
NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memorandum

MEETING DATE: April 22, 2025

TO: Board of Supervisors

FROM: **Brian Foss, Planning Director**

SUBJECT: Public Hearing to consider the Meeting of Nevada County Planning Commission's March 27, 2025 unanimous vote (Vote 3-0) (2 absent) recommending approval of the Paye Rezone and Tentative Final Map project including: 1) Adopting a Resolution for a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Plan in connection with the adoption of an Ordinance amending Zoning District Map No. 077 to rezone assessor's parcel numbers 038-330-001, 038-330-002, 038-330-003, 038-330-004, 038-330-086, and 038-330-087 from Timber Production Zone-40 (TPZ-40) to Residential Agricultural-10 (RA-10) and General Agricultural -30 (AG-30); and a Tentative Final Map to create eleven lots (file Nos. PLN24-0021; RZN23-0002; TFM23-0001; EIS24-0008). 2) Adopting an Ordinance immediately enacting a rezone that was previously approved by Ordinance 2453 to occur over a 10 year roll out period. The immediate rezone enacts an amendment to Zoning District Map No. 077, to rezone two parcels (six assessor parcel numbers) from Timber Production Zone-40 (TPZ-40) to Residential Agricultural-10 (RA-10) (APNs 38-330-01, 02, 03, 04, & 87) and General Agricultural-30 (AG-30) (APN 38-330-86). (file Nos. PLN23-0021, RZN23-0002, TFM23-0001 and EIS24-0008). 3) Adopting a Resolution approving a Tentative Final Map to subdivide 2 legal parcels with six APNs, totaling approximately 307-acres, into eleven (11) lots ranging in size from 4-acres to 127.4-acres located on assessor's parcel numbers 038-330-001, 038-330-002, 038-330-003, 038-330-004, 038-330-086, 038-330-087.

RECOMMENDATION:

The Planning Commission, on March 27, 2025, voted to recommend that the Board of Supervisors take the following actions:

- I. Environmental Action: Adopt the Resolution adopting a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Plan in connection with the adoption of an Ordinance amending Zoning District Map No. 077 to rezone assessor's parcel numbers 038-330-001, 038-330-002, 038-330-003, 038-330-004, 038-330-086, and 038-330-087 from Timber Production Zone-40 (TPZ-40) to Residential

- Agricultural-10 (RA-10) and General Agricultural -30 (AG-30); and a Tentative Final Map to create eleven lots (project).
- II. Project Action: Zoning District Map Amendment (RZN23-0002): Introduce, waive further reading, and adopt the Ordinance immediately enacting a rezone that was previously approved by Ordinance 2453 to occur over a 10 year roll out period. The immediate rezone enacts an amendment to Zoning District Map No. 077.
- III. Project Action: Tentative Final Map (TFM23-0001): Adopt the resolution approving a Tentative Final Map to subdivide 2 legal parcels with six APNs, totaling approximately 307-acres.

