



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

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

MEETING DATE: January 24, 2017

TO: Board of Supervisors

FROM: Nevada County Planning Department

SUBJECT: A public hearing to consider the Nevada County Planning Commission's December 8, 2016, 5-0 recommendation to introduce, waive further reading and adopt ORD16-1 regarding proposed amendments to Land Use and Development Code Section L-II 3.3 Agricultural Uses (to update definitions and standards for agricultural direct marketing), Section L-II 3.15 (to extend the amount of time allowed for recreational vehicles to be used as security housing on a public land use by two additional years), and Section L-II 4.3.4 Agricultural Lands, Important (to add the Agricultural Advisory Commission's updated definition of Farmlands of Local Importance to the Zoning Ordinance).

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

- I. Adopt the attached Resolution approving the proposed Negative Declaration (EIS16-0001), finding that the adoption reflects their independent judgment that the project will not result in a physical change to the environment (*Attachment A*).
- II. Introduce, waive further reading and adopt the attached Ordinance (ORD16-1) amending Chapter II of the Nevada County Land Use and Development Code Sections L-II 3.3, 3.15 and 4.3.4 (*Attachment B*).

FUNDING: No budget amendments are required.

ATTACHMENTS:

- A. Resolution- Negative Declaration (EIS16-0001)
 - Exhibit A. Draft Initial Study and Proposed Negative Declaration
 - Appendix B. Draft Amendments in “Track Changes” (pg. 56)
 - B. Ordinance- ORD16-1 (pg. 73)
 - C. Dec. 8, 2016 Planning Commission Staff Report
 - 3. Agricultural Advisory Commission Recommendation
 - 4. Agency and Public Comment
 - D. December 8, 2016 Draft Planning Commission Meeting Minutes
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BACKGROUND:

This project is the result of the request of the Nevada County Agricultural Commissioner and the recommendation of Nevada County Agricultural Advisory Commission (*Attachment C.3*) and includes the following amendments to the Nevada County Zoning Ordinance (Land Use and Development Code Chapter II) related to agricultural uses including Section L-II 3.3 Agricultural Uses (to update definitions and standards for agricultural direct marketing) and includes updates to the Land Use and Development Code (LUDC) Allowable Use and Permit Requirements Tables for all zoning districts to reflect permitting requirements for Field Retail Stands, Farm Stands and Certified Farmer’s Markets; Section L-II 3.15 Recreational Vehicle Use and Temporary Occupancies (to update outdated references/standards and to increase the duration of time allowed for recreational vehicle use as security housing at the site of a church, park or other community or public facility); and Section L-II 4.3.4 Agricultural Lands, Important (to add an updated definition of Farmlands of Local Importance to the County Zoning Ordinance) (*Attachment B*).

STAFF COMMENT:

Section L-II 3.3. Agricultural Uses: At first glance, the proposed amendments within this Section of the LUDC appear to be the most substantial code amendments associated with this project. The changes proposed however are relatively minor as they are primarily intended to modernize existing agricultural use definitions and standards, but carry over the majority of the existing standards for similar agricultural uses that are provided within the existing Agricultural Uses ordinance. One of the purposes of these changes is to align the County’s definitions of agricultural uses with State of California Food and Agriculture Code, specifically related to Field Retail Stands, Farm Stands and Certified Farmers’ Markets. The proposed changes also add a definition of Community Supported Agriculture (CSA) where one did not previously exist. The proposed amendments remove the specific land use of “Produce Stands” and replaces it with “Farm Stands,” as has been done by the California Food and Retail Code/Food and Agricultural Code and includes “Field Retail Stands” to replace the former “Farm Stand” use. Where applicable, the existing health and safety standards (contained within the existing ordinance) are carried over as they are still applicable to these

agricultural support uses. Where the proposed ordinance most substantially deviates from the previous ordinance relates to the zoning districts where these uses are allowed and how those uses are permitted. Essentially, the proposed ordinance would expand the areas where Farm Stands and Certified Farmers' Markets would be allowed based the zoning of a particular property.

