

**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.

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

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

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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]*

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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

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

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

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

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

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

CONSENT ITEMS:

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

PUBLIC HEARING:

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

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

[minutes follow as direct transcript]

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

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

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

Associate Planner Nicholas: Thank you, Commissioners. My name is David Nicholas. I'm Associate Planner for Nevada County. As Commissioner McAteer said, the project presented before you today is an immediate Rezone and Tentative Final Map for John Paye. So, just to provide a little bit of background, the Board of Supervisors previously approved a rezone to rezone this from Timber Production Zone with a 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

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

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

[Commissioner Garst indicated she had none.]

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?
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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 Garst. 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

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

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

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

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

Vice-Chair McAteer: Yeah, I just, I know of Mr. Paye, I know of his, you know, athletic accomplishments, 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 happens to be this \$3,000,000 property in Nevada County. That that that threw up red flags for me, like, what is going on here? OK. Thank you. *[Addresses Public Commenter stepping forward]* Sir, even though it's beyond public comment time, I'd like you to come on up for us. And your name is?

Mr. Paye: Mark Paye.

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

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

Got it.

Mr. Paye: We've met.

Vice-Chair McAteer: Yes, sir.

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

Vice-Chair McAteer: Great.

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

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

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

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

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.

861 **2:00 p.m. PLN23-0157; DVP23-5; EIS24-0002:** The project proposes a Development Permit (DVP23-
862 0005) to construct and operate an Arco AM/PM six-dual fuel pump (12 fueling stations) gas station and
863 3,323-sq.-ft. convenience store. The fuel pumps will be located under a 2,592-sq.-ft. canopy. Operating
864 hours are proposed as 24 hours per day, 7 days per week. The project will include nineteen (19) parking
865 stalls with four (4) associated electric vehicle charging stations. Additional site improvements will consist
866 of the demolition of the existing office building, site grading, installation of underground stormwater
867 management facilities, a maximum 8-foot retaining wall near the rear of the building (west and northern
868 sides of parcel), a 4-foot retaining wall along Combie Road, and two 22,000-gallon underground fuel tanks
869 (one unleaded gasoline and one diesel fuel). New signage, lighting, landscape/irrigation, fencing, a trash
870 enclosure, pedestrian walkways, and two access points onto Combie Road are also proposed. **LOCATION:**
871 10018 Combie Road, Auburn, CA 95602 on the northeast corner of State Route 49 and Combie Road. **APN**
872 057-141-031. **RECOMMENDED ENVIRONMENTAL DETERMINATION:** Adopt the Mitigated
873 Negative Declaration and Mitigation Monitoring and Reporting Plan (EIS24-0002) pursuant to Sections
874 15074 and 15097 of the California Environmental Quality Act. **RECOMMENDED PROJECT ACTION:**
875 Approve the Development Permit (DVP23-0005). **PLANNER:** Tyler Barrington, Principal Planner.
876

877 Vice-Chair McAteer: We're moving on to the second item for today, which is a proposed Development
878 Permit to construct and operate an Arco AM/PM six-dual fuel pump, 12 fueling stations gas station and
879 33,123-square-foot convenience store. The fuel pumps will be located under a 25,192-square-foot canopy.
880 Operating hours are proposed as 24 hours per day, seven days a week. The project will include 19 parking
881 stalls with four associated electric vehicles charging stations. Additional site improvements will consist of
882 the demolition of the existing office building, site grading, installation of underground stormwater
883 management facilities, a maximum eight-foot retaining wall near the rear of the building and the west and
884 northern sides of the parcel, a four-foot retaining wall along Combie Road, and two 22,000-gallon
885 underground fuel tanks, one unleaded and one for diesel, new signage, lighting, landscape irrigation,
886 fencing, a trash enclosure, pedestrian walkways, and two access points on to Combie Road are also
887 proposed. And so now Tyler, it's over to you.
888

