

APPELLANT ARGUMENTS AGAINST  
Northern Sierra Propane Development Permit  
(PLN16-0072, DVP16-8, EIS16-002)

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OCT 10 2017

NEVADA COUNTY  
BOARD OF SUPERVISORS

HEARING: DVP16-8

October 10, 2017, 1:30 PM

Supervisors' Chambers, 950 Maidu Ave., Nevada City, CA

APPELLANTS: Ron Arneson, Mary Arneson, Connie Bailey, Sterling Bailey, Candace Burbage, Robert Burbage, Don Crevoiserat, Kim Crevoiserat, Dana Dickey, Fayrene Dickey, Elise Stupi, Kenneth Stupi, Carter Taylor, & Louise Taylor

PRESENTED BY: Kim Crevoiserat, Appellants' Representative

**OBJECTIVES:**

In the next several minutes, we intent to demonstrate how the approval of this development permit is:

1. **NOT IN COMPLIANCE** with Nevada County Airport Land Use Compatibility Plan (ALUCP)
2. A **VIOLATION** of the Nevada County General Plan (NCGP)
3. **NOT COMPATIBLE** with a Residential Community
4. A **DANGER TO PUBLIC SAFETY**

**1. NOT IN COMPLIANCE WITH THE NEVADA COUNTY ALUCP**

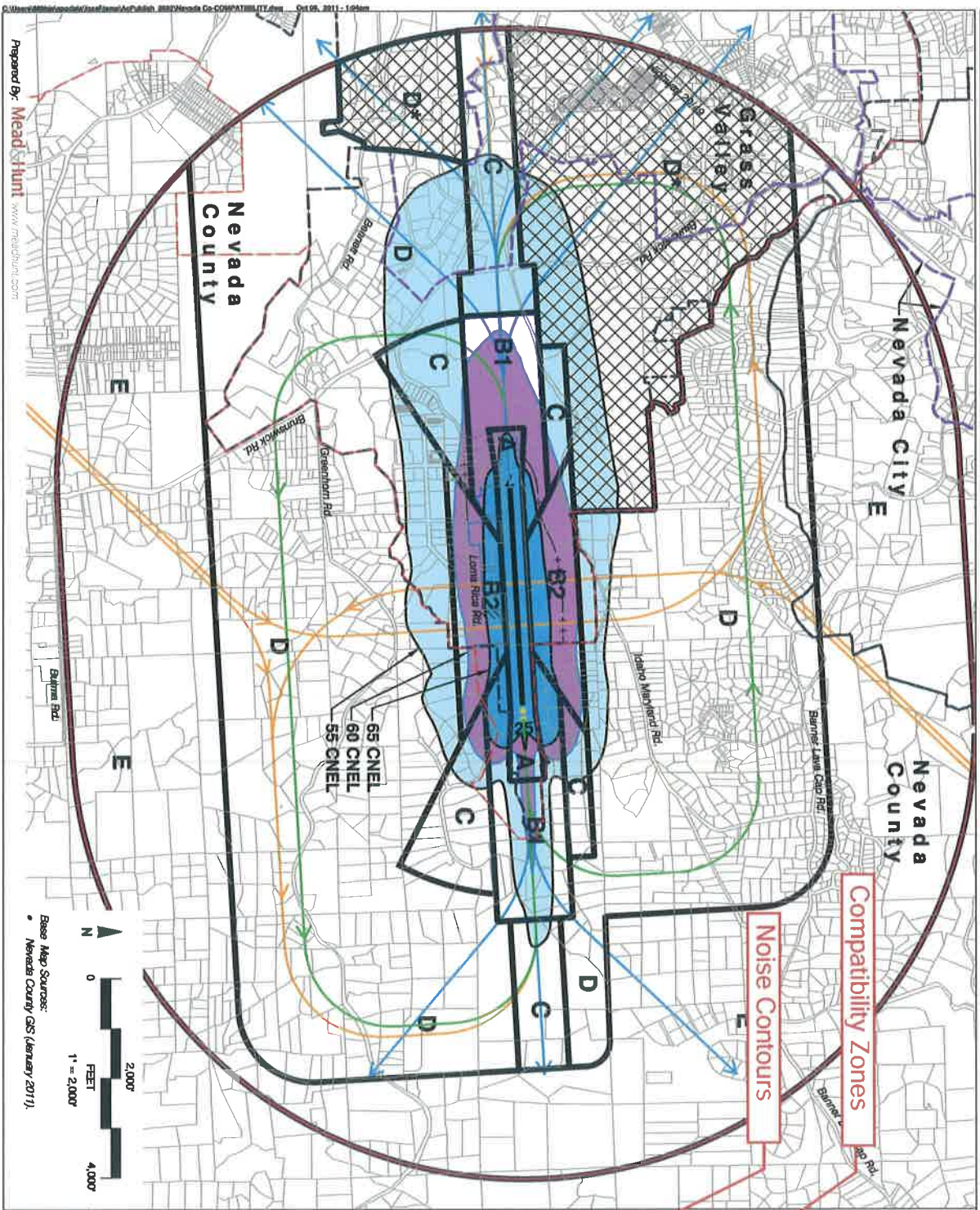
On October 3<sup>rd</sup> we submitted copies of our opinion about the handling of the compatibility recommendation by the Airport Land Use Commission (ALUC). This was done because there is not sufficient time to go over each of my concerns and still cover the issues we need to cover today. However, we do want to clarify a couple of things.

**I. A VIOLATION OF THE CODE AS IT IS WRITTEN**

The Airport Land Use Compatibility Plan (ALUCP) clearly says that above ground bulk storage of hazardous material in the B2 Zone of the Airport is a danger to people and property on the ground and therefore is not compatible. The Northern Sierra Propane proposed location is in the B2 Compatibility Zone.

**II. WHAT THE CODE DOES NOT SAY**

- The defined B2 Compatibility Zone is actually a combination of three noise contours.
- The B2 Zone is not a Compatibility Zone at all and in fact to find the compatibility guidelines you must refer to a Handbook.



Prepared by: Mead & Hunt  
www.meadandhunt.com



Base Map Sources:  
Nevada County GIS (January 2011).