Based upon their definitions, both Field Retail Stands and Farm Stands are essentially the same thing except Farm Stands allow for the sale of non-potentially hazardous pre-packaged foods and processed agricultural products, where Field Retail Stands are limited to the sale of fresh non-processed agricultural products. Since they are very similar, Field Retail Stands and Farm Stands are proposed to be an allowed use (not subject to further land use permitting) when specific standards are met within the County's primary agricultural zoning districts, Agriculture Exclusive (AE), General Agriculture (AG), Forest (FR) and Residential Agriculture (RA) as these are typically the areas of the County where active agricultural operations are occurring. This is consistent with how the prior ordinance treated Farm Stands and Produce Stands. To expand on opportunities for the sale of agricultural products at small scale Farm Stands, the proposed ordinance would allow Farm Stands within several non-agricultural zoning districts including all Commercial zoning districts (C1, C2, C3, CH, and OP), all Industrial zoning districts (M1, M2, and BP) and a select number of Special Purpose zoning districts (IDR, PD, P, and REC), subject to the approval of an Administrative Development Permit (ADP). In general these districts would typically be located within developed areas with adequate infrastructure/access to support a seasonal Farm Stand use. The ADP would allow individual County agencies to review individual proposals on a case by case basis to ensure they could meet the applicable standards of the ordinance. To ensure these agricultural uses do not conflict with the County's open space and more dense residential uses, Field Retail Stands and Farm Stands would be prohibited in the Open Space (OS), Timber Production Zone (TPZ), Single Family Residential (R1), Medium Density Residential (R2), and High Density Residential (R3) zoning districts.

Regarding Certified Farmers' Markets, the proposed amendments carry over all specific standards that previously applied to Certified Growers'/Farmers' Markets, (now called Certified Farmers' Markets) and update those standards where appropriate to ensure adequate review is being performed by the appropriate local agencies (Environmental Health, Agricultural Commissioner's Office, Fire, Public Works, etc.). The primary difference from the previous requirements is focused solely upon which zoning districts where Certified Farmers' Markets (CFMs) would be allowed subject to the approval of an ADP. Under the current ordinance, CFMs were allowed in all Residential (R1, RA, R2, R3) and Rural (AE, AG, FR, TPZ) zoning districts but were not allowed in other zones. Much like the Farm Stand discussion above, the proposed ordinance would continue to allow CFMs in the primary agricultural zoning districts (AE, AG, RA, and FR) but would also allow for CFMs to occur in all Commercial zoning districts (C1, C2, C3, CH, and OP), all Industrial zoning districts (M1, M2, and BP) and a select number of

Special Purpose zoning districts (IDR, PD, P, and REC) but would prohibit CFMs in the R1, R2, R3 zoning districts and would continue to not allow CFMs in the OS and TPZ zoning districts. For a complete comparison and all of the proposed changes please refer to Appendix B of Attachment A, which shows all of the proposed changes in “track changes”.

The proposed changes to allow additional opportunities for the marketing and sale of agricultural products supports the Nevada County Agricultural Advisory Commission’s goal of promoting farming in Nevada County by providing additional areas where these agricultural support uses would be allowed. Generally it is assumed that these agricultural support uses will be seasonal or temporary in nature, based on the growing season. The standards of the proposed ordinance would ensure adequate public health and safety is maintained, adequate parking is provided and sufficient access is available that would not result in significant traffic or circulation hazards.

Planning Commission Action:

After discussing the proposed amendments and taking public comment, the Planning Commission voted 5-0 to recommend that the Board of Supervisors adopt the proposed amendments to Section L-II 3.3 as outlined in Attachments A and B.

Section L-II 3.10. Employee Housing:

As reflected in the Planning Commission Staff Report (*Attachment C*), the project originally included consideration of allowing for seasonal recreational vehicle (RV) use to serve as temporary agricultural employee housing for a period of six months, which was recommended by the Nevada County Agricultural Advisory Commission and included amendments to LUDC Sec. L-II 3.10 and 3.15. Based on discussion and direction from County Counsel, however staff removed this portion of the proposed ordinance from consideration to allow for additional time to consider the impacts of allowing the use of temporary recreational vehicles as seasonal agricultural housing countywide.

Planning Commission Action:

When making a recommendation on the entire project, the Planning Commission did request that staff continue to consider allowing the use of RVs as temporary agricultural employee housing as they felt it would serve a need for the agricultural community (*Attachment D*).

Section L-II 3.15. Recreational Vehicle Use and Temporary Occupancies:

As the result of consistent and recent input from the Nevada County Planning Commission related to the duration of time allowed for the use of a RV for security housing at a church, community facility or public land use, staff included a proposal to add an additional 2-years extension of time to current ordinance provisions, since this Section of the Code was already being “opened up” to accommodate the potential to temporary agricultural housing in an RV. Under current standards, a RV is allowed to

be used for security housing at the aforementioned land uses subject to the approval of a use permit for a period of 3-years with one 2-year extension allowed. The Planning Commission has requested that it be cheaper, easier and that more time be allowed for this specific use. Therefore, the proposed amendments increase the amount of time that a RV can be used for security housing by allowing one additional 2-year extension of the use permit. This change would allow for up to 7-years which is the standard amount of time allowed for a use permit by Nevada County LUDC Section L-II 5.10 Permit Time Limits (original approval is good for 3-years and projects are eligible for two 2-year extension of times).