889 Planner Barrington: Thank you, Chair McAteer. Tyler Barrington, Principal Planner and interim Director
890 of Housing. The item for your consideration, as Chair McAteer so eloquently read to the record, is a
891 proposed gas station located at 10018 Combie Road in south Nevada County. The picture before you is the
892 existing condition. This project is on an approximately 0.81-acre parcel in south Nevada County at the
893 corner of Combie Road and State Route 49, on the northeast side of the road. It's in an area zoned as
894 Community Commercial, or C2. It also has a General Plan designation of Community Commercial. Also,
895 the zoning district includes the Scenic Corridor Combining District, or SC, and a Site Performance
896 Combining District. The Site Performance Combining District requires adherence to the greater Higgins
897 Area Plan. The primary surrounding uses in the area are commercial in nature, with the exception of the
898 parcel in blue [referred to PowerPoint slide] north of the project site, which is the Higgins Fire Protection
899 District fire station. It is developed with an approximately 12,190-square-foot office building, and there are
900 proposed as two access points onto Combie Road public water and sewer. I will note that this application
901 was originally considered as a part of pre-application back in 2022, where the applicant received comments
902 from various departments, including Planning, Public Works, Environmental Health, and Caltrans before
903 submitting their formal application. So, just for a brief overview of the development process, a convenience
904 store and a service station are an allowed use within the C2 Community Commercial zoning district with
905 the approval of a Development Permit. The purpose of a Development Permit is to allow for consideration
906 of uses that are generally consistent with the purpose of the zoning district but require careful review to
907 ensure compliance with all site development standards of the County Code. As a part of this presentation,
908 I'll try and define how this project meets those standards. I will note that this project was referred to the
909 Planning Commission by the County Zoning Administrator, as allowed for by Section 12.05.050.E.4 of the
910 Nevada County Code. Specifically, due to public comments received as well as comments received during
911 the review process at two Sout County Municipal Advisory Council meetings. Also, because it's within that
912 greater Higgins Area Plan, it's one of the first developments since the adoption of that plan. So, as Chair,
913 McAteer outlined, the project site you have before you, both the existing site plan as well as the proposed
914 site plan. The project, if approved, will include demolition of the existing building and a 12-space parking

lot, as well as site landscaping, and there'll be site grading that will occur. The project proposes the construction operation of an approximately 3,323-square-foot Arco AM/PM convenience store with six-dual fueling stations, so 12 total, two underground storage tanks. The operating hours are proposed as 24 hours a day, seven days a week. There are 19 proposed parking spaces, including one ADA space or accessible space with four electric vehicle charging stations. I mentioned the retaining walls and I'll just kind of give you an idea: retaining walls are proposed along this slope side of the proposed project to allow for grades to meet ADA requirements. There's also some fencing being proposed at the back of the site to provide some separation between the proposed project and the fire station. There are two right-in, right-out turn access points proposed in the project. And then again, lighting signage and landscaping, as I previously mentioned. There're two underground stormwater detention basins that help meter the stormwater created by new, impervious surfaces at pre-project levels consistent with County policy. The project will connect to the public sewer to the east and then I also want to mention it's consistent with the policies of the Greater Higgins Area Plan. The project will construct along the product frontage the multi-purpose path envisioned as a part of that plan and then provide an area for a community gateway sign, which is also recommended by that plan. So, this is just a blow up of the proposed site plan *[referring to PowerPoint slide]* to give the Commission a better view of what is being proposed. As you can see, the convenience store is on the western side of the project, facing east. The proposed fuel stations and canopies are in the middle of the site. The project did include a truck turning template to demonstrate that the fueling trucks and other vehicles that access site, including a fire truck, will be able to access and maneuver around the particular site itself. Regarding architecture, the applicant originally provided slightly different architecture, and through the review of the South County Municipal Advisory Council [MAC], did some amendments, including changing the roof color. The details are designed to be compatible with the neighboring development to the south, the CVS Shopping Center and the like. There is stucco being proposed in two different tones along the corners and the middle of the building. There is a stone veneer being proposed at the entry point as well as a wainscoting. Aluminum windows were proposed. The metal roofs, mansard roofs, will be standing seam metal, and there's also some metal canopies over the fronts of the building. To break up the massing, the applicant is proposing to provide faux windows, and then some lattice structures on the, I believe it's the south and west elevations, to help break up that massing and allow for vines and things to grow. Here's some architectural renderings of the proposed project *[referring to PowerPoint slide]*. That kind of demonstrates what the project will look like from an aerial photo, and then some night views. I will note that the night view, particularly where the cursor is, reflects a facing light, but the actual project doesn't include that, and it's prohibited to have that type of wall wash lighting. The downward facing security lights are allowed by the code. Regarding signage, the application does include a fairly significant amount of signage proposed as a part of the project. There're a few things that I wanted to note specific to the project: the County's Code allows for one monument sign with a project such as this; that monument sign is not allowed to exceed 25 square feet or be over five feet in height. I'll note that this is generally a typical Arco AM/PM signing plan, and the architecture is not specific to this particular project, although the form of the building and the shape are generally the same. As you notice, there aren't the mansard roofs on the corner parapets. There is a Condition of Approval that restricts that monument sign to being within those site parameters. I will note that the pricing portion of the sign for the gas is not counted as a part of that 25 square feet. Essentially, the little decal you can see here would be allowed to be 25 square feet total. What's proposed or shown on this is slightly larger than that, so that's a Condition of Approval. I'd also note that the applicant originally is proposing a goal post sign as they called it, or a large pricing sign on the western edge of the proposed project, and staff, after review of the Scenic Corridor analysis, which both Combie Road and this portion of State Highway 49 are considered a Scenic Combining District by the County. Also, because the existing Chevron station to the south was not allowed to have such a tall sign, we have a Condition of Approval which prohibits that sign, because we feel it's not in the character of the Greater Higgins Area and it would be inconsistent with that Scenic Corridor designation. With that, staff, as outlined in your staff report, would be open to moving the proposed monument sign, which is near where the cursor is *[referring to PowerPoint slide]* to the western side of the parcel. So long as that sign doesn't block sight distance, it's consistent with the Public Works policy that's outlined in the plan. The project also includes a fairly standard wall sign at the front of the building over the entry and then canopy signage and the fuel pumps have the decal. I would note that, as per the Scenic Corridor analysis that's provided as part of this project, that none of these signs will be proposed to be internally illuminated and therefore they will

