



RESOLUTION No. 25-157

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

**RESOLUTION APPROVING A TENTATIVE FINAL MAP TO
SUBDIVIDE 2 LEGAL PARCELS WITH SIX APNS, TOTALING
APPROXIMATELY 307-ACRES, INTO ELEVEN (11) LOTS
RANGING IN SIZE FROM 4-ACRES TO 127.4-ACRES LOCATED
ON ASSESSOR'S PARCEL NUMBERS 038-330-001, 038-330-002,
038-330-003, 038-330-004, 038-330-086, 038-330-087**

WHEREAS, on March 3, 2023 the Nevada County Planning Department received an application for an Immediate Rezone and a Tentative Final Map submitted on behalf of John Paye; and,

WHEREAS, the proposed project application was submitted to relevant County, State, and Federal agencies, California Native American Tribes, applicable stakeholder groups, property owners within 500-feet of the project site and other members of the public as public notice of the proposed action; and

WHEREAS, the County has prepared a project specific Draft Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (EIS24-0008) and circulated it for a 30-day public comment period from February 15, 2025 through March 17, 2025 and held a public hearing before the Planning Commission to recommend approval of the IS/MND; and

WHEREAS, on March 27, 2025, the Planning Commission held a duly noticed public hearing on the proposed Tentative Final Map (TFM23-0001) (collectively "Project") in which the Planning Commission reviewed the proposed IS/MND and MMRP together with all comments received during the public review period; and

WHEREAS, after reviewing and considering the proposed Project, the Planning Commission recommended by a 3-0 (2 absent) vote that the Board of Supervisors approve the proposed Tentative Final Map for the Project; and

WHEREAS, the Nevada County Board of Supervisors on April 22, 2025 held a duly noticed public hearing on the proposed Project; and

WHEREAS, separate Resolutions of the Board of Supervisors adopted the Project's IS/MND (EIS24-0008) and MMRP, and a separate Ordinance of the Board of Supervisors adopting an immediate rezone of APNs: 038-330-001, 038-330-002, 038-330-003, 038-330-004, 038-330-086, 038-330-087 from Timber Production Zone - 40 (TPZ-40) to Residential Agricultural-10 (RA-10) (APNS 38-330-01, 02, 03, 04, & 87) and General Agricultural-30 (AG-30) (APN 38-330-86); and

WHEREAS, the Board of Supervisors, after reviewing and considering the recommendations of the Nevada County Planning Commission regarding the proposed Tentative Final Map, all information and evidence submitted in favor and against the proposed Tentative Final Map, and the complete record before it, has determined that the Tentative Final Map is now approved subject to the Conditions of Approval and Mitigation Measures provided within Exhibit A and Site Map provided in Exhibit B, attached herein and made a part of the project action.

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

- A. That the proposed division is consistent with the Goals, Objectives, and Policies of the Nevada County General Plan, and with the development standards of the Nevada County Land Use and Development Code;
- B. That adequate public services exist within the project area and are available to serve the project, including County-maintained roads, public schools, and fire protection from the Nevada County Consolidated Fire District;
- C. That the site is physically suitable for the type of development and the proposed density of development and the Resource Standards of County Zoning Regulations, evidenced by its consistency with the General Plan and the ability to comply with site development standards of the RA-10 and AG-30 zoning districts;
- D. That the design of the proposed subdivision and its improvements, together with the recommended Conditions of Approval and Mitigation Measures, would not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
- E. That the design of the proposed subdivision and its improvements are not likely to cause serious public health problems, as evidenced by correspondence from the County Department of Environmental Health and Nevada County Office of the Fire Marshal;
- F. That the design of the land division and the type of improvements required will not conflict with any easement acquired by the public at large for access through or use of property within the proposed subdivision;
- G. That all feasible Mitigation Measures have been imposed on this project;
- H. That the Conditions and Mitigation Measures provided in this decision are necessary to protect the public health, safety, and welfare;
- I. That no finding can be made pursuant to Government Code Section 66474 that requires project denial.

BE IT FURTHER RESOLVED that based on the foregoing findings, and the entire record before it, the Nevada County Board of Supervisors does hereby approve the Tentative Final Map located on Assessor's Parcel Numbers 038-330-001, 038-330-002, 038-330-003, 038-330-004, 038-330-086, 038-330-087.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 22nd day of April 2025, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Robb Tucker, Lisa Swarthout, Susan Hoek, and Hardy Bullock.

Noes: None.

Absent: None.

Abstain: None.

Recuse: None.

ATTEST:

TINE MATHIASSEN
Chief Deputy Clerk of the Board of Supervisors

for
By: C. Suen, Deputy COB

Heidi Hall

Heidi Hall, Chair

Attachment 1
Conditions of Approval (COAs) and Mitigation Monitoring and Reporting Plan
Paye Immediate Rezone and Tentative Final Map
(PLN23-0021, RZN23-0002, TFM23-0001, EIS24-0008)

A. PLANNING DEPARTMENT

1. **Project Description.** An Immediate Rezone from Timberland Production Zoning District to the new zones (RA-10 (157 acres) & AG-30 (150 acres)) approved through Ordinance 2453 in 2018, and a Tentative Final Map to subdivide approximately 307-acres into eleven (11) lots ranging in size from 4-acres to 127.4-acres. An existing residence and accessory structures located on lot 3 are served by an existing driveway. Lot 7 will be dedicated to the Nevada County Consolidated Fire District as a public benefit for a future fire station & potential helipad to provide emergency services to the area. Building envelopes will contain existing improvements, sized to allow potential future additional improvements, and designed to avoid sensitive resources to the greatest extent possible. Existing public rights of way provide primary access to the subdivision. All 11 lots will be served by individual septic systems for sewage disposal. 7 of the 11 lots will have metered connection to the Nevada Irrigation District's treated water system and the remaining 4 lots will be served by private wells. The project site contains scattered landmark oaks, landmark oak groves, and watercourses which will be avoided through the implementation of building envelopes.
2. **Defense and Indemnity Agreement.** Within 15 days after project approval the applicant shall sign and file with the Nevada County Planning Department the attached Defense and Indemnity Agreement. No further permits or approvals shall be issued for the project, unless and until the applicant has fully complied with this condition.
3. **Expiration Date.** The Final Map must be recorded within 36 months from the effective date of the map approval, which would be 30 days from the Board of Supervisors approval, unless an extension is filed pursuant to Section 66452.6 of the Government Code (Subdivision Map Act) and granted by the Board of Supervisors.
4. **Supplemental Information Map.** One Supplemental Information Map, which contains non-title information including all conditions, mitigation measures and easements requiring notes on the Supplemental Map, shall be recorded concurrently with the Final Map.
5. **Map Check.** Submit eight (8) copies of the approved Final Map and Supplemental Data Sheet(s) to the Planning Department for distribution to all applicable County Departments for review and approval, along with a map check fee pursuant to the most current Fee Resolution of the Board of Supervisors. This map shall be prepared in substantial compliance with the approved tentative map along with any requirements outlined herein. Acreage of resulting lots shall be shown on the map.

6. **Park & Recreation Facilities Mitigation Fees.** Current Park & Recreation Facilities Mitigation fees will be required at the time of building permit issuance for future residences and accessory dwelling units. The following note[s] shall be included on the Supplemental Data Sheet for the Final Map:

"A Park & Recreation Facilities Mitigation Fee in accordance with Nevada County Ordinance No. 2460, creating and establishing the authority for imposing and charging said fee within the unincorporated territory of Nevada County, will be levied at the issuance of residential building permits for future residences, and accessory dwelling units, for each lot created by the map, and will be based on the latest fee schedule adopted by the Nevada County Board of Supervisors."
7. **Right to Farm Notice.** The supplemental data sheet for the recorded map, shall include the following right to farm notice note: "When transfers occur of the parcels shown on the recorded map, the seller shall ensure that a disclosure statement containing substantially the following language is provided to, and a written acknowledgement thereof is signed by, the prospective buyer by inclusion in the disclosure form required by Article 1.5 of Chapter 2 of Title 4 of Divisions Second of the California Civil Code, commencing with Section 1102: Nevada County Right to Farm Notice: The County of Nevada recognizes and supports the right to farm agricultural lands in a manner consistent with accepted customs and standards. Residents on or near agricultural lands should be prepared to accept some inconveniences or discomforts with agricultural operations, including timber harvesting, falling and removal, including, but not limited to, noise, odors, fumes, dust, operation of machinery, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizer, soil amendments and pesticides. Nevada County has determined that inconveniences or discomforts with such agricultural operations shall not be considered to be a nuisance if such operations are consistent with accepted customs and standards. Title 20 Chapter 1 of the Nevada County Code recognizes agricultural lands and operations and establishes a grievance committee to assist in the resolution of any disputes which might arise between residents regarding agricultural operations (for more details see said Article)."
8. **Easements:** Prior to Map Recordation, all proposed easements shown on tentative Final Map including the 15 foot wide trail easement along Banner Quaker Hill Road and access and utilities shall be recorded.
9. Prior to map recordation, written notification from the Board of Forestry documenting that it has given final approval to the conversion, is required to be provided to the Planning Department before the parcels are removed from the Timberland Production Zone.
10. Prior to map recordation, the applicant shall provide written confirmation from the Nevada County Tax Collector to the Planning Department that payment for a tax

recoupment fee in accordance with Cal. Gov't Code § 51142 has been made by the owner of the land qualifying for immediate rezoning.

11. Prior to recordation, the following note shall be placed on the Tentative Final Map: "Lot 3 is not eligible for further subdivision".
12. **Mitigation Measure 4A: Nesting raptors, migratory birds, and Birds of Conservation Concern.** The following mitigation measure shall be required and shall be included as a note on the supplemental data sheets that record concurrently with the Final Map:

The following note shall be added to all improvement/grading/construction plans:

Construction or disturbance activities during the breeding season could disturb or remove occupied nests of raptors and/or protected bird species and would require the implementation of a pre-construction survey within and adjacent to any proposed disturbance area within the Project area for nesting raptors and other protected bird species within seven (7) days prior to disturbance. The nesting survey radius around the proposed disturbance would be identified prior to the implementation of the protected bird nesting surveys by a CDFW qualified biologist and would be based on the habitat type, habitat quality, and type of disturbance proposed within or adjacent to nesting habitat.

If any nesting raptors or protected birds are identified during such pre-construction surveys, trees or shrubs or grasslands with active nests should not be removed or disturbed and a no-disturbance buffer should be established around the nesting site to avoid disturbance or destruction of the nest site until after the breeding season or after a qualified wildlife biologist determines that the young have fledged. The extent of these buffers would be determined by a CDFW qualified wildlife biologist and would depend on the special-status species present, the level of noise or construction disturbance, line of sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. These factors should be analyzed by a qualified wildlife biologist to make an appropriate decision on buffer distances based on the species and level of disturbance proposed in the vicinity of an active nest.

Timing: Prior to map recordation and prior to issuance of grading/improvement/building permits

Reporting: Approval of the Final Map for recordation and future permit issuance

Responsible Agency: Planning Department

13. **Mitigation Measure 4B: Establish Building Envelopes to Minimize Impacts to Oak Species, Resident and Migratory Deer Populations, and Aquatic Resources.** Delineate building envelopes and show setbacks from watercourses, in accordance with the approved tentative map. The building envelopes shall be shown on the supplemental data sheets to be recorded concurrently with the Final Map and on all future grading/improvement/building permit plans, with a Note

stating: "All structures shall be limited to the building envelopes identified on each of the parcels; this restriction does not apply to underground utility placement."

Timing: Prior to map recordation and prior to issuance of grading/improvement/building permits

Reporting: Approval of the Final Map for recordation and future permit issuance

Responsible Agency: Planning Department

14. **Mitigation Measure 4C: Protect and Facilitate the Free Movement of Wildlife.** The Supplemental Data Sheet for the recorded map shall include the following note: To protect agricultural and domestic use of this property while still facilitating the free movement of wildlife, no solid fence shall be placed on any parcel except around the single-family dwelling, cultivated areas and animal enclosures. Perimeter fencing shall be limited to three or four-strand barbed-wire type, open material, with the lowest strand being barb-less and a minimum of 18" from the ground.

Timing: Prior to map recordation

Reporting: Approval of the Final Map for recordation

Responsible Agency: Planning Department

15. **Mitigation Measure 4D: Best Management Practices for Seasonal Drainages.** The following measures shall be noted on the map and shall apply to the development of the shaded fuel break proposed on parcel 3 that follows along the southern property line of parcels 4, 5, and 6.

- a. No fill or dredge material will enter or be removed from the seasonal drainage;
- b. Use appropriate machinery and equipment to limit disturbance in this area;
- c. Placement of straw and/or other soil erosion control devices between the seasonal drainages and the areas where vegetation removal will occur to limit potential runoff and sedimentation into the seasonal drainage;
- d. No dewatering of the seasonal drainage will occur as part of the proposed construction; and
- e. Implement Best Management Practices during development of the shaded fuel break

Timing: Prior to map recordation and prior to issuance of grading/improvement/building permits

Reporting: Approval of the Final Map for recordation and future permit issuance

Responsible Agency: Planning Department

16. **Mitigation Measure 4E: Special Status Species Survey:** The following note shall be included on the Supplemental Data Sheet of the Final Map:

Prior to the implementation of future ground disturbing activities within the naturally vegetated areas within the Project area, an additional special status plant

survey would be required to identify the presence of the five (5) special-status plants (chaparral sedge, Red Hills soaproot, Cantelow's lewisia, Sierra blue grass, and showy golden madia) and any others with the potential to occur between April to June in those areas of the Project area. If the Project will not include the removal of native vegetation, then no additional special-status plant surveys would be required.

