



**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>

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Sean Powers  
Community Development Agency Director

Brian Foss  
Planning Director

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

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**MEETING DATE:** April 25, 2017

**TO:** Board of Supervisors

**FROM:** Brian Foss, Director of Planning

**SUBJECT:** Consideration of the Nevada County Planning Commission's March 23, 2017, (5-0 Vote) recommendation for the U. S. Forest Service General Plan Land Use Amendments and Rezone Project to: 1) adopt the Negative Declaration (EIS16-0003) for the entire project; 2) approve General Plan Land Use amendments (GPA16-0001) to change the designation of 19 specific Tahoe National Forest parcels to the Forest (FOR) Land Use designation for all parcels; 3) approve the corresponding Zoning District Map amendments (RZN16-0001) to change the zoning of the 19 project parcels to the Forest (FR) base Zoning District for all parcels (Districts I, IV and V).

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

- I. Environmental Action: Approve the attached Resolution adopting the Negative Declaration (EIS16-0003) for the proposed General Plan Land Use and Zoning District Map amendments associated with the U. S. Forest Service GPA/Rezone Project, pursuant to Section 15074 of the California Environmental Quality Act Guidelines based on the findings contained in the Resolution (*Attachment 1*).
- II. Project Actions:
  1. General Plan Land Use: Approve the attached Resolution amending the General Plan Land Use Designation of 19 specific U. S. Forest Service parcels to change the land use from Rural (18 parcels) and Residential (1 parcel) to the Forest designation for all 19 parcels, to align the County's Land Use pattern

with the resource management of Tahoe National Forest System Lands based on the findings contained within the Resolution (*Attachment 2*).

2. Zoning Districts: Approve the attached Ordinance amending Zoning District Maps 23, 36, 64, 75, 76, 94, 129, 138 and 139 to change the zoning of 19 specific U. S. Forest Service parcels from General Agricultural (18 parcels) and Residential Agricultural (1 parcel) uses to the Forest (FR) base Zoning District for all 19 parcels, to align the County's Zoning with the resource management of Tahoe National Forest System Lands based on the findings contained within the Ordinance (*Attachment 3*).

**FUNDING:** This project affects the Fiscal Year 16/17 Planning Department Budget, no budget amendments are required.

**ATTACHMENTS:**

1. Resolution: Draft Initial Study/Proposed Negative Declaration (EIS16-0003)
2. Resolution: General Plan Land Use Amendments (GPA16-0001)
3. Ordinance: Zoning District Amendments (RZN16-0001)
4. March 23, 2017 Planning Commission Staff Report duplicate attachments removed
5. March 23, 2017 Draft Planning Commission Meeting Minutes

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**BACKGROUND:** In 2014, the Nevada County Planning Department received letters from the conservation groups Trout Unlimited and Truckee River Watershed Council, recommending the land use designation for a specific parcel in eastern County (APN 48-080-84, labeled as Site #5 for this project) be changed from its current zoning of General Agricultural-10 acre minimum parcel size (AG-10) to the Open Space (OS) Zone District. The property is a United States Forest Service (USFS) owned 277 acre parcel below the Prosser Reservoir Dam, through which Prosser Creek flows to the Truckee River. This stretch of Prosser Creek is important because it is one of the few tributaries to the Truckee River that provides significant spawning and rearing habitat for trout. This is a waterway that draws anglers from across California and Nevada. It is valued highly by those who fish it and by those concerned with the ecological health of the Truckee River.

Because the Prosser Creek parcel (APN 48-080-84) is managed by the USFS, District V Supervisor, Richard Anderson, asked Mr. Tom Quinn (former Tahoe National Forest Supervisor) for his support in changing the inconsistent General Plan land use designation and zoning of the Prosser Creek parcel. In July, 2014, Mr. Quinn wrote Supervisor Anderson in support of amending the County's land use designation for the Prosser Creek parcel, but he also expanded his request for removal of General Plan/Zoning inconsistencies to other Forest Service parcels in the County, stating that the "Open Space" land use designation best matches the USFS management of National Forest System lands within the Tahoe National Forest (TNF).

There was discussion of including the Prosser Creek parcel rezone with the Countywide Business Park (BP) Land Use and zoning amendments in 2015, however, because there was no nexus between the USFS zoning consistency analysis and the BP update, the USFS analysis was not included in the BP project.

