



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**
950 MAIDU AVENUE NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 265-9851 <http://mynevadacounty.com>

Sean Powers
Community Development Agency Director

Brian Foss
Planning Director

TO: Nevada County Board of Supervisors

FROM: Tyler Barrington, Principal Planner
Nevada County Planning Department

DATE: May 23, 2017

RE: **CEQA Determination for proposed Employee Housing Ordinance Amendments (PLN16-0050; ORD16-1; EIS16-0001).** Pursuant to Section 15162 of the California Environmental Quality Act (CEQA) Guidelines, the County of Nevada has determined that no further environmental review is required for the revised employee housing ordinance to allow temporary seasonal agricultural housing in a recreational vehicle because the original draft ordinance reviewed by EIS16-0001 was less restrictive than the what is currently being proposed.

Location: Rural agricultural areas of unincorporated Nevada County.

Background:

On January 24, 2017, the Nevada County Board of Supervisors approved amendments to the Nevada County Land Use and Development Code (LUDC), Chapter II Zoning Regulations related to agriculture including updates to LUDC Section L-II 3.3 Agricultural Uses (Direct Marketing) and Section L-II 4.3.4 Agricultural Lands, Important (revising the County definition of Farmlands of Local Importance). In taking such action, the Board of Supervisors first adopted a project specific Negative Declaration (County File No. EIS16-0001). At the inception of this project, a third proposed zoning text amendment was included that would have allowed for the use of a recreational vehicle as temporary seasonal agricultural employee housing for a period of 6-months as an allowed use (subject to building permit issuance and zoning compliance only). Subsequently, the Negative Declaration (EIS16-0001) included this component of the project within its analysis. Prior to this project going before the Planning Commission for a recommendation to the Board of Supervisors (December 8, 2016), the zoning text amendment was modified to remove the proposed employee housing revisions, to allow additional time for the potential impacts to be considered countywide. When making a recommendation to the Board of Supervisors, however the Planning Commission made a request to the Board to have staff continue to pursue amendments to allow season recreational vehicle use for agricultural employee housing.

At the January 24, 2017 Board of Supervisors meeting, the Board took the Planning Commission's recommendation and provide staff with 180-days to return to the Board with

zoning language that will allow this use. The Planning Department being responsible for these amendments, retooled the amendment to create an Administrative Development Permit process that would allow for additional oversight by the Community Development Agency above and beyond what was previously proposed and analyzed within Negative Declaration (EIS16-0001).

CEQA Determination:

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 (*Enclosed*). This initial study included the original proposed amendments that included season temporary recreational vehicle 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 the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous ND due to the involvement of new significant, environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous ND was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous ND;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous ND;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from

those analyzed in the previous ND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

(CEQA Guidelines Section 15162 subd. (a); see also Pub. Resources Code Section 21166.)

Based on the proceeding legal standards, and as discussed above, the proposed amended project does not trigger the requirements for a subsequent Negative Declaration. This amendment is the continuation of ORD16-1 for which the Negative Declaration was previously adopted (County Resolution No. 17-064) and the proposed amendments are more restrictive than was previously proposed and reviewed in EIS16-001. Subsequently, staff would recommend that the Planning Commission recommend that the Board affirm that EIS16-001 (Resolution No. 17-064) is adequate for this project making the findings proposed below.

Project Description:

The proposed project is a zoning text amendment to Land Use and Development Code Sections L-II 3.10 Employee Housing and L-II 3.15 Recreational Vehicle Uses and Temporary Occupancies. Should it be approved, the project would allow for seasonal use of a recreational vehicle for period of six months to serve as agricultural employee housing for 4 employees or fewer subject to approval of an Administrative Development Permit to ensure each agency of the County's Community Development Agency can review any proposed recreational vehicle use for this purpose.

Findings:

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.

Processing of the revised ordinance (ORD16-1) may now proceed with the understanding that any substantial changes, beyond those outlined under the project description above may be subject to further environmental review.

Enclosure: Adopted Negative Declaration Resolution No. 17-064) adopted January 24, 2017.



RESOLUTION NO. 17-064

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION ADOPTING A NEGATIVE DECLARATION MADE IN CONNECTION WITH THE ADOPTION OF ORDINANCE 16-1 AMENDING SECTIONS L-II 2.2.1, L-II 2.2.2, L-II 2.3, L-II 2.4, L-II 2.5 AND L-II 2.6 OF ARTICLE 2; SECTIONS L-II 3.3, L-II 3.10, AND L-II 3.15 OF ARTICLE 3, AND L-II 4.3.4 OF ARTICLE 4 RELATED TO AGRICULTURAL USES, SEASONAL AGRICULTURAL EMPLOYEE HOUSING AND THE COUNTY'S DEFINITION OF FARMLANDS OF LOCAL IMPORTANCE (FILE NOS. ORD16-1 AND EIS16-0001)

WHEREAS, the County is proposing zoning code amendments at the request of the County Agricultural Commissioner and recommendation of the Nevada County Agricultural Advisory Commission; and

WHEREAS, on November 7, 2016, the Planning Department staff prepared an Initial Study and Negative Declaration ("IS/ND") for the Project, a copy of which is attached to this Resolution as Exhibit A; and

WHEREAS, the IS/ND was submitted directly to affected local, regional, state, and federal agencies, including the United States Department of Agriculture and was released for a 30-day public review period, commencing on November 7, 2016 and ending December 6, 2016; and

WHEREAS, the IS/ND analyzes all of the potential environmental impacts of the proposed Project and found that no significant impacts would result from the approval of the Project; and,

WHEREAS, on December 8, 2016, the Planning Commission held a public hearing on the proposed Project in which the Commission reviewed the proposed IS/MND together with all comments received during the public review period, and recommended adoption of this same Negative Declaration before making a recommendation to the Board on the proposed Project.

NOW, THEREFORE, BE IT RESOLVED that the Nevada County Board of Supervisors has reviewed and considered the recommendation of the Planning Commission and has independently reviewed the Initial Study and proposed Negative Declaration (EIS16-0001), together with all comments received during the public review period, and hereby finds and determines as follows:

1. The above recitals are true and correct.
2. On the basis of the whole record before the Board of Supervisors, there is no substantial evidence that the proposed Project will have a significant effect on the environment.

3. The IS/ND reflects the Board's independent judgment and analysis.
4. The documents and materials constituting the record of the proceedings on which this decision is based are located and in the custody of the Nevada County Planning Department at 950 Maidu Avenue, Nevada City, California.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby adopts the Negative Declaration (EIS16-0001) for the *Agricultural Ordinance Amendment* Project, to support and promote the success of the agricultural industry in unincorporated Nevada County.

BE IT FURTHER RESOLVED that the Clerk of the Board is directed to file a Notice of Determination pursuant to CEQA Guidelines Section 15075 within five working after adoption of this resolution and approval of the proposed Project.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 24th day of January, 2017, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Hank Weston and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 



Hank Weston, Chair

1/24/2017 cc: Planning*
Ag Comm*