However, if any special-status plant species is documented within or directly adjacent to areas proposed for disturbance within the Project area that contain native vegetation and that are CNPS list 1A, 1B, 2A, or 2B per CEQA Guidelines Section 15380, or are listed under the ESA and/or CESA, protection of such plants would include complete avoidance, transplantation, and/or on- or offsite restoration of the special status plant species that could be impacted by such site disturbance.

Timing: Prior to map recordation and prior to issuance of grading/improvement/building permits

Reporting: Approval of the Final Map for recordation and future permit issuance

Responsible Agency: Planning Department

17. **Mitigation Measure 5A: Halt Work and Contact the Appropriate Agencies if Human Remains, Cultural Resources or Paleontological Resources are Discovered during Project Construction.** The following mitigation measure shall be required and shall be included as a note on the supplemental data sheets that record concurrently with the Final Map: All grading and construction plans shall include a Note outlining the requirements provided below to ensure that any cultural resources discovered during project construction are properly managed. These requirements including the following: All equipment operators and employees involved in any form of ground disturbance shall be trained to recognize potential archeological resources and advised of the remote possibility of encountering subsurface cultural resources during grading activities. If such resources are encountered or suspected, work within 100 feet shall be halted immediately and the Nevada County Planning Department shall be contacted. A professional archaeologist shall be retained by the developer and consulted to access any discoveries and develop appropriate management recommendations for archaeological resource treatment. If bones are encountered and appear to be human, California Law requires that the Nevada County Coroner be contacted. Should the discovery include Native American human remains, in addition to the required procedures of Health and Safety Code Section 7050.5, Public Resources Code 5097.98 and California Code of Regulations Section 15064.5(e), all work must stop in the immediate vicinity of the find and the Nevada County Coroner must be notified. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in California Environmental Quality Act Sections 15064.5(d) and (e) shall be followed. If Native American resources are involved, Native American Organizations and individuals recognized by the County shall be notified and consulted about any plans for treatment.

Timing: Prior to map recordation and issuance of grading/improvement/building permits and throughout construction

Reporting: Planning Department Approval of Grading and Construction Permits

Responsible Agency: Planning Department

18. **Mitigation Measure 13A. Limit construction work hours to 7:00 AM to 7:00 PM:** The following note shall be included on the Supplemental Data Sheet of the Final Map: During grading and construction, work hours shall be limited from 7:00 AM to 7:00 PM, Monday - Saturday. Prior to issuance of grading and building permits, improvement plans shall reflect hours of construction.
Timing: Prior to map recordation and prior to issuance of grading/improvement/building permits
Reporting: Agency approval of permits or plans
Responsible Agency: Planning Department

19. **Mitigation Measure 18A: Unanticipated Tribal Cultural Resources.** The following mitigation measure shall be required and shall be included as a note on the supplemental data sheets that record concurrently with the Final Map: If any suspected TCRs are discovered during ground disturbing construction activities, all work shall cease within 100 feet of the find, or an agreed upon distance based on the project area and nature of the find. A Tribal Representative from a California Native American tribe that is traditionally and culturally affiliated with a geographic area shall be immediately notified and shall determine if the find is a TCR (PRC §21074).

The Tribal Representative will make recommendations for further evaluation and treatment as necessary. Tribal Representatives act as a representative of their Tribal government and are qualified professionals that have the authority and expertise to identify sites or objects of cultural value to Native American Tribes and recommend appropriate treatment of such sites or objects. If human remains, or suspected human remains, are discovered the appropriate state and federal laws shall be followed.

Preservation in place is the preferred option for mitigation of TCRs under CEQA and UAIC protocols, and every effort shall be made to preserve the resources in place, including through project redesign, if feasible. When avoidance is infeasible, the preferred treatment by UAIC is to record the resource, minimize handling of cultural objects, leaving objects in place within the landscape, or returning objects to a location nearby where they will not be subject to future impacts.

Work at the discovery location cannot resume until all necessary investigation and evaluation of the discovery under the requirements of CEQA have been satisfied.

Timing: Prior to map recordation and issuance of grading/improvement/building permits and throughout construction

Reporting: Planning Department Approval of Grading and Construction Permits
Responsible Agency: Planning Department

20. **Mitigation Measure 19A: Appropriately Dispose of Vegetative and Toxic Waste.**
The following mitigation measure shall be required and shall be included as a note on the supplemental data sheets that record concurrently with the Final Map: Neither stumps nor industrial toxic waste (petroleum and other chemical products) are accepted at the McCourtney Road transfer station and if encountered, shall be properly disposed of in compliance with existing regulations and facilities.

Timing: Prior to map recordation and prior to issuance of grading/improvement/building permits

Reporting: Agency approval of permits or plans

Responsible Agency: Planning Department

B. DEPARTMENT OF PUBLIC WORKS

PRIOR TO RECORDING THE FINAL MAP, THE FOLLOWING CONDITIONS SHALL BE SATISFIED:

1. Final Map Recordation

- a) The applicant shall submit to the County Surveyor for review and approval a final map pursuant to Subdivision Map Act 66433-66443.
- b) The applicant shall offer for dedication to the County the 60-foot right-of-way for Red Dog Road and Red Dog Crossing Road pursuant to the County Road Standards for a Minor Collector Road and depicted in County Std Dwg. A-2. Banner Quaker Hill Road has already been offered to the County per Deed Doc. No. 99-036604 and shown on the Record of Survey Map in Book 12 at Page 175.
- c) The applicant shall prepare a Supplemental Data Sheet for all information not affecting record Title interest.
- d) The applicant shall show all easements of record on the Final Map.
- e) The applicant shall pay in full any and all delinquent, current, and estimated taxes and assessments as specified in Article 8 of Chapter 4 of Division 2 of Title 7, of the California Government Code commencing with Section 66492. A tax certificate is to be provided to the Nevada County Surveyor prior to recording.
- f) The applicant shall pay the recording fees in effect at the time the final map and related documents are recorded.

2. Road Improvements: Prior to recordation of the Final Map, project roadways shall be improved to the following standards and shall meet Sections 16.10.040 Design Geometrics and 16010.050 Structural Section Design:

- a) Banner Quaker Hill Road, Red Dog Road and Red Dog Crossing Road are classified as Minor Collector Roads and shall be improved to these standards per County Std. Dwg. A-2. If the existing roads meets these standards, the Engineer of Record may submit a plan and certification verifying these standards.

3. Driveway Improvements: Driveway Improvements will be required at the time of building permit issuance for any future residences or accessory dwelling units. The following notes shall be included on the Supplemental Data Sheet for the Final Map:

- a) All Driveways shall conform to County Standard Drawings C-2, B-8, A-6 and Fire Safe Driveway Standards for width, grades, curves, sight distance and all applicable Code requirements at the time of Building Permit. Driveway design shall be shown on the Residential Site/Grading Plan and approved by the Fire Marshall and Building Department prior to the issuance of any Building Permit.

- b) All Driveways are subject to a County Encroachment Permit issued by the Public Works Department (DPW) and shall be applied for and issued by DPW prior to the issuance of any Building Permit.

4. Engineers Certification: The subdivider's engineer shall certify that any Road Improvements have been completed in conformance with the applicable standards as noted in B.2.a above.

5. Encroachment Permit: Prior to any work within the right of way, the applicant shall obtain an encroachment permit from the County, which includes a Traffic Control Plan showing all public roadways where work is to be performed and indicates each stage of work, closure dates for street and section of closure (if necessary and otherwise allowed by local jurisdiction), signage, flaggers, and any other pertinent information. The Traffic Control Plan shall be reviewed and approved by the County before the contractor begins work.

6. Offers of Dedication: With map recordation, the applicant shall offer for Dedication to the County of Nevada, for Public Road, Public Utility and Emergency Access purposes, a 60-foot-wide right-of-way for Red Dog Road and Red Dog Crossing Road, along the entire project frontage. This dedication can be made utilizing record information and need not be based on a current survey of the road.

7. Deferral of Improvements: If the applicant desires to record the Final Map prior to completion of the grading and improvements as shown on the approved grading and improvement plans, the applicant shall enter into an agreement to complete the grading and public improvements; and shall post sufficient surety guaranteeing the

construction of all of the improvements, in accordance with the County's Land Use and Development Code and the California Subdivision Map Act. The applicant must supply the County with a cost estimate, prepared by a licensed Civil Engineer, for all improvements shown on the grading/improvement plans. The cost estimate must be approved by the Engineering Division. The County will then prepare an agreement which will require Board of Supervisors approval and will be required to be recorded prior to Final Map approval.

8. Traffic Mitigation Fees: Current traffic impact fees will be required at the time of building permit issuance for any future residences or accessory dwelling units. The following note shall be included on the Supplemental Data Sheet for the Final Map:

"A Road Improvement Fee in accordance with Nevada County Ordinance No. 1829, creating and establishing the authority for imposing and charging a Road Improvement Fee with the unincorporated territory of Nevada County, will be levied at the issuance of building permits for each parcel created by the map, and will be based on the latest fee schedule adopted by the Nevada County Board of Supervisors."

PRIOR TO ISSUANCE OF A GRADING PERMIT FOR ANY ROAD IMPROVEMENTS, THE FOLLOWING CONDITIONS SHALL BE SATISFIED OR NOTED ON THE IMPROVEMENT PLANS:

9. The applicant shall submit to the Department of Public Works for review and approval, an improvement and grading plan prepared by a Registered Civil Engineer; shall obtain a Grading Permit; and shall pay all appropriate fees for plan check and inspection. The grading and improvement plans shall include but not be limited to roadway/driveway/parking lot slopes and elevations, curb, gutters, sidewalks, striping and signing, paving, water and sewer pipelines, storm drains, street/parking lot lights, accessible access from the sidewalk to the building and from the accessible parking spaces to the building, retaining walls, any necessary alteration of existing utilities, and all easements, in accordance with County improvement standards.
10. The Road Improvement Plans shall include the following notes:
 - a. All trees to be saved shall be enclosed by a construction barrier placed around the dripline zone of the tree. The construction barrier shall consist of four-foot tall mesh safety fencing in a bright color. The fencing shall be tied to six-foot tall metal poles spaced a maximum of twenty feet apart. Each pole shall be placed with two feet below the surface of the ground.
 - b. A minimum of forty-eight (48) hours prior to commencement of grading activities, the developer's contractor shall notify both the Building Department and Public Works Department of the intent to begin grading operations. Prior to notification, all grade stakes shall be in place identifying limits of all cut and

fill activities. After notification, Building Department and Public Works Department staff shall be provided the opportunity to field review the grading limits to ensure conformity with the approved improvement and grading plans. If differences are noted in the field, grading activities shall be delayed until the issues are resolved.

- c. The developer shall keep adjoining streets free and clean of project dirt, mud, materials, and debris during the construction period.
 - d. No trucks may transport excavated material off-site unless the loads are adequately wetted and either covered with tarps or loaded such that the material does not touch the front, back, or sides of the cargo compartment at any point less than six inches to the top of the cargo compartment. Also, all excavated material must be properly disposed of in accordance with the County's Standard Specifications.
 - e. The contractor shall comply with all Occupational Safety & Health Administration (OSHA) requirements.
11. If trees to be removed are 6" or greater in diameter, are classified to be in Group A or B per the California Forest Practice Rules, and are on timberland, the applicant shall obtain one of the following harvest document(s) from the California Department of Forestry and Fire Protection and submit a copy of the approved document to the County:
- a. Less Than 3 Acre Conversion Exemption. Any project with less than 3 acres of land disturbance may qualify (see 14 CCR 1104.1 (a)(2) for conditions).
 - b. Timberland Conversion (PRC4621) and Timber Harvest Plan (PRC.4581). Any project with 3 acres or greater or that do not meet the conditions in 14 CCR 1104.1 (a)(2).
12. (If over 1 acre of disturbed area) The applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) to the County for acceptance, file a Notice of Intent with the California Water Quality Control Board and comply with all provisions of the Clean Water Act. The applicant shall submit the Waste Discharge Identification (WDID) number, issued by the state, to the Building Department.
13. An Improvement Performance Security shall be submitted (if a subdivision improvement agreement is not in place). The amount of the security shall be for the sum of: 1) 100% of the cost of public improvements necessary to restore the public right of way back to existing conditions or the cost of the public improvements, whichever is less; 2) 10 % of the cost of erosion and sedimentation control necessary to stabilize the site; 3) 10% of the cost of tree replacement; and 4) 100% of the cost to address any features which could cause a hazard to the public or neighboring property owners if left in an incomplete state. The minimum security amount shall be \$500.00.

The cost estimate shall be provided to the Public Works Department for review and approval as a part of plan submittal. All costs shall include a ten (10) percent contingency.

14. That prior to any work being conducted within the State, County or City right-of-way, the applicant shall obtain an Encroachment Permit from the appropriate Agency.
15. Placement of construction fencing around all trees designated to be preserved in the project.

PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR ANY RESIDENTIAL OR ACCESSORY UNIT(s), THE FOLLOWING CONDITIONS SHALL BE SATISFIED:

16. The applicant shall pay Traffic Impact Development fees in accordance with the current Public Works Department Traffic Impact Development Fee Schedule as approved and adopted by the Nevada County Board of Supervisors.

C. ENVIRONMENTAL HEALTH DEPARTMENT

NCDEH has the following Conditions of Approval for this 11-lot subdivision to be completed prior to map recordation:

1. Proposed lots 7, 8, 10, and 11 as depicted on sheet "C1.1" dated January 2025, shall go through the OSSE process as described in Section A-014 of the Local Area Management Plan (LAMP) in order to designate required MUSDAs. Departmental Findings Reports shall be generated before the OSSE permits are finalized and before the MUSDAs are recorded on the supplemental data sheet. This work is required to be completed prior to map recordation.
2. OSSE permit EH21-0664 shall be finalized by submitting any required pending documents to NCDEH Land Use Division. Please contact the Land Use Division at landusedivision@nevadacountyca.gov for any questions on how to bring this permit to conclusion. The associated Departmental Findings Reports are required to be generated prior to map recordation.
3. Provide both a copy of the referenced NID water service agreement, an updated NID "will serve" letter and clarification on exactly which proposed lots will be served treated drinking water from NID. Provide information clarifying exactly which lots will have private water wells drilled and provide to NCDEH information on the feasibility of drilling said water wells.
4. Per the Nevada County Local Area Management Plan (LAMP) and the Nevada County Land Use and Development Code the supplemental map/data sheet recorded

concurrently with the final record map must delineate a Minimum Useable Sewage Disposal Area (MUSDA) for each proposed parcel. The MUSDA site shall meet all applicable setback distances and shall be established via the OSSE process listed in Section A-014 of the LAMP. This plot shall be a scaled map or drawing in compliance with Sections 66434 (f), 66434.2, and 66445 (g) of the Subdivision Map Act.

5. Prior to final map approval, the consultant of record must approve the representation of all pertinent soils test locations and the MUSDA locations.
6. The supplemental map shall include the following statement "The MUSDAs represent a 3 bedroom installation. Any larger systems may require additional testing."
7. The supplemental map/data sheet shall identify easements and other development encumbrances specified in the title report. MUSDA(s) shall:
 - a. Not include any area identified as environmentally sensitive, or otherwise restricted from disturbance.
 - b. Correspond to the approved soil testing, in terms of minimum required area set-aside, and soil test pit and percolation hole locations to be shown at/inside this area, with soil test pits and percolation holes shown and numbered to be consistent with original field reporting.
 - c. Be exclusive of the designated building envelope; where the entire MUSDA is available for sewage disposal.
 - d. Be referenced from the closest survey monument(s), by compass bearing from/to proposed corner and measured distance from/to it.
 - e. Labeled with necessary sewage design-type as characterized by soil testing (gravity standard/special design/ treatment, according to Findings), and reflecting soil, setback and surface feature limitations.

Lots failing to demonstrate adequate MUSDA must be combined with adjacent lots. A field review to verify the adequacy of all proposed MUSDA(s) may - subsequent to data sheet submittal - be required to be field-checked by this department.

8. The Supplemental Data Sheet, to be recorded concurrently with the Final Map, shall bear the statement that "there is no guarantee that sewage can be disposed of on any lot or parcel of the recorded map".
9. The Supplemental Data Sheet, to be recorded concurrently with the Final Map, shall bear the statement that "there is no guarantee that water is available on any lot or parcel on the recorded map."

Please be advised of the following land development requirements:

- Permits shall be obtained from NCDEH for any water wells drilled in accordance with Land Use and Development Codes.
- All county setbacks shall be met.

D. NEVADA COUNTY CONSOLIDATED FIRE DISTRICT

1. Concurrently or prior to recordation of the map, the developer shall offer for dedication to the Nevada County Consolidated Fire District or its successor, Lot 7, a 4.2-acre parcel, for the use as a future fire station. There is no specific time frame for when or if Nevada County Consolidated Fire District will develop the new fire station. At time of this submittal, the proposed fire station is intended to include the following:
 - Location for engine and equipment storage
 - Quarters for NCCFD personnel
 - Helipad

If Lot 7 is not developed as a fire station, the district may use Lot 7 for another use deemed to benefit the public.

2. Lots 1, 2, and 11 will be required to have one centralized, above-ground water storage tank (or series of tanks) located on Lot 1, totaling 10,000 gallons of water storage for emergency fire suppression purposes. The proposed water storage will be located within 750' of Lots 1, 2, and 11. Prior to map recordation, a separate maintenance agreement shall be established between Lots 1, 2, & 11 to maintain and share responsibility for the proposed emergency suppression water storage on lot 1. Deed restrictions reflecting the maintenance agreement shall be reviewed by Planning and recorded concurrently or prior to recordation of the map.

If required by Nevada County Consolidated, Lot 10 shall also be served by the centralized water storage system and be included on the maintenance agreement described above.

3. A 30-foot fuel break shall be established on lot 3 as shown on the parcel map. This fuel break will be the responsibility of the property owner to complete upon recordation of the subdivision map. A deed restriction requiring the maintenance of the fuel break on Lot 3 shall be provided to Planning and recorded concurrently or prior to map recordation.
4. Parcels 3-6 will be required to maintain a minimum of 200 feet of defensible space from all structures or up to the property line. A deed restriction for these parcels, which states that 200 feet of defensible space will be maintained around the residences, shall be recorded concurrently or prior to map recordation.

E. NEVADA COUNTY OFFICE OF THE FIRE MARSHAL

1. Prior to map recordation, the existing structures located on all developed parcels shall comply with the following:

- a. Vegetation clearance around structures shall meet the minimum requirements of Public Resources Code Section 4291. Structures shall have a maintained Defensible Space/Fuel Reduction Zone by removing, limbing, and/or thinning trees, brush, flammable vegetation or combustible growth no less than 100 feet from structures or to the property line, whichever is closer to prevent the transmission of fire. This is not a requirement to clear all vegetation from the property. Such thinning or removal of vegetation does not apply to individual isolated trees, ornamental shrubbery or ground cover plants unless such vegetation forms a means of rapidly transmitting fire from ground vegetation to canopy trees.
2. The applicant shall contact the Fire Marshal's Office at 530-265-1714 to obtain any additional information needed and to schedule an inspection upon completion of item #1.

F. NORTHERN SIERRA AIR QUALITY MANAGEMENT DISTRICT

1. **Mitigation Measure 3A: Reduce emissions during construction.** The following are the minimum recommended mitigation measures designed to help reduce project emissions related to construction, which shall be included as a note on all plans prior to issuance of all grading, improvement, and building permits. In addition to these measures, all statewide air pollution control regulations shall be followed, including diesel regulations (which may be accessed at www.arb.ca.gov/diesel/diesel.htm). This note shall be included on the Supplemental Map.

1. At least 50% of the mobile off-road construction equipment in use at any time on the project shall be equipped with Tier 1 engines (or cleaner).
2. All architectural coatings shall comply with the California Air Resources Board's 2007 Suggested Control Measure for Architectural Coatings (available at www.arb.ca.gov/coatings/arch/Approved_2007_SCM.pdf).
3. Construction equipment idling times shall be minimized either by shutting equipment off when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]) and all construction equipment shall also be maintained and properly tuned in accordance with manufacturer's specifications." Clear signage shall be provided for construction workers at all access points.
4. The applicant shall use reasonable precautions to minimize dust generation. Reasonable precautions may include watering exposed soils, as well as any stockpiled material, and limiting traffic speeds. Such methods shall be noted on improvement plans prior to approval.

Timing: Prior to map recordation and prior to issuance of grading/improvement/building permits

Reporting: Agency approval of the Final Map recordation and future permit issuance

Responsible Agency: Planning Department / NSAQMD

2. **Mitigation Measure 3B: Comply with open burning prohibitions.** Use alternatives to open burning of vegetative material on the project site, unless deemed infeasible by the Air Pollution Control Officer. Treat cleared vegetation by legal means other than open burning, such as chipping, shredding, grinding, use as firewood, and conversion to biomass fuel. Open burning of site-cleared vegetation shall be permitted only upon Northern Sierra Air Quality Management District (NSAQMD) approval of documentation showing alternatives are unobtainable or economically infeasible. Obtain an approval letter from NSAQMD prior to approval of improvement or grading plans for road, driveway or future residential construction indicating the approved method of cleared vegetation disposal. Note such methods on any project plans prior to approval. At no time shall open burning of materials generated by this project occur at another site unless approved in advance by the NSAQMD.

Timing: Prior to map recordation and prior to issuance of grading/improvement/building permits

Reporting: Agency approval of the Final Map recordation and future permit issuance

Responsible Agency: Planning Department / NSAQMD

3. **Mitigation Measure 3C: Provide energy-efficient utilities.** Residential improvement plans shall include documentation that they comply with the following measures prior to issuance of building permit. This mitigation shall be included as a note on the Supplemental Map prior to recordation.

1. The project shall use energy efficient lighting (includes controls) and process systems beyond Title 24 requirements where practicable (e.g. water heating, furnaces, boiler units, etc.)
2. The project shall utilize water heating featuring low-NOx water heating burners if electric water heating is not used.
3. The project shall use energy efficient, automated controls for air conditioning beyond Title 24 requirements where practicable.

Timing: Prior to map recordation and prior to issuance of the residential building permits

Reporting: Agency approval of the Final Map recordation and building permits

Responsible Agency: Planning Department / NSAQMD

4. **Mitigation Measure 3D: Limit wood stoves.** The project shall include no more than one wood-fired heat source in any residential unit, which may be a pellet stove or an EPA-certified wood stove, and open fireplaces shall not be permitted within this project. Each residence shall be equipped with a non-woodburning source of heat. This mitigation shall be included as a note on the Supplemental Map prior to recordation and implemented prior to the issuance of residential building permits.

Timing: Prior to map recordation and prior to issuance of grading/improvement/building permits

Reporting: Agency approval of the Final Map recordation and future permit issuance

Responsible Agency: Planning Department / NSAQMD

5. **Mitigation Measure 3E: Mitigate any asbestos discovered during construction.** If serpentine, ultramafic rock or naturally occurring asbestos are discovered during construction or grading, the District shall be notified within 24 hours, and specific requirements contained in Section 93105 of Title 17 of the California Code of Regulations must be strictly complied with.
Timing: Prior to map recordation and prior to issuance of grading/improvement/building permits
Reporting: Agency approval of the Final Map recordation and future permit issuance
Responsible Agency: Planning Department / NSAQMD
6. **Mitigation Measure 3F: Dust Control Plan.** A Dust Control plan shall be required if more than one acre of soil is disturbed at any one time. This mitigation shall be included as a note on the Supplemental Map prior to recordation.
Timing: Prior to map recordation and prior to issuance of grading/improvement/building permits
Reporting: Agency approval of the Final Map recordation and future permit issuance
Responsible Agency: Planning Department / NSAQMD
7. Prior to recordation, a note shall be included on the map stating that any future construction projects less than one acre must adhere with dust mitigation measures in Northern Sierra Air Quality Management District's Rule #226.
8. Prior to recordation, a note shall be included on the map stating that a dust control plan is required if more than one acre of soil is disturbed at any one time.
9. If any existing structures will be demolished, advance demolition notification must be submitted to the Environmental Protection Agency. The form can be found at this website: <https://ww2.arb.ca.gov/our-work/programs/asbestos-neshap-program/asbestos-neshapnotification-renovation-or-demolition>.

