



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

950 MAIDU AVENUE, SUITE 170, NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 265-9851 <http://mynevadacounty.com>

Sean Powers
Community Development Agency Director

Brian Foss
Planning Director

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

MEETING DATE: January 23, 2018

TO: Board of Supervisors

FROM: Nevada County Planning Department

SUBJECT: A public hearing to consider the Nevada County Planning Commission's December 14, 2017, 4-0, 1 absent recommendation to introduce, waive further reading and adopt ORD17-2 regarding proposed amendments to Land Use and Development Code Section L-II 3.3 Agricultural Uses to add a definition and permitting requirements for Agritourism activities in Nevada County. The ordinance amendment also includes an amendment to the County's definition of Agricultural Products to exclude cannabis and cannabis related products.

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 (EIS17-0009), finding that the adoption reflects their independent judgment that the project will not result in a physical change to the environment (*Attachment 1*).
- II. Introduce, waive further reading and adopt the attached Ordinance (ORD17-2) amending Chapter II of the Nevada County Land Use and Development Code Sections L-II 3.3 (*Attachment 2*).
- III. Close Board Order BO17-01.

FUNDING: No budget amendments are required.

ATTACHMENTS:

1. Resolution- Negative Declaration (EIS17-0009)
Exhibit A. Draft Initial Study and Proposed Negative Declaration
 2. Ordinance- ORD17-2
 3. Draft Zoning Text Amendments in Track Changes
 4. Agricultural Advisory Commission Recommendation
 5. Agency and Public Comment
 6. December 14, 2017 Draft Planning Commission Meeting Minutes
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BACKGROUND:

On February 14, 2017, following the January 24, 2017 adoption of amended regulations for Agricultural Direct Marketing activities, such as Farm Stands, Community Supported Agricultural and Certified Farmers' Markets (ORD 2427), the Board of Supervisors issued Board Order (BO17-01) directing the Planning Department to work with the Nevada County Agricultural Advisory Commission (AAC) to develop standards and a process for allowing agritourism activities in unincorporated Nevada County. The Planning Department then returned to the Board of Supervisors on June 13, 2017 to report back on progress made and to get additional direction regarding how to proceed. On June 13, 2017 the Board directed staff to proceed under the direction of agritourism being an accessory to the expected daily or weekend activities of an agricultural operation in Nevada County, such as farm stands, promotion of the farm, education of the farming process and limited events tied to farming operations, such as harvest dinners, barn dances and the like. Based on the direction of the Board, the Planning Department worked with the AAC to prepare permitting requirements based on the agritourism definition developed by the AAC.

STAFF COMMENT:

The Nevada County AAC has proposed a definition of agritourism as follows:

***Agritourism-** The act of visiting a working farm or ranch, or any agricultural or horticultural operation for the purpose of involvement in the ancillary activities of the farm, ranch or agricultural operation that also adds to the economic vitality of the operation. Agritourism uses include, but are not limited to, marketing events, farm tours, facilities for the promotion of agricultural crops grown onsite, the sale of farm/ranch branded agricultural related merchandise, educational classes and lectures, U-pick produce, seasonal celebrations, and other gatherings, activities and uses found to be appurtenant to the agricultural business, but shall not include concerts and weddings, camping or other commercial activities/events that are not related to the promotion of the working farm, ranch or agricultural/horticultural operation.*

Based on this definition and the direction of the Board of Supervisors on June 13, 2017, Land Use and Development Code Section L-II 3.3 Agricultural Uses was determined to be the appropriate location for this use. This section includes the definitions and permitting requirements for other agricultural direct marketing activities including Field Retail Stands, Farm Stands, Certified Farmers' Markets and Community Supported Agriculture. It also provides the County's current definition of Agricultural Products.

The proposed project is an effort by the County to support the existing agricultural community and economy by allowing agritourism activities on a farm or working ranch within the primary agricultural zoning districts (Agricultural Exclusive "AE," General Agriculture "AG", Forest "FR" and Residential Agricultural "RA") subject to the same basic health and safety standards as a Field Retail or Farm Stand within that zone and adds new requirements specific to agritourism activities. Additionally, many of the agricultural marketing related activities proposed by this ordinance are already occurring on developed operating farms and are compatible and expected uses of an agricultural operation. The creation of the agritourism definition is intended to capture those activities and uses that are already occurring and are expected as ancillary uses to an active operating farm. Conversely, by including a definition of allowed and anticipated compatible uses it also will preclude those uses that are not traditionally accessory to an active agricultural operation including concerts, weddings, camping and other non-ag related events. Under current standards, many of the proposed ancillary agricultural marketing activities especially those that fall under the County's Social Gathering and Community Event Facilities Ordinance would require a discretionary use permit, which results in significant cost and time to obtain for agricultural producers.

Uses that are being proposed to be allowed by this ordinance would be subject to existing health and safety standards and requirements of the existing ordinance and are proposed to be allowed subject to zoning compliance and building permit issuance without the burden of additional discretionary permitting. As mentioned above, the standards that apply to Field Retail Stands and Farm Stands would also be applied to Agritourism activities. These standards include:

- 1) obtaining authorization from the County Agricultural Commissioner to ensure the operation is a legitimate agricultural venture;
- 2) complying with local, state and federal laws applicable to the sale of agricultural products including protection from contamination of food products;
- 3) requiring that no more than a 1/3 of products sold at agritourism events are out of county products as verified by the Agricultural Commissioner through submitted Certified Producers Certificates;
- 4) allows mobile trailers for the temporary sale of produce that must be removed at the end of each season;
- 5) meeting the minimum California Building Code requirements for site accessibility and usability to persons with disabilities;

- 6) any structure used for agritourism activities must meet the requirements of the California Fire Code regarding general fire safety;
- 7) farms and ranches used for agritourism activities must provide direct access to a publicly-maintained or if on a private road the applicant must form a new or join an existing road maintenance district. If a homeowners' or road association oversee the maintenance of the private road, the applicant must participate in maintaining the road;
- 8) all parking for agritourism must be maintained on site and provide adequate room to enter and exit the site without backing into a road right of way or road;
- 9) all driveways serving a farm or ranch hosting agritourism activities must meet the County minimum driveway standards; and
- 10) any signs used for agritourism activities are required to be consistent with the signs standards that apply to other agricultural uses in agricultural districts.

