

1 **NEVADA COUNTY PLANNING COMMISSION**  
2 **NEVADA COUNTY, CALIFORNIA**

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4 **MINUTES** of the meeting of December 14, 2017, 1:30 PM, Board Chambers, Eric Rood  
5 Administration Center, 950 Maidu Avenue, Nevada City, California  
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7  
8 **MEMBERS PRESENT:** Chair Aguilar and Commissioners Heck, Duncan and James.  
9

10 **MEMBERS ABSENT:** Commissioner Jensen.  
11

12 **STAFF PRESENT:** Planning Director, Brian Foss; Principal Planner, Tyler Barrington; Deputy  
13 County Counsel, Rhetta VanderPloeg; Agricultural Commissioner, Chris de Nijs; Administrative  
14 Assistant, Tine Mathiasen.  
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16  
17 **PUBLIC HEARINGS:**

- 18  
19 1. Agritourism Page 1, Line 39  
20 PLN17-0037; ORD17-2; EIS17-0009  
21

22 **STANDING ORDERS:** Salute to the Flag - Roll Call - Corrections to Agenda.  
23

24 **CALL MEETING TO ORDER:** The meeting was called to order at 1:30 p.m. Roll call was  
25 taken.  
26

27 **CHANGES TO AGENDA:** None.  
28

29 **PUBLIC COMMENT:** Members of the public shall be allowed to address the Commission on  
30 items not appearing on the agenda which are of interest to the public and are within the subject  
31 matter jurisdiction of the Planning Commission, provided that no action shall be taken unless  
32 otherwise authorized by Subdivision (6) of Section 54954.2 of the Government Code. None.  
33

34 **COMMISSION BUSINESS:** None  
35

36 **CONSENT ITEMS:** None.  
37

38 **PUBLIC HEARING:**

39  
40 **PLN17-0037; ORD17-2; EIS17-0009.** A public hearing to consider a recommendation to the  
41 Board of Supervisors to adopt an Ordinance (ORD17-2) amending the Nevada County Land Use  
42 and Development Code Chapter II, Sec. L-II 3.3 Agricultural Uses to adopt a definition and use  
43 standards for agricultural related tourism activities in unincorporated Nevada County  
44 **RECOMMENDED ENVIRONMENTAL DETERMINATION:** Recommend approval of a  
45 Negative Declaration (EIS17-0009). **RECOMMENDED PROJECT ACTION:** Recommend  
46 approval of the proposed Ordinance Amendment (ORD17-2). **PLANNER:** Tyler Barrington,  
47 Principal Planner  
48

49 Principal Planner Tyler Barrington introduced himself. The intent of the proposed project is to  
50 establish a definition of and standards for agritourism events in Nevada County. Planner

51 Barrington gave background to the project and noted the multiple commissions and groups  
52 involved in its creation. The proposed ordinance defines agritourism and is meant to incorporate  
53 uses that are generally already existing and occurring on farms and ranches. Agritourism uses are  
54 ancillary to a site's primary use as a farm. The purpose of the project is to support the agricultural  
55 community and the economy. The ordinance proposed today is based on direction from the Board  
56 of Supervisors. Agritourism is proposed to be allowed as a by-right use in rural zoning districts  
57 and incorporates existing standards as well as new ones. The ordinance defines which uses are  
58 considered agritourism and which are not. It also includes an addition to the agricultural products  
59 definition to exclude cannabis and cannabis products. Also, the sale of live animals is not  
60 considered a compatible use at a farm stand, field retail stand or agritourism event. Additional  
61 ordinance revisions are being proposed in response to Commissioner Jensen's comments on dude  
62 ranches and overnight stays. Camping was added to the excluded uses in the agritourism definition  
63 as there are other paths to permit camping and homestays on farms. Staff was careful not to  
64 unintentionally prohibit farmers from uses like ADUs or vacation rentals. The provided staff memo  
65 includes proposed revisions to the Environmental Health standards and advises changing language  
66 and removing some specifics. Staff recommends that if the Planning Commission recommends  
67 approval by the Board of Supervisors that the Commission recognize the amendments contained  
68 within the staff memo.