Planning Commission Action:

After discussing the proposed amendments and taking public comment, the Planning Commission voted 5-0 to recommend that the Board of Supervisors adopt the proposed amendments to Section L-II 3.15 as outlined in Attachments A and B. When making a recommendation on this portion of the project, the Planning Commission expressed concerns that park districts were struggling financially and they felt that additional time should be allowed for RVs to be used as security housing, potentially allowing them in perpetuity with bi-annual reviews. Staff cited that recreational vehicles are not designed to be permanent housing and seven years seemed like adequate time to plan for more permanent security housing. After additional discussion, the Planning Commission directed staff to continue to look at this issue prior to recommending that the Board adopt the proposed amendments as originally crafted by staff (*Attachment D*).

Section L-II 4.3.4. Important Agricultural Lands: This component of this overall project proposes to add an updated definition of Farmlands of Local Importance to the Nevada County Land Use and Development Code under the section of the Ordinance that relates to Important Agricultural Lands. As a result, the County's Farmlands of Local Importance will be remapped through the United States Department of Agriculture-Department of Conservation Important Farmlands Mapping Program. The proposed updated definition for Farmlands of Local Importance however is the only requested change being proposed to be codified as a part of this project.

Farmland of Local Importance, as defined by the Department of Conservation, is land of importance to the local economy as defined by each county's local advisory committee and adopted by its Board of Supervisors. It is further defined as either currently producing or having the capability of production, but does not meet the criteria for Prime Farmland, Farmland of Statewide Importance, or Unique Farmland. The Board of Supervisors, of each county, has the authority to adopt or recommend changes to the category of Farmlands of Local Importance. The current definition of Nevada County's Farmlands of Local Importance is:

Farmlands that have physical characteristics that would qualify for Prime or Statewide except for the lack of irrigation water. Farmlands that produce crops that are not listed under Unique Lands but are important to the economy of the

county are: Christmas trees, Sudan grass, Meadow hay, chestnuts, poultry houses and feedlots, improved dryland pasture (not rangeland), and irrigated pasture (it is under Statewide or Prime if soils are listed as such, otherwise as Local).

Also, lands that are legislated to be used only for agricultural (farmland) purposes, such as Williamson Act land in western Nevada County.

The Nevada County Agricultural Advisory Commission has been discussing revising the Farmlands of Local Importance definition, for years. The County's current definition is based on historical agricultural uses that have little relevance to current agricultural use in Nevada County. Mapping of these lands is prepared by the United States Department of Agriculture-Department of Conservation Important Farmlands Mapping Program and follows historic patterns of agricultural use in Nevada County. Under the proposed definition, the resultant mapping would be based on soils types with an emphasis on grazing land with high-rated range production.

According to the Nevada County Agricultural Advisory Commission, it is the State Department of Conservation's recommendation to update the mapping criteria and definition at the same time. The Department of Conservation creates choice agricultural soil maps throughout the State by using Geographical Informational Systems and the United States Department of Agriculture Soil Conservation Service soil surveys. The mapping criteria for Nevada County's Prime Farmland, Statewide Important Farmland, and the Unique category is specified by certain soil types. The County Agricultural Advisory Commission has recommended that the County follow this same protocol when looking at redefining the Farmlands of Local Importance mapping criteria. With data supplied by the Natural Resource Conservation Service (NRCS), the Agricultural Advisory Commission identified 5 soil types (not currently considered choice soils) that meet the criteria for Farmlands of Local Importance in Nevada County. These soils include: Ahwahnee sandy loam, 15 to 30% slopes (AdD); Argonaut gravelly loam, 2 to 15% slopes (ArC); Hoda sandy loam, 9 to 15% slopes (HnC); Sobrante loam, 15 to 30% slopes (SoD); or Trabuco loam, 5 to 15% slopes (TrC). Further under the new definition, the lands must be outside of any Prime, Statewide or Unique farmlands and must be within one of the County's Rural-Agricultural Zoning categories such as Residential Agricultural (RA), General Agricultural (AG), Agricultural Exclusive (AE), Forest (FR) or Timberland Production Zone (TPZ). The proposed project will better define Farmlands of Local Importance with a measureable source of data for mapping the resource. In full the proposed definition is as follows:

Farmland that does not meet the criteria of Prime Farmland, Statewide Importance or Unique Farmland, zoned Residential Agricultural (RA), General Agricultural (AG), Agricultural Exclusive (AE), Forest (FR) or Timberland Production Zone (TPZ) and delineated by the following soil types: Ahwahnee sandy loam, 15 to 30% slopes (AdD); Argonaut gravelly loam, 2 to 15% slopes

(ArC); Hoda sandy loam, 9 to 15% slopes (HnC); Sobrante loam, 15 to 30% slopes (SoD); or Trabuco loam, 5 to 15% slopes (TrC).