G. NEVADA IRRIGATION DISTRICT

1. The District and the property owner (Paye) shall complete the water service agreement that would allow service to 7 lots which will front the treated water mainline. Prior to recordation of the map, the agreement shall be finalized and signed.
2. The following note shall be included on the subdivision map and on future improvement plans: Any new construction, bridges, roadways, fences or pipelines (culverts) that involve Nevada Irrigation District facilities will require prior approval and an encroachment permit from the District. If there are any questions concerning the required easements, please contact the District's Right of Way Department at (530) 273-6185.
3. Updated easements are required for any District facilities that traverse the property. Adequate easements will also be required for roads the District has been utilizing to access its facilities. The developer shall provide easements, insured by a title company, for all District facilities prior to recordation of the map. Onsite easements can be provided on the subdivision map, but recordation will be required before

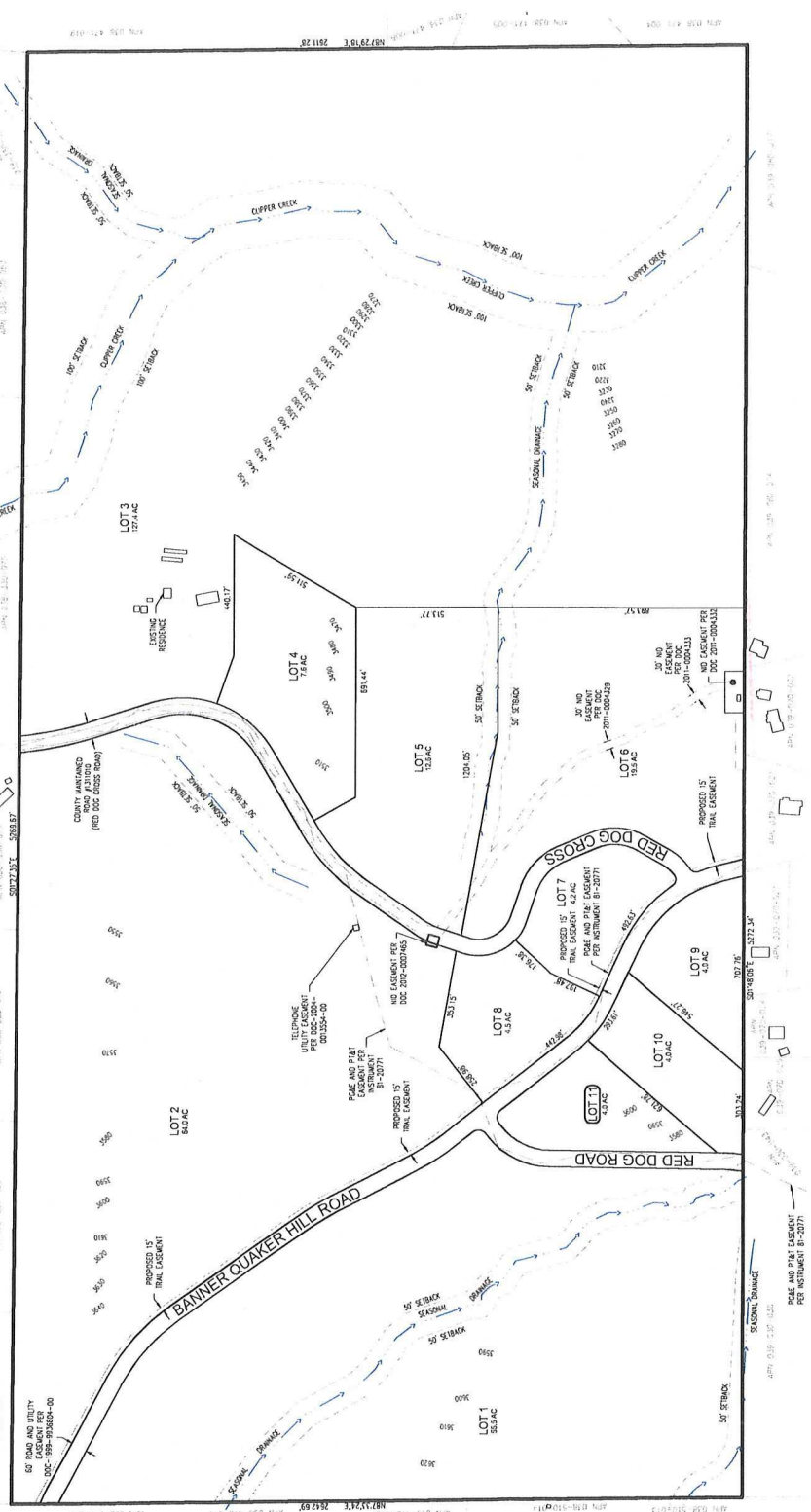
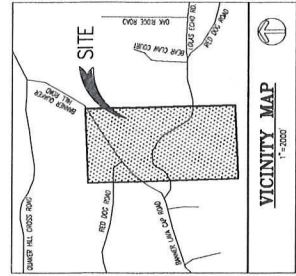
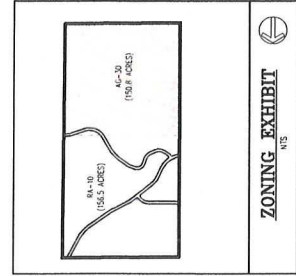
facilities within the subdivision can be conveyed to the District. Existing easements shall be shown on the final map. Any offsite easements must be obtained separately, in advance of final District approval of the map.

4. The District does not assume liability or responsibility for the provision or supply of water for fire protection; however, the District has existing treated water infrastructure including hydrants which are available for fire protection. Review of fire flow requirements is not an assumption of liability or responsibility for fire flow design criteria.

H. CALIFORNIA DEPARTMENT OF FISH & WILDLIFE

1. Pursuant to Section 21089 of the California Public Resource Code and Section 711.4 et. seq. of the California Fish & Wildlife Code, a fee in the amount of \$2,968.75 must be paid as a condition of filing the Notice of Determination for this project. This fee must be submitted to the Planning Department within 5 days of the permit approval with the check made payable to the County Clerk, County of Nevada. Without payment of this fee, the 30-day Statute of Limitations on court challenges to this project's approved environmental document will remain open, which could affect the permit validity. This fee is required to be collected on behalf of the State Department of Fish & Wildlife, and is subject to change.

TENTATIVE MAP
FOR
PAYE SUBDIVISION
JANUARY 2023



SHEET INDEX

SHEET C0 - TENTATIVE MAP
SHEET C1 - SUPPLEMENTAL DATA SHEET



CALIFORNIA

PAYE SUBDIVISION
BANNER QUAKER HILL ROAD / RED DOG CROSS ROAD
SUPPLEMENTAL DATA SHEET

NEVADA COUNTY

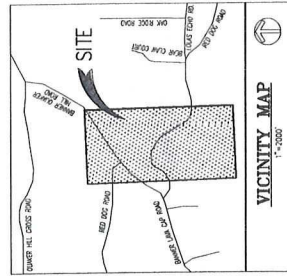
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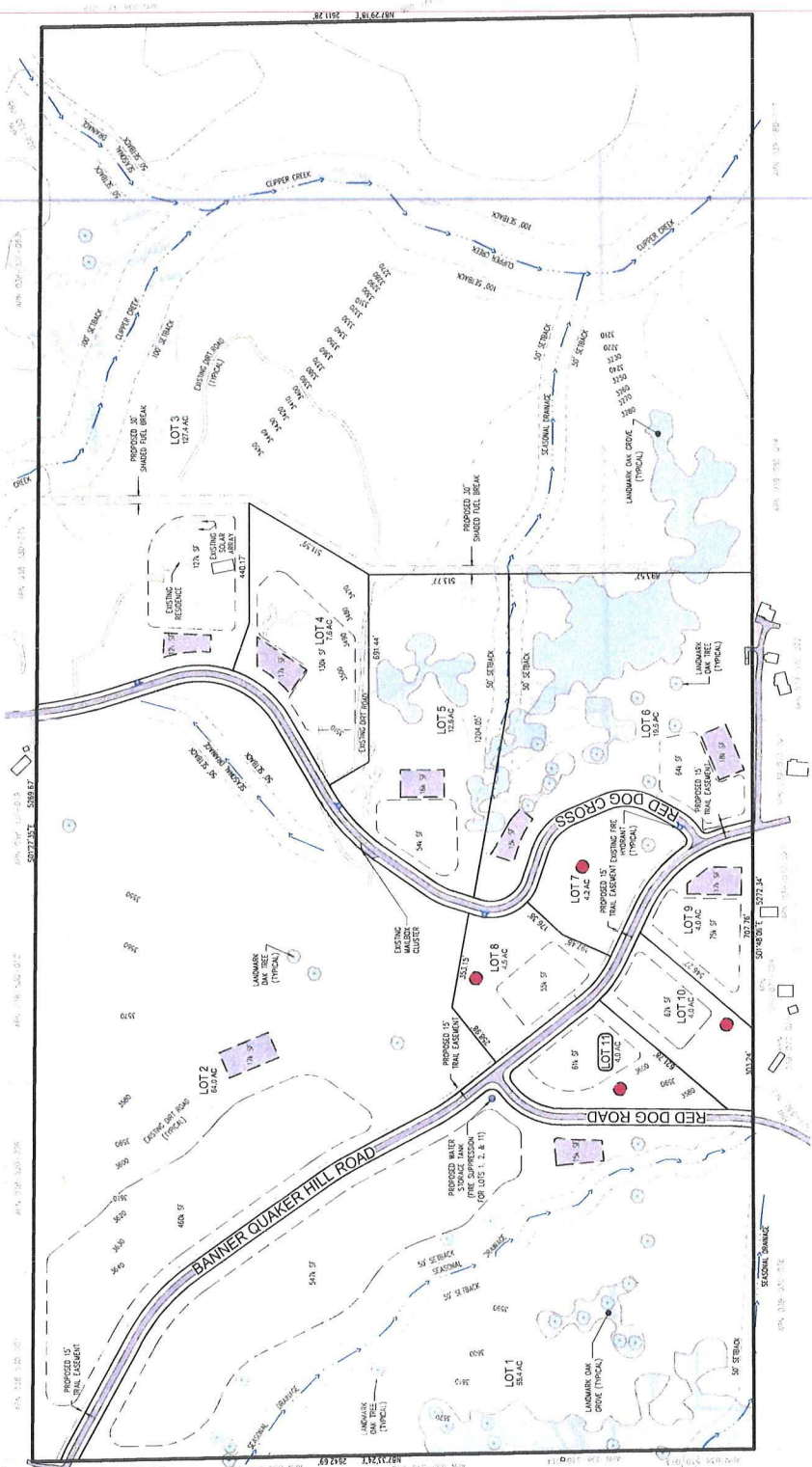
Attachment 4.b

GENERAL NOTES

1. PROPERTY LINES ARE BASED ON RECORD MAPS AND FIELD SURVEY. ALL DIMENSIONS NOT SHOWN ON THIS MAP SHALL BE DETERMINED BY THE FIELD SURVEY.
2. PROPERTY LINES ARE CALCULATED FROM RECORD MAP AND FIELD SURVEY. ALL DIMENSIONS NOT SHOWN ON THIS MAP SHALL BE DETERMINED BY THE FIELD SURVEY.
3. ALL DIMENSIONS NOT SHOWN ON THIS MAP SHALL BE DETERMINED BY THE FIELD SURVEY.
4. ALL DIMENSIONS NOT SHOWN ON THIS MAP SHALL BE DETERMINED BY THE FIELD SURVEY.



LEGEND	
[Symbol]	EXISTING PROPERTY BOUNDARY
[Symbol]	PROPOSED LOT LINE
[Symbol]	CONTOUR LINE
[Symbol]	EXISTING 200' & 400' LINES
[Symbol]	PROPOSED EASEMENT
[Symbol]	MINOR SCALE BOUNDARY AND INCH
[Symbol]	EXISTING LANDMARK OR CRUISE
[Symbol]	PROPOSED SHARED FUEL BURN
[Symbol]	EXISTING DRAINAGE WATER COURSE
[Symbol]	EXISTING LANDMARK OR CRUISE
[Symbol]	PROPOSED ASH LOCATION
[Symbol]	EXISTING FIRE HYDRANT
[Symbol]	PROPOSED WATER STORAGE



**NEVADA COUNTY PLANNING COMMISSION
NEVADA COUNTY, CALIFORNIA**

MINUTES of the meeting of March 27, 2025, 1:30 p.m., Board Chambers, Eric Rood Administration Center, 950 Maidu Avenue, Nevada City, California.

MEMBERS PRESENT: Vice-Chair McAteer, and Commissioners Garst and Foley

MEMBERS ABSENT: Chair Milman

STAFF PRESENT: Planning Director, Brian Foss; Principal Planner, Tyler Barrington; Associate Planner, David Nicholas; County Counsel, Trevor Koski and Sims Ely; Clerk to the Planning Commission, Jodeana Patterson

PUBLIC HEARINGS:

1. A proposed Immediate Rezone from a Timberland Production Zoning District to the new zones RA-10 and AG-30 approved through Ordinance 2453 in 2018, and a proposed Tentative Final Map to subdivide two legal parcels into eleven lots.
PLN23-0021; RZN23-0002; TFM23-0001; EIS24-0008 Page 5, Line 240

2. A proposed Development Permit to construct and operate an Arco AM/PM six-dual fuel pump (12 fueling stations) gas station and convenience store.
PLN23-0157; DVP23-5; EIS24-0002 Page 16, Line 861

Vice-Chair McAteer explained that Chair Milman was not present, and he was acting as Vice-Chair.

STANDING ORDERS: Salute to the Flag - Roll Call - Corrections to Agenda.

CALL MEETING TO ORDER: The meeting was called to order at 1:31 p.m.

Vice-Chair McAteer introduced new District Two Commissioner John Foley.

Commissioner Foley stated: Great. Thank you. Thank you for having me here. My name is John Foley. I'm a local farmer and rancher here in District 4. I was appointed by Sue Hook, and I've worked over the years with the County on policy priorities for local nonprofits here in the County. I look forward to this new role and continue my work here.

Roll call was taken.

CHANGES TO AGENDA: None.

Vice-Chair McAteer stated: We do not have a Commissioner yet from South County, so we're hoping that occurs soon.

PUBLIC COMMENT: Members of the public shall be allowed to address the Commission on items not appearing on the agenda which were of interest to the public and were within the subject matter jurisdiction of the Planning Commission, provided that no action shall be taken unless otherwise authorized by Subdivision (6) of Section 54954.2 of the Government Code.

Vice-Chair McAteer opened public comment at 1:32 p.m.

55
56 Seeing and hearing no public comments coming forward, Vice-Chair McAteer closed public comment at
57 1:32 p.m.

58
59 **COMMISSION BUSINESS:** Planning Commissioner Training: County Counsel's Annual "Role of the
60 Planning Commissioner" and Brown Act Training.