**Compatibility Zones**

**Noise Contours**

- Legend**
- Boundary Lines
  - Airport Property Line
  - Proposed Airport Property Acquisition
  - City Limits
  - Grass Valley Planning Area
  - Nevada City Sphere of Influence
  - Existing Runway (4,350')
  - Future Runway (4,650')
  - Airport Influence Area

- Compatibility Zones<sup>1</sup>**
- Zone A - Runway Clear Zone
  - Zone B1 - Inner Approach Zone
  - Zone B2 - Stalling Zone
  - Zone C - Inner Turning Zone & Extended Approach Zone
  - Zone D - Traffic Pattern Zone
  - Zone D' - Urban Overlay Zone
  - Zone E - Other Airport Environs

- Calculated Noise Contours**
- 55 dB CNEL } 60,000 Annual Operations
  - 60 dB CNEL } (194 Average Annual Day)
  - 65 dB CNEL

- Calculated Flight Tracks<sup>3</sup>**
- Arrival
  - Departure
  - Touch-n-Go

**Notes**

1. See Chapter 2, Table 28, Compatibility Zone Delineation.
2. Source: Mead & Hunt, Inc., using Integrated Noise Model (INM) 7.0b (April 2011). Contours represent average daily noise exposure for 80,000 annual operations on future runway. Contours modeled using USGS terrain data. Terrain results in shorter contours to west and wider contours near center of airport.
3. Flight tracks represent general arrival and departure routes.
4. Prevailing winds out of the west. Runway 25 is designated calm wind runway.
5. Departures on Runway 7 and arrivals on Runway 25 not recommended at night due to severe runway gradient (rising from west to east). Fire attack aircraft typically land on Runway 7.
6. Airport departing Runway 25 advised to climb to 3,800' MSL (648' above airport elevation) before turning (source: Airport management).

**Nevada County Airport  
Land Use Compatibility Plan  
(Adopted September 2011)**

**Exhibit 3-5  
Compatibility Factors Map:  
Noise and Overflight**

### III. WHAT THE CODE SHOULD SAY

- If the B2 Compatibility Zone is a representation of noise contours then it should say that.
- If the 750 foot Zone 5 Handbook guideline is the compatibility guideline, then the CODE should say that.

Deciding to make a Compatibility and Noise delineation that is clearly different than what is written in the CODE should be done in a public forum where proper notification is given and the public has the opportunity to participate. The ALUC recommendation created a window of opportunity to approve a project that otherwise would not be allowed. The process lacked transparency and unfortunately for those of us who have invested in industrial lots, built businesses, and purchased homes based on the face value of the CODE, we are left with the approval of a facility that negatively impacts our investments.

## 2. A VIOLATION OF NEVADA COUNTY CODE

### I. USE PERMIT VS. DEVELOPMENT PERMIT

In the appeal, we show that a Development Permit (PLN16-0072) Is Not Consistent with the Nevada County Land Use and Development Code (LUDC).

*Please refer to chart on following page*

**Table L-II 2.5.D  
Industrial Districts Allowable Uses and Permit Requirements**

**Key to Land Use Permit Requirements:**

- A Allowed subject to zoning compliance and building permit issuance
- DP Development Permit required per Section 5.5
- UP Use Permit required per Section 5.6
- NP Not Permitted
- NA Not Applicable
- Varies Refer to listed L-II Section for allowable uses and permit requirements

ALLOWABLE LAND USES (See Section L-II 1.4.D for Similar Uses)	BP	M1	M2	L-II Sections
<b>Residential Uses</b>				
Dwelling units as a part of a mixed-use development where residential is not the primary use, and is an integral part of the non-residential use, not to exceed 4 units per acre. Integral shall mean that all uses are designed and located so as to be visually and functionally related.	UP	UP	UP	
Temporary use of a mobilehome or an RV during dwelling construction where there is a valid building permit for a dwelling.	A	A	A	3.15
<b>Commercial Uses</b>				
Accessory uses for employees, including fitness centers, and restaurants, when in combination with support uses does not exceed 10% of the gross floor area of the structures on site.	UP	DP	DP	
Auto repair within an enclosed structure.	NP	DP	DP	
Auto painting and body work within an enclosed structure.	NP	DP	DP	
Commercial activities that normally require extensive storage areas including, but not limited to, contractors equipment yard, vehicle storage yard, sales and storage of fuel, building/farm supply, equipment rental, kennels.	NP	DP	DP	
Day Care Facilities as an accessory, employee use when in combination with accessory uses, does not exceed 10% of the gross floor area of the business park.	UP	NP	NP	
Fitness Centers.	UP	UP	UP	
Flea Market, permanent.	NP	UP	UP	
Lumberyards.	NP	DP	DP	
Parks if developed as employee accessory uses.	UP	UP	UP	
Parking facilities not attached to a specific use.	UP	UP	UP	
Personal mini storage buildings.	UP	UP	UP	
Shooting ranges, indoor.	NP	UP	UP	
Support uses for the primary light industrial use, including offices, services and retail sales associated with the marketing of products produced on-site, when in combination with accessory uses does not exceed area of the structures on site.	DP	DP	DP	
Temporary Commercial Uses.	A	A	A	3.23
Medical Marijuana Dispensary.	NP	NP	NP	
Adult Businesses, Existing Structure.	NP	A	NP	3.29; G-III 13
Adult Businesses, New Construction.	NP	DP	NP	3.29 and G-III 13
<b>Industrial Uses</b>				
Light industrial including research and development, the manufacturing, production, repairing, distribution, fabrication, processing, wholesaling, and warehousing of a wide variety of goods.	DP	DP	DP	
Any other intensive industrial use not allowed in the BP or M1 Districts.	NP	NP	UP	
Auto painting and body work.	NP	DP	DP	
Hazardous waste management facilities for waste produced on-site.	A	A	A	
Hazardous waste management facilities for waste produced off-site.	NP	UP	UP	
Parking facilities not attached to a specific use.	Varies	NA	NA	2.7.10
Power plants, private, including biomass fuel production.	NP	UP	UP	
Ready mix, asphalt, or concrete plants.	NP	UP	UP	
Recycling centers.	NP	UP	DP	
Recycling collection facilities.	DP	DP	DP	
Research and development activities.	DP	DP	DP	
Salvage enterprises; auto, trucks, and equipment dismantling yards.	NP	NP	UP	
Storage of explosives.	NP	UP	UP	
Storage and distribution of bulk petroleum products.	NP	UP	UP	
<b>Agricultural, Resource, and Open Space Uses</b>				
Field Retail Stand	NP	NP	NP	3.3
Farm Stand	DP	DP	DP	3.3
Certified Farmers' Market	DP	DP	DP	3.3
Arguments Against Northern Sierra Propane Development Permit Crop and Tree Farming	A	A	A	3.3
Pre-Grading not associated with a specific development project	NP	DP	DP	3.28
<b>Institutional and Public Uses</b>				

Brian Foss, argues that it is not necessary to require a Use Permit in this case because there is no difference in the “requirements and findings” between a Use Permit and a Development Permit. This comment is very concerning. The CODE makes a clear distinction between the two permit so if there is no difference in the why the Planning Department handles the permits, there should be.

