



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

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

MEETING DATE: May 23, 2017

TO: Board of Supervisors

FROM: Nevada County Planning Department

SUBJECT: A public hearing to consider the Nevada County Planning Commission's April 27, 2017, 5-0 recommendation to introduce, waive further reading and adopt the proposed amendments to Land Use and Development Code Section L-II 3.10 Employee Housing and Section L-II 3.15 Recreational Vehicle Use and Temporary Occupancies to establish a process for allowing temporary use of a recreational vehicle for agricultural employee housing.

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

- I. Find that the adoption of Resolution 17-064 for EIS16-0001 is adequate for this project and therefore further environmental review is not required pursuant to California Environmental Quality Act Guidelines Section 15162 as provided for in Attachment 1 making finding A.
- II. Introduce, waive further reading and adopt the attached Ordinance amending Chapter II of the Nevada County Land Use and Development Code Sections L-II 3.10 and 3.15.

FUNDING: No budget amendments are required.

ATTACHMENTS:

1. Proposed CEQA Determination Section 15162
Enclosure: Resolution 17-064- Negative Declaration (EIS16-0001)

2. Draft Ordinance (ORD16-1)- LUDC Sec. L-II 3.10 Employee Housing and Sec. L-II 3.15 Recreational Vehicle Use and Temporary Occupancies
 3. AAC Comment Letter
 4. Public Comments
 5. April 27, 2017 Planning Commission Draft Meeting Minutes
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BACKGROUND:

In late 2016/early 2017, the County Planning Department prepared zoning ordinance amendments at the request of the Nevada County Agricultural Advisory Commission (AAC) and Agricultural Commissioner related to: 1) Agricultural Uses (direct marketing) (LUDC Sec. L-II 3.3); 2) Temporary Agricultural Housing (LUDC Sec. L-II 3.10 and 3.15); and 3) Important Farmlands (LUDC 4.3.4). These amendments were considered by the Planning Commission on December 8, 2016. Prior to the December 8, 2016, Planning Commission meeting, County Counsel directed the Planning Department to remove the proposed ordinance standards for use of temporary recreational vehicle as agricultural employee housing, as there were potential implications related to the future development of an ordinance for cannabis cultivation that was in its infancy stage. Subsequently, the Planning Commission recommended approval of remaining ordinance amendments to the Board of Supervisors and when doing so requested that the Board direct staff to continue to consider the potential for temporary recreational vehicle use as agricultural employee housing. The Board of Supervisors adopted the proposed ordinance as recommended by the Planning Commission on January 24, 2017 (Ord. No. 2427). Based on the Planning Commission's recommendation, the Board directed staff to return to the Board within 180-days with language permitting seasonal use of recreational vehicles as temporary agricultural housing.

STAFF COMMENT:

Section L-II 3.10/3.15. Employee Housing/Recreational Vehicle Use and Temporary Occupancies: The proposed project would result in minor amendments to both LUDC Sec. L-II 3.10 Employee Housing and Sec. L-II 3.15 Recreational Vehicle Use and Temporary Occupancies. Under Nevada County regulations two types of employee housing are allowed by Sec. L-II 3.10 regardless of allowed general plan or zoning density. The first of which applies to employee housing for 5 or more employees, which is permitted by the State Department of Housing and Community Development, herein referred to as "State employee housing." The second relates to resource based employee housing for 4 or less attached or detached dwelling units which is permitted by the County of Nevada, herein referred to as "County employee housing." Under the State employee housing regulations a variety of different housing types are allowed, included alternative type housing such as recreational vehicles, yurts and tents (California Employee Housing Act, codified in Health and Safety Code Sections 17000-17062). Under current County employee housing regulations, all employee housing is required to meet the applicable codes, standards and fees

applicable to a single-family residence. This requirement limits the type of housing to more traditional stick built or manufactured homes. To be more in line with State employee housing regulations and to further reduce the overall cost of providing employee housing for the County's agricultural community, the County Agricultural Advisory Commission has requested that seasonal temporary recreational vehicle use be allowed for legitimate agricultural uses for a period not to exceed 6-months.

Since the County already has code standards for both Employee Housing and Temporary Recreational Vehicle use, including those that relate to building and health and safety (e.g. water, sewage disposal, electrical, heating, fire safety), protection of sensitive environmental resources (LUDC Chapter II Zoning Regulations, Article 4, Division 4.3 Resource Standards), and for the siting and orderly design of land uses/structures (LUDC Chapter II Zoning Regulations, Article 4, Division 4.1 Site Development Standards and 4.2 Community Design Standards), this revision focus primarily on removing barriers for allowing the seasonal use of recreational vehicles for County agricultural based employee housing. This amendment has been reviewed by the potentially impacted public agencies (Public Works, Environmental Health, Building and Fire) who have agreed that existing rules and regulations for both Employee Housing and Temporary RV Use would apply unilaterally to seasonal temporary RV use as agricultural employee housing.