61
62 Planning Director Brian Foss stated: I'll introduce our County Council, Trevor Koski and Sims Ely, who
63 will be giving a Brown Act overview of the role of the Planning Commissioner.

64
65 *[minutes follow as direct transcript]*

66
67 County Counsel Koski: Hello, Commissioners. Before we dive in, I just wanted to take a moment and
68 thank the Commissioners for their service. It's challenging work. It takes a lot of time, but it truly does
69 influence and help how the County grows and changes. The County Council's office greatly appreciates
70 the thoughtfulness and commitment and the public spirit. Also, a special thanks to the new Commissioner.
71 Welcome aboard. My name is Trevor Koski. I'm the assistant County Council. This is Sims Ely, and he
72 is the County Counsel attorney assigned to the Planning Commission. We are going to give you a very
73 quick overview of some of the things you'll need to know you run across. A refresher for some, an
74 introduction for others. I'm going to cover the Brown Act and I'm going to try to do that very, very quickly
75 at a very high level. I would just note that, and you'll hear this in other places, County Counsel's always
76 available to answer questions you may have as they come up, whether it's about your role as a Planning
77 Commissioner, the work of the Planning Commission, the processes generally, we're always available to
78 answer legal questions, work through conflicts, things like that. Staff are always available to answer
79 questions on specific projects as well. You should never hesitate to reach out. The Brown Act: what is it?
80 It's California's open meeting law. It's existed since 1953, and it essentially makes sure that all decisions
81 made by government bodies are done in public. It enshrines the legal right to the public to know what's
82 being discussed by government bodies, know how decisions are made, and to actually participate in the
83 process. The Planning Commission is a Brown Act body. It's because you exercise decision making or
84 advisory authority on land use and planning decisions. That means that the Brown Act applies to all your
85 meetings, your communications, and the way you conduct business as a Planning Commissioner. The
86 requirements of the Brown Act, at a sort of very high level, and there's many exceptions to it, but at a high
87 level, it's just a few things. One, all your meetings have to be noticed. For a regular meeting, that means
88 72 hours before, the public's told that the meeting is going to happen, there has to be an agenda, it has to be
89 posted publicly, and it has to clearly describe all the topics of business that are going to be discussed or
90 decided upon at the meeting. So, if it's not on the agenda, with a few exceptions, you shouldn't be discussing
91 it, and when there isn't an exception, you should definitely not be making any decisions on anything that's
92 not in the agenda. Third, the public has a right to attend the meeting, be there, and comment on it. You
93 heard public comment earlier for a general meeting, that means public comment on anything within your
94 jurisdiction and comment on each individual item that will come before the Commission. Crucially, what
95 that all means is that the majority of the Commission, which means three of you, can't discuss or deliberate
96 Planning Commission business outside of a noticed public meeting. There are a few exceptions to this.
97 One is sort of administrative matters. The example would be: "There's three feet of snow out there, is
98 anyone going to be able to make it to the meeting? Does anyone need a ride?" Those types of administrative
99 things are not within the subject matter of the Commission, and you can discuss them with each other.
100 Other things, community events, conferences that are open to the public, dinners...all that is fine, as long
101 as what's being discussed isn't Planning Commission business. You're also allowed to talk to staff or
102 attorneys individually, one-on-one. The Brown Act applies so that the three of you can't know what the
103 others are thinking. But a conversation with staff, you know, ask questions, get answers; as long as those
104 questions aren't, "What does Commissioner A and Commissioner B think about this?" The questions are
105 all fine, it's you three meeting, not you meeting individually with staff. A few things to look out for,
106 common pitfalls, we'll call them serial meetings: Commissioner A talks to Commissioner B. That's fine.
107 You can talk to one other Commissioner. It's not a majority. But then Commissioner B goes and talks to
108 Commissioner C about the same topic; then you have three people discussing Commission business. Even

109 though none of them were in the room together talking, the chain connects three people. That can be a
110 problem. Another common problem is just replying all when you mean to reply to one: you get an e-mail
111 about some topic, some Commission topic from staff or from an attorney, and then you reply all with your
112 comments. That is a meeting. You're telling the other Commissioners, or at least three, what you're thinking
113 about Commission business. Also, just a word of warning about group text, private messages, social media,
114 things like that: if it's Commission business and you're talking about it on there, you just have to be very
115 careful because other Commissioners might be, you know, you might have a social media post with a bunch
116 of comments, and you don't see all the comments, but maybe one Commissioner says something here,
117 another Commissioner gives it a thumbs up, and another Commissioner says something way down again.
118 You have more than... a quorum discussing Commission business, that's a problem. Very quickly, the
119 consequences for violating the Brown Act: There are three. I think the most common one is corrective
120 action. You do something, you're notified that this may have violated the Brown Act. There might be a
121 lawsuit. You might have to come back [to] your next meeting and redo the thing that you did. Doesn't seem
122 like that big a deal. It isn't, necessarily, but that's the, I think, most common corrective action for a Brown
123 Act violation. The next one is a lawsuit to nullify what action the Commission took. The court finds that it
124 violated the Brown Act. It will nullify the action, and it will almost certainly issue attorney's fees, which
125 can be expensive. The third one that everyone should be aware of, but is exceedingly uncommon, is
126 intentional knowledgeable violations of the Brown Act can be charged as a misdemeanor. Again, not a
127 common one. I'm not even aware of it happening ever in my experience, but it is something that's possible
128 for knowing, willful violations of the Brown Act. I will turn it over to Sims to go through the refresher, but
129 if you have any questions, I'm going to stay for the presentation. We're available for questions after.

130
131 County Counsel Ely: Thank you, Trevor. As Trevor mentioned, my name is Sims Ely. I'm a Deputy County
132 Counsel here in the office of County Counsel, and I'm the attorney assigned to represent the Planning
133 Commission and the Planning Department. I'm just going to briefly go over sort of what are the Planning
134 Commissioner basics. What is the Planning Commission? What is your role and how should you effectuate
135 that role? As you likely are aware, each of you was appointed by your respective district supervisor, so
136 there are five Commissioners. As Trevor mentioned, three is a quorum. What you do, your jurisdiction as
137 a Commission: the authorities granted pursuant to our Ordinance, specifically 2.14.042, and you are in
138 charge of hearing, reviewing, and making a recommendation to the Board of Supervisors regarding any
139 general plan amendments, any amendments to any Nevada County zoning ordinances, and then approval
140 of any subdivisions or disapproval of any subdivisions requiring a final map and parcel maps creating more
141 than four lots. Also, to consider and make recommendations regarding major use permits and site plans, as
142 provided in the respective zoning ordinances. You'll see that happening a lot, you'll get a lot of conditional
143 use permits that come through here, and it's your duty to review those and then make a recommendation.
144 The statutes do require that you make a recommendation. Previous Planning Commissioners have asked,
145 "Are we required to make a recommendation?" And if you don't have a recommendation, then that
146 essentially becomes your recommendation to the Board, that you have no positive or negative
147 recommendation, and it will move on to the Board for their consideration. Basically, what your Board does,
148 and why it's important to go through this, is: Trevor spoke to the Brown Act in public meetings. Why do
149 we have public meetings? It's for due process. What's due process? It's essentially being fair and
150 transparent, so that the public, the government, any stakeholders, have the opportunity to hear, be heard,
151 argue their points, and that the public can effectively hear that and be apprised of it. Oh yeah, I got some
152 slides. Here we go. *[Refers to PowerPoint slide]*. Got a guy slapping his head; we don't know what he's
153 slapping his head for. Perhaps he doesn't understand what due process is. He's confused, or he thinks it's
154 so obvious that he's saying, "duh, this is really obvious." Either way, essentially, you're in a quasi-judicial
155 role, and so when you hear these items that come before you, it's your job to make determinations, and
156 make Findings and recommendations to the Board of Supervisors. Due process is essentially the ability for
157 the public to hear what's going on and to be heard. If you need any information, staff are great. Trevor
158 mentioned that. They're very knowledgeable in the laws, the rules of regulations, and they can provide
159 materials to you, background materials, if you need it. You can contact staff prior to a hearing. You can
160 talk to them, and it's advised that you do. So, if you have any questions, generally you can contact staff
161 before the hearing. They can provide you with info, and then you can formulate some questions ahead of
162 time that you might want to ask staff. Again, not talking to each other in more than a quorum, but you're

163 welcome to formulate any questions on a project before any hearings. If you want to get advice from your
164 counsel, I'm here for you, our office is here for you. I do advise if you want to get legal advice, that you do
165 so outside of a public hearing. You do so before the hearing, or maybe after the hearing, if you ask for
166 advice during the hearing, we'll do our best to provide it, but you waive any confidentiality privilege you
167 might otherwise have if that advice is given in a public setting. If you have any conflicts of interest in your
168 deliberations, or you think you might have a conflict, bring that to staff ahead of time, bring it to our office
169 ahead of time. Certain conflicts can't be waived if it's a conflict with a capital C, meaning a financial interest
170 in something that needs to be disclosed. You might likely have to recuse yourself from any deliberations.
171 If it's another kind of conflict where you think you might not be able to be fair and unbiased, then you
172 should bring it to staff's attention and you should disclose any potential bias before you make any decisions.
173 The idea behind due process is to have an unbiased decision maker, and you are the decision maker in these.
174 So, if you can't be unbiased, then you should at least disclose it and potentially recuse. There are two parts
175 to bias. There's real bias, [when] you actually do have a predetermined opinion on something; then there's
176 the sort of appearance of bias. So, you know, you want to make sure for the public and for everyone else
177 and transparency, that you do have a fair, open mind, and you're not making..., emoting, you know,
178 negatively or positively towards anything that's before you, but to keep an open and unbiased mind. So,
179 that's part of due process. The second part of due process is not having "ex parte communications." That
180 means communications outside of the public hearing, which means that you shouldn't be having
181 communications about a particular project with stakeholders, applicants, people that are in the Community,
182 different advocacy groups - not to say that that's completely banned, but it's not good practice. If you do
183 have any of those kinds of communications, that might bias you. Certainly, disclose that during the public
184 hearing, that you've had those communications, but they are frowned upon. You should try to keep all
185 communications regarding a project to the public hearing. All of your decisions must be made based on
186 evidence that is presented at the hearing. That's why this is part of the due process importance, so that if
187 you do have ex parte communications ahead of the hearing, or if you receive information that's not presented
188 at the hearing and you use any of that information to base your decision on, that can be very bad, and you
189 don't want to do it. This will come up sometimes with site visits. Sometimes, Commissioners will want to
190 visit a site. It's not prohibited, but it can cause certain problems with ex parte communication, the new
191 process, and so if you do have a site visit, you want to disclose that. I would recommend talking to staff
192 before making any site visits or making any direct contact with any applicants. When you're doing your
193 decision-making process, it's really important to create good Findings, because you're going to be making
194 a recommendation to the Board, and they'll be adopting or making decisions based on the Findings that you
195 make in your hearings. This slide is a good example. [Refers to PowerPoint slide] You've got option one
196 here, which says, you know, "Proposed zoning district is consistent with applicable land use designation."
197 Doesn't tell you very much, so option two is much better. It gives distinct reasons: "Because the proposed
198 Zoning District RS6 allows the same density," etc. So, you want to be as specific as possible when you do
199 make Findings, and those Findings are often found in your staff reports. Recommended Findings will be
200 given by staff, oftentimes. So, if you're wondering about what exact Finding to make a motion, you can
201 refer to that staff report. Oftentimes, it's laid out pretty well. You are also a quasi-judicial body, and you
202 are able to modify any Findings that are recommended, make any additional Findings that you might want
203 to. You just have to make sure that you do it on the record and be clear about what your Findings are. I'm
204 going to rush through this. Got a big day today. Much of what you do is based on the California
205 Environmental Quality Act, or CEQA. It's important to know that this is not determinative. It's just
206 intended that someone's well informed of the environmental impacts of the decisions they make. You'll get
207 recommended EIRs, or you'll have EIRs before you. It's not important that it lays out exactly the best
208 possible outcome, or that the best and only way to do something is from a perfect environmental analysis.
209 There can be disagreement among experts, and just because experts disagree on something, it doesn't make
210 the EIR inadequate. The idea is that it's adequate and that it's complete and there's been a good faith effort
211 at full disclosure and not for perfection. So, when you make your CEQA determinations and you review
212 your EIRs, keep that in mind, that it's a good faith attempt to capture all of the environmental impacts. I
213 know that was quick, but if you have any questions now, we can take them. If you have additional questions
214 later on too, like I said, I'm always available to answer one-on-one questions about procedure, law, anything
215 like that.

