



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

950 MAIDU AVENUE, SUITE 170, 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

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

MEETING DATE: October 11, 2016

TO: Board of Supervisors

FROM: **Brian Foss, Planning Director**

SUBJECT: A Zoning District Map amendment (Z16-001) for 11773 Slow Poke Lane, Grass Valley (APN 09-320-25), rezoning the subject property from Light Industrial with a Site Performance combining district (M1-SP) to Light Industrial (M1) (District III).

RECOMMENDATION: Introduce, waive further reading, and adopt the attached Ordinance amending Zoning District Map 052b (Z16-001) to rezone APN 09-320-25 at 11773 Slow Poke Lane, Grass Valley, from M1-SP to M1 based on the findings contained in the draft Ordinance (*Attachment 1*).

FUNDING: No budget amendments are required.

ATTACHMENTS:

1. Ordinance Amending Zoning District Map 052b (Z16-001)
2. Ordinance 1101 adopted August 6, 1982
3. Site Plan

BACKGROUND:

A rezone of the subject property is needed in order to remove the SP overlay district and its attendant notes, which are currently impeding development of the site. The 2.98-acre project site is located on the privately maintained Slow Poke Lane, off the publicly maintained East Bennett Road. The property is developed with a two-story building in use by the applicant as an office on the upper story and warehouse on the lower story.

In 1982 the site was rezoned from Residential Agricultural (RA) to Open Space (OS) and Light Industrial with a Site Performance combining district (M1-SP), in conjunction with a permit for a contractor's maintenance and equipment storage yard (SP82-004). Ordinance 1101, which implemented the zoning, established a 90-foot setback from the 100-year flood plain and a requirement to connect to a public water supply for any further expansion of the site (*Attachment 2*). During the zoning map updates implementing the 1995 General Plan, the OS zoning was removed from the subject parcel (Ordinance 1930), but the SP combining district remained.

The site has been in use since 1984 for light industrial purposes, with the current owner, Ray Byers, having acquired the property in 1991 for a roofing business. Mr. Byers' business has expanded over the years and now provides a number of home improvement services, including land clearing, gutter installation, roofing, solar systems, and water harvesting systems. The applicant is proposing to move the materials for these services from existing storage containers to a new 8,750 sf warehouse and develop a new 4,500 sf parking overflow and storage area and associated drainage, parking, landscaping, lighting, and fire protection improvements (*Attachment 3*). Permits for this project were approved by the Planning Commission at their July 28, 2016, hearing, as follows:

- Initial Study/Mitigated Negative Declaration (EIR15-019) adopted by 4-1 vote;
- Development Permit (DP15-006) approved by 5-0 vote;
- A Map Amendment (AM14-001) approved by 5-0 vote;
- A Biological Resources Management Plan (MGT15-020) approved by 4-1 vote;
- A Floodplain Management Plan (MGT16-001) approved by 4-1 vote; and
- A Petition for Exception (MI15-020) approved by 5-0 vote.

The Planning Commission also voted 5-0 to recommend approval of the proposed rezone to the Board of Supervisors. A Zoning District Map amendment to remove the SP zoning overlay is needed to allow the proposed development on the site because it is within approximately 40 feet of the floodplain, and public water cannot feasibly be provided to the site as required by the SP overlay district.

On August 5, 2016, an appeal on the project was filed by neighboring property owners (see separate staff report under same item). The property may be rezoned whether or not the Board upholds the project approvals. Draft Planning Commission minutes and other project-related documents are provided as attachments to the appeal staff report.

PROJECT ANALYSIS:

When Ordinance 1101 was adopted in 1982 requiring a 90-foot setback from the floodplain, such setbacks were not yet established in the Nevada County Zoning Ordinance. Now, however, Nevada County Land Use and Development Code Section L-II 4.3.10 allows floodplain setback encroachments with an engineer-certified Floodplain Management Plan. The Byers warehouse project includes a Floodplain Management Plan in compliance with the code, with Conditions A.25, B.8, and B.9 implementing the Floodplain Management Plan (*Attachment 6* in the Byers appeal staff report). These conditions would ensure that there is no net increase in stormwater runoff from the site that could impact the floodplain, and that water quality within the floodplain is protected through such measures as installation and maintenance of fencing and an infiltration trench between the parking lot and South Fork Wolf Creek.

Ordinance 1101 also included a notation that the site could not be further developed without a public water supply, in order to ensure that the site had adequate water for domestic purposes and fire protection. Currently, however, there are statewide fire protection regulations in effect that ensure that sufficient water is available for fire protection purposes. The Fire Marshal's Condition of Approval D.1 (*Attachment 6* in the Byers appeal staff report) would ensure that the project meets standards for storage of the appropriate amount of water on the site. In addition, domestic water use is not anticipated to increase with the proposed warehouse project, which is essentially a clean-up of the existing operations. Public water cannot feasibly be extended to the site as the nearest

mainline is near the City limit line over 0.5 mile away, nor is such a pipeline extension commensurate with the scope of the current project.

With the removal of the SP overlay district on the site, the M1 base district would continue to apply, consistent with site's General Plan designation of Industrial. The current appeal raises some compatibility issues which will be decided by the Board, but these issues should not affect the rezone proposal which would maintain the underlying M1 base district that has applied to the site since 1982.

The Planning Department prepared a draft Initial Study and Mitigated Negative Declaration (IS/MND) for the whole of the proposed project which was circulated for public distribution for a period of 30 days through the State Clearinghouse, from June 10 to July 11, 2016. No comments regarding the removal of the SP combining district were received.

In conclusion, existing state and county policies would fulfill the intent of the SP note by ensuring that there is adequate water for fire protection and domestic purposes, as well as protecting the floodplain. Staff's position is that the project site should be subject to the same standards as other sites to provide consistency and fairness for the project applicant. Staff therefore recommends that the Board approve the Zoning District Map amendment, rezoning the subject property from M1-SP to M1 and removing the SP notation that is currently preventing proposed development.

Item Initiated by: Jessica Hankins, Senior Planner

Approved by: Brian Foss, Director of Planning