



**COUNTY OF NEVADA  
COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT**  
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Community Development Agency Director

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

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**MEETING DATE:** January 24, 2023

**TO:** Board of Supervisors

**FROM:** **Brian Foss, Planning Director**

**SUBJECT:** Public Hearing to consider the Meeting of Nevada County Planning Commission's November 10, 2022 vote and recommendation for the Ranch House project including: 1) Adopt the Mitigated Negative Declaration (EIS22-0009) (Vote 2-1) (2 absent); 2) Approve the Zoning District Map Amendment to rezone the subject parcel from Residential Agricultural – 3-acre minimum parcel size – Planned Development (RA-3-PD) to Residential Agricultural – 1.5-acre minimum parcel size RA-1.5 (RZN21-0004) (Vote 3-0) (2 absent), and; 3) Adopt Resolution A to deny or B to approve the Conditional Use Permit to allow for the development and operation of a 6-unit multifamily residential development containing six (6) one-bedroom apartments, as well as the demolition of an existing single-family residence that exists on the project site (CUP21-0006) (Vote 3-0 to Deny) (2 absent). (District I).

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**RECOMMENDATION:**

The Planning Commission, on November 10, 2022, voted to recommend that the Board of Supervisors take the following actions:

- I. Environmental Action: After reviewing and considering the proposed Mitigated Negative Declaration (EIS22-0009), approve the attached Resolution, adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (EIS22-0009), pursuant to Section 15074 of the California Environmental Quality Act Guidelines and making the findings contained within the attached Resolution (*Attachment 1*) (Vote 2-1) (2 absent).

II. **Project Action:** Introduce, waive further reading and adopt the attached Ordinance amending Zoning District Map No. 52a to rezone Assessor Parcel Number: 004-140-067 from Residential Agricultural – 3-acre minimum parcel size – Planned Development to Residential Agricultural – 1.5-acre minimum parcel size (RA-3-PD to RA-1.5) (RZN21-0004) based on the findings contained within the draft Ordinance (*Attachment 2*) (Vote 3-0) (2 absent).

III. **Project Action:** Approve the attached Resolution A denying or B approving the Conditional Use Permit (CUP21-0006) based on the findings contained with the draft Resolution (*Attachment 3*) (Vote 3-0 to Deny) (2 absent).

**FUNDING:**

No budget amendments are required.

**ATTACHMENTS:**

1. Draft Resolution: Initial Study/ Mitigated Negative Declaration
  - 1.1: Initial Study and Mitigation Monitoring and Reporting Plan (EIS22-0003)
2. Draft Ordinance: Zoning Map Amendment
  - 2.1. Exhibit A: Zoning Map Amendment Exhibit
- 3A. Draft Resolution: Conditional Use Permit Denial
- 3B. Draft Resolution: Conditional Use Permit Approval
  - 3B.1: Conditions of Approval (COAs) & Mitigation Monitoring and Reporting Program (MMRP)
4. Project Vicinity, Zoning and Public Notice Map
5. Applicant Response to Planning Commission Direction
6. Revised Site Plan
7. November 10, 2022 Planning Commission Staff Report (without attachments)
8. November 10, 2022 Staff Memorandums Including Public Comments Received
9. November 10, 2022 Draft Planning Commission Meeting Minutes

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**PROJECT DESCRIPTION:** The project is a combined application proposing 1) A Rezone from RA-3-PD to RA-1.5 (Residential Agriculture – 3-acres minimum parcel size – Planned Development to Residential Agriculture – 1.5-acres minimum parcel size) to allow for higher density housing development, and 2) a Use Permit to allow for the development and operation of a 6-unit multifamily residential development containing six (6) one-bedroom apartments, as well as the demolition of an existing single-family residence that exists on the project site.