New standards specific to agritourism activities include a requirement that all activities cease by 10pm and that these uses shall not exceed the allowed noise limits as established by LUDC Sec. L-II 4.1.7 Noise. Some other minor amendments were made at the direction of the Department of Environmental Health (DEH) to ensure the Ordinance reflects the correct California Health and Safety and California Retail Food Code regulations in place for this type of use and a new standard was added to ensure agritourism facilities, as well as Field Retail Stands and Farm Stands, are compliant with applicable laws enforced by DEH. With adherence to all of the existing standards outlined above and the new standards, the use of a farm or ranch for activities intended to support and promote the farm or ranch are expected to be compatible with the agricultural nature of the operation and its surrounding environment.

In addition to adopting a definition of agritourism, this Ordinance amendment also proposes to amend the County's definition of Agricultural Products to exclude cannabis and cannabis products, similar to how the definition excludes plant nursery stock, live animals, and wine or wine products. This was added to the Ordinance at the recommendation of the Penn Valley Municipal Advisory Committee (PVMAC) who reviewed and commented on the Ordinance. Since cannabis is not a County recognized agricultural product and because the County is still in process of preparing a specific County Cannabis Ordinance, it was determined that adding this to the agricultural product definition was appropriate at this time.

PLANNING COMMISSION ACTION: On December 14, 2017, the Nevada County Planning Commission held a duly noticed public hearing to consider the proposed project. After reviewing and considering the proposed environmental document and taking public testimony, the Planning Commission voted 4-0, 1 absent recommending that the Board of Supervisors adopt the project specific Negative Declaration (*Attachment 1*) and Ordinance (*Attachment 2*) as reflected in the draft December 14, 2017 Planning Commission Meeting Minutes provided in Attachment .

ENVIRONMENTAL REVIEW:

This proposed Zoning Text Amendment (ORD17-2) project will result in amending the Nevada County Land Use and Development Code to update definitions and standards 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, pursuant to the California Environmental Quality Act (CEQA) Guidelines, for the project (*Attachment 1*). This initial study was circulated for public comment from October 27 to November 27, 2017. The California Department of Fish and Wildlife (CDFW) reviewed that draft initial study/proposed Negative Declaration and requested that language be added to the document indicating that any work within watercourse, wetlands and riparian areas may require a permit from CDFW such as a Streambed Alteration Agreement. Subsequently, staff has revised both the biological resources and the hydrology and water quality sections of the document accordingly, which is reflected in *Attachment 1*. These amendments are minor in nature and only further clarify that agritourism activities are subject to applicable local, state and federal laws intended to protect the environment. Since the amendments are only clarifying in nature and do not result in a significant change to the project analysis they do not require recirculation of the proposed Negative Declaration pursuant to CEQA Guidelines Section 15073.5.c. Therefore, staff has determined that the amended Negative Declaration provided in *Attachment 1* is the appropriate environmental document for this project.

SUMMARY:

In summary, the proposed Zoning Ordinance Amendments were prepared on behalf of the Nevada County Agricultural Commissioner and Agricultural Advisory Commission at the direction of the County Board of Supervisors (BO17-01). The draft Ordinance intends to allow ancillary agritourism activities in support of the County's agricultural community and economy similar to other agricultural direct marketing activities such as Field Retail and Farm Stands. The existing health and safety standards contained within this section of the Code were carried over and new standards have been added to ensure agritourism activities do not result in a nuisance to the rural zoning districts where they will be allowed. This ordinance also adds an exclusion of cannabis and cannabis related products to the County's Agricultural Products definition as cannabis is not a County recognized agricultural product and the County is current working on a cannabis ordinance which will better outline how it may or may not be permitted or allowed in County Codes and Policy. Staff prepared a draft initial study and proposed Negative Declaration for the project pursuant to the CEQA Guidelines. On December 14, 2017, the Nevada County Planning Commission reviewed and considered the proposed amendments and after holding a public hearing, voted 4-0, 1 absent recommending approval of the Negative Declaration and Ordinance to the Board of Supervisors. Should the Board of Supervisors elect to take the Planning Commission's recommendation, staff would also recommend that the Board close Board Order BO17-01.

RECOMMENDATION: The Planning Commission on December 14, 2017 on a 4-0, 1 absent vote recommended that that Board of Supervisors take the following actions:

- I. Adopt the attached Resolution approving the proposed Negative Declaration (EIS17-0009), finding that the adoption reflects their independent judgment that the project will not result in a physical change to the environment (*Attachment 1*).
- II. Adopt the attached Ordinance (ORD17-2) amending Chapter II of the Nevada County Land Use and Development Code Sections L-II 3.3 (*Attachment 2*).
- III. Close Board Order BO17-01.

Item Initiated by: Tyler Barrington, Principal Planner

Approved by: Brian Foss, Director of Planning