**A. COMMERCIAL SALES AND STORAGE OF FUELS VS. STORAGE AND DISTRIBUTION OF BULK PETROLEUM PRODUCTS**

Mr. Foss’s argument in favor of a Development Permit is that the CODE lists “**Commercial Sales and Storage of Fuels**” as an allowable use requiring a Development Permit for M1 lots. However, the “**Storage and Distribution of Bulk Petroleum Products**” is listed under allowable uses but requiring a Use Permit. A business storing and distributing bulk petroleum products is exactly what Northern Sierra Propane does and this distinction is an important one. Mr. Foss argues that Northern Sierra Propane is not required to get a Use Permit because they are not a wholesale distribution business. However, the code makes no wholesale distinction. It very clearly states “Storage and Distribution of Bulk Petroleum Products”. He also argues that Northern Sierra Propane falls under the commercial classification because they are “a retail propane business that delivers *nearly* exclusively to small residential users”. The Loma Rica Industrial Park is an industrial park not a commercial district. To have a *commercial* classification the business would rely on customers coming to them to purchase goods much like the commercial districts of downtown Grass Valley and Nevada City. A business that would fall under the CODE distinction of “commercial sales and storage of fuels” would be a gas station. Customers come to a gas station to purchase fuel. Northern Sierra Propane does not rely on consumer traffic and their business is not dependent upon attracting customers to their site for sales. Northern Sierra Propane has bulk propane storage tanks and they distribute large amounts (bulk) of propane to their customers.

**B. CODE DISTINCTION BETWEEN A DEVELOPMENT PERMIT AND A USE PERMIT**

There is a very big difference in how the CODE defines a Development Permit and a Use Permit which is why it is necessary to comply with above defined “Allowable Land Uses”.

**Purpose of a Development Permit according to the CODE**

The project is “generally consistent with the purpose of the zoning district...”

**Purpose of a Use Permit according to the CODE**

The project may either “raise major land use policy issues or create serious problems for adjoining properties or the surrounding area” and “to avoid their creating problems or hazards, and to provide for the compatibility of such land uses with adjacent properties and the surrounding area.”

CODE is written to outline the principles, conditions, and safeguards necessary to impose reasonable reviews and restrictions upon such applications. A higher level of planning detail should be required before large, high impact projects like this one get the official go-ahead. Certainly, the identification of “serious problems” and “hazards” and ensuring “compatibility with adjacent properties” when placing bulk storage of a hazardous material next to the Airport, Air Attach Base, other businesses, and residential properties is a problem worthy of identification by the type of permit the County requires.

Also, a distinction of this significance in the code is intended to create a *heightened awareness of potential problems* and *prompt a more careful review* NOT ONLY by the Planning Department Director but by all entities and interested parties that are asked to review and comment on concerns.

**C. OUTREACH DIDN'T COMMUNICATE SERIOUSNESS**

Mr. Foss points out that the requisite review outreach concerning potential fire, and health and safety of the community produced no objection and that the reporting and regulation of hazardous materials mitigates potential and significant risk to the wellbeing of the community. This is one of the problems we identified in the report submitted on October 3<sup>rd</sup>. A Development Permit, which implies compatibility (no “serious problems” or potential “hazards” for adjacent property owners), and a project description being that of “two building and a parking lot” which significantly downplays the seriousness of two 30,000 gallon propane tanks, five delivery trucks, numerous 100 gallon storage tanks, in the compatibility zone of the airport with a 3% increased likelihood of an aviation accident and also in zone D of the airport which sees 60% of all aviation accidents. Also of significance is the potential of all propane storage facilities already in existence in the industrial park to be exposed to a domino effect of propane incidents where one causes another and another and so on. We are of the opinion that had the appropriate permit been issued and appropriate project description been circulated a more significant response would have resulted.

**D. WHY A USE PERMIT IS NECESSARY**

The CODE requirements for a Use Permit are different from a Development Permit in the following ways:

- The legal description of the significance of the impact that the business may have on adjacent properties,
- The additional scrutiny that should be done by the Planning Director,
- The limitation on the number of such applications that are allowed in a five-year period (only one), and
- A *required* environmental review under California Environmental Quality Act (CEQA) that includes and analysis of all potentially significant impacts.

Certainly, the type of business being proposed, the seriousness of potential problems, the scrutiny of the application, and the additional CODE handling requirements are reasons to uphold the CODE defined Use Permit application requirement.

## II. NOT COMPLIANT WITH THE PLANNING PRINCIPLES OUTLINED IN THE NCGP

A. The CODE says that all new development must:

1. "Establish spaces between... uses with **setbacks and buffers**"
2. "Create **compatibility** between land uses"
3. "**Prevent environmental degradation**"
4. "**Protect the health and welfare** of the residents of the County"

The applicant is arguing that they have incorporated mitigation measures that offset all of these requirements. We disagree. The Wawona Madrono residential neighborhood is filled with high end custom homes. Right now, there is a wooded natural landscape that welcomes residents and visitors into the community. Replacing that natural landscape with a facility that requires security fencing around the perimeter sends a very different message. That natural landscape will be completely removed and replaced with a facility that says, "keep out", "danger", and "high fire hazard". The transition from serene natural beauty to "danger" a big one.

Please remember that this is not a new neighborhood. These homes have been there for 40 years. The entrance to the neighborhood has been natural and open the entire time. Lives have been built and saving have been invested. We cannot simply pick up our homes and move them. What is flexible is new development.

### i. SET BACKS AND BUFFERS

The close proximity of this project to my driveway creates an undesirable entrance to my home. When my property was build 38 years ago, the driveway was placed directly adjacent to the shared property line. For 38 years owners have been entering my home through a forested environment. This new development will completely wipe out the natural landscape dramatically changing the experience. In an effort keep this project in compliance with the code requirements, we asked for a larger set back and the preservation of the natural landscape. Instead we got five feet of low grade landscaping, a concrete block wall, and a chain link fence. The CODE does say "prevent environmental degradation." This project doesn't just have a slight impact on the environment, it is completely wiping it out and installing the polar opposite of what has been there for 40 some years.