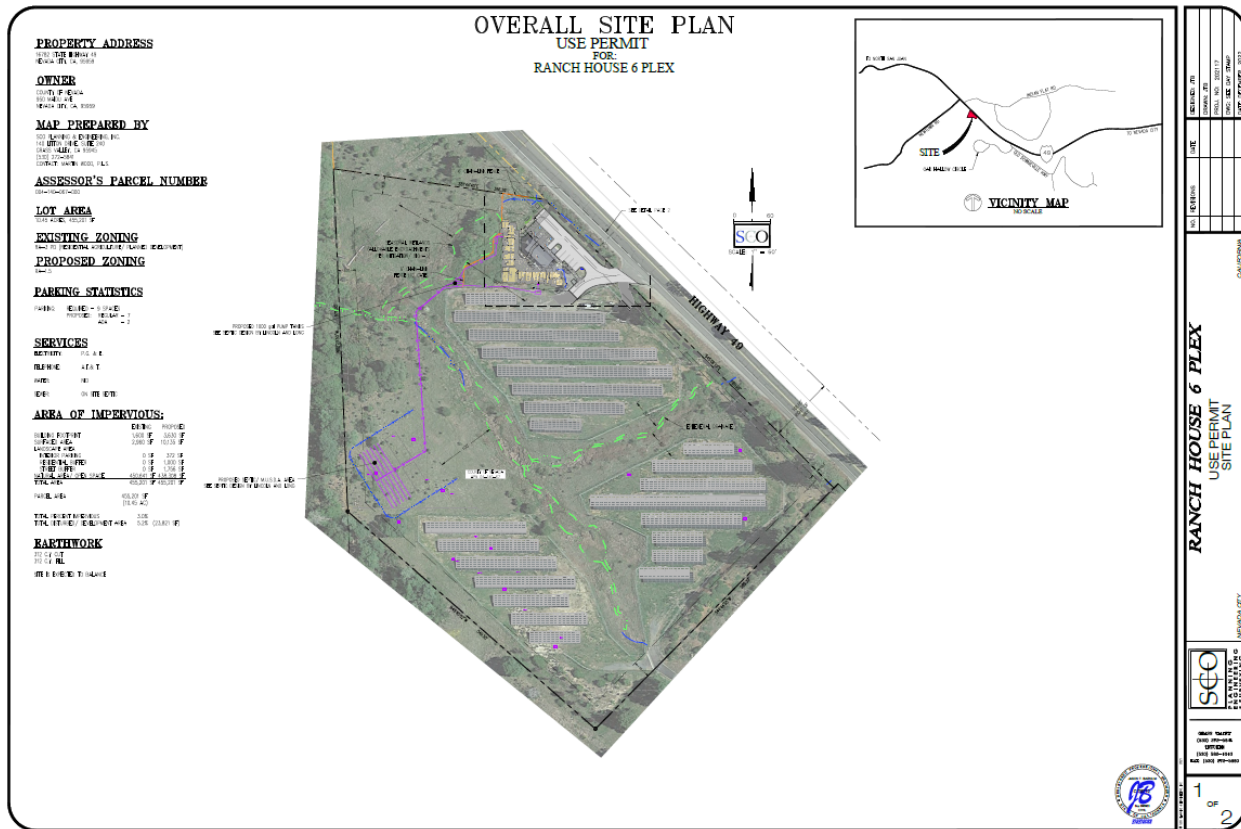


Figure 1: Site Plan

*Rezone:* The applicant proposes a Zoning Map Amendment from RA-3-PD to RA-1.5 in order to accommodate the proposed density of the 6-unit multifamily residential development containing six (6) one-bedroom apartments. The 10.45 Project site can currently support up to three (3) units given the existing maximum density of one (1) unit per every three (3) acres, per Table L-II 2.2.1.C of the Nevada County Land Use and Development Code. The proposed rezone to a maximum density of one (1) unit per every one and one-half (1.5) acres would allow for a maximum density of up to six (6) units.

*Conditional Use Permit:* The project applicant proposes a Use Permit to allow development and use of approximately 0.6-acre of the approximately 10.45-acre site as a 6-unit multifamily residential development containing six (6) one-bedroom apartments, and to demolish an existing single-family residence on the project site. The subject parcel has a Use Permit approved in 2015 which allowed a solar farm on the County-owned parcel, which currently operates.