69

70 Chair Aguilar asked whether the proposed changes to the Environmental Health language clarify  
71 the issue for the public. He wants to avoid the public being unaware that they need a permit for  
72 certain activities.

73

74 Planner Barrington said that reverting to existing language is fine. The Agricultural Advisory  
75 Commission can discuss removing the specifics. It is appropriate to point to a specific section of  
76 the code as it provides more detail than the previously proposed language. It is within the  
77 Commission's purview to keep the language the way it is but the direction from Environmental  
78 Health and the Ag subcommittee is that the changes will make the ordinance better. Planner  
79 Barrington continued by noting that the project's environmental review included a draft Initial  
80 Study and proposed Negative Declaration which were circulated for a thirty-day period. The  
81 California Department of Fish and Wildlife submitted a comment regarding their permitting  
82 requirements. The appropriate changes were made and the environmental document did not require  
83 recirculation. A standard letter from the State Clearinghouse was also received. Staff recommends  
84 that the Planning Commission recommend that the Board of Supervisors adopt the amended  
85 Negative Declaration EIS17-0009 and adopt Ordinance ORD17-2.

86

87 Chair Aguilar asked if there will be a form for agritourism events that lists all that is required. It  
88 should be clear and easy for the public so they are not surprised by permit requirements. He asked  
89 if the Commissioners want to see the ordinance changes.

90

91 Commissioner Heck asked if the changes are different than what the Commissioners have.

92

93 Planner Barrington said they are the same.

94

95 Commissioner Heck wondered if the public would like to see the changes.

96

97 Planner Barrington said he was happy to bring the slide up. He discussed the proposed ordinance  
98 revisions and changes.

99

100 Commissioner Duncan asked Planner Barrington whether Commissioner Jensen was opposed to  
101 camping and dude ranch uses, or whether he was just asking questions about them.  
102  
103 Planner Barrington said that Commissioner Jensen had recently seen dude ranches mentioned in  
104 relation to agritourism and he wondered if the intent of the revised ordinance was to permit those  
105 activities. Planner Barrington clarified that it is not the intent of the ordinance so this new language  
106 makes that clear.  
107  
108 Commissioner Duncan asked if those uses are allowed under different permits.  
109  
110 Planner Barrington said those uses will not be permitted by this particular ordinance. The  
111 Agricultural Advisory Commission was concerned that by prohibiting overnight stays broadly, the  
112 ordinance will unintentionally preclude uses like ADUs or VRBOs, which other residents of  
113 Nevada County are allowed to do.  
114  
115 Commissioner Duncan asked if Commissioner Jensen was opposed to the notion of camping on  
116 site.  
117  
118 Planner Barrington said he did not know.  
119  
120 Commissioner Duncan asked if Commissioner Jensen brought it up.  
121  
122 Planner Barrington said no.  
123  
124 Commissioner Duncan asked where “camping” comes from.  
125  
126 Planner Barrington answered that it came from discussions with the Ag subcommittee the previous  
127 day. The intention was to address Commissioner Jensen’s concerns without adding “overnight  
128 stays” to the excluded activities.  
129  
130 Commissioner Duncan asked if the original intention was to allow camping.  
131  
132 Planner Barrington said no.  
133  
134 Commissioner Duncan asked about an image of camping in Planner Barrington’s PowerPoint  
135 presentation.  
136  
137 Planner Barrington noted that there was a slide discussing the changes and the explicit exclusion  
138 of camping.  
139  
140 Commissioner Duncan asked if what is being proposed is that structures are allowed but people  
141 cannot stay in them overnight.  
142  
143 Planner Barrington asked which structures.  
144  
145 Commissioner Duncan said the ones in the slide.  
146  
147 Planner Barrington said no, but a tent approved by the Fire Marshal might be allowed to hold an  
148 agritourism activity.