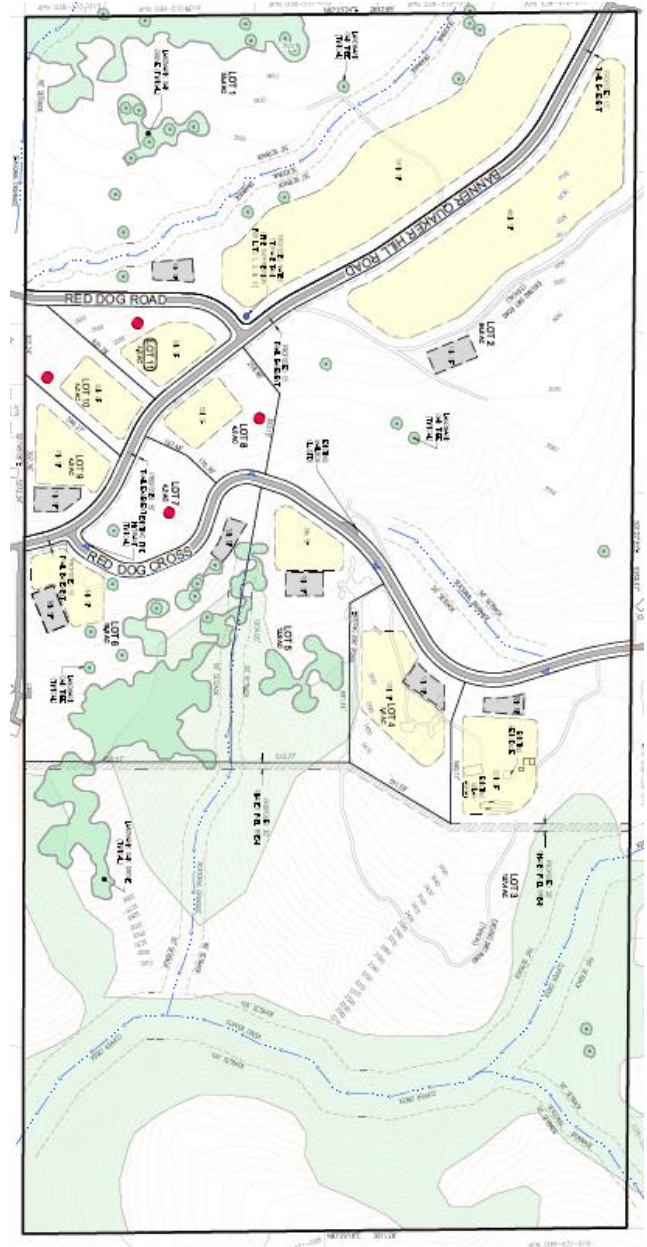
ATTACHMENTS:

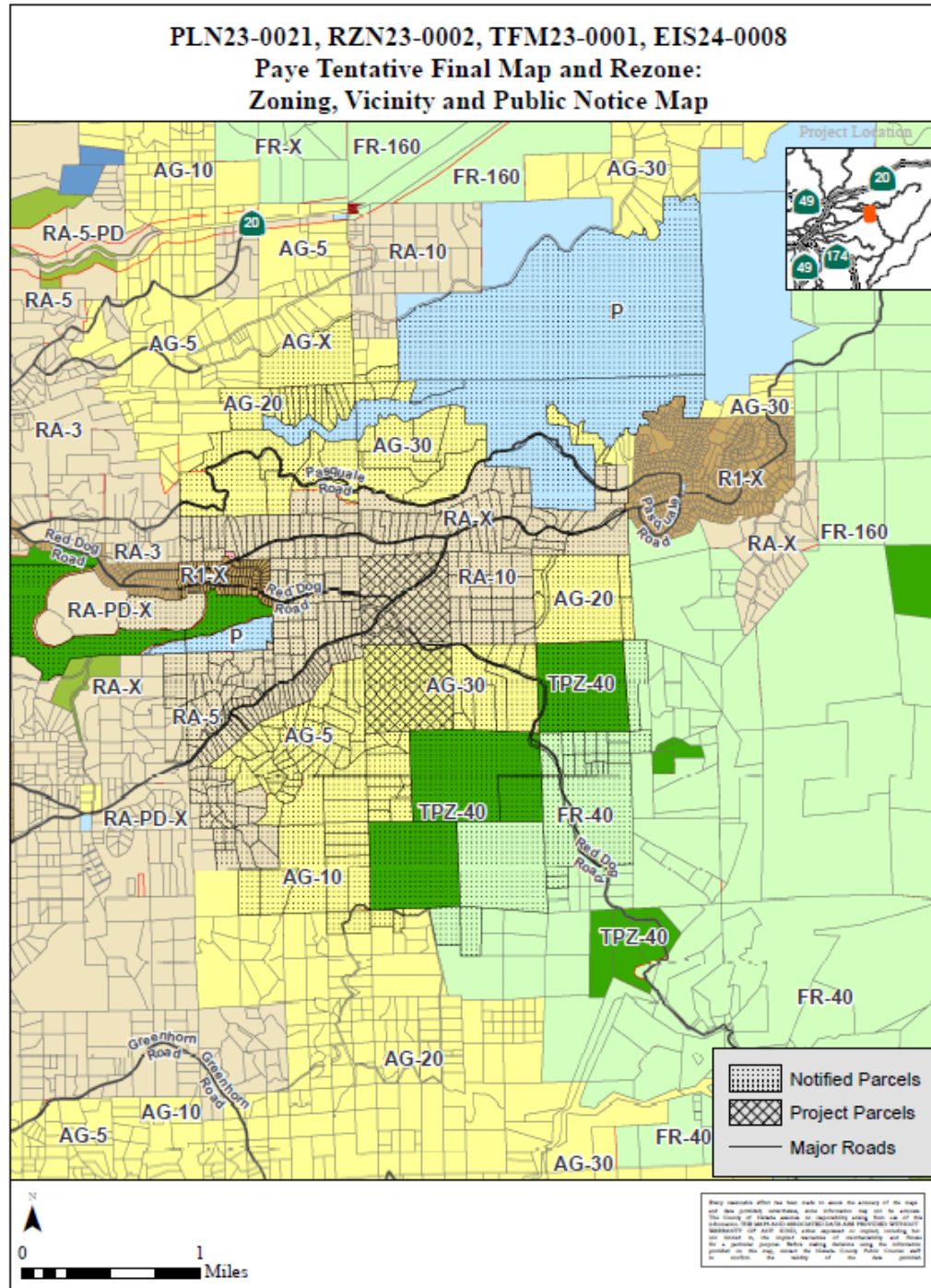
1. Vicinity, Zoning & Public Notice Map
 2. Initial Study Mitigated Negative Declaration Resolution
 - a. Exhibit A: Initial Study
 3. Paye Map Draft Ordinance
 - a. Exhibit A: Rezoned Parcels
 4. Paye Map Draft Resolution
 - a. Exhibit A: Recommended Conditions of Approval
 - b. Exhibit B: Tentative Final Map
 5. March 27, 2025 Planning Commission Draft Minutes
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PROJECT DESCRIPTION: A proposed Immediate Rezone from a Timberland Production Zoning District to the new zones (RA-10 (157 acres) & AG-30 (150 acres)) approved through Ordinance 2453 in 2018, and a proposed Tentative Final Map to subdivide 2 legal parcels with six APNs, totaling approximately 307-acres, into eleven (11) lots ranging in size from 4-acres to 127.4-acres. An existing residence and accessory structures located on proposed lot 3 are served by an existing driveway. Proposed Lot 7 would be dedicated to the Nevada County Consolidated Fire District as a public benefit for a future use such as a fire station or potential helipad to provide emergency services to the area. Building envelopes would contain existing improvements, are sized to allow potential future improvements, and are designed to avoid sensitive resources to the greatest extent possible. Existing public rights of way provide primary access to the subdivision. All 11 lots would be served by individual septic systems for sewage disposal. Seven (7) of the eleven (11) lots will have metered connection to the Nevada Irrigation District's treated water system and the remaining 4 lots will be served by private wells. The project site contains scattered landmark oaks, landmark oak groves, and watercourses which will be avoided through the implementation of building envelopes, as shown in Figure 1 to the right.

Project Location and Surrounding Area Details:

The project is located at 14344 Banner Quaker Hill Road at the intersection of Banner Lava Cap Road/Red Dog Cross Road and includes Assessor's Parcel Numbers 038-330-001, 038-330-002, 038-330-003, 038-330-004, 038-330-086, and 038-330-087. The project parcels are bordered by Residential Agricultural, Timber Production Zone, and Agricultural Zoning Districts with varying minimum parcel sizes as shown in the figure below. The project parcels are surrounded by Rural and Forest General Plan Land Use Designations. The northern portion of the project area is surrounded by 1.5 acre to 13 acre lots that are mostly developed with residential units and accessory structures. The southern portion that is bordered by the AG and TPZ zoning is comprised of larger low-density parcels that are mostly undeveloped.