The units will be used to house participants in the County Behavioral Health Department’s Permanent Supportive Housing Project. Participants residing in the complex will receive wrap around supportive services aimed at supporting participants in achieving housing stability. The project is primarily funded through a statewide No Place Like Home Round 2 grant award of \$1,412,000. As these funds are provided in the form of a post-construction

deferred interest loan, Nevada County Health and Human Services Agency (HHSA) has committed to providing financing through the construction phase. It is anticipated the project would take approximately six to nine months to complete. After the project is complete, HHSA staff will submit final documents to HCD to receive NPLH funds in the form of a 55-year deferred interest loan. The loan will reimburse all County expenditures incurred for the project. These funds will support a program that addresses housing and resource needs for eligible individuals who are homeless. This program was designed to leverage increased county-wide coordination of services, the coordinated entry system, and housing first strategies, all of which are part of the overall Nevada County Strategic Plan to address homelessness.

### **ORIGINAL PROJECT PROPOSAL**

Access to the site is via State Highway 49, a state highway operated and maintained by the California Department of Transportation Caltrans. The proposed 6-unit multifamily residential development containing six (6) one-bedroom apartments (the Project) would have one vehicular and one pedestrian access point from State Highway 49. The Project will utilize the existing driveway connection to State Highway 49, but once into the project site will be improved to have a parking area, sidewalks, trash enclosure, mail-box cluster, and sidewalks for ADA path of travel from the proposed new building to a public way. Ten new parking stalls are proposed consisting of 4 standard stalls, 3 compact stalls, and 2 ADA stalls.



Figure 2: Building Elevations (Original Proposal)

The Project proposed and presented to the Planning Commission consists of demolition of the existing 1,791 S.F. Ranch House and replacing it with a new 6-plex consisting of six (6) one-bedroom per unit apartment complex. The build area for the Project is

approximately 26,500 S.F. (0.6 acre). Grading/earthwork for the site involves excavating approximately 312 cubic yards of cut and fill and the site is expected to balance. The proposed new structure is 3,631 S.F. in size and would continue to be used for supportive housing. The new structure is a single-story “L” shaped building with three units on each side and a common area in the middle. Unit sizes range from 400 S.F. to 410 S.F. The proposed multifamily development would be visible from State Highway 49 and was proposed with a color palette of neutral colors and natural facades incorporating cement plaster siding and stone accents on support columns.

**PLANNING COMMISSION ACTION:**

At the Meeting of November 10, 2022, the Planning Commission held a duly noticed public hearing to consider the proposed project including the draft Mitigated Negative Declaration, Zoning District Map Amendment, and Conditional Use Permit. After taking public testimony and deliberating on the project, the Planning Commission recommended the Board of Supervisors deny the Conditional Use Permit as originally proposed and directed the project applicants to further develop the project design to address concerns highlighted at the Planning Commission hearing. Specifically, concerns included biological resource impacts, project design, project operation, and the nature of potential future residents of the property.

**REVISED PROPOSAL IN RESPONSE TO PLANNING COMMISSION ACTION:**

The Project was redesigned by the project applicants in order to address many of the concerns heard in front of the Planning Commission. The new proposal includes additional fencing to minimize operational impacts to wetlands and riparian resources, new design components to ensure the proposed structure is compatible with the surrounding rural residential area, and additional information relating to the current and proposed transitional housing operation on the project site and the Nevada County Behavioral Health Department Supportive Housing program.

*Biological Resources:* Biological resource concerns highlighted by public comments and Planning Commission discussions include impacts to wetlands and watercourses that exist on and around the project site. Specifically, Planning Commissioners and members of the public were concerned that the development and operation of the project would negatively impact the wetland and riparian areas on the project site. According to the project biologist and previously approved projects, wetlands do exist on the site and impacts to these areas will be entirely avoided through project design. Specifically, Commissioner Ingram and public comments asked whether all development and landscape planting would occur outside the wetland areas. Project design proposes to avoid all direct impacts to the seasonal wetland through avoidance, although required improvements for the proposed septic system would cross an area mapped as ephemeral channel by the 2015 Management Plan prepared by ESA and the 2021 Biological Memorandum prepared by Greg Matuzak.