149  
150 Chair Aguilar asked about apple picking at a fruit stand and whether that will require two permits.  
151  
152 Planner Barrington said U-pick will be allowed by-right with no permit required. Environmental  
153 Health permits might be required is someone is offering samples but will not be required when  
154 just selling whole fruit.  
155  
156 Commissioner Heck asked about farm-to-fork dinners. The events are great but the neighbors may  
157 take issue with large events.  
158  
159 Planner Barrington said farm dinners will be allowed as an event to promote one's farm and  
160 product. Environmental Health will be involved in the cooking aspect.  
161  
162 Commissioner Heck suggested that farm-to-fork dinners be listed as an allowed use.  
163  
164 Planner Barrington said the intent is for "events" to cover the dinners. The ordinance was created  
165 by the Agricultural Advisory Commission and they may be able to speak to the reasoning.  
166  
167 Chair Aguilar described his experience with a co-op and asked what it was called.  
168  
169 Planner Barrington suggested it might have been community supported agriculture.  
170  
171 Chair Aguilar asked if an end of the year barbeque would be covered in the ordinance.  
172  
173 Planner Barrington and Commissioner Duncan said it would be a private function because the  
174 owner is not charging for it.  
175  
176 Planner Barrington said that the "other gatherings, activities and uses found to be appurtenant to  
177 the agricultural business" is a catch-all for that type of use. The intent is to allow for that type of  
178 use.  
179  
180 Commissioner Heck noted that the Public Works letter talked about large scale events. She asked  
181 if and how the ordinance will restrict the scale of those events.  
182  
183 Planner Barrington said he doesn't know that it does.  
184  
185 Commissioner Heck said Public Works brought it up so she has to ask.  
186  
187 Planner Barrington said there are other sections that allow the permitting of those types of uses,  
188 specifically as social gathering places. The ordinance is silent to size and it would be determined  
189 on a case-by-case basis whether a gathering is exceeding what is allowed here.  
190  
191 Commissioner Heck referred to a comment and asked what happens if CC&Rs prohibit an  
192 agritourism activity.  
193  
194 Planner Barrington said the County doesn't enforce CC&Rs. CC&Rs are enforced by the  
195 homeowners' association or other jurisdiction. The CC&Rs will supersede the ability for someone  
196 to do agritourism activities, similar to how some subdivisions preclude ADUs.  
197

198 Commissioner Duncan asked about farm-to-fork dining events. She asked if the produce sold is  
199 limited to what is grown on site. She asked who regulates that.  
200

201 Planner Barrington answered that it will most likely be regulated through the Agricultural  
202 Commissioner's office. The ordinance does not preclude the use or sale of other farm's products  
203 as part of a farm dinner, but the idea is that something produced on site is what is being promoted.  
204 He deferred the question to the Ag Commissioner.  
205

206 Commissioner Duncan noted that to attract a wider audience, farms might offer things produced  
207 offsite. She asked if camping includes motorhomes and campers in addition to tents. Experiencing  
208 a homestay or farmstay means staying overnight, and camping is one method of doing that.  
209

210 Planner Barrington said the County ordinance has a section on camping. He discussed the history  
211 of trying to create an ordinance specific to ag homestays and how it came to an impasse. The  
212 agritourism ordinance is not intended to provide the provisions for allowing ag homestays, but it  
213 is also not intended to preclude vacation rentals. Ag homestays are a separate use that may be  
214 addressed at a different date.  
215

216 Commissioner Duncan said she thought that years ago in the discussion of agricultural tourism  
217 that homestays were included.  
218

219 Planner Barrington said it never got there.  
220

221 Commissioner Duncan asked if it was never approved.  
222

223 Planner Barrington said it was never brought before the Planning Commission.  
224

225 Commissioner Duncan said it was discussed at the Commission.  
226

227 Planner Barrington said perhaps.  
228

229 Commissioner Duncan said she recalled working on it and she thinks they approved it.  
230

231 Planner Barrington said that Planning staff and the Agricultural Advisory Commission has worked  
232 on it. Several agricultural-related items were brought to the Commission but this one never made  
233 it that far.  
234