### ii. ENVIRONMENTAL DEGRADATION

Our view from the front of my home and from the second-floor balcony will be dramatically different. Instead of looking at a forest with a number of animals roaming freely, we will be looking at a berm with eight-foot-tall concrete wall, industrial propane delivery trucks, industrial lot outdoor activity, and a chain link fence that says, “keep out”.

iii. NOT COMPATIBLE

The CODE clearly states a compatible development is required. The definition of compatible in *The Free Dictionary* is “Capable of orderly, efficient integration and operation with other elements in a system with no modification or conversion required.” By this definition, a compatible business would be one that is not that much unlike the homes in the area. A building, a parking area, and some landscaping. The impression at the entrance of the residential neighborhood would be not look or feel different. Animals would still be able to roam freely and the view would be more like another home and not a secure fortress that says “keep out” and “danger”. There would be no risk of injury or death to anyone in the immediate area. There would be no noise that needs to be buffered. There would be no outdoor activity that needed screening. A compatible business would have employees driving to the location, parking, going inside to work, coming out at the end of the day to get in their cars and driving home.

There is only one way to place a price tag on the “environmental degradation” lack of “compatibility” and risk to the “health and welfare” impact of this project. I have been forced to have my property value assessed. It has been assessed by three different local real estate agents. If this facility is approved, I will attempt to sell my home. If the Planning Commission is correct, then I will be able to sell at the current market price, buyers will be able to secure insurance so that they can buy the property, and I will be able to find someone willing to invest in a home in the blast zone of this development. If not, we will be having a very different conversation.

It is not that hard to imagine the impact this project will have on the residential homes in the immediate vicinity. It will have an especially large impact on my property. It will decrease the value of my home. It will make it very difficult to sell. And, unless someone is willing to risk their lives and the lives of everyone who comes to visit, it may very well condemn my property. I personally am not willing to live in a blast zone. I am not willing to give up the serenity of a forest and animals roaming freely for a concrete wall and security fence. And, I am not willing to have my grandchildren play on my lawn which is 30 feet from the source of a potential incineration event. There is no way to mitigate the potential for an explosion and the threat it places on the lives of my family. The threat potential will be immediate and imminent and the only way I can protect my family is to leave.



### III. NOISE

The NCGP, Volume I - Page 9-4, Chapter 9 Noise, Policy 9.1 establishes the performance standards and land use compatibility standards for noise. The properties in question are zoned Light Industrial and Residential.

#### A. PROJECT EXCEEDS NOISE STANDARDS

The CODE states “Where two different zoning districts abut, the standard applicable to the lower, or more restrictive, district plus 5 dBA shall apply”. The Residential limits are 55 Leq and 75 Lmax. That means the applicable limits are 60 and 80 respectively. Northern Sierra Propane currently runs four delivery trucks and their plans specify five. These are industrial trucks with engine noise that is not compatible with a residential neighborhood. To make matters worse, the plans have all five delivery trucks backing into parking spaces on the eastern property line directly adjacent to my home. The engine noise and back up alarms which run 97 - 112 dBA exceed the noise limits by as much as 37 dBA. That’s enough of a variance to argue environmental degradation and incompatibility.

*Nevada County General Plan Residential Exterior Noise Limits:*

<i>Land Use Category</i>	<i>Time Period</i>	<i>Leq</i>	<i>Lmax</i>
<i>Residential and Public</i>	<i>7 AM– 7 PM</i>	<i>55</i>	<i>75</i>
	<i>7 PM – 10 PM</i>	<i>50</i>	<i>65</i>
	<i>10 PM – 7 AM</i>	<i>45</i>	<i>60</i>

The applicant is arguing that a concrete block wall will mitigate noise impacts. There seems to be some misunderstanding about the effectiveness of a concrete block wall as a sound barrier. To illustrate, take a moment to think about a time when you were in a restaurant with hard surfaces all around (floor, walls, and ceiling). Conversations from every table can be heard as the sound of voices bounce around the room. It does not stop when it hits a wall. It is not dissipated. It is not absorbed. The only way I know to prevent sound from traveling is with the addition of a porous surface much like ceiling panels, floor rugs, or carpeting does in a restaurant.

If the fact that this project far exceeds the noise limits out lined in the CODE is not sufficient reason to reject the application entirely, then the seriousness of the noise issue would justify a sound study by an expert with recommendations on how to effectively eliminate the imposition on neighboring properties.

#### B. NOT CONSISTENT WITH PRIOR BOARD APPROVED MITIGATION MEASURES

Back in 2015 the Wawona Madrono Homeowner’s Association fought for and was awarded a modified condition of approval for a project on this same property (Board of Supervisors Resolution #15-131 dated 4/22/2015). It states that to minimize potential

long term operational noise impacts on adjacent residential properties, tenant noise should be limited to Residential levels. This decision was made after hearing public testimony from a sound expert on how sound travels and the ineffectiveness of concrete/CMU walls alone. The Board affirmed the importance of protecting neighboring residential properties and outlined noise attenuation as relevant and meaningful in reference to future business operations and decided to place limits on exterior noise. Although the Planning Department was appraised of this information very early on in the application process, they chose to ignore it. I did ask Mr. Trebec to be very clear in his explanation to the Planning Commission that noise levels far exceed the limits. My request was ignored. In fact, the Staff Report significantly downplays the noise which is not fair to the Planning Commission because they did not have all the information they needed to make an informed decision.

**C. NOT COMPLIANT WITH THE M1-SP ZONE RESTRICTION ON OUTDOOR USE**

The CODE says, "The M1-SP zoning district does not include any outdoor uses". The Planning Commission was told that the project was compliant with this CODE stipulation. Northern Sierra Propane is currently running four propane delivery trucks and their plans incorporate parking for five. Because the application says it is for the expansion of the business it is a fair assumption that they will run five industrial trucks in and out on a daily basis. The reason "no outdoor uses" is specified in the code is to protect the neighboring residential properties from exposure to noise and disruptive activity. No outdoor use means pull in, park your car, and go inside. It does not mean drive and fuel five industrial trucks in and out daily. It does not mean hoisting, moving, and refurbishing customer tanks. It does not mean using a pressure washing. It does not mean off gassing. It does not mean evacuating or "flaring" excess gas from tanks.

The Northern Sierra Propane website calls their storage yard a "repair and refurbish tank yard". They reassure customers that their rental tanks have gone through "rigorous testing and refurbishment before it is put into service".