In addition, Commissioner Ingram and public comments asked whether drainage from the proposed project would impact the wetlands or other areas. The project design proposes a

retention pond that captures runoff from the parking lot to pretreat drainage water and promote infiltration. Runoff from the roof would be collected through traditional downspouts and directed either to the retention or into infiltration trenches to promote groundwater infiltration as shown in Figure 3 below. Pursuant to General Plan Policy 3.19C, the applicant will be required to maintain all drainage facilities and associated drainage system constructed as part of the project through a permanent, legally enforceable mechanism. Specifically, a Condition of Approval C.5 has been included, requiring that: “the applicant shall provide final grading and drainage plans with an accompanying analysis prepared by a registered civil engineer that demonstrate no net stormwater runoff.”

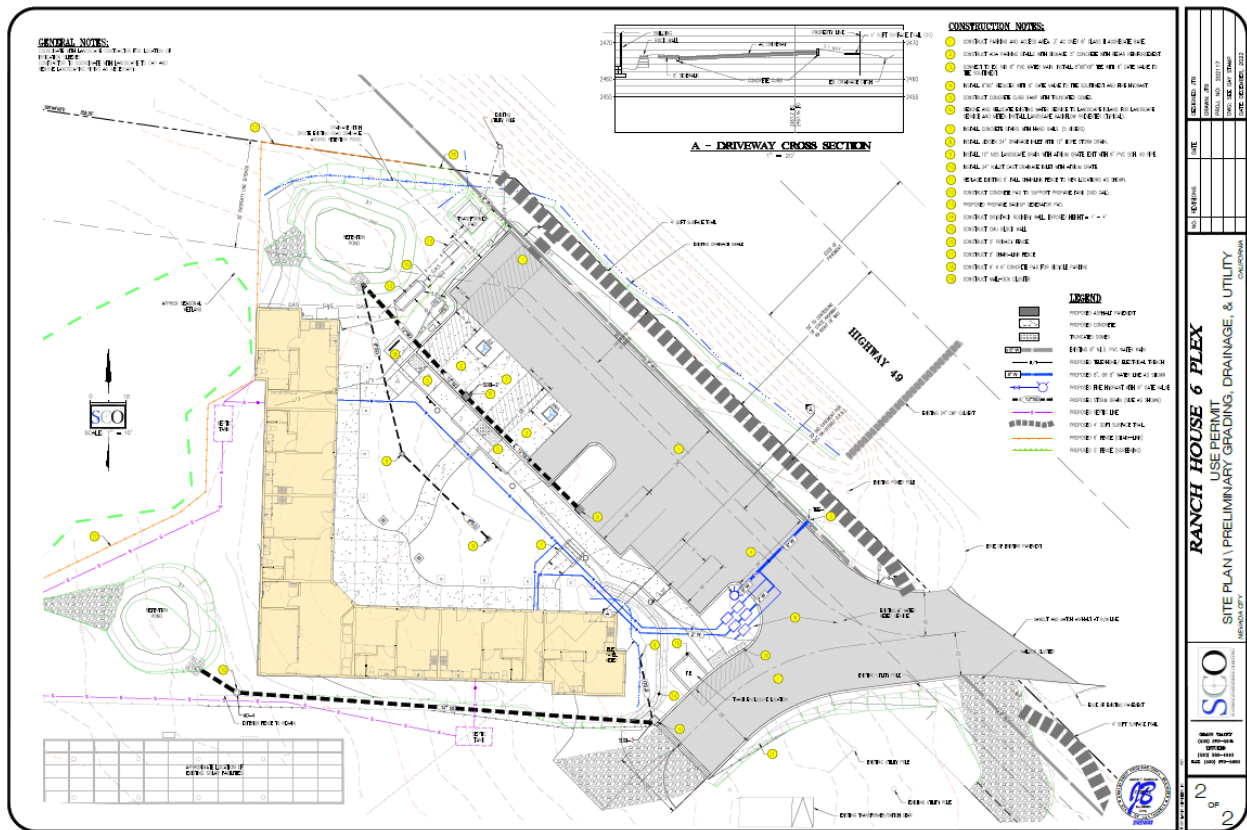


Figure 3: Site Plan Detail

In order to further mitigate any potential operational impacts to the wetlands and in response to the concerns raised at the Planning Commission hearing, the project applicant proposes to install additional fencing to continue the fencing already in place surrounding the solar fields to limit access to the wetland and riparian areas. The fencing is proposed to be 6-foot-tall chain link fencing from the property line to the existing fencing around the solar field directly to the South of the proposed project. The newly proposed fencing would be required to comply with the proposed Mitigation Measures and Conditions of Approval and be placed outside of the environmentally sensitive areas marked on-site to avoid potential impacts to wetlands.





Figure 4: Proposed Fencing Location (Orange Dotted Line)

*Project Design:* Project design issues highlighted by public comments and Planning Commission discussions include concerns that the design does not reflect the rural nature of the surrounding community and the structure does not resemble residential development. Commissioner Milman and public commenters voiced concern about the general layout and massing of the building, the 1-story nature of the proposal. Commissioner Duncan and public commenters voiced concern that the design reflects a motor court rather than rural residential development and could be better screened.

In an effort to ensure the proposed building is consistent with the rural residential nature of the surrounding area and in response to the concerns raised at the Planning Commission hearing, the project applicants have proposed to change the siding from stucco to horizontal Hardie board, include additional stone accents at both ends of the building, and modify the central covered roof area to utilize heavy timber rather than a decorative stucco arch.



Figure 5: Building Elevations (Redesigned Proposal)

