



## **RESOLUTION No. \_\_\_\_\_**

### **OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA**

**A RESOLUTION DENYING THE APPEAL FILED BY KIM & DON CREVOISERAT, GARY & PAULINE RUDOLPH, KENNETH & ELISE STUPL, ROBERT & CANDACE BURBAGE, CARTER & LOUISE TAYLOR, STERLING & CONNIE BAILEY, DANA & FAYRENE DICKEY, AND RON & MARY ARNESON REGARDING THE PLANNING COMMISSION'S AUGUST 10, 2017 APPROVAL OF A DEVELOPMENT PERMIT (DVP16-8) FOR NORTHERN SIERRA PROPANE LOCATED AT 13145 LOMA RICA DRIVE, GRASS VALLEY, ASSESSOR'S PARCEL NUMBER 06-920-10, AND SUSTAINING THE PLANNING COMMISSION'S APPROVAL OF THE DEVELOPMENT PERMIT (DVP16-8)**

WHEREAS, on October 12, 2016, Northern Sierra Propane ("Applicant") applied for a Development Permit to allow the construction and operation of a propane business consisting of a 2,000-square foot office, a 2,016-square foot warehouse, and a 2,500-square foot outdoor storage area with two 30,000-gallon propane tanks, on a 2.3-acre lot located at 13145 Loma Rica Drive, Grass Valley (APN 06-920-10); and

WHEREAS, upon review of the proposed project, the Applicant was notified that the proposed project is located in the B2 Zone of the Nevada County Airport Land Use Compatibility Plan ("NCALUCP"), which limits aboveground storage of flammable materials to less than 6,000 gallons; and

WHEREAS, the Applicant was directed to seek a determination if the project is consistent with the NCALUCP from the Nevada County Airport Land Use Commission ("NCALUC"); and

WHEREAS, on May 17, 2017, the NCALUC determined that the B2 Zone identified in the NCALUCP is a combination of the California Airport Land Use Planning Handbook's noise (B2 Zone), and safety (Safety Zone 5) compatibility concerns; and

WHEREAS, Safety Zone 5, not the B2 Zone, precludes the aboveground propane storage; and

WHEREAS, Safety Zone 5 extends 750 feet from the runway centerline and the proposed tanks are over 1,100 feet from the centerline, therefore outside the prohibited zone; and

WHEREAS, the NCALUC adopted Resolution 17-01 clarifying that the proposed project's propane tanks were outside of Safety Zone 5, and determined that the proposal was consistent with the NCALUCP; and

WHEREAS, NCALUC's review of the project is advisory because NCALUC adopted an NCALUCP, which is consistent with the NCALUC's plan and the submittal of individual project for review was voluntary; and

WHEREAS, on August 10, 2017, the Nevada County Planning Commission considered and approved an application by Northern Sierra Propane for a Development Permit and Mitigated Negative Declaration to allow the construction and operation of a 2,000-square foot office, 2,016-square foot warehouse, and 2,500-square foot outdoor storage area with two 30,000-gallon propane tanks for a propane business on a 2.3-acre lot located at 13145 Loma Rica Drive, Grass Valley (APN 06-920-10) by a 4-1 vote; and

WHEREAS, pursuant to Section L-II 5.12.D of the Nevada County Land Use and Development Code, the Planning Commission's approval of the Application is appealable to the Board of Supervisors within 10 days after the date of the decision; and

WHEREAS, on August 21, 2017, Appellants Kim & Don Crevoiserat, Gary & Pauline Rudolph, Kenneth & Elise Stupi, Robert & Candace Burbage, Carter & Louise Taylor, Sterling & Connie Bailey, Dana & Fayrene Dickey and Ron & Mary Arneson (collectively "Appellants") filed a timely appeal of the Planning Commission's decision; and

WHEREAS, on September 12, 2017, the Board of Supervisors adopted Resolution 17-474 to accept the appeal as to the Planning Commission's actions on the Project and scheduled the appeal for hearing on October 10, 2017; and

WHEREAS, the appeal also included a request for the Board of Supervisors to overrule the decision by the NCALUC to approve a Request for Consistency Determination (Resolution 17-01) for the Northern Sierra Propane project; and

WHEREAS, with the adoption of amendments to the Nevada County General Plan to incorporate the NCALUCP on October 28, 2014, the NCALUC now serves an advisory role to the County providing expert guidance in the implementation of airport land use compatibility policies; and

WHEREAS, since the NCALUC review was voluntary and advisory, the overrule procedures are not in effect; and

WHEREAS, the project as conditioned and mitigated is consistent with the General Plan goals, objectives, and policies, and with the Industrial General Plan land use map designation applicable to this project site and the Loma Rica Drive Industrial Area Plan; and

WHEREAS, the project was found consistent for approval under a Development Permit pursuant to Nevada County Land Use and Development Code section L-II 5.5.2.C; and

WHEREAS, on October 10, 2017, the Board of Supervisors held a duly noticed public hearing at which the Board considered all evidence both oral and written regarding the appeal and denied the appeal.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Nevada that it hereby finds and determines that:

1. The facts set forth above are true and correct.
2. That this project as conditioned and mitigated is consistent with the Nevada County General Plan's goals, objectives, policies, and with the purpose and intent of the Industrial land use designation, further project has been reviewed and found to be consistent with the Loma Rica Drive Industrial Area Plan's goals, policies, and design guidelines applicable to this project site and its proximity to the adjacent Residential properties.
3. The approved use is allowed within and is consistent with the purpose of the M1-SP zoning district within which the project is located, which allows light industrial uses with an approved development permit.

4. That the approved use meets all applicable provisions of the Land Use and Development Code, or the same practical effect of those provisions, including design and siting to meet the intent of the Site Development Standards set forth in the Zoning Ordinance, and mitigating the impact of this development on environmentally sensitive resources.
5. These findings are supported by substantial evidence in the record, as detailed in this Resolution, in the staff report for the October 10, 2017 appeal hearing before the Board, and as discussed at the hearing. That evidence includes but is not limited to the professional expert advice of staff of the County's Planning Department, the Nevada Airport Land Use Commission, and County Counsel, as well as the judgment of the Board of Supervisors.
6. The location and custodian of the documents which constitute the record of these proceedings is the Nevada County Planning Department, 950 Maidu Avenue, Nevada City, California.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby denies the appeal of the Appellants and upholds the decision of the Planning Commission to approve the Development Permit (DVP16-8) located at 13145 Loma Rica Drive in unincorporated Nevada County, based on the findings as set forth herein.

The Planning Director is directed to file the Notice of Determination for this project action within 5 days after the adoption of this Resolution.

The Clerk of the Board shall mail the Appellant a copy of this Resolution, and any appeal of this decision shall be governed by California Code of Civil Procedure section 1094.6.