Based on the recommendation of the Agricultural Advisory and Planning Commissions and the Board of Supervisors, the Planning Department has drafted an ordinance amendment that would allow the use of a RV as seasonal employee agricultural housing for the cultivation of agricultural products, as defined by LUDC Sec. L-II 3.3.B.1, for a period of six months each year with approval of an annual Administrative Development Permit. Staff has also added a standard which requires the RV to be disconnected from all utilities when not in use and be relocated for storage either offsite or in an onsite area that provides screening from neighboring residences and public roadways to the greatest extent possible. The proposed ordinance language makes revisions to LUDC Section L-II 3.10 Employee Housing, Subsection C.2 to clarify the intent of the allowance for "Resource Based (County Permitted) Employee Housing," as follows (underlined text indicates new language, ~~strike-out~~ text indicates deleted language):

2. **Resource-Based Employee Housing.** Employee housing for 4 employees or fewer consisting of 4 or ~~less~~ fewer attached or detached dwelling units within a Rural district, is allowed subject to zoning compliance and building permit issuance, unless otherwise specified within this section, regardless of General Plan or zoning density, if all of the following standards are satisfied:

Adds section "g" to Subsection C.2 to create standards for allowing use of an RV for agricultural employee housing, as follows:

- g.** Seasonal Temporary Recreational Vehicle (RV) Use. Employee housing in a Recreational Vehicle as defined by Section 18010 of the California Health & Safety Code may be allowed subject to all standards within this Section and those provided below.
- 1)** Seasonal Temporary RV use for the cultivation of Agricultural Products as defined by LUDC Section L-II 3.3.B.1 shall require approval of an Administrative Development Permit to be renewed annually.
 - 2)** Seasonal Temporary RV use for employee housing may be allowed for a period not exceeding one contiguous six month period in any calendar year.
 - 3)** Seasonal Temporary RVs shall be disconnected from utilities, and stored in a location that provides screening from neighboring residences and public roadways to the greatest extent possible and/or be removed from the site when not being used as employee housing.
 - 4)** The placement of a Seasonal Temporary RV shall adhere to the standards outlined in LUDC Sec. L-II 3.15.C except those standards that restrict density (Sec. L-II 3.15.C.2) and prohibit the collection of rent or fees for occupants of employee housing (Sec. L-II 3.15.C.13).

Amends section “i” of Subsection C.2 to ensure there is no internal conflict with allowing an RV and language requiring employee housing to be treated as a single family dwelling for building codes standards and fees, including fire safety regulations, as RVs do not meet the criteria to be considered a single family dwelling, as follows:

- i.** Employee housing shall comply with all codes, standards and fees applicable to the type of housing being proposed. ~~a single family residence, including but not limited to County Fire Safety Regulations, Chapter L-XVI of the Land Use and Development Code.~~

The proposed ordinance amendment also includes a revision to LUDC Section L-II 3.15 Recreational Vehicle Use and Temporary Occupancies, Subsection C.2 to ensure allowing resource based agricultural employee housing for 4 or fewer employee or units does not result in an internal conflict in the code, as follows:

- 2.** No more than one recreational vehicle may be occupied per parcel for any and all permitted occupancies except for resource based seasonal agricultural employee housing as allowed by Section L-II 3.10.

Agricultural Advisory Commission and Public Review: The AAC reviewed the draft ordinance language on March 15, 2017 and provided feedback to the Planning Department. Originally the draft ordinance required the complete removal of the employee housing RVs off of the agricultural production site when not in use as employee housing. The AAC felt that this would be costly and unnecessary and suggested revisions to this standard as discussed above, which would allow for the RVs to remain onsite during the offseason (*Attachment 3*). In addition to comments from the AAC, the County also received a petition from supporters of allowing the use of RVs as temporary employee housing. Finally, during the initial routing period for this revised ordinance amendment, the Planning Department received two public comments expressing concerns regarding the potential year round use of RVs with one requesting that an annual permit include a fee sufficient enough to ensure that the ordinance standards are upheld. Both letters express concern over the potential blight that this ordinance could cause to the rural areas of the County (*Attachment 4*).