The Hardie board siding is proposed to utilize a darker color of Equestrian Gray to pair with the Chantilly Lace-colored door and window trim. The additional stone accents will utilize the same Catania-colored Cypress Ridge cast veneer stone proposed on the building columns. The redesigned covered entrance structure will utilize heavy timber with a black finish to match with the asphalt shingle roofing and proposed siding. All design components would be required to comply with the proposed Mitigation Measures and Conditions of Approval, including to be treated so as to minimize reflectivity.

In addition to the proposed building design elements, privacy fencing is proposed to address visibility and screening concerns raised at the Planning Commission hearing. The proposed fencing is 5-foot-tall solid privacy fencing and designed to provide both security and visual benefits, and may provide some attenuation of roadway noise to future project users.

*Project Operation:* Project operation issues highlighted by public comments and Planning Commission discussions include concerns that proposed septic system could not handle the proposed capacity, the total project population of the proposed project, and that no full-time services are provided on site. The project proposal includes the installation of a new septic system to serve the structure and will not rely on the existing system capacity. The County of Nevada Environmental Health Department has reviewed the project proposal and determined the proposed system could adequately serve the new development. Furthermore, Condition of Approval E.2 has been included to require the applicant obtain an approved 100% sewage disposal repair area for development. In addition, the Nevada County Facilities Department is responsible for ensuring the building is maintained, including the septic system. No changes to septic design are proposed, and no changes to Conditions of Approval or Mitigation Measures are required.

Although the project proposal includes six (6) one-bedroom apartments, no mechanism is proposed to ensure no more than six individuals live on-site at any one time. The Land Use and Development Code generally does not regulate the number of individuals who may live in a residence however the Nevada County Behavioral Health Department does not expect more than six individuals to utilize the proposed facility. Historically, no more than three (3) individuals have previously resided in the existing three-bedroom house, and all tenants have lived at that location for more than five (5) years. In addition, although no on-site services are proposed, staff from the Nevada County Behavioral Health Department or their contracted providers at Turning Point are on site two-times every day to deliver medications and check on residents. In addition, this type of facility is not designed to be accommodate individuals who need 24/7 support. The proposed structure is meant to be used by clients that are generally stable and can function independently.

