

COUNTY OF NEVADA  
STATE OF CALIFORNIA  
BOARD OF SUPERVISORS



Heidi Hall, 1<sup>st</sup> District  
Vice-Chair Edward C. Scofield, 2<sup>nd</sup> District  
Dan Miller, 3<sup>rd</sup> District  
Chair Wm. "Hank" Weston, 4<sup>th</sup> District  
Richard Anderson, 5<sup>th</sup> District

Julie Patterson Hunter,  
Clerk of the Board

NEVADA COUNTY BOARD OF SUPERVISORS  
Board Agenda Memo

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**MEETING DATE:** September 12, 2017  
**TO:** Board of Supervisors  
**FROM:** Jeffrey Thorsby  
**SUBJECT:** Appeal of Northern Sierra Propane Development Permit (DVP16-8; PLN16-0072; EIS16-002)

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**RECOMMENDATION:** Resolution making findings, partially accepting the appeal filed by Kim R. Crevoiserat from the decision of the Planning Commission regarding application for Development Permit (DVP16-8; PLN16-0072; EIS16-002); and scheduling a public hearing for October 10, 2017 at 1:30 pm. (Dist. I)

**FUNDING:** Filing fee collected from Appellant for costs.

**BACKGROUND:**

On August 10, 2017 the Nevada County Planning Commission approved a Development Permit (DVP16-8; PLN16-0072; EIS16-002) that would allow the construction and operation of a propane distribution business consisting 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 (APN: 06-920-10). On August 21, 2017 Kim R. Crevoiserat filed an appeal with the Clerk of the Board. The Appellants include 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. Specifically, the appeal lists two actions to be repealed that include 1) Nevada County Planning Commission approval of Development Permit (PLN16-00072; DVP16-8; EIS16-0002) and 2) Nevada County Airport Land Use Commission approval of Resolution 17-01.

The appellant explains that the appeal has been submitted because they believe that the Planning Commission was not informed of all the facts relevant to the Northern Sierra Propane Development Permit that misled the Planning Commission in believing that the project was fully researched and in compliance with the Nevada County General Plan. Moreover, the appeal outlines that a Development Permit issued is not in compliance with the Nevada County Land Use and Development Code, the Loma Rica Industrial Area Plan, Nevada County General Plan and mitigation measures for the property and that a more restrictive Use Permit should have been applied and issued in accordance with Nevada County Land Use and Development Code Title 3 Chapter II Article 2 Sec. L-II 2.5 Table D.

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The appellant also wishes to appeal the Nevada County Airport Land Use Commission's Resolution 17-01 that enables Northern Sierra Propane to place two 30,000 gallon propane storage tanks on land that the Nevada County Airport and Use Compatibility Plan would otherwise prohibit above ground storage of hazardous material. Per the appellant, Resolution 17-01 should be reversed for a variety of reasons that include but are not limited to misleading information, non-compliance with the Nevada County General Plan and Nevada County Airport Land Use Compatibility Plan, no formal written legal recommendation and no environmental impact report provided for consideration.

It should be noted the Nevada County Transportation Commission accepted designation as the Nevada County Airport Land Use Commission on May 19, 2010 and is a separate legal entity from the County. As such, Nevada County does not have legal jurisdiction or authority over NCTC.

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

- The applicant is an interested party who has standing to file the appeal; and
- The appeal was timely filed; and
- To the extent that Appellants are appealing the Planning Commission's decision to approve a Development Permit for the Northern Sierra Propane project, the appeal as presented satisfies the minimum requirements set forth in Section 5.12.F of the County's Land Use and Development Code; and
- To the extent the Appellants are appealing the Nevada County Airport Land Use Commission's decision to approve its Resolution 17-01, because the Board has no jurisdiction over the decisions and actions of the Airport Land Use Commission.

Staff further recommends that the Board accept the appeal with regard to the Planning Commission's decision to approve a Development Permit and schedule this portion of the appeal for a public hearing on October 10, 2017, at 1:30 p.m. Staff also recommends that the Board summarily reject the appeal with regard to the decision of the Nevada County Airport Land Use Commission to approve Resolution 17-01 on the grounds that this decision is outside the scope of the Board's jurisdiction as a matter of law.

Respectfully submitted,

**Item Initiated by:** Jeffrey Thorsby, Senior Administrative Analyst

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