ENVIRONMENTAL REVIEW:

The County Planning Department prepared a draft Initial Study and proposed Negative Declaration, pursuant to the California Environmental Quality Act (CEQA) Guidelines, for the original ordinance amendment which was adopted on January 24, 2017 by Board Resolution No. 17-764 (*Attachment 1*). This initial study included the original proposed amendments that provided for seasonal temporary RV use as agricultural employee housing which was subject to only zoning compliance and building permit issuance (e.g. an allowed use). The current proposal is subject to all of the same standards as was originally proposed, but in addition requires the approval of an Administrative Development Permit which will provide greater oversight in the implementation of this ordinance, if approved. Pursuant to CEQA Guidelines Section 15162, when a Negative Declaration (ND) has been adopted for a project, no subsequent ND shall be prepared for that project unless specific determinations are made as outlined in Attachment 1. This amendment is the continuation of ORD16-1 for which the ND was previously adopted (County Resolution No. 17-064) and the proposed amendments are more restrictive than was previously proposed and reviewed in EIS16-0001. Subsequently, the Planning Commission has recommend that the Board find that EIS16-0001 (Resolution No. 17-064) is adequate for this project pursuant CEQA Guidelines Section 15162 making the findings proposed below and as provided for in Attachment 1.

PLANNING COMMISSION ACTION:

On April 27, 2017, the Nevada County Planning Commission held a duly noticed public meeting to consider a recommendation to the Board of Supervisors regarding finding that the prior ND was adequate for this project and approving the proposed zoning text amendment. Following staff's presentation, the Planning Commission discussed the proposal and based on public testimony questioned why only 6 months were being provided and also discussed whether there should be property size limitations included as a part of the ordinance. Regarding timing, the intent is to provide seasonal temporary housing using a recreational vehicle, which is not built to be permanent housing and the

six month period was consistent with the AAC's original recommendation. Further the ordinance already provides provisions for allowing year round permanent employee housing. Regarding property size limitation, there are several self-limiting standards contained with the existing ordinance. One limitation is the requirement that County permitted employee housing be located in a Rural zoning district (AG, AE, FR or TPZ) where parcel sizes are typically larger. Another limiting factor is employee housing must be clearly subordinate and incidental to the resource production on the site, which would be difficult to prove on smaller parcels. The applicant for employee housing must verify that they have a legitimate agricultural use and is growing agricultural products as defined by County Code. The applicant is required to record a deed restriction limiting occupancy to employee housing. Likely the most limiting factor towards this use occurring on smaller parcels is the need to provide water and sewage disposal resources for temporary employee housing. According to Environmental Health, this use would require permanent sewage disposal resources with 100-percent repair areas that must be setback from existing wells and other septic systems on the site (assuming these properties also have primary dwellings on this). Additionally, there is no existing minimum property size for other county or state permitted employee housing. After taking public testimony and deliberating on the project, the Planning Commission on a 5-0 vote, recommended that the Board make those actions shown under the "Recommendation" below.

SUMMARY:

In summary, the proposed Zoning Ordinance Amendments were prepared based on the direction of the Planning Commission on December 8, 2016 and the Board of Supervisors on January 24, 2107. Staff has circulated the revised amendments for public comment and received comments from the AAC (recommending that the PC/BOS adopt the proposed amendments) and two residents. Based on the comments received from the AAC, the draft ordinance sections was updated to reflect the requested change. The Board of Supervisors adopted Resolution 17-064 for the previous rendition of this ordinance (ORD16-1), which remains adequate for this revised ordinance. Subsequently, on April 27, 2017 the Planning Commission voted 5-0 that the Board take the recommended actions provided below.

RECOMMENDATION: The Planning Commission on April 27, 2017 made the following recommendation:

- I. Environmental Action: Find that the adoption of Resolution 17-064 for EIS16-0001 is adequate for this project and therefore further environmental review is not required pursuant to California Environmental Quality Act Guidelines Section 15162 as provided for in *Attachment 1* making finding A:
 - A. It is the finding of the Nevada County Board of Supervisors that the previous environmental document (EIS16-0001/County Resolution No. 17-

064) may be used to fulfill the environmental review requirements of the revised ORD16-1. No impacts previously found to be insignificant are now significant. The proposed ordinance provides for increased oversight over that which was reviewed by EIS16-0001. Because the project meets the conditions for the application of State CEQA Guidelines Section 15162, preparation of a new Negative Declaration is not necessary.

- II. Project Action: Introduce, waive further reading and adopt the attached Ordinance amending Chapter II of the Nevada County Land Use and Development Code Sections L-II 3.10 and 3.15 (*Attachment 2*).

Item Initiated by: Tyler Barrington, Principal Planner

Approved by: Brian Foss, Director of Planning