*Future Users:* Public comments and Planning Commission discussions highlighted concerns surrounding the age, nature, and behavior of future residents including the potential for drug use, trespassing, and other criminal activity. The Land Use and



Development Code generally does not regulate the individuals who participate in land use, and other sections of the Nevada County Codes generally define and regulate illicit or criminal activity. In addition, the Nevada County Behavioral Health Department screens all potential residents for violence and no sex offenders would be allowed to be placed in the proposed facility. No individual restrictions, Conditions of Approval, or Mitigation Measures are proposed that would result in discriminatory practices against potential future users of the proposed land use. In an effort to be more engaged with the community, the Nevada County Behavioral Health Department has met with neighbors and businesses in the surrounding area to share contact information if there are any concerning behaviors by future residents. Nevada County Behavioral Health Department or their contracted providers at Turning Point will continue to be on site two-times every day to deliver medications and check on residents. In addition, neighbors are encouraged to call the police if criminal behaviors are happening on or around the property.

The Planning Commission, in considering the entire record before them, voted 2-1 (2 absent) and recommended that the Board of Supervisors: 1) Adopt the Mitigated Negative Declaration (EIS22-0009) (Vote 2-1) (2 absent); 2) Approve the Zoning District Map Amendment to rezone the subject parcel from Residential Agricultural – 3-acre minimum parcel size – Planned Development (RA-3-PD) to Residential Agricultural – 1.5-acre minimum parcel size RA-1.5 (RZN21-0004) (Vote 3-0) (2 absent), and; 3) Deny the Conditional Use Permit to allow for the development and operation of a 6-unit multifamily residential development containing six (6) one-bedroom apartments, as well as the demolition of an existing single-family residence that exists on the project site and direct the applicant to further develop the project design to address concerns highlighted at the Planning Commission hearing (CUP21-0006) (Vote 3-0) (2 absent).

**ZONING AND GENERAL PLAN CONSISTENCY:**

The subject parcel is zoned Residential Agriculture-3-acre minimum-Planned Development “RA-3-PD” and has an Estate (EST) General Plan Land Use designation. Should this project be approved, the property’s Zoning would be changed to allow for denser development to RA-1.5. The Rezone would also be consistent with the Nevada County General Plan because Table 1.2 of the Land Use Element defines 1.5-acre minimum parcel size within the RA zoning districts as compatible with the EST General Plan designation.

As discussed above, the proposed project will require satisfactory completion of the Conditions of Approval and Mitigation Monitoring and Reporting Program to ensure it can meet current development standards in the RA Zoning and EST General Plan Land Use designations, but overall, the use of the property as a multifamily development is compatible with the zoning and land use designation of the subject parcel. With the adherence to proposed conditions of approval, the project has been found to be compliant with both the Zoning Regulations and the County General Plan.

**ENVIRONMENTAL REVIEW:**

The Planning Department prepared a project specific draft Initial Study for the project and found that this project will not result in a significant physical change to the environment. The draft Initial Study made a good faith effort to disclose anticipated future impacts of the redevelopment of this site. The draft initial study/proposed Mitigated Negative Declaration was circulated for public comment between September 23, 2022 and October 24, 2022. The Notice of Availability/Notice of Intent to adopt a Mitigated Negative Declaration was sent to several local and state responsible agencies as well as surrounding property owners. As of this writing, no adverse comments were received as a result of this outreach. Since this project will not result in the significant impacts to the environment and will make the Zoning designation for the subject property consistent with other surrounding land uses, staff has determined that a Mitigated Negative Declaration is the appropriate document for this project. At the Meeting of November 10, 2022, the Planning Commission recommended the Board of Supervisors adopt the draft Initial Study/proposed Mitigated Negative Declaration for this project.

