removed.

7. Hazardous Materials and Mining Hazards

- Minor text amendments and additional information on mining hazards.
- Policies – Text amendments have been made to existing policies and one policy has been added.

8. Public Safety Services and Facilities

- Policies and Programs – There have been text amendments to the policies in this section and the addition of two programs.

9. Fire Hazards and Protection

- Wildland Fires – There have been several revisions to this section in order to update information on hazards, causes of hazards and wildfire behavior. A figure on wildfire behavior has been added. References to past fires and the amount of damaged they caused have been removed. Discussion on the Bates Bill of 1992 and Hazard Severity Zones has been added. A list of

vulnerabilities and discussion on power outages from public safety power shutoffs has been added, and outdated information has been removed.

- Policies and Programs – There have been text amendments to existing policies and programs. New policies and programs have been added to this section and some have been combined. Outdated policies and programs have been removed.

10. Fire Safe Infrastructure

- Fire Safe Circulation – Minor text amendments and updated information.
- Roadside Vegetation Management – Minor text amendments and updated information.
- Emergency Water Storage – Included statement on maintenance of facilities.
- Critical Facilities and Populations at Risk – This section has been added. A list of facilities that provide services has been included.
- Fire Agencies and Support Organizations – Information was clarified and discussion of the Interagency Wildfire Air Attack Base, the White Cloud Helitack base, the Washington Ridge Conservation Camp, and the Fire Safe Council has been included.
- Fire Protection Regulations – Minor text amendments.

11. Fire Protection Plans and Programs

- Federal and State Plans – Minor text amendments have been made and references to the current LHMP.
- Community/Area Plans – Section has been removed.
- Fire Prevention Programs – Section has been removed.

12. Severe Weather Hazards

- Wind, Lightning, Snow (Blizzards), Freezing, Heavy Rain, Drought – Several revisions to this section have been made to add current information and more detail on these hazards. Drought was added as a severe weather hazard and discussion on impacts from drought (ecosystems, agriculture, water levels, wetlands, fires, tree health) have been included. A list of incidents from 1960 to 2013 was removed.
- Policies and Programs – An existing program has been turned into a policy.

13. Climate Change Resiliency and Mitigation

- This category has been added to the Safety Element with discussion on how climate change and its impacts may exacerbate natural hazards, such as drought and food production, water supply, flooding, wildfire, landslides/mudflows, pests and agricultural operations.
- Policies – Policies have been added to this section to address and mitigate climate change impacts.

14. Environmental Justice and Vulnerable Populations

- This category has been added to the Safety Element, which includes discussion on principles of fairness, regardless of race, color, national origin, or income in the development of laws and regulations that affect every community's natural surroundings and the places that people live and work. This category discusses how vulnerable populations and communities can be impacted by land use patterns, such as inequitable exposure to pollutants, or the ability to prepare and recover from hazardous events.
- Policies – Policies have been added to this section to reduce the exposure of safety risks and increase preparedness for all populations and communities in Nevada County.

15. List of Acronyms

- The list of acronyms has been removed. Acronyms are identified throughout the Safety Element.

AGENCY REVIEW AND PUBLIC COMMENTS:

Planning Department staff started consultation on the Safety Element update in July 2018. The County sent local Native American tribes a request for consultation letter, pursuant to Senate Bill 18 (Burton) and Assembly Bill 52 (Gatto) in July 2018. Subsequently, Staff started consultation with local fire districts, the Community Development Agency (CDA) Departments, the County Office of Emergency Services, and the California Department of Forestry and Fire Protection to collect feedback and start making revisions to the draft Safety Element. An updated draft of the Safety Element was completed and a letter requesting comments was distributed on October 4, 2019, to all agencies, homeowner associations, and special interest groups on the Planning Departments distribution list. In all, the request for comments was sent to 280 agencies, departments or groups. A hard copy of the draft was sent to the local public libraries and was available at the Planning Department and the Board of Supervisor's office for review. A draft of the Safety Element was also posted to the Planning Department's webpage for review.