*Please refer to image o following page*

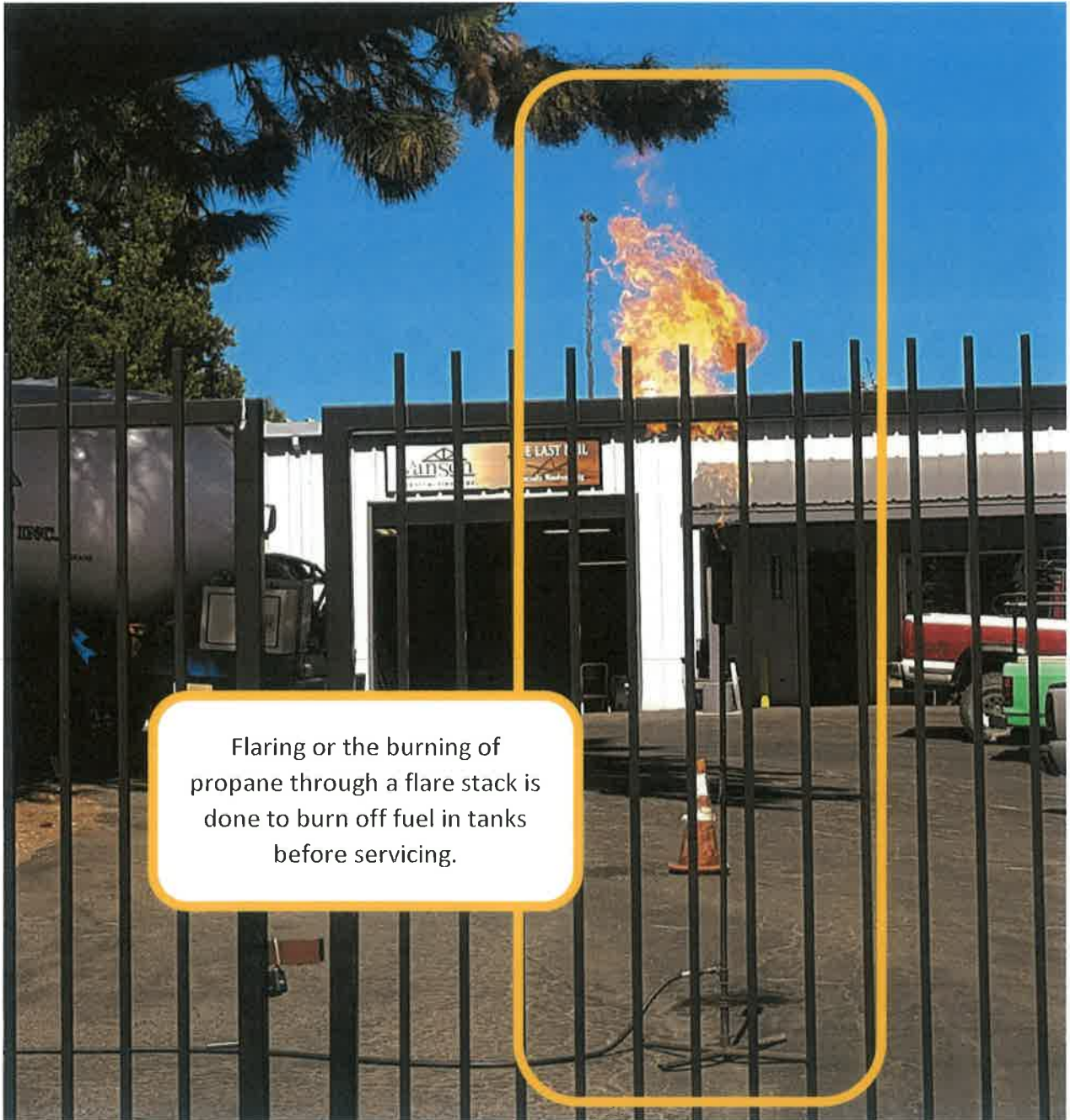
## Utility Crane Truck and High-Pressure Washer Being Used in Outdoor Yard



Utility Crain moving tank for  
“refurbishment” in outdoor yard.

High pressure washers produce 100  
decibels (dBA) of noise. OSHA identifies  
high pressure washers as an excessive  
noise hazard requiring hearing protection  
[29 CFR 1910.95(a)].

## Northern Sierra Propane Employee Evacuating “Flaring” Gas in Outdoor Yard



To say that there is “no outdoor activity” at the Northern Sierra Propane property is clearly a stretch of the truth. All of this activity will be visible from my second story balcony and certainly the 100 decibels of noise from the high-pressure washer will be heard.

The introduction of excessive noise into the residential environment is not compliant with the CODE. It is not compatible and it contributes to environmental degradation. Noise limits have been incorporated into the CODE to maintain quality of life and peace of mind. This project is not in compliance.

### 3. NOT COMPATIBLE WITH THE RESIDENTIAL COMMUNITY

#### I. Fire

A. Propane storage and distribution facilities fall under a highly flammable classification. The frequency of accidents and numerous firsthand accounts by individuals, emergency response personnel, city staff, and county governments, expressing dismay over the amount of damage, extent of necessary emergency response, and inadequacy of preparation is the training ground the Planning Department should be referring when placing these facilities in our community. There is sufficient information to warrant forethought and extreme caution when seeking a well-suited location. The lot we are discussing here today is not suitable.

- It is the very last lot on the far end of the Industrial Park.
- It surrounded by heavy forest on three sides.
- It abuts a residential community.
- It is a high fire hazard area.
- The buildable space is limited because the southern portion of the lot is highly sloped forcing the parking of delivery trucks on the residential property line. This is not only undesirable to residential owners but it increases fire risk exposure and possible tank explosion because no defensible space can be built into and around the five delivery trucks.
- Fire suppression is available in the Industrial Park and at the airport which would suggest a suitable location for a highly flammable business would be more centrally located.
- No fire hydrants or fire suppress capabilities exist in the abutting residential community. I have asked NID about extending the service but the line is a low-pressure line and cannot sustain the necessary pressure to come up to and past the proposed location of the Northern Sierra Propane project to provide protection to the neighboring residential community.

The location of parked deliver trucks is particularly detrimental to the adjacent residential property. At the top of the property, along Loma Rica Drive, is a NID Irrigation Canal which limits in and out access to a very small section right behind the delivery trucks. The remainder of the lot on all side is heavily forested preventing access to exit routes should there be an incident at the propane facility. In order to evacuate, we must drive within about twenty feet of the ignition source.

My home was built 38 years ago. If I could, I would pick it up and move it further away from the industrial lot. And, unfortunately, there is a NID irrigation canal running across the top of my property which prevents me from being able to relocate my driveway to a more desirable location. As the owner of an existing structure, my options are limited.