**SUMMARY:**

The applicant is seeking a Rezone from RA-3-PD to RA-1.5 (Residential Agriculture-1.5 acres minimum) to allow for higher density housing development, and a Use Permit to allow for the development and operation of a 6-unit multifamily residential development containing six (6) one-bedroom apartments, as well as the demolition of an existing single-family residence that exists on the project site. The Planning Department has reviewed the proposed changes and found that no significant physical environmental impacts would occur as a result of this action and that the proposal to go to RA-1.5 (Residential Agriculture-1.5 acres minimum) Zoning Designation would be consistent with the Nevada County General Plan and other similar surrounding uses of the subject parcel. The Planning Commission has reviewed the proposed changes and found that no significant physical environmental impacts would occur as a result of this action. The Planning Commission also reviewed the proposed land use and found the project design and use to be inconsistent with similar surrounding uses of the subject parcel.

Therefore, based on the project's consistency with the Nevada County General Plan and Zoning Ordinance, the Planning Commission on November 10, 2022 on recommended that the project applicant redesign the project to address concerns addressed at the Planning Commission hearing and herein.

In response to the Planning Commission's direction, the applicant redesigned the proposed project to address concerns discussed at the Planning Commission Hearing on November 10, 2022, including:

- additional fencing to mitigate operational impacts to the wetlands and riparian areas,
- design changes to be more compatible with the surrounding rural residential nature of the area,
- expanded outreach and communication with surrounding residents and business owners.

Therefore, the proposed projects including design and operational changes directed by the Planning Commission, based on the project's consistency with the Nevada County General Plan and Zoning Ordinance, the Planning Commission on November 10, 2022 on recommended that Nevada County Board of Supervisors take the project actions described in Recommendation A below. Should the Board of Supervisors determine the project redesign achieves the intent of the Planning Commission direction, Planning Department staff recommend that Nevada County Board of Supervisors take the project actions described in Recommendation B below.

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**RECOMMENDATION A:** The Planning Commission has recommended that the Board of Supervisors take the following actions:

- I. Environmental Action: After reviewing and considering the proposed Mitigated Negative Declaration (EIS22-0009), approve the attached Resolution, adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (EIS22-0009), pursuant to Section 15074 of the California Environmental Quality Act Guidelines and making the findings contained within the attached Resolution (*Attachment 1*) (Vote 2-1) (2 absent).
- II. Project Action: Introduce, waive further reading and adopt the attached Ordinance amending Zoning District Map No. 52a to rezone Assessor Parcel Number: 004-140-067 (from RA-3-PD to RA-1.5 (RZN21-0004)) based on the findings contained within the draft Ordinance (*Attachment 2*) (Vote 3-0) (2 absent).
- III. Project Action: Approve the attached Resolution A denying or B approving the Conditional Use Permit (CUP21-0006) based on the findings contained with the draft Resolution (*Attachment 3A*) (Vote 3-0 to Deny) (2 absent).

**RECOMMENDATION B:** Should the Board of Supervisors determine the project redesign achieves the intent of the Planning Commission direction, Planning Department staff recommend that the Board of Supervisors take the following actions:

- II. Environmental Action: After reviewing and considering the proposed Mitigated Negative Declaration (EIS22-0009), approve the attached Resolution, adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (EIS22-0009), pursuant to Section 15074 of the California Environmental Quality Act Guidelines and making the findings contained within the attached Resolution (*Attachment 1*).
- II. Project Action: Introduce, waive further reading and adopt the attached Ordinance amending Zoning District Map No. 52a to rezone Assessor Parcel Number: 004-140-067 from Residential Agricultural – 3-acre minimum parcel size – Planned Development to Residential Agricultural – 1.5-acre minimum parcel size (RA-3-PD to

RA-1.5) (RZN21-0004) based on the findings contained within the draft Ordinance (*Attachment 2*).

III. Project Action: Approve the attached Resolution approving the Conditional Use Permit (CUP21-0006) based on the findings contained with the draft Resolution (*Attachment 3B*).

**Item Initiated by:** Kyle Smith, Senior Planner

**Approved by:** Brian Foss, Planning Director