216 Vice-Chair McAteer: Questions from the Commissioners. Anything? Thank you both very much.
217 Appreciate it. On the consent agenda is only one item: the Commission minutes of the ninth of January. Is
218 it that long? How long has it been since we've...? It's been a long time since we've seen one another. For
219 January 9th. Do I have a motion to approve?
220

221 Commissioner Garst: I have one small correction [to the meeting minutes]. On line 311, one of my
222 statements was addressing TPZ setbacks, and it says, "100-foot burning structure versus 30-foot." It should
223 be "building." And I watched the video, and it did sound like I said burning. Also, just an IT comment:
224 There were some very strange closed captions on the last meeting video, so maybe just have IT look into
225 that. I'm not sure what was going on there.
226

227 Vice-Chair McAteer: Was it speaking a different language?
228

229 Commissioner Garst: Oh, it was just very repetitive, and it wasn't matching the words, so just a comment
230 for IT.
231

232 **CONSENT ITEMS:**
233

- 234 1. Acceptance of 2025-01-09 Planning Commission Draft Hearing Minutes.
235 *Approved at hearing.*
236

237 **PUBLIC HEARING:**
238

239 **1:45 p.m. PLN23-0021; RZN23-0002; TFM23-0001; EIS24-0008:** A proposed Immediate Rezone from
240 a Timberland Production Zoning District to the new zones (RA-10 (157 acres) & AG-30 (150 acres))
241 approved through Ordinance 2453 in 2018, and a proposed Tentative Final Map to subdivide two legal
242 parcels with six APNs, totaling approximately 307 acres, into eleven (11) lots ranging in size from four
243 acres to 127.4 acres. **LOCATION:** 14344 Banner Quaker Hill Road, at the intersection of Banner Lava
244 Cap Road/Red Dog Cross Road. **APN** 038-330-001, 038-330-002, 038-330-003, 038-330-004, 038-330-
245 086, 038-330-087.
246

247 **RECOMMENDED ENVIRONMENTAL DETERMINATION:** Recommend the Board of Supervisors
248 adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan (EIS24-0008)
249 pursuant to Sections 15074 and 15097 of the California Environmental Quality Act. **RECOMMENDED**
250 **PROJECT ACTION:** Recommend the Board of Supervisors approve the proposed immediate rezone from
251 Timber Production Zone to Residential Agriculture 10 and Agriculture 30, and approve the Tentative Final
252 Map (TFM23-0001). **PLANNER:** David Nicholas, Associate Planner.
253

254 *[minutes follow as direct transcript]*
255

256 Vice-Chair McAteer: Mr. Barrington, this is yours.
257

258 Principal Planner Barrington: Thank you, Mr. Vice-Chair. It's actually David Nicholas, Associate Planner,
259 who's working on this particular project.
260

261 Vice-Chair McAteer: Oh, that's right, I do know that. I talked to him. David, I see you're both up there.
262 It's a tag team with blue shirts on. Very impressive. We have team colors. OK. David, over to you. We
263 can smile at this, you know, it's OK.
264

265 Associate Planner Nicholas: Thank you, Commissioners. My name is David Nicholas. I'm Associate
266 Planner for Nevada County. As Commissioner McAteer said, the project presented before you today is an
267 immediate Rezone and Tentative Final Map for John Paye. So, just to provide a little bit of background,
268 the Board of Supervisors previously approved a rezone to rezone this from Timber Production Zone with a
269 minimum parcel size of 40 acres into RA-10 and AG-30. Pursuant to the County Code, that typically takes

a 10-year rollout process, which would be ending in about three years from now, in 2028. What this project is proposing is an immediate rezone out of the Timber Production Zone, so three years early to rezone the northern portion of this on an immediate basis to RA-10, and the southern portion to AG-30. In addition to the immediate rezone, the project also proposes a Tentative Parcel Map to divide two legal parcels into 11 lots, ranging in size from four acres to 127.4 acres. All 11 proposed lots would be served by individual septic systems, and seven of the lots would be served by public water provided by the Nevada Irrigation District. While the remaining four would be served by private wells. As we can see on the map on the screen right now, the project parcels are indicated in that crosshatching. They're primarily surrounded by RA-10 and also fairly higher-density development, which is already predominantly developed with single-family residential homes, while the southern portion of the proposed project area is mostly surrounded by AG-30 zoning, with lower densities on primarily undeveloped parcels. As we can also see, this project is served by County-maintained mileage, Banner Quaker Hill Road bisecting the parcel, and also Red Dog Road. While this project was reviewed, it was evaluated for compliance with all of the site development standards required by the County Land Use Code. Part of that review is ensuring that the density that the zoning allows for an area will not be exceeded. The potential density here would be 20 lots. This project's only proposing 11 lots. Another part of the site development standards is ensuring that the minimum parcel sizes are adhered to. What you see is that there are some four-acre lots, and the reason that works is because the County Code allows for density averaging, so while there are some lots smaller than the minimum parcel size, we can see those over South of Red Dog Road on the left side, that those smaller lots are OK because it averages out to a parcel size that's consistent with the zoning district standards. The zoning district also allows for things such as limitations on impervious surface or building heights. This project does not propose any new structures or construction at this time, so building heights and impervious surface standards will not be exceeded. All of these parcels are also developed with building envelopes. The building envelopes are developed to avoid the setbacks required by the zoning district, and therefore any future development will not be encroaching upon the setbacks. Finally, in regard to the site development standards, the RA and AG zoning district require road frontage. All of these proposed lots have at least 200 feet of road frontage, so they're consistent with that standard as well. I just wanted to provide a little bit more detail about how this density is working on this lot, on the subdivision. What we can see is that Lots 1 and 2 are actually larger than the minimum parcel size, so they could be subdivided further in the future. This isn't proposed with this project, to divide those lots any further at this time, but we want what we want to do is ensure that a subsequent subdivision can't result in more density than the zoning would allow for, and so what we propose and which has been accepted by the applicant's representative is a deed restriction on Lot 3, which would prohibit that from further subdivision, ensuring that this would be consistent with the 20-parcel density, even moving forward into the future. One of the benefits of preventing Lot 3 from being further subdivided is that it further encourages or aligns with the general plan policy of clustering, because we're clustering all of the development to the north, while we have a kind of a large, unfragmented habitat that would be on Lot 3 to the south. So, now we're moving on to the traffic and access for this. All these lots would be served by existing County roads: Red Dog Road, Red Dog Cross Road, and Banner Quaker Hill Road. No new access would need to be developed for these lots, but one of the things that the Department of Public Works required is a certification from a private engineer prior to recordation to ensure that all these roads meet the A2 County Road standards. If the roads are inadequate in some way to those road standards, the applicant would be required to improve those roads to meet those standards that Public Works is looking for. It was also evaluated that these roads and these lots are not beyond dead-end road standards. Finally, based off of the trip generation rates expected for these single-family lots, it is estimated that they would generate 104 daily trips, which is below the traffic screening thresholds determined by the Nevada County Transportation Commission. Like most of Nevada County, these parcels are in a very high fire severity area, so there was review from the Nevada County Consolidated Fire Marshall, in addition to the Nevada County Office of the Fire Marshall, so this project has been conditioned in a way to mitigate that fire risk to the greatest extent practical and to levels of less-than-significance, pursuant to CEQA. One of the things that they're proposing is that Lot 1 will be developed with a 10,000-gallon water tank. This is meant to serve Lots 1, 2 and 11. The reason these lots have to be served by the water tank is because they're greater than 750 feet away from those existing fire hydrants that are on Red Dog Cross Road. The remaining lots would all be served by those fire hydrants. Furthermore, in ways to mitigate those impacts, it's also proposed that a fuel break be installed along the property line of

324 Lot 3. This just borders the southern property line of Lots 4, 5 and 6, but is completely on Lot 3 and would
325 be required through deed restriction to be maintained by the property owner of Lot 3. This is intended to,
326 you know, slow down any fire that would be moving up the Clipper Creek Canyon. Additionally, those
327 lots bordering the canyon would also be required to have additional defensible space, also required through
328 deed restrictions, so instead of the typical 100 feet of defensible space, they would be required to maintain
329 200 feet of defensible space from the structures up there. Like all the projects in the county, this was also
330 evaluated for compliance with our environmental protection that we have in our code. These building
331 envelopes were designed to avoid the different seasonal streams, drainages, and creeks, and therefore no
332 management plan is needed. They also avoid slopes steeper than 30% and any protected landmark oak
333 groves. On the supplemental data sheet, you see that the landmark oak groves are identified, so anything
334 with a canopy greater than 33%, or large oak trees, those are all avoided. The biologists also inspected the
335 site to look for protected sensitive status species; no special status species were identified, but based off of
336 the habitat, the biologist said there's a low potential that species could be found in the future, so before any
337 construction can occur, it's proposed that a pre-construction survey be required to ensure that those
338 protected species aren't impacted. So now we're moving on to this immediate rezone slide *[refers to*
339 *PowerPoint slide]*. As previously discussed, this rezone was previously approved, but this project is
340 proposing an immediate rezone. Pursuant to County Code, to approve an immediate rezone, there has to
341 be some sort of demonstration of public benefit. The applicant proposes to dedicate Lot 7 to the Nevada
342 County Consolidated fire district as a way to demonstrate public benefit. One of the things Nevada County
343 Consolidated emphasizes is that they don't have any specific time frame for when and if they develop a fire
344 station, and they may use that a lot for some other purpose deemed feasible or in their benefit. Those may
345 be things such as selling the lot and using it for staff or a fire truck; regardless, it would still be in the public
346 benefit. In addition to the dedication of the lot to the fire district, the project also proposes a 15-foot-wide
347 trail easement along Banner Quicker Hill Road. This isn't the development of a trail; this is just the
348 establishment of an easement. But the benefit of this is that this section is in our Nevada County Non-
349 Motorized Trails Master Plan and is a desired trail corridor that we'd like to develop one day, and it also
350 increases the potential connectivity of the trail networks, because to the north, there's an existing trail along
351 the Snow Mountain Ditch, which this could ideally eventually connect to. So, this project underwent
352 environmental review pursuant to the California Environmental Quality Act. Based off of the Initial Study,
353 it was determined that a Mitigated Negative Declaration is the appropriate environmental document for this
354 project. Due to the review determining that all potential impacts have been mitigated to levels below the
355 significant thresholds of CEQA, this Initial Study and MND was circulated for the standard public review
356 period of 30 days, which began on February 15, 2025, and ended on March 17, 2025. We received one
357 standard comment from the Central Valley Water Quality Control Board, which doesn't impact the Initial
358 Study and is discussed in the staff report. We also received three public comments expressing concerns
359 about traffic impacts, fire, and evacuation. All these comments have been discussed in this presentation
360 and are also discussed in the staff report, the memo, and the Initial Study. Therefore, staff recommendations
361 are as follows: that the Planning Commission make a recommendation to the Board of Supervisors after
362 reviewing and considering the proposed Mitigated Negative Declaration for the immediate Rezone and
363 Tentative Final Map, to adopt the proposed Mitigated Negative Declaration pursuant to Sections 15074,
364 15073.5, and 15097 of the California Environmental Quality Act, and make Findings A through D of the
365 staff report and staff's recommended project actions are that the Planning Commission recommends to the
366 Board of Supervisors the approval of the immediate Rezone from Timber Productions Zone to AG-30 and
367 RA-10, subject to the conditions, including in Attachment 1, making Findings A through E, pursuant to
368 Nevada County Code. Secondly, the staff's recommended project action is to recommend to the Board of
369 Supervisors their approval of the Tentative Parcel Map to allow for the creation of 11 lots subject to the
370 attached Mitigation Measures and Conditions Of Approval, making Findings A through I pursuant to the
371 County Code. So, thank you for your time. That concludes my presentation.

372
373 Vice-Chair McAteer: Thank you, David, very much. I'll open it up to Commissioners, if you have some
374 clarification comments before we open it up to the general public. Commissioner Garst?

375
376 *[Commissioner Garst indicated she had none.]*
377

378 Commissioner Foley: Yes, I have one clarification comment, and this is just kind of historical clarification.
379 The 10-year roll out period: is this consistent for all rezones, or was this specific to this project?
380
381
382 Planner Nicholas: Commissioner Foley, that 10-year roll out period is required for any rezone out of Timber
383 Production Zone, pursuant to the Nevada County Code.
384
385 Commissioner Foley: Understood. Thank you.
386
387 Vice-Chair McAteer: And David, I have a question. On Lot 3, there's an existing residence, is that correct?
388
389 Planner Nicholas: Yes, Commissioner.
390
391 Vice-Chair McAteer: And I think that's the applicant [who] lives there, is that also true, I think, yeah?
392
393 Planner Nicholas: I'm not sure.
394
395 Vice-Chair McAteer: OK, so that's the only existing...I drove up there. That's the only existing structure
396 within all those acreages?
397
398 Planner Nicholas: Yes, that's correct. That's the only existing structure out there, that's what my observation
399 was, too, based off of my site visit.
400
401 Vice-Chair McAteer: And so, I'm looking at the bottom of the map, which all these maps are now sideways
402 or upside down up there, and there are a whole bunch of other structures down there. Not in the property
403 that we're talking about, but these are..., are those homes right along there, do you see what I'm talking
404 about?
405
406 Planner Nicholas: Commissioner McAteer, are you referring to the grey structures?
407
408 Vice-Chair McAteer: I'm referring to all of these structures down on the... is it the west side? Down by
409 Lot 9 and 10, those are all subdivided parcels there, is that correct? Of homes, private homes?
410
411 Planner Nicholas: Just to be clear, are you looking outside of the subdivision?
412
413 Vice-Chair McAteer: Yes, I am.
414
415 Planner Nicholas: Yes, those are currently subdivided properties and residences that are outside of the
416 scope of the project.
417
418 Vice-Chair McAteer: And generally, what...how big are those lots right there?
419
420 Planner Nicholas: Those range in size from 1.5 acres to about 13 acres, all on that RA zoning surrounding
421 the northern part of the subdivision.
422
423 Vice-Chair McAteer: And those are sort of along...? I'm trying to get exactly where it is. Those would be
424 along Banner. How would you gain access to those homes there? Is that along Red Dog? No.
425
426 Planner Nicholas: It appears...
427
428 Vice-Chair McAteer: Those are along Banner Quaker Hill Road, correct? Access to those homes?
429
430 Planner Nicholas: So, I believe, Commissioner McAteer, you're referring to these homes in here *[refers to*

PowerPoint slide]. And so those would be accessed through driveways off of Red Dog Road, from the north of Red Dog Road, or south of Pasquale Road.