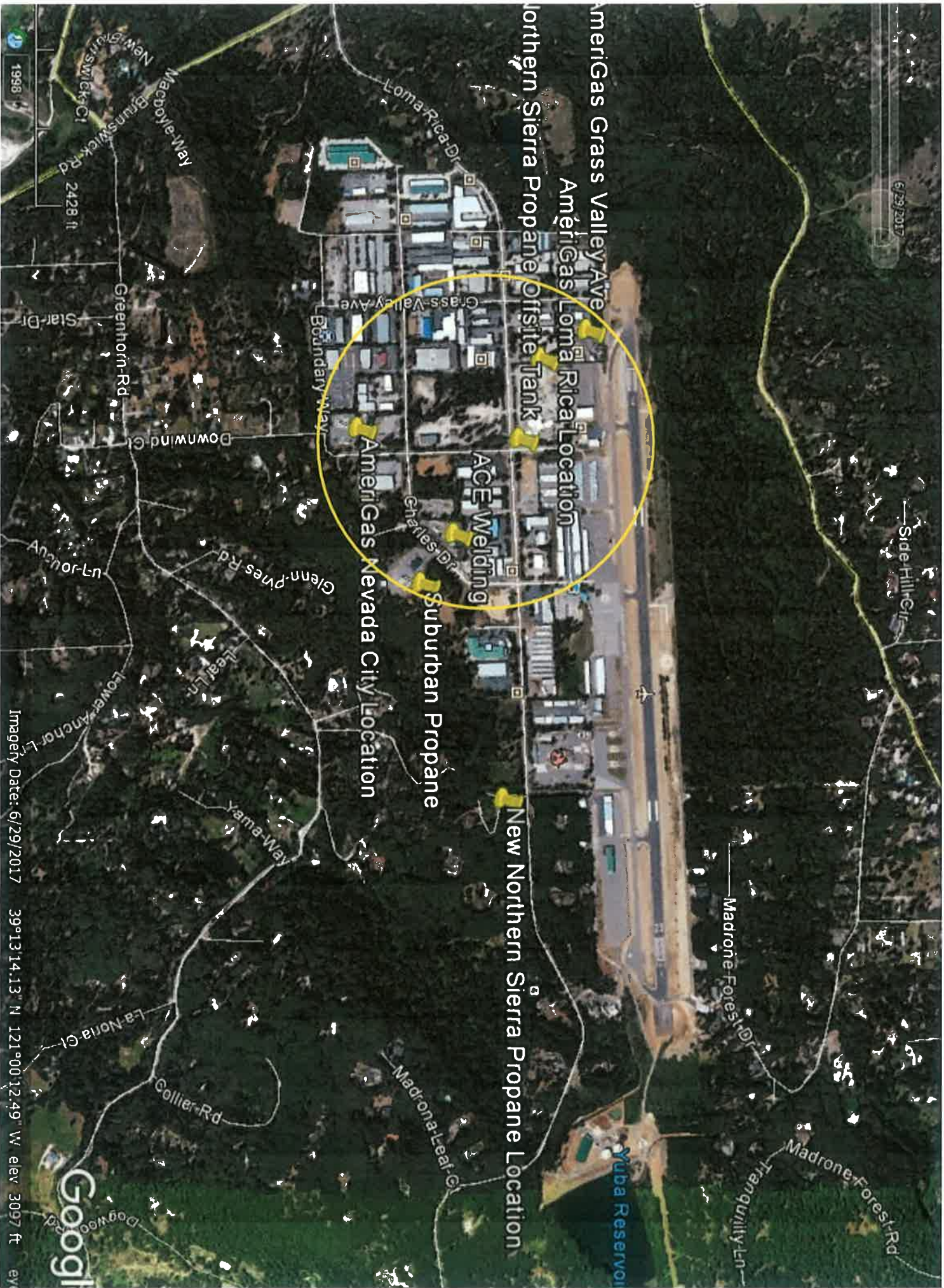


## II. CENTRAL LOCATION

The Loma Rica Drive Industrial Area Plan (LRDIAP) specifies that the placement of non-compatible businesses should be more centrally located in the industrial park.

*Please refer to image on following page*

6/29/2017



AmeriGas Grass Valley Ave  
AmeriGas Loma Rica Location  
Northern Sierra Propane Offsite Tank  
ACE Welding  
Suburban Propane  
New Northern Sierra Propane Location

AmeriGas Nevada City Location

Imagery Date: 6/29/2017 39°13'14.13" N 121°00'12.49" W elev 3097 ft



### III. A RISKY PROPOSITION

The nature of a propane storage and distribution business makes it incompatible with a residential neighborhood. A facility of this scale is highly vulnerable in a number of ways; particularly in view of the expected lifetime of this facility. Of concern is the frequency of liquid propane transfer from one container to another. In addition to human error, the failure of pipes, valves, hoses and other equipment are often cited as causes of large scale accidents. The danger is exacerbated by the close proximity of pressurized tanks to each other increasing the probability of a domino effect. Unfortunately, propane accidents are rarely small which is why they should be located away from where people live, work, and play. This particular facility is right next to my home, only 200 feet away, and in the immediate vicinity of many more.