require external illumination. Typically, in Nevada County, we allow for downward-facing gooseneck lighting to go over the sign and face down, and that's very much consistent with the existing development to the south. I finally want to also reference the proposed gateway identification sign. This is approximately in this location here *[referring to PowerPoint slide]*. That will be vetted, and it will be determined what the style will be by the community at a later date. This is one of the policies and recommendations of the Greater Higgins Area Plan. This location was actually determined to be the most suitable because of its visibility to the driver on State Highway 49. Condition of Approval 810 requires that they dedicate either an easement or a deed restriction that would prohibit that area from being developed for a future sign to be placed there. I might also note the County's Code does require and recommend that monument signs include a native base that's in a landscaped area, and so those Conditions of Approval require that for the monument sign as well. Regarding landscaping, the applicant did provide a preliminary landscaping plan, which is included in your staff report. It does demonstrate that shade covering will be provided *[over]* 40% of the overall parking area within 15 years, which is consistent with County policy. It provides for adequate screening of roads and neighboring properties. There is proposed extensive landscaping for the site, and in the colors and plans below, which kind of gives you an idea of what the planting pallet will be. I'll note that the landscaping does and is required to meet the County's minimum landscaping requirements, as well as the State Model Water Efficiency Landscape Ordinance Standards, and they demonstrated that they can meet those standards. Their standard Condition of Approval, specifically 810 Planning Commission that will require them to provide a letter of surety, before final occupancy, *[stating]* that all planting has been in place. Then, they'll have to maintain that throughout the duration of the operation of the site. I didn't go over lighting specifically, but I'll speak to that lighting. These two fixtures are what is being proposed *[referring to PowerPoint slide]*. The one on the left is the parking lot lighting, and then the one on the right is gooseneck lighting that'll be on the building for security purposes. These are consistent with the County's requirements that they're downward facing, fully shielded. Your staff report does note that the original photometric plan showed for a little bit of light spill coming off of the site, and therefore Condition of Approval A.10 and A.12, actually A.12, requires that they submit a final photometric plan demonstrating that they can comply with the County standards, which is to not allow light spill. And there's some suggestions in that Condition that specifically could require the removal of some lights, lowering them, or using less intense lighting fixtures. The project is compliant with all of the County's site development standards, including setbacks. I would note that the height of the building is approximately 24 feet. The fueling canopy is approximately 18 feet where 45 feet is allowed in this area of the county. The design utilizes earth tones and natural materials consistent with the western Nevada County design guidelines, as well as the Greater Higgins Area Plan, which recommends that the design of commercial uses be consistent with other development in the area, and the design was specifically done to reflect the neighboring property to the south, which is developed with a number of different commercial uses. The solid waste enclosure, as well as the retaining walls, are designed to be consistent to match the proposed building and meet the background requirements for that waste enclosure. The retaining walls will be dressed up with...I forget the exact name of the materials, but anyway, it's not just your standard split seam wall, it's dressed up with a material and I can look it up in a minute. The parking: I believe 17 spaces is actually required, but they're providing 19. I mentioned that ADA space, as well as four charging stations. Regarding signage: with the Conditions of Approval, that signage is compliant with the County's design guidelines and zoning guidelines, and I previously mentioned that it will have to be externally illuminated versus internally illuminated. Specifically addressing environmental review, the project Initial Study and Proposed Mitigated Negative Declaration was available between February 7th, 2025, and March 10th, 2025. All of the proposed impacts identified as part of this project were mitigated to less-than-significant levels. We did receive some public comments during the public review period from the United Auburn Indian Community stating that they had no further comments, from Caltrans stating that they were comfortable with the analysis and didn't have any other additional comments and that wanted to be apprised of future movement on this project which is included in the project's Condition of Approvals. We did receive two public comments as a part of that review period. Those comments address things like public safety, noise, and traffic generated by this project. I will note that traffic was reviewed by both Public Works, the Nevada County Transportation Commission, and Caltrans, and no adverse issues were identified. It's designed to meet the County's access requirements and didn't exceed thresholds for level of service or VMT (vehicle miles traveled). I would like to point out that we did receive some additional public comments, which are included in the staff memo to

