



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

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

MEETING DATE: March 13, 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 as amended per direction of the Board of Supervisors on January 23, 2018 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. Revised Draft Zoning Text Amendments in Track Changes
 4. January 23, 2018 Board of Supervisors Staff Report with Attachments Removed
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BACKGROUND:

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 Agritourism Ordinance. On January 23, 2018, the Planning Department brought this recommendation to the Board of Supervisors for consideration of the adoption of the proposed Agritourism Ordinance. The Board of Supervisors expressed concerns over the inclusion of the Residential Agricultural (RA) zoning district without some differentiation regarding a given farm's or ranch's General Plan Land Use Designation, specifically focusing on the Rural verses Residential, Estate (and other non-Rural) Land Use Designations. It was also suggested that some consideration be given to potential minimum parcel sizes. In providing this direction, the Board of Supervisors directed staff to work with the Nevada County Agricultural Advisory Commission to potentially develop new standards to address the concerns of the Board and to look at potential impacts of developing more restrictions on the use.

STAFF COMMENT:

On January 31, 2018, the Planning Department, Agricultural Commissioner and members of the Agricultural Advisory Commission (AAC) Subcommittee on Direct Marketing met to discuss the direction of the Board of Supervisors. Based on this discussion and using the County's Winery Ordinance (Land Use and Development Code Section L-II 3.24), two new standards are recommended to be added to the proposed Ordinance as follows:

- a. *Agritourism activities within the RA zoning district and Rural (RUR) General Plan Land Use Designation shall be limited to parcels of 3 acres or more in size. This minimum parcel size may be reduced subject to approval of a use permit.*
- b. *Agritourism activities within the RA zoning district not within the RUR General Plan Land Use Designation shall be limited to parcels of 5 acres or more in size. This minimum parcel size may be reduced subject to approval of a use permit.*

Since, properties in the RA zoning district and Rural General Plan Designation are typically considered to be in more rural areas with generally larger lot sizes, the AAC subcommittee recommended that smaller parcels sizes should be allowed as perceived potential conflicts with surrounding uses are anticipated to be less. Wineries in the RA zone are restricted to parcels of 3-acres or greater regardless of General Plan Land Use Designations and the Winery Ordinance allows for smaller parcels with a use permit. Properties the RA zoning district and non-Rural General Plan Land Use Designations such as Residential, Estate and others are in more developed rural residential areas with smaller lots that create the potential for more conflicts between agritourism activities and nonagricultural uses. Therefore, the AAC Subcommittee requested a 5-acre minimum parcel size to allow for more buffering between properties and to allow for activities to occur on parcels smaller than 5-acres with approval of a use permit as a way to not prohibit the use all together. The Use Permit process will allow smaller properties to be considered on a case-by-case basis and will allow conditions and mitigation to be applied to agritourism activities in order to ensure compatibility with surrounding uses and the neighborhood. While these added standards make the Ordinance slightly more restrictive, it does not preclude a farmer or rancher who makes a living on a smaller more intensive operation from receiving the potential benefits of being allowed to do agritourism activities to support their farm or ranch. The minimum parcels sizes provide for greater protection of existing neighborhoods and it is staff's opinion that this is a good compromise based on the direction of the Board of Supervisors on January 23, 2018.

SUMMARY:

Based on the direction of the Board of Supervisors on January 23, 2018, the Planning Department and Agricultural Advisory Commission have prepared revisions to the proposed draft Ordinance to establish minimum parcel sizes and to distinguish between the RA Zoning District with a Rural General Plan Land Use Designation and a Non-Rural Land Use Designation. Since these revisions make the Ordinance more restrictive, the original proposed Negative Declaration remains valid and recirculation is not required pursuant to California Environmental Quality Act Guidelines Section 15073.5. By allowing for a use permit to reduce the minimum parcel size in the RA zoning district, this will ensure that no farms or ranches in this zone will be ineligible for hosting agritourism activities on their farm or ranch. Should the Board of Supervisors elect to adopt the revised Ordinance, 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