*Please refer to image on following page*





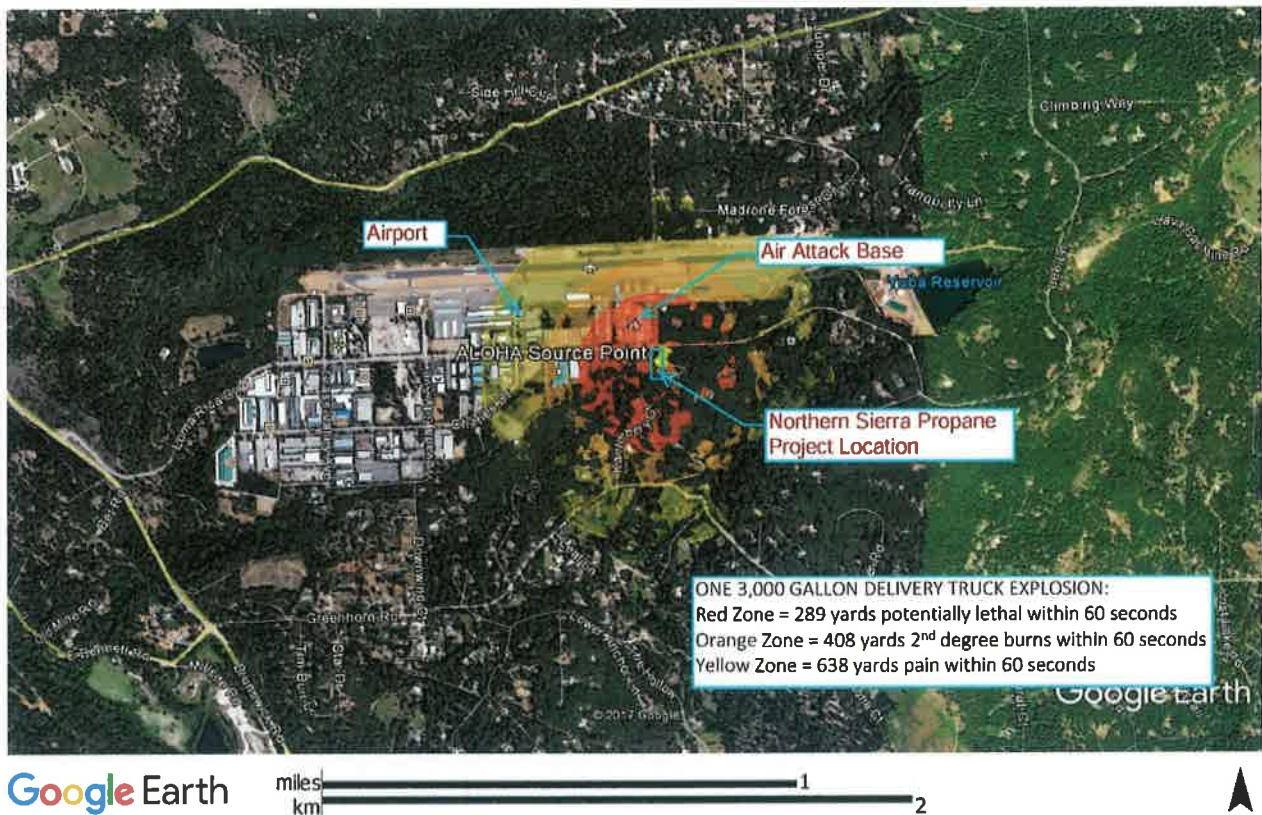
NSP  
Location

39°13'12.30" N 121°00'15.55" W elev 3074 ft

Google

© 2017 Google

Putting the risk into perspective is much easier to do with the software created by the National Oceanic and Atmospheric Administration (NOAA) and the Environmental Protection Agency (EPA). The following image was included in the documentation we submitted on October 3<sup>rd</sup> concerning the Airport Land Use Commissions recommendation. The blast radius generated by the ALOHA software depicts the incineration zone for just one 3,000 gallon propane delivery truck parked on the lot adjacent to my home. My front lawn is 30 feet from where their five trucks will be parked. Incineration within seconds is not something I had considered when I bought my home and it certainly is not anything I would have ever though the County would consider acceptable risk. The Planning Commission did not have the ALOHA study available to them when they made their decision to approve. If they did, they might not have felt that the benefits of moving forward outweighed the risks to adjacent residents.



#### IV. DECLINE IN PROPERTY VALUES

A. The Wawona Madrono residential community consists of high value custom homes. The presence of bulk storage propane at the entrance to the community, directly adjacent to three homes, and in the immediate vicinity of many others presents a number of risk factors that will negatively affect property values, the impression at the entrance, and our ability to resell.

## V. INSURANCE RATE HIKES AND CANCELLATION

A. As far as insurance is concerned, the effects of placing bulk storage of flammable materials so close to residential properties will not be seen immediately but my insurance broker explained that it is already difficult to get insurance in our region and now, with losses from the hurricanes, there will be increased pressure on insurers to reduce their risk exposure. They will begin to review policies in high risk areas like ours. For some, it will mean rate hikes. For others, it will mean cancellation. If a private insurer is not willing to take the risk, homeowners will be forced to work with Lloyds of London at twice the rate and there is no guarantee they will be willing to take on the risk. If not, homeowner's will be forced to participate in a Fair Access to Insurance Requirements (FAIR) Plan which is the last resort. This program makes insurance available in areas that have abnormally high exposure to risks but policies are three times as expensive and offer less coverage.

Of additional concern is the ability of buyers to acquire the insurance that is necessary in order to sell. This will render the properties valueless.

## 4. DANGER TO PUBLIC SAFETY

There are many potential dangers for large scale storage and delivery facilities, ranging from:

- Accidents,
- Deliberate Criminal Acts,
- Earthquakes,
- Tank design flaws (there were several recalls just recently),
- Accidents in other parts of the facility that could spread and multiply domino-fashion causing failure of the big tank,
- Forest fire on adjacent properties bringing high heat to bear down of valves and hoses causing leaks and pool fire with the potential for worse.

Whatever the cause, large tanks are only as safe as the integrity of their walls. All of the above risks are capable of creating a fast-acting high-impact event which, at worst, could collapse the tank causing a vapor cloud that detonates or at best only cause a wall breach and slower release of contents that result in a very large pool fire. It is not possible to defend large propane storage facilities from every conceivable catastrophe but what we can do is prepare for the worst possible situation. We can seek to understand the risks, place facilities in locations away from residents and critical infrastructure. If it is not possible to find a location out of the high fire area then there should be additional protections built in like sufficient defensible space and access for fire suppression from all sides. The current location might be the right price for Northern Sierra Propane and it might be a convenient location but, if the unthinkable does happen, the location will pose a number of difficulties to emergency responders including blocking the main arterial road (Loma Rica Drive), destroying the Air Attack Base, igniting a forest fire on three sides.

## I. EMERGENCY PREPAREDNESS

Although the County has done extensive emergency preparedness studies, none of them addresses the cumulative exposure of bulk propane storage in the Loma Rica Industrial Park nor the necessary incident response strategy.

- **NC Department of Environmental Health**

Grant Eisen, Environmental Specialist, told me that each facility is required to report the amount of fuel storage on site but that they do not maintain a report of cumulative amounts. He thought the Office of Emergency Services might. This is concerning because the Nevada County LUDC specifies that the Department of Environmental Health is responsible for the monitoring, permitting, and inspection of all hazardous material storage facilities.

- **NC Office of Emergency Services**

Jon Gulserian, Manager, told me that they do not keep a cumulative inventory report and that he did not think it was necessary. I asked about evacuation plans for the industrial park and neighboring residential community should there be a propane incident and he said that everyone would shelter in place. Mr. Gulserian was not able to direct me to any documentation about propane storage risk and incident procedure. He did refer me to NC Consolidate Fire for evacuation measures.