Background:

On June 26, 2018, the Nevada County Board of Supervisors approved Ordinance 2453 which rezoned the two project parcels from Timber Production Zone-40 to Residential Agricultural-10 and General Agricultural-30. The rezone initiated a ten-year roll-out process in compliance with California Government Code Section 51100 et seq.

STAFF COMMENT:

Several agencies and existing policy documents were consulted to determine the adequacy of this project. The agency comments and the results of Staff's policy review are discussed below.

Site Development Standards:

Section 12.02.021 and 12.02.030 of the Nevada County Code identifies specific standards for site development and for the creation of new parcels. For this project, no new structures are proposed so impervious surface standards or building height limits will not be exceeded. The land division will not affect compliance with required setbacks due to the building envelopes being designated outside of the setbacks which are 30 feet on the side and rear property lines and 20 feet from the edge of the Right of Ways. All lots have at least 200 feet of road frontage and the density of required by the zoning will not be exceeded as discussed in the Zoning/General Plan Consistency Section. Structures will be evaluated for compliance with the site development standards during the building permit review process.

Traffic & Access:

The project parcels are located approximately 3.5 east of the city limits of Nevada City. The parcels are bisected by the county-maintained roads Red Dog Road, Red Dog Cross Road, and Banner Quaker Hill Road. The proposed lots would be accessed from these existing roads and new roads will not need to be constructed. The existing roads are not beyond dead end road standards and will be verified by an engineer to ensure they are consistent with County Standards. Any encroachment upon the existing County maintained roads will require an encroachment permit which requires signage and flaggers, thus reducing hazards during construction. Any future residences and accessory dwelling units will be required to be served by driveways that meet fire safe driveway standards.

Pursuant to the Institute of Transportation Engineers (ITE) 11th Edition Trip Generation Manual, the weekday trip generation rate per Single Family Detached Unit is 9.43 daily trips. This is consistent with the rates used in Nevada County Transportation Commission's Regional Transportation Mitigation Fee Program and the Nevada County Traffic Impact Fee schedule. The 11-lot subdivision would result in 104 trips per day which is low enough to be below the screening threshold determined by the Nevada County Transportation Commission. Therefore, there would not be a substantial increase in traffic resulting from the proposed land division.

Wildfire:

The project parcels are within the Nevada County Consolidated Fire District and are in a Very High fire severity zone as designated by CalFire. Nearby properties are also in a Very High fire severity zone. Portions of the area have dense oak and pine woodlands, while other areas are more thinned from timber harvesting activities. The general topography is characterized by moderately steep slopes.

The Nevada County Consolidated Fire Marshal is requiring Lot 1 to have water storage for emergency fire suppression purposes which will serve lots 1, 2, and 11. The maintenance of these systems will be required through a maintenance agreement. Additionally, there are four existing

Nevada Irrigation District fire hydrants along Red Dog Cross Road which would help provide water in case of an emergency to lots 3-10.

Currently the parcels are overgrown with vegetation which creates a fire hazard in the dry mountainous topography. To reduce this risk, the applicant and the Nevada County Consolidated Fire District propose a shaded fuel break on lot 3 that follows along the southern property line of Lots 4, 5, and 6 that will be required to be maintained. This is meant to reduce the hazard of wildfire moving up the walls of the Clipper Creek Canyon.

Condition of Approval D.1 requires the dedication of lot 7 within the subdivision to the Nevada County Consolidated Fire District to be used for a fire station at an undetermined time in the future or another use deemed suitable by the fire district.

All future and existing structures are required to be consistent with Public Resources Code Section 4291 which requires that structures maintain Defensible Space/Fuel Reduction Zone by removing, limbing, and/or thinning trees, brush, flammable vegetation or combustible growth no less than 100 feet from structures or to the property line, whichever is closer to prevent the transmission of fire. The project also includes a Fire Protection and Evacuation Plan that was prepared by the Office of the Fire Marshal that analyzes available emergency responders, emergency water supply, evacuation guidelines, and a fuels management plan which is included as Condition of Approval E.1.