As required by State law, the Safety Element update was submitted to the California Board of Forestry and Fire Protection for review. The draft Safety Element was reviewed by the Board on November 5, 2019. The review includes an assessment to determine if the Safety Element meets the fire safety planning requirements that are outlined in Section 65302. The assessment determined that the Safety Element update is adequate for meeting fire safety planning requirements, and included some recommendations. The recommendations made by the Board of Forestry have already been completed, are currently underway, or are already in the Nevada County Land Use and Development Code (LUDC). Required reviews by Cal OES (Governor's Office of Emergency Services) and

the California Geological Survey have been completed, with comments being incorporated into the proposed Safety Element update.

The Planning Department also received comments from Caltrans, the California Department of Toxic Substances Control, the Nevada County Transportation Commission, Nevada County Information and General Services, the Sierra Fund, Nevada County Climate Action Now and Community Environmental Advocates Foundation, the Shingle Springs Band of the Miwok Indians, the United Auburn Indian Community, and from Planning Commissioner Rich Johansen. All applicable comments for appropriate content in a Safety Element were added to the proposed draft. For the full discussion on agency comments and revisions to the draft Safety Element, please see the January 9, 2019, Planning Commission Staff Report (*Attachment 7*). All public and agency comments are also included as *Attachment 5* to this staff report.

ENVIRONMENTAL REVIEW:

The changes which are proposed to the Safety Element are strictly policy document text amendments only. The adoption of the proposed Safety Element updates would not grant any land use entitlements for development projects, and it would not cause any physical changes. Therefore, the proposed update to the Safety Element is not anticipated to create significant impacts to environmental resources. The Nevada County Planning Department prepared a draft initial study/negative declaration (ND) for the proposed project that was circulated for a 30-day public comment between December 6, 2019, and January 6, 2020 (*Attachment 1*). The Notice of Availability (NOA) was sent to all agencies, homeowner associations and special interest groups on the Planning Departments distribution list. Additionally, the initial study and proposed negative declaration were sent to the State Clearinghouse for review by the responsible state agencies, and notices for the initial study and the proposed negative declaration were posted in *The Union* and the *Sierra Sun*. The only comments received during the review period were from the Central Valley Regional Water Quality Control Board. The comments received are standard comments regarding the Water Board's permit requirements, which are not applicable to the Safety Element update.

PLANNING COMMISSION ACTION:

The Nevada County Planning Commission held a public hearing on January 9, 2020, and considered both the proposed Negative Declaration (EIS19-0005) and the Safety Element (GPT19-0002). On January 9, 2020, prior to the hearing, a comment letter was submitted by the Law Offices of P. Scott Browne on behalf of clients living in Cascade Shores. The comment letter discussed landslides, mapping of seismic and geological hazards, and the CEQA document (Negative Declaration—*Attachment 1*). The comment letter is attached (*Attachment 5*) with an email to a link of the electronic documents (368 pages) that are referenced in the comment letter. During the public hearing, County Counsel advised that there is litigation against the County on this matter and that it would not be appropriate for

Staff to discuss details of the Cascade Shores landslide activity or events. To address the adequacy of the proposed Safety Element, Staff advised that there are landslide risk zones mapped in the Local Hazard Mitigation Plan (LHMP), which is being incorporated into the proposed Safety Element with this update. The LHMP also identifies specific areas at risk to landslides, including Cascade Shores. Staff explained that the mapping in the LHMP would adequately address Safety Element requirements in Government Code Section 65302(g). For further clarity, the proposed Safety Element has been revised to include a specific reference to this section of the LHMP for more information on landslides. During the public hearing, Staff also discussed that the Negative Declaration is adequate for addressing environmental impacts, due to the Safety Element being a policy document that would not cause any physical changes to the environment.

As part of the hearing, the Planning Commission took public comment on the proposed Safety Element update. There were two public comments during the hearing. One person that is represented by the Law Offices of P. Scott Browne, Candice Suarez, discussed a landslide in Cascade Shores and mapping in the Safety Element. This public comment was associated with the comment letter that was received prior to the hearing. The other public comment was Laura Barhydt, requesting that agriculture is added to a list in the discussion of land use influences on Page 10-4 of the proposed Safety Element. In response to the public comment, Staff explained to the Planning Commission that “agriculture” would be appropriate to add to the list in the land use influences discussion of the proposed Safety Element update. The Planning Commission recommended that the proposed Safety Element should include this revision.