235 Chair Aguilar asked Commissioner Duncan is she wants to keep camping in.  
236

237 Commissioner Duncan said she does. It is not a deterrent to the experience being proposed. Camping  
238 could be part of it.  
239

240 Planner Barrington said a person would be allowed to have a camp if they get the appropriate  
241 permits.  
242

243 Commissioner Duncan said they would need to go beyond and apply for a different type of permit  
244 in order for it to be allowed.  
245

246 Planner Barrington said correct.

247  
248 Commissioner Duncan discussed the sale of animals. She discussed alpaca trails and events. She  
249 asked if a site sells live animals, if it would be an issue for the permit.  
250  
251 Planner Barrington said no as there is no permit being proposed.  
252  
253 Commissioner Duncan asked it would be a problem under the new ordinance.  
254  
255 Planner Barrington said yes, as live animals are an excluded product. The intent is that a farm stand  
256 or a field retail stand is a small scale activity that is ancillary to a farming or ranching use. He  
257 deferred the question to the agricultural community.  
258  
259 Commissioner asked if the necessity to be on publicly maintained roads is meant to reduce the  
260 impact on other users of a private road.  
261  
262 Planner Barrington said the requirement is to be on a publically maintained road or participate in  
263 the maintenance of a private road.  
264  
265 Commissioner Duncan asked if it would be allowed on a non-public road as long as there is a road  
266 maintenance agreement.  
267  
268 Planner Barrington read the standard for the record and then confirmed that it would be allowed  
269 on a private road as long as they are participating in the maintenance of the road. It is similar  
270 language to the winery ordinance.  
271  
272 Commissioner Duncan asked who will referee the homeowners on the road issue and if it will  
273 come to the Planning Department.  
274  
275 Planner Barrington said it will come to the Planning Department to determine if it is an agritourism  
276 use that is consistent with the code. Enforcement of the civil code will be a civil matter.  
277  
278 Commissioner Duncan said it will be allowed by the ordinance and the level of use will be a civil  
279 issue.  
280  
281 Planner Barrington noted that wineries have been required to provide a document that they are  
282 participating in the maintenance or a part of the road maintenance agreement. That will be the first  
283 step.  
284  
285 Chair Aguilar asked if majority rules in a road maintenance agreement.  
286  
287 Counsel VanderPloeg said that will be determined by the by-laws of the road maintenance  
288 agreement, the CSA or PRD, and will depend on how they are set up. Usually they are complaint-  
289 driven and will meet to decide how to rectify a potential problem on their road.  
290  
291 Chair Aguilar opened public comment at 2:05 p.m.  
292  
293 Chris de Nijs introduced himself as the Agricultural Commissioner. In order to create clarity for  
294 the public, the Ag Commissioner's office will create a checklist or brochure to help ensure that  
295 agritourism events meet the ordinance. Also, farm-to-fork events fall under "marketing events" in

296 the definition of agritourism. Parking issues are addressed in the LUDC. The ordinance was  
297 originally created to address farm stands and Environmental Health codes prohibit live animals  
298 near farm stands where food is sold in order to avoid food being contaminated.

299  
300 Commissioner Duncan asked if farm stands and live animals have to be separate.  
301

302 Commissioner de Nijs said yes, the Health and Safety code specifies a distance to prevent  
303 contamination. Nevada County agriculture is a very small community, unlike the large agricultural  
304 industry in the valley. Growers here need to find a way to be profitable and direct marketing to  
305 customers is one way.

306  
307 Chair Aguilar asked what Commissioner de Nijs thinks about the camping issue.  
308

309 Commissioner de Nijs said that he is for anything that will allow growers to succeed. He does not  
310 want to get too specific on what is allowed and what is not. The check sheet that his department  
311 will be creating will be better suited to answer these questions. It will depend on if they are  
312 promoting the farm rather than just having a camping event. It will be on a case by case basis.