the Commission dated 3/27/25. Those public comments were very similar in nature: concerns over public safety, over noise, and over the impacts of this commercial development, and I would note that no new impacts were identified that weren't otherwise reviewed and considered by the proposed Mitigate Negative Declaration and the project Conditions of Approval. I would also make a special note that the one of these letters was from a law firm out of Irvine, CA, and that request was to extend the public comment period because essentially they are inferring that staff didn't make or the County didn't make the subsequent supporting documentation available to the reviewer. I would note that our typical process was followed for noticing this. It did notify where you could obtain online copies of the Initial Study, it provided the planner's contact information where they had the opportunity to contact the planner to request additional information. It also noted that hard copies were available here at the County office during the public review period for the CEQA document. No attempt was made by this law firm or whoever they're representing to obtain this information. They also didn't identify any additional environmental concerns as a part of their review. I also want to note that while this meeting was going on, it was indicated that we received a second letter from the same law firm stating that we didn't make the biological inventory, the traffic study, the preliminary drainage analysis, the geotechnical engineering report available to them. Very similar comments, and I would note that that's been available through the public portal to anyone since the inception of the project, approximately a year and a half ago. So, it would be available, and should they have reached out to staff; staff would make that available to them, because this is all public information. The Initial Study did utilize the same consistent practice that the Planning Department does, because should we attach the traffic study, the geotechnical engineer report, the drainage analysis, and all those things, you'd end up with like a 400-page Initial Study with every project. So those are always available for review by the public and therefore staff do not recommend extending the public comment period for the Initial Study. The other thing I wanted to note is that that letter came in approximately 11 days after the close of that period. With that, I would note that all, as I previously mentioned, all impacts have been mitigated. The Conditions of Approval ensure that this project is consistent with zoning. I will note some of the key Mitigation Measures and Conditions of Approval I went into was the prohibition of the 25-foot-tall pole sign. There is one large sign in this area, but it's for a multi-tenant project, the Holiday Market. But as I previously mentioned, the Chevron immediately south of the site was not allowed to have such a tall sign. There are significant requirements from the Air Quality Management District that will be adhered to, and we also...going back a little bit, some of those comments that we received from the public were that air quality was not considered, but we did receive a letter from Air Quality [Management District] that noted that all their concerns have been met through the review of the Initial Study. I mentioned that no internally-lit signage will be included as a part of this project with the exception of the pricing sign as required by state law. There is a requirement that they annex into a public PRD [Permanent Road Division], because of the access of the right-in and ride-out, and there's a light at Higgins Corner as you pull into the site from the right, and you have to do a U-turn to get back to it, trucks will have to be routed down Woodbridge Lane through Higgins Road and then back to the site to the service fueling station, and that's a requirement that the applicant will put on their truck drivers. But because the trucks will be using that road, Public Works required that they annex into that and help pay their fair share for utilization of those roads. This project will be required to maintain sight distance and then they pay a traffic impact mitigation fee. There are standard protections for cultural and archaeological resources as a part of this project. None were found as a part of the review, but it's always unknown, once you start digging in the ground, what you'll find, and so those are included. There are requirements for oversight by the Department of Environmental Health related to the convenience store food use and also the fueling station. There was review and approval by the County Fire Marshall, who coordinated with Higgins Fire Protection District. There's also a requirement that this project meet County noise standards, and that includes a Mitigation Measure for limited construction times from 7:00 AM to 7:00 PM on Monday through Saturday. With that being said, this project is determined to be consistent with several goals and policies of the County General Plan as outlined in your staff report, pages 18 through 20. It's consistent with the C2 or Community Commercial zoning district by being a project that is allowed with the Development Permit as long as they meet all County site development standards. It's also consistent with the SC Combining District. They provided a Scenic Corridor analysis, which is included in your packet, which is a requirement of that zoning district [that they] can demonstrate how it won't result in significant visual impacts. The screening landscaping will help it blend into the environment; the internal lighting will assist with meeting the character of the area. It's also consistent with the SP combining district,