Vice-Chair McAteer: OK. OK. Thank you. I think that's it for now. So, let's open it up to the public, if you don't mind. You're welcome to come on up and chat with us for three minutes or so, and please state your name and where you live in the county.

Vice-Chair McAteer opened public hearing comment at 2:10 p.m.

Public commenter: Hello. My name is Morris Hervey. I live off of Red Dog Road near the top of Banner Mountain, and I do have some concerns about this project. First of all, the traffic. It's my understanding the project would send 104 vehicle trips per day into quiet Deer Creek Park neighborhoods, or also possibly, likely onto the winding, narrow roads of Banner Lava Cap neighborhoods, or if fully built out, would send nearly 208 vehicle trips per day into these areas. Deer Creek Park in particular is a quiet, 25-mile-per hour neighborhood where people often enjoy strolling along Red Dog Road. In my view, this is an unacceptable safety risk to pedestrians, and I speak as someone who has been hit physically by through traffic in Deer Creek Park and sent to the hospital. It's also an impact on the quality of life in Deer Creek Park. Another concern is wildfire. The project dedicates a parcel for a future fire station, but as mentioned previously, there is no commitment by Consolidated Fire to ever build it. I'm sorry, the word that comes to mind is a sham. Also, some historical background: in the early 2000s, an existing fire station on Quaker Hill Cross was closed by the fire district and subsequently sold. It doesn't sound to me like there's a commitment to have a fire station there. Also, the project is located in an area long known to be difficult for a rapid-fire evacuation. The project could plausibly generate 22 evacuating vehicles, or, when fully built out, it could generate 40 vehicles trying to evacuate. However, this evacuation traffic will be multiplied by recent decisions of the Planning Commission and the Board of Supervisors to allow ADUs, that is, accessory dwelling units, junior accessory dwelling units, and tiny homes on wheels on every residential parcel on Banner Mountain. All of this feeds into a combined potential emergency evacuation of Banner Mountain and Cascade Shores and exacerbates that whole situation, which everyone in the county, especially those living on Banner Mountain, know is a very extreme problem.

Vice-Chair McAteer: So, Morris, your time is up. Do you have a closing statement for us?

Mr. Hervey: In the public interest, the project requirement, with respect, as a requirement, is seriously in the red. Thank you.

Vice-Chair McAteer: Thank you very much, Morris. Next speaker.

Public commenter: *[Inaudible]*...Red Dog Cross Road. I'm a volunteer in the community, very active in my Firewise community. Evacuation routes and wildfire starts are my concern. My comments are not specific to this particular residential development plan, although it applies. I am aware that the ordinance for this rezoning package was approved back in 2018. My presence here today is to continue to remind the Planning Commission of its responsibility and future accountability in ensuring the safety of our residents when considering developmental applications. I understand your reviews fit within existing engineering and land use laws, codes, and standards. I challenge you to consider these documents have not been kept up with the new year-round wildfire risk or the aggressive behavior of today's wildfire. I'm challenging the Commission to look at all new development requests through the lens of the recent L.A. County wildfire disaster. LA leaders are on the defensive, attempting to justify how existing governmental policies contributed to the disaster, the loss of lives and what they could have done differently. Have you seen the videos of the bulldozers moving abandoned cars off the roadways in L.A. County, how about Lahaina? What about the bodies discovered in abandoned cars at the campfire? These tragedies all demonstrate the outcome of insufficient evacuation routes for unknown populations. County leaders are well aware of the extreme vulnerabilities of unincorporated Nevada County. In addition, these new, well-intentioned, as Morris said, supplemental housing per parcel ordinance mean you could have on one parcel a primary dwelling (one family), an attachment to the primary dwelling (a second family), a garage conversion (a

third family), and an accessory unit, whether it's brick and mortar or a tiny home on wheels (fourth family), density, additional cars. Planned and proposed developments that utilize the very few Banner Mountain roadways to escape to Hwy. 49 are severely insufficient for the present population, and yet the Planning Commission continues to entertain additional development without mitigating our roads. I'm not just talking about the strong efforts by the Office of Emergency Services and the County to address vegetation management. I'm talking about addressing our two-lane roads with no paved easements, sharp curbs, and deep ditches. There's no way for a mass evacuation to occur safely, let alone providing the lane space needed to get emergency crews through quickly. During an emergency evacuation, these roads are literally killers. To better understand how much trouble we're in relative to wildfire risk, the County has at its disposal the Fire Safe Regulations' NC Ordinances, the Nevada County Hazard Mitigation Plan, the Nevada County Evacuation Study, and the Nevada County Community Wildfire Protection Plan. Consultation with your own staff, the OES staff, National County Consolidated fire district, Nevada County Sheriff's Office will confirm additional risk created by adding more population without addressing our narrow and dangerous roads. We look to our Planning Commission to reduce wildfire risk and not increase it. We look to the Planning Commission to require appropriate evacuation route readiness as part of the development application process. I challenge you to carefully consider the impact of this and any other future development applications.

Vice-Chair McAteer: Thank you very much, Maureen. Next speaker.

Public commenter: Good afternoon, George Olive, long-time resident up there on Banner. There's a bad mismatch between the level of concern about wildfire and evacuation in rural areas like Banner and priorities in the Planning Department. The word "evacuation" doesn't even appear in the staff report. It's not in there. The word "wildfire" does; there is a little section about wildfire, but evacuation of these types of areas has to become a priority for planning staff. How are all the people going to get out of these tangles? There are roads all off the roads mentioned in this plan, and Banner Lava Cap Road isn't even mentioned in the plan. It's not tagged on the maps, and that's one of the main routes out of there, so I have to say that there seems to be a shortage of thoroughness in the planning that has gone in around response to emergency, as prior speakers have said. The Firehouse isn't going to get built. A helipad? Yeah, right. We need to think about this. It's going to be really a mess if a fire comes up out of the canyons that surround this project. Terry, sounds like you went up there. Clipper Creek is really steep. Greenhorn Creek is right there too. Deer Creek is right there too. There are three canyons that all climb up to this place, and one of the fires is going to come up. Scott's Flat Lake comes up to Banner Quaker Cross. It is really steep to Pasquale Road. That fire is going to roar, so there needs to be more thought put into how many people we want to be living there, how many cars we want to be coming and going, and how the hell we're going to get people out of there. If this project goes forward, I hope the county prioritizes improvements to all of the roads, knocking back all of the vegetation, etc., because it is a really dangerous situation as Moe has mentioned. So friends of Banner Mountain is quite well organized; we have our own Firewise community, a lot of thinking and a lot of talking about an evacuation exercise of some sort, multi-agency... be a real pain in the neck, but boy, we would really love to see an attempt that was starting to be planned back before COVID. We'd love to see an attempt at an actual evacuation drill. Thank you.

Vice-Chair McAteer: Thank you, George. Anyone else would like to speak?

Public commenter: My name is Jacqueline Hervey. I live up on Banner Mountain. I have been told that when Deer Creek Park was originally developed around 1970, that the expectation of the Board of Supervisors was that these would all be vacation homes, and so we didn't really have to worry about things like fire evacuation and a lot of people living up on the mountain. These were temporary homes. A few people will be there at a time. But, now things have changed, and it's fully occupied by full-time residents. So, in addition to the evacuation problems there would have been then, now the Board of Supervisors has authorized ADU units, tiny homes on wheels, and although no one currently expects all of those to be built, no one expected Deer Creek Park to be fully built and lived in. As one makes a decision on evacuation and other things, you have to consider that at some point in time, these could be fully built out. To the approval of the ADUS and tiny homes, disregarding the safety of current residents unless the mountain can be safely

539 evacuated, no new projects should be approved. This current project requires that it really be in the public
540 interest. As others have talked about, they've put aside Lot 7 for the Fire Department. But, as we've heard,
541 the Fire Department might actually just sell the lot. But even if something were to be built as a fire station,
542 that does not help any of the residents evacuate. We will still be in just as much trouble trying to get off
543 the mountain, not wanting to be burned up. When the Planning Commission and Board of Supervisors vote
544 to approve a project, they need to take into account all the things that have been approved henceforth: the
545 ADU units, the tiny homes, there's a lot of lots up there that have not been developed, but they are zoned
546 so that a person could go in, buy the lot, and build. That is all going to just increase the risk for all the
547 residents there. We don't need this project. It doesn't have any public benefit. Thank you.

548
549 Vice-Chair McAteer: Thank you very much, Jacqueline. Anyone else?

550
551 Public commenter: Good afternoon, Commission. My name is Jason Robitaille. I'm the Fire Chief of
552 Nevada County Consolidated Fire. I just want to speak to this project, and I hear all the concerns, and we
553 shared some of the same sentiments. When a developer comes here, we look at what is the increase or what
554 are the effects to our deployment strategy. This site was selected for multiple reasons. We are not
555 committing to a fire station, just because we have not done the proper analysis or deployment strategy, but
556 this could actually have a positive impact in reducing our number of fire stations. Currently we have one
557 that's dormant in Cascade Shores that houses some unstaffed equipment, and then we have a fire station,
558 86, down on Banner. Having a fire station in the future could eliminate having those two buildings, so
559 there would be some efficiencies there. A landing zone, I think is very important for us. Just last week, we
560 had a traumatic incident in Cascade Shores, a vehicle versus pedestrian. That patient needs to go to a trauma
561 center. So, having those predesignated landing zones would reduce the time that we need to get a patient
562 to definitive care. Those require trauma centers that are outside of our service area, so having a landing
563 zone... that patient was going to be transported to our fire station in Nevada City, where we constructed a
564 predesignated landing zone, I believe last year, and since then, we've already used it 10 times. So, this
565 would have a positive impact. Also, during a wildfire, since it's going to be in close proximity to fire
566 hydrants, when there are fires that are not in a hydranted area, it requires a water tender, and that is a large
567 fire engine with 2000 gallons. So, this could be a good staging area for us to fill our water tenders to do
568 water shuttle operations, quick turnaround, so they're not impacting those roads while people are
569 evacuating. Also, if it requires Cal Fire's hand crews, it could be a staging area for those big crew buses to
570 park, and we could shuttle them in, too, as well as their dozers, if need be. So, those are some of the things
571 that we feel like this site would really help that area. Also, I do believe when you do have fire stations
572 staffed in close proximity, we can reduce the growth of the fire before they become a significant threat. I
573 do understand the concerns. It's a beautiful neighborhood. The neighbors are very tight knit, and we hope
574 that maybe one day be good neighbors to them as well. Thank you.

575
576 Vice-Chair McAteer: Thank you, Chief. I hope you're going to stick around, Chief, because there might
577 be some members of the Commission that would like to ask you some questions. Thank you very much.
578 Anyone else would like to comment?

579
580 Hearing none, Vice-Chair McAteer closed public comment on hearing item at 2:27 p.m.

581
582 Vice-Chair McAteer: David is the applicant here? Would he like to make a comment to the Commission?
583 You know, we're more than welcome to have him join us and share his thoughts as to some of the issues
584 raised. David?

585
586 Planner Nicholas: Yes, Commissioner McAteer, the applicant is here.

587
588 Mr. Goodman (Applicant's Representative): Hello. I'd like to thank the Commission and the public for the
589 opportunity to present today. My name is Theodore Goodman. I'm a land planner with Millennium
590 Planning and Engineering. We are the applicant's representative. We had a presentation prepared, but in
591 the interest of everyone's time, I think that Planning staff has done a very diligent job of covering the project

and supported by the Fire Chief's information as well. It's been very thoroughly covered, so we're available to answer any questions you may have.

Vice-Chair McAteer: Do you have any comments around anything that the public had to say that you'd like to share some thoughts on?

Mr. Goodman: I would like to recognize the concerns that the public has around wildfire safety; living in rural areas like these, it's on everyone's mind all the time. We feel that this project really does provide considerable public benefits with not just the fire station, but also the development of a fire break. Additionally, when we have this large, contiguous property, it's difficult for one property owner to effectively conduct vegetation management across all of the land. Inherently, when it's subdivided and individual homes are put up, as David described very well, there will be additional fuel modification that comes with each resultant parcel as it's developed, which I think is the safest passive option we have towards mitigating wildfires.

Vice-Chair McAteer: OK. Thank you very much. So, stick around there. I'm going to open it up to the Commission and, beginning with you, Commissioner Garst.

Commissioner Garst: Thank you, Terry. I just want to disclose that I own property 2.5 miles approximately from this site. I don't think that's close enough to have to do anything, but I wanted to disclose that information. So, I'm quite familiar with this area, and drive past it every day. I had a couple of questions. First of all, I just wanted to clarify to the public that we are not hearing a rezoning application. We are just considering whether to allow the rezoning to take place three years earlier than it would have otherwise taken effect. I just wanted to clarify that. I was wondering, in the original rezoning application, why it was determined to rezone these RA-10 and AG-30 when the parcels are smaller, and then now we're going through the density averaging, so I was just wondering if you could address that.