313  
314 Commissioner Heck described a school group having a whole farm experience. She would hate  
315 for the ordinance to preclude that. She mentioned Sierra Harvest.

316  
317 Director Foss said that there are definitions of campgrounds that require Use Permits. The intent  
318 of the agritourism ordinance is not to undo the existing requirements that regulate camping and  
319 campgrounds. He recommended that the Commission not open that door and allow camping by-  
320 right when the existing ordinance specifically defines camping and campgrounds.

321  
322 Commissioner Duncan and Director Foss confirmed that the proposed ordinance excludes camping  
323 as a by-right use associated with agritourism.

324  
325 Commissioner Duncan asked if it would be a violation should a farm allow someone to camp.  
326

327 Director Foss said they would need to get a Use Permit through the existing structure of the  
328 ordinance to permit a campground. It could be allowed though it would be a different permit path  
329 rather than by-right, no permit required.

330  
331 Commissioner Duncan said the public has been loud and clear about their sensitivity to the  
332 rigmarole of government. She wants to anticipate the types of uses that would be conducive to  
333 making this a successful program. If camping can be good, she doesn't want to shy away and make  
334 someone get another permit at additional cost.

335  
336 Director Foss recommended a continuance so that staff can modify the remainder of the zoning  
337 ordinance and remove the Use Permit requirement. This will necessitate additional CEQA review  
338 and noticing.

339  
340 Commissioner Duncan asked why it will have to go back through CEQA if the ordinance is silent  
341 on camping.

342  
343 Director Foss said that if the ordinance allows camping as a by-right use, it will be in conflict with  
344 the existing ordinance.

345  
346 Commissioner Duncan suggested that the ordinance be silent on it.  
347  
348 Director Foss said if the word “camping” is removed, it will not be allowed anyway. If the word  
349 is taken out and someone is camping, they will still be in violation without a Use Permit. It goes  
350 back to the clarification issue. The idea is to clarify that it would be incorrect to assume that  
351 agritourism allows camping.  
352  
353 Commissioner Duncan said she approaches it as someone is buying the entire experience on an  
354 agricultural scene, which includes staying there, having locally produced foods and collecting eggs  
355 in the morning.  
356  
357 Director Foss said they will be able to do that if they are staying the night in a permitted structure.  
358  
359 Planner Barrington said camping brings the need for adequate sewage disposal.  
360  
361 Commissioner Duncan said some trailers come with their own facilities, and farms will have to  
362 have facilities if they had a farm stand.  
363  
364 Planner Barrington said they wouldn’t.  
365  
366 Agricultural Commissioner de Nijs said that the Ag Advisory Commission is in support of having  
367 camping listed. He is not aware of any farms offering this type of event. Excluding camping was  
368 supported by the Ag Advisory Commission.  
369  
370 Commissioner Heck asked what the process will be if a school wants to bring children out to have  
371 that sort of experience.  
372  
373 Director Foss said that there are Environmental Health codes that regulate campgrounds. A permit  
374 through Environmental Health and a Use Permit are required to permit a site as a campground.  
375  
376 Commissioner Heck said she is not thinking of it as a campground. She described a scenario of  
377 Girl Scouts staying overnight at a farm.  
378  
379 Director Foss said that when a commercial activity is introduced to a residential or agricultural  
380 use, it is by definition a campground. Camping in one’s own backyard in a tent is not regulated  
381 but when it is opened up and the public is invited, there are public health and safety regulations  
382 that are triggered. Camping and campgrounds are specifically regulated through various codes.  
383  
384 Chair Aguilar noted that public comment is still open.  
385  
386 Terry Jochim introduced himself as the chair of the Ag Advisory Commission. The agritourism  
387 concept is patterned after what is traditionally done in Europe. The Ag Commission is not  
388 addressing ag homestays as ag homestays drive additional environmental requirements. He  
389 discussed Commissioner Jensen’s comments and how the term “camping” came into the revision.  
390 Requirements, including facilities for large groups of people, come along with a camping  
391 arrangement on a ranch or farm. He recommended leaving the definition the way it was submitted  
392 by staff. That avoids getting involved in rewrites and revisions when there are already paths to  
393 accommodate a long-term, large overnight stay. Certainly it would be a great educational



394 opportunity that the Ag Commission would support, but when large groups stay overnight more  
395 regulations come into play and that is not the intent of the ordinance.

