

COUNTY OF NEVADA
STATE OF CALIFORNIA
BOARD OF SUPERVISORS



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August 23, 2016

Honorable Board of Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

DATE OF MEETING: September 13, 2016

SUBJECT: Resolution making findings, accepting the appeal filed by Mr. James Powell, from the decision of the Nevada County Planning Commission approving a Zoning Map Amendment (Z16-001), Development Permit (DP15-006), Map Amendment (AM14-001), Management Plans (MGT15-020 and MGT16-001), Petition for Exception (MI15-020) and Mitigated Negative Declaration (EIS15-019) for Byers Leafguard and Solar to allow the construction of a warehouse, water storage tank and parking at 11773 Slow Poke Lane, and scheduling a public hearing for October 11, 2016, at 1:30 p.m.

RECOMMENDATION: Adopt Resolution making findings as recommended by staff, accepting the appeal and setting the hearing on the appeal for October 11, 2016, at

FUNDING: Filing fee collected from Appellant for costs.

BACKGROUND: On July 28, 2016, the Nevada County Planning Commission considered the combined applications by Mr. Raymond W. Byers, Trustee, on behalf of Byers Leafguard and Solar, for the following:

1. Zoning Map Amendment (Z16-001) to remove the SP zoning district overlay on the property and its requirements for floodplain setbacks and water supply;
2. Development Permit (DP15-006) to construct an 8,750-square-foot warehouse, a fire protection water storage tank, parking overflow areas, lighting, and landscaping;
3. Map Amendment (AM14-001) to resolve inaccuracies regarding the location of an onsite pond and ditch and remove required setbacks from those features on the existing parcel map;
4. Biological Resources Management Plan (MGT15-020) to reduce impacts from disturbance of the 100-foot non-disturbance buffer to South Fork Wolf Creek;
5. Floodplain Management Plan (MGT16-001) to reduce impacts from encroachment into the 100-foot setback to the floodplain; and
6. Petition for Exception (MI15-020) to reduce the standards for right-of-way width from 50 to 20 feet and roadway width from 20 to 15 feet, and eliminate the fuel modification requirement on the west side of Slow Poke Lane.

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At the conclusion of the hearing, the Planning Commission recommended the following actions:

1. Adopted the Mitigated Negative Declaration (EIS15-019);
2. Recommended approval of the Zoning Map Amendment to the Board of Supervisors (Z16-001);
3. Approved the proposed Biological Resources Management Plan (MGT15-020);
4. Approved the proposed Floodplain Management Plan (MGT16-001);
5. Approved the proposed Petition for Exception to Road Standard (MI15-020);
6. Approved the proposed Map Amendment to Parcel 2 of PM3/222 (AM14-001); and
7. Approved the proposed Development Permit (DP15-006).

On August 5, 2016 Mr. James Powell (Appellant) filed an appeal of the Planning Commission's adoption of the Mitigated Negative Declaration, Biological Resources Management Plan, Floodplain Management Plan, Petition, Map Amendment, and Development Permit, and the Planning Commission's recommendation to approve the Zoning Map Amendment to the Board. The Appellant claims the following:

1. It will increase traffic from employees, service vehicles and customers.
2. Reducing width of right-of-way may not accommodate emergency vehicles or their ability to turn around.
3. Potential negative impact to property values.
4. Off-site employee parking is located on Empire Mine State Historic Park land as well as at the entrance to the State Park trail entrance.

Appellant requested the Board of Supervisors consider widening Slow Poke Lane to accommodate the increased traffic related to Byers Leafguard and Solar's business expansion, and to require Byer's employees and customers to park in designated parking spaces on the Byer's property.

Table L-II 5.2 of the Nevada County Land Use and Development Code (LUDC) summarizes which County body review, recommends and takes final action on land use permits. Only where a body has final permitting authority, are those decisions appealable to the Board of Supervisors.

The Planning Commission is the Permitting Authority for commercial, industrial, and other nonresidential Development Permits of 10,000 square feet or more, and the Board of Supervisors is the Appealing Body for Planning Commission approvals, including the adoption of the required environmental document related to those approvals.

Section L-II 5.12.G of the County's Land Use and Development Code requires the Clerk of the Board to present the appeal to the Board of Supervisors at this regular meeting, so the Board can consider whether to accept this appeal and, if appropriate, schedule it for a public hearing. County Counsel and the Clerk of the Board have reviewed the appeal and recommend that the Board adopt a Resolution finding:

- The Appellant is an interested party who has standing to file the appeal; and,
- The appeal was timely filed; and,
- To the extent the Appellant is appealing the Planning Commission's recommendations to approve the adoption of the Mitigated Negative Declaration (EIS15-019), the adoption of the Zoning Map Amendment to the Board of Supervisors (Z16-001), the adoption of the proposed Biological Resources Management Plan (MGT15-020), the adoption of the proposed Floodplain Management Plan (MGT16-001), the adoption of the proposed Petition for Exception to Road Standard (MI15-020), the adoption of the proposed Map Amendment to Parcel 2 of PM3/222 (AM14-001), and the adoption of the proposed Development Permit (DP15-006) as it relates to those approvals, the appeal as presented satisfies the minimum requirements set forth in Section L-II 5.12 of the County's Land Use and Development Code.

Staff further recommends that the Board accept the appeal of the actions approved by the Planning Commission and set it for public hearing on October 11, 2016, at 1:30 p.m. This date has been approved by both the Planning Director and the Appellant.

Item Initiated by: Teresa Kooi, Administrative Analyst I

Item Approved by: Julie Patterson Hunter, Clerk of the Board