Evacuation:

The proposed land division is not anticipated to interfere with an adopted emergency response plan or emergency evacuation plan, nor would it expose people or structures to a significant risk of loss, injury or death involving wildland fires. The subject property is served by the Nevada County Consolidated Fire Protection District. The Nevada County Office of the Fire Marshal and the Nevada County Consolidated Fire Protection District reviewed the project proposal and did not comment on any adverse impacts to emergency response or evacuation plans. The County code specifies the maximum density of parcels that can be beyond dead-end road limits. The denser an area is, the shorter a single route for evacuation can be. The Department of Public Works engineers verified that these parcels are not beyond dead end road standards and did not require additional road improvements due to the access being county-maintained roads with multiple routes for evacuation.

Environmental Resources:

The Project area is located within an area best characterized as western ponderosa pine habitat with additional complimentary species that make it a mixed conifer-hardwood. The forest understory and open areas within the Project area are dominated by bare ground and shrubby chaparral associated species. Some dense stands of native oak species were also documented within the Project area. Clipper Creek and Little Deer Creek are the only named streams within the Project area. However, several small unnamed seasonal drainages have been documented and mapped within the Project area.

Nevada County biological consultant Greg Matuzak reviewed the project and determined that special status plants (chaparral sedge, Red Hills soaproot, Cantelow's lewisia, Sierra blue grass,

and showy golden madia) have the potential to occur within the project area. Therefore, a special-status plant survey would be required prior to implementation of ground disturbance if native vegetation is being removed from between April to June. If plants are present, protection of plants as specified in Condition A.16 (Mitigation Measure 4E) is required. Matuzak also noted the Cooper's hawk, Townsend's big-eared bat, and hoary bat, were not observed during the August and October 2023 site visits, but there is still a low but possible chance these species could occur on the parcels. Therefore, a pre-construction survey would be required prior to any disturbance to minimize impacts to protected birds by only allowing the removal of vegetation after it has been determined that there are no active nests. No other candidate, sensitive, or special status species was observed or are predicted to occur on the parcels. No USFWS Designated Critical Habitat (DCH) has been mapped by USFWS for any federally listed species within the vicinity of the Project area.

All proposed building envelopes and access to the building envelopes have been designed to avoid the 50-foot setback of the intermittent streams and seasonal drainages; and the 100-foot setback of Clipper Creek. This buffer is in alignment with the Nevada County Code and should be adequate for the protection of riparian areas. All building envelopes avoid slopes steeper than 30%. The subject parcels contain landmark blue oak woodlands and landmark oak trees as shown on sheet C1.1 of the Tentative Final Map. The building envelopes were designed around existing development and avoid protected oak groves. Condition of Approval A.13 (Mitigation Measure 4B) requires a note on the Tentative Final Map stating that "All structures shall be limited to the building envelopes identified on each of the parcels; this restriction does not apply to underground utility placement."

Immediate Rezone:

The project includes an immediate rollout out of Timber Production Zone. Previously the rezone from Timber Production Zone to RA and AG was approved in June of 2018. However, the rollout process typically takes ten years. To approve an immediate rezoning out of TPZ, a public hearing before the Board of Supervisors shall be scheduled. The Board must make written findings by a four-fifths vote that the findings required for approval of the immediate rezone (see recommended findings below) have been met. Among the findings is the requirement that the immediate rezone is in the public interest. To demonstrate the immediate rezone is in the public interest, Lot 7 is proposed to be dedicated to the Nevada County Consolidated Fire District for the future development of a new fire station or another use deemed suitable by the fire district.