Prior to the annual Board of Supervisors priority setting workshop for 2016, Supervisor Anderson asked Planning staff to look at the current zoning of all USFS owned property in the unincorporated area of Nevada County and to coordinate with the USFS to ensure the County land use designations conform to the USFS's stated preference for "Open Space" zoning on their parcels. Planning staff met with USFS staff, overlaid County Zoning District Maps with TNF Management Areas, and developed two maps (west and east County) that displayed the location and current zoning of 22 parcels that were potentially inconsistent in land use designation that TNF Supervisor Quinn noted in his letter. At their January, 2016, work program priority workshop the Board of Supervisors selected the USFS GPA/Rezone a "Priority B" project and directed the Planning Department to work with USFS staff to recommend amendments to the County's zoning to better align the County's land use designation of USFS parcels, with the intended land use and resource management of goals of Tahoe National Forest lands.

At a meeting with the USFS in July, 2016, USFS staff suggested that the County consider zoning all federally owned National Forest lands to the Forest (FR) Zone District (as opposed to Open Space) because the purpose of the FR District is to provide for the protection, production and management of timber and other natural resources, including recreational uses and open space. While the purpose and intent of the Open Space (OS) District is similar the FR District in terms of resource and habitat preservation and environmental protection, the range of allowable land uses listed in the Zoning Ordinance are more restrictive and inconsistent with the multitude of beneficial public uses the TNF provides (e.g., Public Facilities and Uses such as campgrounds are not permissible in the OS District). Furthermore, changing the County's zoning of all National Forest lands to the Forest (FR) Zone District would have broader consequences, including removing Timberland Production Zone (TPZ) protections on tens of thousands of acres, all of which was beyond the scope of the Board of Supervisors' direction that had originally contemplated rezoning a single parcel. Having collaborated with USFS and analyzed the current General Plan land use designation and surrounding zoning of their parcels, staff is recommending amending the General Plan land use and zoning for 19 parcels that are currently zoned for General Agricultural (AG) (18 parcels) and Residential Agricultural (RA) (1 parcel) uses, changing the land use and base zoning district for all 19 parcels to the County's Forest land use designation and zoning.

### **PROJECT ANALYSIS:**

Purpose: Jurisdiction over federal land lies with the federal government however there is still some utility of the project. The project brings recognition and highlights the issue of alignment between the County's General Plan and the Tahoe National Forest Plan as a priority for the Board of Supervisors and if these parcels were to become privately owned

in the future the County's proposed 'Forest' Land Use designation and zoning would then regulate development of those properties.

Issues and Concerns: There are two primary issues that required additional considerations: 1) FR zoning minimum parcel sizes; and 2) Coordination with other agencies.

- 1) The FR Zone District has the largest minimum parcel sizes of any of the County's Zoning Districts (i.e., large tracts of land are more suitable for forest-related uses such as timber production and recreation). Minimum parcel size affects the residential density and subdivision potential of parcels, thus, increasing the minimum size of the project parcels results in a reduction of development potential from what currently exists today. All of the project parcels are adjacent to, or nearby, other existing FR zoning and staff generally proposed the FR minimum parcel size that was closest to their current AG minimum size to preserve existing residential density potential. Although for consistency of the land use pattern, some of the proposed FR parcel sizes are proposed for whatever is most consistent with the majority of the surrounding existing FR parcel sizes. Under the project parcel's existing AG and RA zoning the total maximum single family dwelling potential is 83 dwelling units, and with the proposed FR minimum parcel sizes the maximum single family dwelling potential is 38 units, a reduction in the potential of 45 primary residential units.
- 2) Planning staff worked closely with USFS staff to develop the proposed land use amendments and discussed opportunities for more planning collaboration where overlapping issues relating to forest management and recreation, such as biomass facilities and integrated trail projects, could benefit from a coordinated approach. Additionally, General Plan Policy 1.8.2 encourages coordination of planning projects located within the spheres of influence (SOI) of the incorporated cities and Town. Sites #4, #5, and #6 are all located within the SOI of the Town of Truckee and two of the parcels are even 'pre-zoned' for rural residential development, however, Truckee's Town Manager and staff concurred the proposed "less-intense" land use designations were appropriate given the parcel's steep topography and/or proximity to water bodies, and that Truckee's primary interest in these parcels is for protection purposes, not future development.