Overall, this component of the project will only add a definition of Farmlands of Local Importance to the Nevada County Land Use and Development Code Chapter II Zoning Regulations. Should the Board of Supervisors adopt this definition it will result in the remapping of Farmlands of Local Importance by the USDA-Dept. of Conservation. Based on preliminary estimates, utilizing County Geographical Information Systems (GIS) data, the new definition has the potential to reduce the amount of mapped Farmlands of Local Importance in Nevada County by over approximately 10,000-acres. As described above however, this existing mapping is based on historical agricultural uses and lands and therefore has not been updated to take account for historical land use development patterns as Nevada County has grown and parcel-ized nor does it take into account existing zoning, which might allow for much smaller parcels than would be conducive towards economically viable agricultural use of that property. Subsequently the current mapping of Farmlands of Local Importance in Nevada County is somewhat arbitrary. This change would establish a tangible metric for what would be considered Farmlands of Local Importance, based on soils types and rural-agricultural zoning designations. This portion of this overall project will not result in impacts to any established/mapped Prime Farmlands, Farmlands of Statewide Importance or Unique Farmlands nor would it impact any existing Williamson Act contracts. Further, the new definition will not change any agricultural zoning that would allow for agricultural operations and their support uses.

Planning Commission Action:

After discussing the proposed amendments and taking public comment, the Planning Commission voted 5-0 to recommend that the Board of Supervisors adopt the proposed amendments to Section L-II 4.3.4 as outlined in Attachments A and B.

ENVIRONMENTAL REVIEW:

This proposed Zoning Text Amendment (ORD16-1) project will result in amending the Nevada County Land Use and Development Code to update definitions, standards and uses related to supporting and promoting the success of agriculture in Nevada County. Based on the proposed amendments, staff prepared a draft Initial Study and proposed Negative Declaration provided in the attached draft Resolution, pursuant to the CEQA Guidelines, for consideration and adoption by the Board of Supervisors (*Attachment A*). This initial study was circulated for public comment from November 7 to December 6, 2016. This initial study was posted on the Planning Department website and the Notice of Availability was sent to specific local and state agencies, including the State Clearinghouse, as well as all property/home owners associations and special interest groups on the County Planning Departments notification list and no public comments were received.

Planning Commission Action:

After discussing the proposed amendments and taking public comment, the Planning Commission voted 5-0 to recommend that the Board of Supervisors adopt the project specific Negative Declaration (EIS16-0001) prior to taking action on the project (ORD16-1).

SUMMARY:

In summary, the proposed Zoning Ordinance Amendments were prepared on behalf of the Nevada County Agricultural Commissioner and Nevada County Agricultural Advisory Commission. On September 21, 2016 the Nevada County Agricultural Advisory Commission held a public meeting to review the proposed amendments and recommended that the Board of Supervisors, with the Planning Commission's recommendation, approve the proposed amendments (*Attachment C.3*). Staff has circulated the amendments for an initial public comment period and only received comments from the Agricultural Commission (recommending that the PC/BOS adopt the proposed amendments) and the Penn Valley Fire District (requesting updates to the references to the applicable building and fire codes). Based on the comments received the draft ordinance sections were updated to reflect the requested changes. Staff then prepared a draft initial study for the project that found that the minor text amendments would not result in significant environmental impacts with the adherence to the standards of the ordinance. The Planning Commission held a duly noticed public hearing on December 8, 2016 to consider the proposed project. After taking public testimony and deliberating on the project, the Planning Commission voted 5-0 to recommend that the Board of Supervisors approve the project.

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

- I. Adopt the attached Resolution approving the proposed Negative Declaration (EIS16-0001), finding that the adoption reflects their independent judgment that the project will not result in a physical change to the environment (*Attachment A*).
- III. Introduce, waive further reading and adopt the attached Ordinance (ORD16-1) amending Chapter II of the Nevada County Land Use and Development Code Sections L-II 3.3, 3.15 and 4.3.4 (*Attachment B*).

Item Initiated by: Tyler Barrington, Principal Planner

Approved by: Brian Foss, Director of Planning