The Nevada County Non-Motorized Transportation Master Plan identifies the Banner Mountain Corridor within the project area. Therefore, the proposed project includes a 15-foot wide trail easement along Banner Quaker Hill Road. A 15-foot wide easement is adequate in width to fit either a Type 1 or Type 2 trail specified in Nevada County Public Works Standard Drawing A-11. Although no trail is proposed currently, the attainment of the easement will make the development of a trail in the future easier and further contributes to the public benefit of the project. Due to the projects dedication of a trail easement and land to the Nevada County Consolidated Fire District, it is staff's finding that the immediate rezone is in the public interest.

ZONING/GENERAL PLAN CONSISTENCY:

The project parcels are crossed by Banner Quaker Hill Road, Red Dog Road, and Red Dog Cross Road within the unincorporated part of Nevada County. The parcels are not within the sphere of influence of any incorporated cities such as Grass Valley or Nevada City. The project parcels are not in a location with an adopted area plan. The northern portion of the project has a General Plan designation of RUR-10 and is zoned Residential Agricultural – 10. The southern portion of the project has a General Plan designation of RUR-30 and is zoned General Agricultural – 30. The “-10” prescribes density at one unit per 10-acres (AG-10, RUR-10) and the “-30” prescribes density at one unit per 30 acres (AG-30, RUR-30). Both the RA and AG zoning district allows for single-family residential improvements and uses, along with a variety of other uses. The project parcels are mostly undeveloped, with the exception of a single-family residence and accessory structures located at 14695 Red Dog Road.

The RA-10 portion of the project area is 157 acres and the AG-30 portion of the project area is 150 acres. There is available density for 15 parcels in the RA portion and 5 parcels in the AG portion, resulting in available density for 20 parcels in total. The proposed land division would result in 11 parcels so the maximum density for the area is not exceeded. Eight (8) out of the eleven (11) parcels are smaller than the minimum parcel size required by the zoning district, however, the Nevada County Code allows parcels smaller than the minimum size by averaging the density allowed for the entire subdivision. Due to the project including large parcels of 64, 55.4, and 127.4 acres, the average of the density does not exceed what is allowed by zoning and leaves density for 9 parcels that is not being used with this project. To ensure the remaining density in the area is clearly communicated to future developers, Condition A.11 is proposed that will require a note on the Tentative Final Map prohibiting any further subdivision of Lot 3. With the prohibition of further subdivision of Lot 3, the potential divisibility of Lot 1 and Lot 2 would not exceed that density allowed by the zoning. Lot 1 (55.5 acres in RA-10) has the potential to be subdivided into 5 parcels and Lot 2 (64 acres in RA-10) has the potential to be divided into 6 parcels. If lots 1 and 2 are divided in the future, the total parcels created would be 20 which is the maximum density allowed under the current zoning. All parcels of the project meet the minimum road frontage required by the County Code due to all parcels having at least 200 feet of road frontage.

With the approval of the proposed Tentative Final Map, and the proposed Conditions of Approval/Mitigation Measures, the project would be consistent with the existing zoning district and General Plan land use designations as outlined above, and specifically with the Land Use & Development Code Rural District standards, Section 12.02.030 and the Single-Family standards, Section 12.02.021. Additionally, Staff review of the design of the proposed land division found the project is substantially consistent with the applicable comprehensive site development standards contained in the County Code and is consistent with the County’s standards regarding parcel size and density.

ENVIRONMENTAL REVIEW:

The Planning Department prepared a draft Initial Study and proposed Mitigated Negative Declaration (IS/MND) for the proposed project (EIS24-0008). The Initial Study was available for a public review period of 30-days (February 15, 2025 through March 17, 2025 at 5:00 p.m.). The Initial Study identified potential impacts associated with this project to air quality, biological resources, cultural resources, geological resources, noise, tribal cultural resources, and possible

impacts to utilities/services systems; mitigation measures were identified to reduce potential impacts to less than significant levels. Based on the technical information submitted with this application, review of pertinent policy and regulatory documents, and consultation with appropriate local, state and federal agencies, all of the potential impacts that were identified have been mitigated below levels of significance; therefore, a Mitigated Negative Declaration is the appropriate environmental document for this project.