Land Use Justification and Zoning and General Plan Consistency: Future land uses of these parcels are most likely to be forest uses. None of the parcels are currently designated OS. The primary difference between the current AG and RA zoning, and the proposed FR zoning is described in the intent and purpose of each district. The FR District is intended to protect and manage timber with increasing emphasis on recreation, compared to the AG District where agricultural uses are of primary importance, or the RA District where residential uses are the priority. Aside from the described differences in the intended purpose of each district, there is little variation between the permissible uses in the AG, RA, and FR zones. Some examples where allowed uses deviate amongst districts are Retail Plant Nurseries which requires a Use Permit in the

AG zone and is not permitted in the other zones, or Ski Tow Facilities which are permissible, subject to a Use Permit, in the FR District, and not allowed in the AG and RA zones. Otherwise most other low-density and low-intensity uses are permissible in the AG, RA, and FR zone districts, requiring the same levels of approval for the different types of uses. Overall, the site development standards in the FR District are more restrictive (e.g., less impervious coverage, greater minimum road frontage).

The General Plan recognizes the importance of the County's forest resources to supply raw material, provide recreation and aesthetic enjoyment for many people, and provide food and cover for many forms of wildlife, and protect watersheds. A number of goals and policies in the General Plan support protecting and managing the forests of Nevada County such as:

*General Plan Goal 15.1; Identify and maintain sustainable timber lands and resources. Objective 15.1; Identify and protect significant timber lands from conversion to unrelated residential and other non-timber-related uses.*

*Objective 15.3; Provide for both on-site and off-site forest-related industries while minimizing conflicts with adjacent uses.*

*Policy 15.6; Recognize the need and importance in the Forest land use designation of managing forest projects, and of managing natural resources to enhance recreation.*

### **Environmental Review (EIS16-0003):**

The proposed USFS GPA/Rezone project is group of legislative land use amendments and does not propose any specific development projects. Pursuant to CEQA Guidelines, Planning staff prepared a draft Initial Study (IS) and proposed Negative Declaration (ND) which is attached to the Resolution (*Attachment 1*). The IS and ND was circulated for public comment from February 17, through March 20, 2017. The draft Initial Study was posted on the Planning Department website and the Notice of Availability/Notice of Intent to adopt a ND was sent to several local stakeholder and special interest groups, in addition to state agencies including the State Clearinghouse. No comments were received regarding the adequacy of the IS. Since the proposed USFS GPA/Rezone project will not result in any physical disturbance, and based on the supporting rationale in the IS, staff determined that a ND is the appropriate environmental document for this project.

### **PLANNING COMMISSION ACTION:**

On March 23, 2017, the Nevada County Planning Commission held a duly noticed public hearing to consider the proposed USFS GPA/Rezone Project. District 1 Commissioner, Ricki Heck, raised concerns that we were not honoring the original request for OS zoning of the Prosser Creek Parcel, because that offered the greatest environmental protections and the parcel is clearly sensitive and should be protected. Staff responded that none of the parcels are currently OS and the Board's direction was to work with the USFS at a regional level (as opposed to a single parcel) and the FR zoning stays true to the original intent of re-designating the parcels from Agricultural and Residential to something else that will provide long-term protections of the properties' resource values and will align with the USFS Forest Plan most closely. The only public testimony was from Tim Cardoza, TNF Environmental Coordinator, who spoke about the very limited

circumstances when the USFS can divest National Forest System lands, and the unlikelihood that the USFS would sell or exchange any of the project parcels. With little further discussion the Planning Commission unanimously (5-0 Vote) recommended the Board of Supervisors approve the proposed USFS GPA/Rezone Project.

**SUMMARY:**

The USFS willingly acknowledges its obligation to coordinate national forest management with local governments is as much an agency duty as a political necessity. The USFS GPA/Rezone project is a legislative action to change the County's General Plan land use designation and zoning of 19 federally owned parcels to reduce potential land use inconsistencies and better align the County's land use designation of National Forest lands to be consistent with USFS objectives and resource management of those public lands, and the surrounding areas. National Forest System lands are not subject to county general plans, however should any of the project parcels be sold or exchanged to a private entity in the future, the County's zoning would then regulate land use and development of those sites. Because the project is consistent with the General Plan and the proposed land use and zoning amendments are appropriate to the community character of the project parcels and their environs, and there will be no environmental impacts, the Planning Commission recommends the Board of Supervisors approve the proposed USFS GPA/Rezone project and adopt the Resolutions and Ordinance described below.

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District for all 19 parcels, to align the County's Zoning with the resource management of Tahoe National Forest System Lands based on the findings contained within the Ordinance (*Attachment 3*).

**Item Initiated by:** Patrick Dobbs, Senior Planner

**Approved by:** Brian Foss, Director of Planning