1077 which again I mentioned requires adherence to the Greater Higgins Area Plan, primarily in three areas: one
1078 is providing a consistent design with other developed areas in this vicinity; two, by providing that
1079 multipurpose path that goes along the project frontage, which will later be connected to a pathway that goes
1080 to the Cascade Crossing subdivision; and then finally, by providing that gateway sign, which is a
1081 recommended goal of that area plan. With that, staff would recommend that the Planning Commission,
1082 after reviewing and considering the proposed project, taking public testimony, that you approve the
1083 environmental document, making Findings A through D; and then you also approve the Development Plan,
1084 making Findings A through L; those actions are in your staff report. That concludes my staff report. Happy
1085 to take any questions.

1086
1087 Vice-Chair McAteer: Thank you, Tyler. So, are there any clarifications that you need from Tyler at this
1088 point before we open up to the public and then the applicant? OK, so we're going to open it up to the public
1089 and then we'll open it up to the applicant to respond to them. Is there anyone from the public that would
1090 like to comment on this project? We have up to three minutes to chat with us.

1091
1092 Planner Barrington: Mr. Chair, I believe the applicant has a presentation which might help inform the
1093 Commission.

1094
1095 Vice-Chair McAteer: OK. I always like it that they then get to respond to the public, but if you'd like to do
1096 your presentation now, we'll do it now.

1097
1098 Mr. Wood: Yeah, I could do it either way.

1099
1100 Vice-Chair McAteer: That's fine. Go ahead.