Minor revisions were made to the Initial Study to require that proposed Mitigation Measures be added to the supplemental data sheet of the Final Map as notes and to correct references in the Mitigation Measures to a “Final Map” rather than a “Parcel Map”. These changes do not necessitate recirculation of the draft Initial Study/proposed Mitigated Negative Declaration because no new impacts have been identified and because these minor revisions are meant to further clarify the existing conditions. The redlined Initial Study is included as Attachment 4.

On March 17, 2025 a comment letter was received from the Central Valley Water Quality Control Board. The comment letter from the Central Valley Water Quality Control Board is a generic comment letter that the agency sends for nearly every project. Many of the comments, such as discussion of discharge of waste to high quality waters, the excavation or fill of non-jurisdictional waters of the state, and the fill of wetlands are not applicable to this project due to this project not proposing that type of activity. However, the letter mentions requirements for a Storm Water Pollution Prevention Plan, which is already required by proposed Condition of Approval B.12 alongside other proposed Conditions of Approval such as complying with all provisions of the Clean Water Act and filing a Notice of Intent with the California Water Quality Control Board.

PLANNING COMMISSION ACTION:

On March 27, 2025, the Nevada County Planning Commission held a duly noticed public hearing to consider the Paye Immediate Rezone and Tentative Final Map project.

Members of the public expressed concerns about the projects impacts on evacuation. Nevada County Consolidated Fire District Fire Chief Jason Robitaille spoke on behalf of NCCFD in support of the project which alleviated some of the evacuation concerns. Planning Commission directed Planning staff to include evacuation discussion in staff reports. Accordingly, staff included the evacuation analysis contained in the Mitigated Negative Declaration and included it in the Board of Supervisors staff report.

The Commission unanimously (3-0 Vote), two absent, recommended that the Board of Supervisors approve the project.

SUMMARY:

The Paye Final Map proposes an 11-lot subdivision of approximately 307 acres which is currently 2 legal parcels. The project also includes a request for an immediate rezone out of Timber Production Zone into RA-10 and AG-30 rather than the currently approved 10 year roll out from the effective date of the Board’s June 26, 2018 approval. The project has been reviewed for potential environmental impacts through the project specific Mitigated Negative Declaration (EIS24-0008) and it has been determined that all potential project impacts are mitigated to less than significant levels with no significant and unavoidable impacts identified. This tentative map

is consistent with the Subdivision Map Act, the Nevada County Subdivision Ordinance, and development standards for land divisions. Recommended mitigation measures and conditions of approval will protect the resources located onsite and ensure compliance with the applicable provisions of the Nevada County Code and General Plan. Therefore, Staff recommend that after reviewing and considering the proposed project and taking public testimony, the Board of Supervisors approve the project specific environmental document, immediate rezone, and the Tentative Final Map.

RECOMMENDATION: Staff recommends the Board of Supervisors take the following actions:

- I. Environmental Action: Adopt the Resolution adopting a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Plan in connection with the adoption of an Ordinance amending Zoning District Map No. 077 to rezone assessor's parcel numbers 038-330-001, 038-330-002, 038-330-003, 038-330-004, 038-330-086, and 038-330-087 from Timber Production Zone-40 (TPZ-40) to Residential Agricultural-10 (RA-10) and General Agricultural -30 (AG-30); and a Tentative Final Map to create eleven lots (project).
- II. Project Action: Zoning District Map Amendment (RZN23-0002): Introduce, waive further reading, and adopt the Ordinance immediately enacting a rezone that was previously approved by Ordinance 2453 to occur over a 10 year roll out period. The immediate rezone enacts an amendment to Zoning District Map No. 077.
- III. Project Action: Tentative Final Map (TFM23-0001): Adopt the resolution approving a Tentative Final Map to subdivide 2 legal parcels with six APNs, totaling approximately 307-acres.

Item Initiated by: David Nicholas, Associate Planner

Approved by: Brian Foss, Planning Director