- **NC Consolidate Fire**

Terry McMahan, Fire Marshal, told me he wasn't aware of a study done at the fire district level. When asked about incident response, he said some of the propane facilities have trained emergency response teams onsite. I asked about fire personnel training and what he described is that there are different levels of training and that if there was a propane incident they would **call in experts from another area**. I asked about plans for fire suppression on Loma Rica Drive in the residential neighborhood since there were no fire hydrants. He was **surprised to hear there we no hydrants**. He was under the impression that they went all the way up Loma Rica Drive. This is important to note because in his assessment of the Northern Sierra Propane project, he felt that the presence of a pressure relief valve on the large tanks was a sufficient safety measure to justify the location in a heavily forested area and adjacent to residential properties. At the time he made this comment he was under the impression that there were fire hydrants in the immediate and surrounding area.

## II. Critical need for a RISK ASSESSMENT STUDY

The ever-increasing demand for services has put pressure on the infrastructure of our community. Rapid growth has resulted a concentration of propane facilities in a small area leaving us exposed to the potential for a catastrophic event. Expanding and placing yet another facility directly adjacent to or in the safety zone of the airport only increases the risk.

**Current storage:**

- Five bulk propane storage and distribution facilities
- 11 bulk storage tanks 30,000 gallons and more
- In excess of 450,000 gallons of propane in one square mile.

With access to risk assessment software like ALOHA, it is the best interest of citizens for the County to initiate a study of our exposure, to identify which critical facilities are at risk, and to prepare a response should an incident occur.

**III. ABNORMALLY DANGEROUS ACTIVITY**

The location of the Northern Sierra Propane project so close to my home has forced me learn more about propane than I ever wished to. I am not an expert, but I do know that the close proximity of the Loma Rica Industrial Park bulk storage propane containers to each other is a threat to public safety. The explosion of one tank will cause a large fireball and send a shower of sharp-edged tank fragments at a high velocity (450 mph) in all directions. This makes them particularly dangerous to other storage tanks. One explosion leads to another and to another. All we need is a fire large enough to heat one large tank beyond the pressure relief valves ability to do its job.

The magnitude of credible propane storage facility incidents reported in the news and other media feeds is sufficient evidence to raise concern. If we consider the lifespan of these facilities, the number of facilities, and the amount of fuel being handled, there is reason to call in some experts and do a full-scale analysis.

**IV. LIABILITY LAW - RESTATEMENT (SECOND) OF TORTS, § 520**

California has adopted a law that evaluates the placement of strict liability. Restatement (Second) of Torts, § 520, provides a framework for examining an activity or process to determine if it presents an unavoidable risk of serious harm to others, or their property, despite reasonable care exercised by the actor to prevent that harm. It enumerates the factors to be considered in determining if the risk is so unusual, either because of its magnitude or because of the circumstances surrounding it, that such an activity is “abnormally dangerous” or “ultrahazardous” and therefore subject to strict liability.

The simulation tests run on the NOAA/EPA ALOHA software demonstrates a credible potential for such an event. The destructive potential endangers the lives of my family, the residents in the adjacent neighborhood, and the citizens working in the Industrial Park. The risk to critical infrastructure like the Air Attack Base and the Nevada County Air Park extend the potential destruction to other areas as well. The potential devastation is so great that not only should the Board reverse the Planning Commission’s approval of Northern Sierra Propane Development Permit but you should halt all expansion of propane storage in the area until a full assessment of our existing risk exposure can be done. The risk exposure

associated with the continued placement of high volume above ground propane storage tanks in (or near) the airport compatibility zone is an avoidable one and it is incumbent upon County government to exercise caution.

#### **CONCLUSION:**

The first responsibility of County government is the protection, health, and welfare of residents. The Code is an extension of that responsibility. It affects every member of this community, it regulates development and ensures responsible growth. The Northern Sierra Propane project is not in compliance with the CODE in several instances which makes the reversal of this approval not only legally necessary but easily defensible. And, even bit as important is what has been brought to light in terms of propane risk exposure to residents and critical infrastructure. Identifying, mapping, and studying threat zones should be a top priority for the Office of Emergency Services so that it can be incorporated into the Emergency Operations Plan. All expansion of propane storage in the Loma Rica Industrial Park should be stopped until a risk assessment study can be done and necessary emergency response developed. The public has a right to know how much fuel is being stored and the potential consequences of an accident. The risk exposure to residents beyond the Industrial Park is sufficient reason to hold a public forum. Everyone should be given an opportunity participate in the discussion and the decision-making process. Once sufficient information has been collected, informed, intelligent decisions can be made about where future installations of fuel storage and delivery services should be located. Yes, a number of propane facilities already exist in the Loma Rica Industrial Park. However, just because they do doesn't mean we should blindly continue to approve and expand. A proactive approach saves lives and protects residents, their properties, our forest, and rural quality of life.

#### **ACTION REQUESTED OF THE BOARD:**

1. Disregard the Airport Land Use Commissions compatibility recommendation,
2. Reverse the Planning Commission's approval,
3. Postpone the expansion of propane storage and delivery services until a risk assessment study can be done, and
4. Block all future permit requests to place high risk businesses on the lot in question.

#### **SHOULD YOU CHOOSE TO APPROVE:**

Require the following mitigation measures:

- a. Require a **USE PERMIT** and include the NOAA/EPA studies in the Staff Report that is routed to the FAA and other essential organizations for review and comment.
- b. Offset the increased fire risk exposure by requiring the installation of **FIRE HYDRANTS** every 1000 feet on Loma Rica Drive (NID has confirmed this can be done by extending the line from Lee Lane all the way down).

- c. Require a Sound Expert to evaluate the noise attenuation features of this project or mitigate by requiring a **LIVING CONCRETE BLOCK WALL** (lattice, vines, and irrigation) on the Northern Sierra Propane side.
- d. Buffer negative visual impact of an eight-foot concrete wall on Crevoiserat property side by requiring a **LIVING WALL** (lattice, vines, and irrigation) on their side as well.
- e. Offset the visual impact from the Crevoiserat second floor balcony by paying for **ADDITIONAL SCREENING ON THE CREVOISERAT PROPERTY** in the way of planting and irrigating seventy-five five-gallon evergreen trees running the length of the property line.
- f. Buffer visual impact of the close proximity of the new building to the Crevoiserat driveway by **MOVING THE DRIVEWAY ENTRANCE** approximately 30 feet east beyond the WAWONA MADRONO community sign.

*Disclaimer:*

*The data referenced in this report is for general information only. I am not an expert and do not claim to be. I have taken care to ensure accuracy of the information presented but provide no guarantees and do not assume any responsibility for its use.*