1101
1102 Mr. Wood: It might answer some of the questions, and then I could also respond. So yeah, I appreciate it.
1103 I'll just direct you to change the slides. My name is Rob Wood. I'm the Principal Planner at Millennium
1104 Planning and Engineering and representing the applicant who's also here today. I have just a brief
1105 presentation, I'll keep it very brief and hopefully no redundancy with what staff went over. *[Referring to*
1106 *PowerPoint slide]* So, just basic timeline. We started with a pre-application. For projects such as this,
1107 that's very common that we start with a pre-application, get comments from staff, and then jump into the
1108 meat of the project, which for a Development Permit, has to go through a full CEQA process. Then,
1109 ultimately we ended up at two public hearings: South County MAC was the first one, about the middle of
1110 or the end of 2023. They identified some minor design suggestions, as staff pointed out: roof color, some
1111 stuff with landscaping, signage, that sort of thing. When we made those changes, we scheduled a second
1112 South County MAC meeting. There was also a public hearing in July of 2024, and that's basically what I
1113 want to go over in my presentation are just three comments that had come up in in those South County
1114 MAC meetings. It's very similar to the comments that we've gotten over the last couple of days from the
1115 public. So, I want to go over the traffic issues, the truck delivery route, and also a question that's come up
1116 from some of why another gas station. So, starting with traffic in the bottom right-hand corner *[referring*
1117 *to PowerPoint slide]*, that's looking West on Combie, to the right is the subject property, and far out to the
1118 left you can see the Chevron station. The important thing here is there's a median that goes all the way along
1119 in this stretch of Combie so that you cannot go left into the project or left out of the project on either side
1120 of the street. Then, switching over to the exhibit on the left: since you can't turn left into Chevron currently,
1121 what people do coming from the east, from Lake the Pines, they would follow the red line. They would
1122 take a left at Higgins, pull into the CVS parking lot, and go through the parking lot, and Chevron's at the
1123 end. Then exiting after getting gas at Chevron, they would exit the same way to the traffic light at Higgins,
1124 or they can take a shorter route and get back onto Combie, which is a right-in, right out about halfway
1125 between there. Then they would do, if they're going to 49, they would do a U-turn at the light. This project,
1126 as proposed, just is a right-in, right-out, straight off of Combie Road, so very, very convenient. We did a
1127 very thorough traffic evaluation. It was done by W Trans. They're a professional traffic consultant. One
1128 thing they noted was that gas stations are inherently convenience-based use. Why that's important is, people
1129 tend to get gas on their way to work, on their way to run errands. Typically, people don't just leave their
1130 home, get gas, and go home, so that's important in this project because it makes it so that predominantly

the trips are pass-by trips. What that means is, if there's a total trip count estimated for a project such as this of, say, 2,070% of those trips are already on the street, they're already on Combie Road in the street system. There's a huge reduction. These aren't new trips and new traffic counts for a project like this. Most are pass-by trips. Another question that came up was on truck delivery and a concern about trucks making a U-turn at the traffic light at Higgins. They wouldn't go that route. First of all, they get instructions and directions to the delivery address and that the direction they're going to go is coming from Auburn or Sacramento. They're going to take a right on Woodridge. You can see the yellow line there. Left on Higgins, and then a left on Combie. As staff pointed out, we have a Condition that we have to annex into the PRD, so that we pay our fair share on that road system to maintain it. Ultimately, no U-turns are necessary. The big question on some people's minds is, "Why a gas station?" There's lots of reasons why a gas station, especially at this location. Number one, convenience. It's a very easy-in, easy-out coming from the east, as you can see by the aerial photo. There's a lot of development to the east. That's lake of the Pines there [referring to PowerPoint slide] that you see, which leads into the next thing of relieving congestion. Chevron being the primary service station there, this would reduce wait times and congestion at the pump, especially during AM and PM peak hours. It definitely captures the demand, both existing and future. There's a big demand now with existing... you can see how much development is there at Lake of the Pines. I'll just note that the surrounding area to this north and to the south and to the east has a significant amount of R3 and R2 zoning that are undeveloped parcels. R3 is a high-density residential zone. R2 is a medium-density residential zone. As those parcels build out over the years, there'll even be a much larger increase in demand than there is currently. Again, I already went over the pass-by trips. It reduces the amount of new traffic for a project like this. Competition and choice are always good. I think ultimately that's always good for the consumer. It brings prices down. I'll note that Arco generally has the cheapest prices out of any gas stations. Getting gas here, rather than in Auburn, keeps money in the county. There's also going to be employment needed, so it adds to the employment. Lastly, this type of use (gas station) is very similar... it's kind of a unique land use that creates synergy - gas stations, fast food restaurants, hotels. They're unique in that one may do OK; two, three, or four of this type of use creates a synergy. It's very common with these types of uses. There's a lot of reasons why to put a gas station at this location. Just to summarize, as staff pointed out, the project is consistent with the General Plan, it's consistent with the zoning ordinance, it's consistent with the Higgins Area Plan. It complies with CEQA; a full CEQA review was done, and all impacts were found to be able to be mitigated to less-than-significant levels, which is the threshold. All the required findings, both for the environmental review, the MND and the Development Permit were made. As far as a public benefit: a multi-use trail would be provided by this project along the entire frontage of the project, a 12-foot-wide concrete multi-purpose trail that is slated to connect from Hwy. 49 all the way out to Lake of the Pines. This also provides a convenient option for residents. It's a very great location for people coming from the east, coming from Lake of the Pines, and future build-out in those higher residential areas. It's a very convenient way to, on your way to work, right in and right out, and they're back on the highway either going towards Grass Valley or towards Auburn. So, as a convenient-based use and an infill site, it's an ideal location for a fueling station. I'd just say as a land planner who's done this for a long time, I can't think of a better use at this location - an infill site next to a highway, and the way it works out with the convenience-based uses that are already on the road. It's absolutely an ideal location for this type of use, and with that I'm happy to answer any questions.