The Planning Commission also recommended a revision to a sentence in the Climate Change Resiliency and Mitigation section to state “Recognizing the current reality that climate change may lead to an increase in the frequency and severity of existing natural hazards, which may also lead to an increase in the frequency of events that may pose risks and call for evacuations, which could be problematic as a result of an increasing population of people moving to higher elevations, such as Nevada County.” Staff has included this revision in the proposed Safety Element update.

During the hearing there was also discussion by the Planning Commission regarding impacts to groundwater and a Countywide groundwater study. Staff advised that there is a Policy (CC-10.13.4) in the proposed Safety Element that requires new discretionary development to include an analysis of climate change and water resources impacts, and that projects shall reduce or limit impacts as feasible. Staff also discussed that impacts to groundwater are also included in the CEQA review for new projects. For a Countywide analysis, Staff explained that based on information from past projects, experts have discussed that it would be challenging to measure the supply or volume of water, due to the County having a fractured rock system. With a fractured rock system, water moves through complex paths by fractures in the rock, which makes measuring groundwater

difficult in Nevada County. Because of concerns for groundwater as a resource, the Planning Commission recommended that the suggestion for a Countywide groundwater study should be brought to the Board of Supervisors for consideration, and to initiate and direct staff.

At the close of the public hearing, after reviewing and considering both the proposed Negative Declaration (EIS19-0005), prepared in accordance with Section 15074 of the California Environmental Quality Act, and the Safety Element Update (GPT19-0002), and taking public comment, the Nevada County Planning Commission recommended on a 4-0 vote that the Nevada County Board of Supervisors adopt the attached Resolution approving the proposed Negative Declaration and the attached Resolution amending Chapter 10 of the Nevada County General Plan.

SUMMARY:

State law requires that the Safety Element is updated because of the recent updates to the Housing Element and the adoption of the Local Hazard Mitigation Plan. To comply with State law, two categories for Climate Change Resiliency and Mitigation and Environmental Justice have been included in the draft Safety Element. Staff worked with local fire districts, the Office of Emergency Services (OES), County departments and agencies, and several other groups to ensure that the Safety Element has the most current information and Goals, Policies and Programs to address short and long-term hazards in Nevada County. The updated Local Hazard Mitigation Plan (LHMP) has been incorporated into the draft Safety Element and all of the required agencies, including the California Board of Forestry, California Geological Survey, and Cal OES have reviewed the draft Safety Element. With the removal of outdated regulations and by referencing current regulations, the Safety Element will maintain relevancy and can be utilized appropriately as a long-term policy guide. Upon approval of this update, the Safety Element will not be required by State law to be reviewed again until the next update to the Housing Element or LHMP, but not less than once every eight years.

With the collaboration of multiple departments, agencies and interest groups, and in compliance with State laws, Staff recommends that the Board of Supervisors adopt the resolutions approving the proposed Negative Declaration and amending the Nevada County General Plan, Chapter 10, Safety Element.

RECOMMENDATION: The Planning Commission on January 9, 2020, on a 4-0 vote recommended that the Board of Supervisors take the following actions:

- I. **Environmental Action:** After reviewing and considering the proposed Negative Declaration (EIS19-0005), adopt the attached Resolution approving the proposed Negative Declaration (EIS19-0005), finding that the adoption reflects their independent

judgment that the project will not result in a physical change to the environment (*Attachment 1*).

- II. Project Action: Adopt the attached draft Resolution approving the proposed amendments to the Nevada County General Plan Chapter 10, Safety Element update (GPT19-0002), finding that amendment is consistent with the General Plan and will not be detrimental to public interest, health, safety, convenience, or welfare of the County (*Attachment 2*).

Please contact me should you require additional information or background.

Item Initiated by: Sadie Caldas, Associate Planner

Approved by: Brian Foss, Planning Director