Mr. Goodman: Yeah, thank you, Commissioner Gerst. From my understanding, when the property was approved for the rezone in 2018, it was to return it to what's compatible with the existing General Plan designations, and then through density averaging policy and encourage clustering within the development code. That's where we're resulting, with lots that are smaller.

Commissioner Garst: Thanks. There was mention in here about the shaded fuel break, and that Lots 4, 5, and 6 will be required to maintain that. I'm wondering what provisions are in place to require that maintenance. What tools are being put in place?

Mr. Goodman: Sure, thank you. We coordinated closely with the Nevada County Consolidated fire district on finding a mechanism that would effectuate that, and it would be the responsibility of each individual property owner to maintain that fuel break. But one of the conditions as I understand it for this project would be to develop the fuel break prior to the subdivision.

Commissioner Garst: I think that was all I had.

Vice-Chair McAteer: Commissioner Foley?

Commissioner Foley: Yeah. Thank you. I have a few questions. In regard to Lot 7: I know we've heard that, you know, it could be used for various fire applications. I'm curious: is there an expiring time on the gift to Consolidated Fire? Like, if it's not used within a certain number of years, it could be developed for residential use?

Mr. Goodman: Thank you for the question, Commissioner Foley. There is no expiration. It would be an unencumbered donation to the fire district, and they would be able to do what they see fit with it as it aligns with the public's interest.

Commissioner Foley: OK, I'm just curious if, you know, if these lots were developed in the future,

residences all surrounded by it, you know, it's essentially kind of land-locking that lot. If it wasn't used or maintained or something like that. I'm not saying that it won't be; I'm just curious, in the future, you know, things change, and if that's been taken into consideration at all. I also have a question about the timber production rights for the potential development of the new properties. Since the property's properties are being rezoned from Timber Production Zone into AG and Res-AG, for a future development, if a property owner needs to come in and clear their land to build a house or for fire protection, are they still allowed to commercially harvest lumber and sell it now that the zoning has changed? That might be for the Planning Department.

Planner Nicholas: Yes, Commissioner Foley. The Timber Production Zone is primarily just like a tax benefit that people go into. Being able to harvest timber isn't exclusive only to TPZ zones, so while there's these oak trees that are protected, and to remove timber in the future they'd have to get the appropriate permits from Cal Fire, the owners of these future lots could still remove timber, clear timber, harvest timber, and align with the state laws for that.

Commissioner Foley: Great. Regarding that tax reclassification, when would that go into effect? When would those properties be reassessed to Res-AG and AG for those property tax rates?

Planner Nicholas: Prior to map recordation, we'd be looking for a certificate from the Nevada County Tax Collector's Office that the landowner has met their tax obligations.

Commissioner Foley: I think that's all I have at this time.

Vice-Chair McAteer: OK, thank you. So, Mr. Foss, I have a question because it came up from some of the comments here. Why aren't...with the...the number one issue in this community happens to be evacuation, so I'm sort of wondering why that isn't a part of some of the plans? It may not be part of CEQA, but it may be something that we in the County just sort of add on, to be able to say, you know, "Gee, evacuation in any developments is a critical component." Could you comment on the evacuation portion and what your thoughts are on potentially putting it into subsequent...?

Director Foss: Sure, Commissioner McAteer. On a project level basis, we look forward to and rely on Fire Department review and Public Works review to make sure that there's adequate road widths and road capacity for the traffic that would be associated with the development, so any type of road improvements associated or needed or necessitated by the project would be a Condition of Approval. The topic of evacuation is definitely a larger, broader topic that we work with. Our office of Emergency Services, our OES Department, as well as all the fire districts in Cal Fire. There's been a number of evacuation studies that have been done county-wide that try to identify the most likely routes that would be used. I believe Public Works prioritizes vegetation management along those identified routes that would likely carry the most traffic, so that the roadways are as clear as possible. It is kind of a broader countywide effort that involves a number of different jurisdictions and departments, and, you know, much tougher to implement without building new roads. We try to achieve it through maintaining adequate roadways and adequate veg modification along those roadways. How that trickles down into a specific project would be ensuring defensible space around structures, as well as, like I mentioned, ensuring adequate road width. That kind of goes hand in hand to make sure that there is as good a circulation and roadways to accommodate not only daily traffic, but the traffic that would be leaving or emergency vehicles coming into the site to accommodate addressing the emergency. We try to do it through multiple ways, but it's really ensuring that the road capacity we can accommodate the proposed intensity of the development.

Vice-Chair McAteer: So I think my thought is, I would love to see that as an item that is actually addressed in each of our approvals in the future, as to... that's one of the topics that somebody addresses, so that the public knows and that the Planning Department and the Commission know that we're looking at evacuation and this is how we feel about the evacuation topic. That's sort of might say, I don't know what my fellow Commissioners think, but I just think that that's the number one issue in this Community - how to get out

699 and how to get out safely. So, for us to address it in subsequent processes would be really, I think, a
700 benefit for everyone.

701
702 Director Foss: OK, yeah. Thank you. Comment noted. We can certainly make it a priority to include some
703 discussion in our staff report and our analysis for future projects.

704
705 Vice-Chair McAteer: That would be really great. Is that...do you feel that that's needed at this point? That
706 would be great. Thank you very much. *[Addresses Public Commenter stepping forward]* Well, not right
707 now. To answer my question, I'll tell you what, if you don't mind taking a seat there, I'll let you do this in
708 a few minutes, OK? So let me let me go through my questions, because I believe in letting people chat, but
709 we're going to have it in an orderly fashion. Thank you. So, my question over here is to the developer.
710 Mr. Paye has it on his website currently that he's offering the property for sale for \$3,000,000. I'm just sort
711 of wondering, how is that possible, when it hasn't even gone through the process at this point?

712
713 Mr. Goodman: Thank you for expressing your concern, Mr. Chair. I was not aware of that. That is new
714 information for me. I think that it's probably something that's listed prematurely, and I wish I had a clear
715 answer for you on that.

716
717 Vice-Chair McAteer: Yeah, I just, I know of Mr. Paye, I know of his, you know, athletic accomplishments,
718 etc. I also know he's been in real estate for a long time, so I went to his site, and the first item on his site
719 happens to be this \$3,000,000 property in Nevada County. That that that threw up red flags for me, like,
720 what is going on here? OK. Thank you. *[Addresses Public Commenter stepping forward]* Sir, even
721 though it's beyond public comment time, I'd like you to come on up for us. And your name is?

722
723 Mr. Paye: Mark Paye.

724
725 Vice-Chair McAteer: OK. Hello Mr. Paye.

726
727 Mr. Paye: I'm one of the owners of the property.

728
729 Got it.

730
731 Mr. Paye: We've met.

732
733 Vice-Chair McAteer: Yes, sir.

734
735 Mr. Paye: Yeah. A good way of evacuation is out of Greenhorn, and the County should develop that. You
736 go out Red Dog Road Cross, you go into You Bet, the ravine down in there, and it'd be great if you could
737 go out Greenhorn and do the same thing. If you want to develop a plan, that would be the ideal plan to do,
738 and I think the fire department...*[unintelligible]*

739
740 Vice-Chair McAteer: Great.

741
742 Mr. Paye: So, in answer to your question, in my mind, that's what you ought to pursue with some of your
743 Commissioners.

744
745 Vice-Chair McAteer: Well, we don't have much power of the purse string, actually.

746
747 Mr. Paye: You had a bridge across there, but it got blasted away.

748
749 Vice-Chair McAteer: It did. It did. And because... to be perfectly frank with all of you, I own, I built a
750 cabin out at Scott's Flat 40 years ago, and the reality is that everyone on that ridge area is afraid of fire.

751
752 Mr. Paye: I agree with you, but you still have to have some sort of exit out of there.

753
754 Vice-Chair McAteer: Correct.
755
756 Mr. Paye: And you need... you're going to have to have the County help. Gotta have the Fire Department's
757 help. You can't have individual homeowners do that, but that's something that I would think the
758 Commissioners would want to address. And as far as this [goes], we're not changing the number of lots.
759 The lots are all the same.
760
761 Vice-Chair McAteer: OK. Thank you, Mr. Paye.
762
763 Mr. Paye: It may be a different size.
764
765 Vice-Chair McAteer: Right. I think everyone understands that it could be a lot more lots that you're putting
766 in.
767
768 Mr. Paye: Say that again?
769
770 Vice-Chair McAteer: I think everyone understands that you could be putting in more lots than you are
771 applying for.
772
773 Mr. Paye: Everything could be. We could be at war in the Ukraine too. There's a lot of "could be's" out
774 there. Thank you for letting me talk.
775
776 Vice-Chair McAteer: You're more than welcome. Glad to have you. Especially since you're part of being
777 the applicant here. You just come on down anytime.
778
779 Mr. Paye: I'm an old man. I'm a little hard of hearing. Say that again?
780
781 Vice-Chair McAteer: I was just saying you could have come down here with the applicant and had a chat
782 with us.
783
784 Mr. Paye: He offered it to me, but I didn't want him to embarrass him.
785
786 Vice-Chair McAteer: Ah! OK, Mr. Paye, thank you very much. OK, so now that we've heard from
787 everyone who wants to speak at this point, are there any comments or any further questions that have been
788 brought up in this?
789
790 Commissioner Garst: Yeah, I guess I wonder what could be, what we could add to this application that
791 may require that Lot 7 either be used for public good or undeveloped in the future. I think that lot being
792 offered to Cal Fire is what allows this application to be even considered for early removal from TPZ, and
793 I'm just curious if that's something that is an amendment we could make to this application.
794
795 Planner Barrington: Commissioner Garst, I think it's one of the many offers, including the trail easement
796 and then the defensible space along, I believe it's Lot 3. The Commission does have purview to change or
797 modify the Conditions of Approval. I think the intent is, regardless of how the Fire District uses it, whether
798 they use it as a landing pad or whether they make it a fire station, or whether they ultimately sell it, those
799 funds will go towards their mission of providing public safety, and so it's up to them to decide how
800 financially it works for them to use its site, but it is a public benefit regardless. But you do have that
801 purview.
802
803 Vice-Chair McAteer: Does the Chief want to respond? Seems like you do.
804
805 Chief Robitaille: Just for clarification, it's Nevada County Consolidated Fire District, not Cal
806 Fire....[inaudible].

Commissioner Garst: Thank you for the clarification.

Chief Robitaille: ...but we all share...*[inaudible]*.

Vice-Chair McAteer: Anything else, Commissioner. Commissioner Foley, you OK?

Commissioner Foley: Nothing at this time.

Vice-Chair McAteer: OK. I will say that having owned something out there for 40 years, I can tell you the days when most of those roads back in there were dirt, and I remember driving along Banner Quaker as a dirt road, I remember... trying to think what road that actually is now..., well, Banner Quaker that it turns there and you go out into the forest, and you just used to say, "Oh my God." So, I will say that for evacuation purposes, things have improved by the fact that in the last 20 years, many of those roads have been black topped and so there's better, but I will say to Mr. Paye's point, there's no doubt there's only essentially, one funnel and it all goes into Nevada City. And that's a problem. And there's nothing going out east, and that is the solution, and I think that everybody knows that and everyone realizes that. I will also note that I was in a recent conversation with the Director of Office of Emergency Services, Alex Keeble-Toll, her name is, and she denoted that evacuation routes for Cascade Shores, for Deer Creek Park, for Banner Mountain are their highest priority and that they're going to do a lot of, they have a grant to be able to do a lot of remediation on the road area and on the vegetation near the road, so I was really pleased to be able to hear that, that the County sees those areas - Cascade Shores, Deer Creek Park, Banner Mountain - as their number one problem area. They've got it on the radar, and they have some solutions going forward. With that, I'll entertain a motion relative to this project.

Commissioner Garst: Can we put up the recommendations on the screen?

Motion made by Commissioner Garst to recommend that the Board of Supervisors, after reviewing and considering the proposed Mitigated Negative Declaration (EIS24-0008) for the immediate rezone and Tentative Final Map, adopt the proposed Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan pursuant to Sections 15074, 15073.5 and 15097 of the California Environmental Quality Act Guidelines, and make Findings A through D.

Second by Commissioner Foley. Motion carried on a 3/0 vote.

Motion made by Commissioner Garst to recommend to the Board of Supervisors to approve the immediate rezone from Timber Production Zone to AG-30 and RA-10 (RZN23-0002) subject to the conditions included in Attachment 1 and make Findings A through E pursuant to Section 12.02.030.C.5.b of the Nevada County Code.

Second by Commissioner Foley. Motion carried on a 3/0 vote.

Motion made by Commissioner Garst to recommend to the Board of Supervisors to I make a motion to recommend to the Board of Supervisors to approve the Tentative Final Map (TFM23-0001) to allow for the creation of eleven lots, subject to the attached Mitigation Measures and Conditions of Approval, and make Findings A through I, pursuant to Section 13.02.040 of the Nevada County Code.

Second by Commissioner Foley. Motion carried on a 3/0 vote.

Vice-Chair McAteer closed public hearing on item at 2:48 p.m.

OK. That concludes that public hearing. Thank you both. Thank you very much, David. Nice presentation. Thank you to the public and to the applicant.