Vice-Chair McAteer: Good. We'll get that right after we hear from the public, OK? Great. Thank you. So, would anyone from the public would like to chat with us for up to three minutes? Please come on down. You're the next contestant.

Public commenter: My name's John Newton. I'm a Placer County resident, but also a commercial real estate broker and somebody active in this part of the world. I think these types of projects are vital for our community and I'm going to speak in favor of it. I hope you find that as well. It's a really important project. I'm super excited there's an EV charging station because I drive an electric car. I don't have a gas car. So, I'm excited. You know, we need more of those in our community. I'm excited that that's part of what this project would provide. I hope that you vote in favor. Thank you for your time.

1184 Vice-Chair McAteer: Thank you. Anyone else? Are you Higgins Diggins people up there? I'd love to
1185 have someone from Higgins Diggins come chat with me for a minute, if that's possible. Thank you.
1186
1187 Fire Chief Joel Tam: Hi, I'm Joel Tam, Chief with Higgins Fire.
1188
1189 Vice-Chair McAteer: Great. So, Joel, I didn't see any comments from your department. This is directly
1190 next to your property there, and so I was sort of concerned about people doing U-turns or anything, or you
1191 know, doing any kind of craziness, and I'm just really interested in sort of your thoughts relative to any of
1192 this.
1193
1194 Chief Tam: So, my thoughts on it are, I don't think we're going to see any more U-turns than we currently
1195 see now. The traffic coming from Bear River, Magnolia, Cottage Hill - that's just normal traffic. I don't see
1196 people coming in off 49 coming in making a U-turn at the driveway to get to AM/PM where the Chevron's
1197 on the other side. As far as an impact to us? None of the other gas stations have ever created, like, an
1198 operational impact; it's usually some medical aids, very minor. My only concern during this whole thing:
1199 we addressed, it was some kind of security fencing on top of the retaining wall just to keep people from
1200 hopping over into our apparatus bay or into our training room barracks. We've talked about that, and that
1201 was addressed. So, I really don't have too much concern about it.
1202
1203 Vice-Chair McAteer: OK. Great. Thank you very much. I appreciate it. Yes, Tyler.
1204
1205 Planner Barrington: I just want to note that the Higgins Fire District's comments are in Condition D which
1206 was worked out with the County Fire Marshall.
1207
1208 Vice-Chair McAteer: OK, super. Anyone else from the public? OK. Hearing none, we'll close the public
1209 hearing.
1210
1211 Vice-Chair McAteer closed public hearing comment at 3:25 p.m.
1212
1213 Vice-Chair McAteer: We'll turn it over to Commissioners to chat. I'm sorry we don't have a Commissioner
1214 who represents the south county, because that's a very important voice. But that's not to be, here today. So,
1215 anyone like to chat? Jo?
1216
1217 Commissioner Garst: Thanks, Terry. I have a couple questions. One question I had is that there's a sidewalk
1218 being proposed along Combie that appears to be outside of the property line. What additional permits or
1219 approvals are required for that work to happen?
1220
1221 Planner Barrington: That'll be part of the multipurpose path, and it'll require an encroachment permit from
1222 Public Works, and Public Works did review that as part of this project.
1223
1224 Commissioner Garst: Can you just explain how development permits are typically reviewed? They don't
1225 typically come in front of Planning Commission. Is that correct?
1226
1227 Planner Barrington: Commissioner Garst, generally, development permits over 10,000 square feet in use
1228 area do come to the Planning Commission. This one being 3,323 square feet, plus the canopy, doesn't meet
1229 that threshold. But yes, you do review development permits.
1230
1231 Commissioner Garst: OK. And then, in regard to the EV charging stations, I noticed in the application it
1232 said that they would be future, and I also noticed that on the utility plan there was no electrical shown to
1233 that location. Can you address when those would go in and what type of EV chargers they would be; if
1234 they would be just the 110s, or if they would be the superchargers? Just what's being proposed?
1235
1236 Mr. Wood: Sure. They will be put in during the construction. It used to be that we would just run raceways,
1237 and the charging could be put in later; but it is a green code requirement now to put in charging up front.