396  
397 Jonathan Collier introduced himself as active with the Nevada County Cannabis Alliance, the  
398 Nevada County Food Policy Council, the Briar Patch Board of Directors and the Advisory Board  
399 of Nevada County Grown. He agrees with the intention set forth in the ordinance. Cannabis has its  
400 own ordinance and it would not be appropriate to include it in this one. He was curious about the  
401 farmstay aspect but he got clarification with the last comment. He thinks this is good work and he  
402 is encouraged to see this move forward.

403  
404 Chair Aguilar closed public comment at 2:19 p.m. and asked Planner Barrington if he had further  
405 comments.

406  
407 Planner Barrington said that it is the Commission's purview as to whether the ordinance excludes  
408 camping or is silent to it. Unfortunately, Commission Jensen is absent and unable to fully vet his  
409 concerns. As a group, the exclusion of camping was determined to be the best solution without  
410 prohibiting something else that may be allowed otherwise.

411  
412 Chair Aguilar said that the Ag Commission is trying to keep this simple.

413  
414 Commissioner Duncan said they are hoping to get it passed.

415  
416 Chair Aguilar asked for a motion.

417  
418 Commissioner Duncan said the Ag Commission has done a great job to promote and bring about  
419 agritourism in Nevada County. It is surprising that cannabis isn't included and she can see a future  
420 in which those farms are included in farm tours of locally grown products. This isn't the end result;  
421 it will evolve over time as other uses and social practices appear. She noted that Planner Barrington  
422 and Director Foss clarified that camping is not precluded, only that it requires another level of  
423 government. She supports the ordinance.

424  
425 Commissioner Heck thinks the ordinance is great and supports it. It will change and evolve. She  
426 is grateful to the ag community.

427  
428 Commissioner Duncan noted the long hours that volunteers put in to the ordinance. She appreciates  
429 and recognizes them.

430  
431 Chair Aguilar noted that further checklists and scrutiny complicates things. He asked if  
432 Commissioner Duncan was going to make a motion.

433  
434 **Motion by Commissioner Duncan** to recommend that the Board of Supervisors adopt the  
435 attached Resolution approving the proposed amended Negative Declaration (EIS17-0009), finding  
436 that the adoption reflects their independent judgment that the project will not result in a physical  
437 change to the environment. **Second by Commissioner James. Motion carried on a voice vote**  
438 **4/0. (Commissioner Jensen absent.)**

439  
440 **Motion by Commissioner Duncan** to recommend that the Board of Supervisors adopt the  
441 attached Ordinance (ORD17-2) amending Chapter II of the Nevada County Land Use and

442 Development Code Sections L-II 3.3; **Second by Commissioner Heck. Motion carried on a**  
443 **voice vote 4/0. (Commissioner Jensen absent.)**

444  
445 Chair Aguilar noted that there is no appeal period for the recommendation.

446  
447 Discussion ensued regarding upcoming Commission meetings and ongoing project statuses.

448  
449 **Motion by Commissioner James; second by Commissioner Heck to adjourn. Motion carried**  
450 **on voice vote 5/0.**

451  
452 There being no further business to come before the Commission, the meeting was adjourned at  
453 2:31 p.m. to the next meeting tentatively scheduled for January 2018 in the Board of Supervisors  
454 Chambers, 950 Maidu Avenue, Nevada City.

455  
456  
457 \_\_\_\_\_  
458 Passed and accepted this      day of                      , 2018.

459  
460 \_\_\_\_\_  
460 Brian Foss, Ex-Officio Secretary