There'll be four charging stations, but then during construction, before we get to Certificate of Occupancy. They will be level two charging, not super chargers, but level two.

Commissioner Garst: Thank you. I wanted to address the changes to the signage, and I'm curious why the nonconforming signage was not addressed in the application and was instead addressed through the Conditions of Approval. This seems not the typical way of dealing with that. I think it would have been nice, especially given the requirements for the signage to be on natural material, the base requirements not being able to see what's being proposed to meet that requirement is unfortunate. So, I'm just curious why that was decided.

Planner Barrington: Commissioner Garst, technically our code does allow for a 25-foot-tall sign along the highway. During the review process, that wasn't caught in terms of how it relates to the Scenic Corridor and the Greater Higgins Area Plan. When I took the project over, I identified that as a potential concern, and as we were developing the CEQA document and noticed some of the other signage didn't meet the criteria in terms of the right sizing and having a design that included the architectural base and things like that. Because the project was deemed complete in January of 2024, I had to kind of move with what we had originally required of the applicant and then do what I could through the Conditions of Approval to meet the County standards.

Commissioner Garst: OK, thank you. That makes sense. So how will those changes be submitted? And will those just be reviewed internally with the Planning Department?

Planner Barrington: Correct. So as a part of the building permit review for the project, we'll be looking at the sign plan when the proposed project is reviewed, and then prior to issuing final occupancy, staff will do a site visit to ensure that it was constructed as designed and that the landscaping is in, the lighting meets their criteria, and so forth.

Commissioner Garst: OK. Thank you. Are signs...signs are allowed to be outside of the building setbacks or inside of the building setbacks, even when they're on permanent foundations?

Planner Barrington: Typically, signs are allowed as long as they don't obstruct sight distance.

Commissioner Garst: OK. And the design requirements for the building: are those specific to the Higgins General Plan or those County requirements?

Planner Barrington: Both. The western Nevada County design guidelines are kind of the guiding document, but those are further refined by the Greater Higgins Area Plan consistent with most of our area plans. The primary policy in the area plan was to be compatible with existing design in the area and so that's why they utilize roof colors that were consistent with the CVS across the street.

Commissioner Garst: OK, thank you. Last year we reviewed an extension for the use permit for the Holiday Market gas station. I was not a Commissioner at the time when that initial application came in front of the Commission. I'm curious if you can show us on a map where that would be located, just mostly out of curiosity as to how many gas stations and how close they'll be to each other?

Planner Barrington: The applicant's slide probably shows it better, but it's essentially where the cursor is *[referring to PowerPoint slide]*. And the project site is here.

Commissioner Garst: OK, I see, So it'll be off Woodridge Drive?

Planner Barrington: Correct. Next to the Holiday Market.

Commissioner Garst: OK. But more internal than ...

1292 Planner Barrington: Essentially attached to the building.

1293
1294 Commissioner Garst: Oh, OK. Interesting. And then, the U-turns on Combie: that's a permitted legal
1295 maneuver?

1296
1297 Planner Barrington: Correct.

1298
1299 Commissioner Garst: OK. I just wanted to verify that. That's all I had. Thank you.

1300
1301 Vice-Chair McAteer: Thank you. Commissioner Foley?

1302
1303 Commissioner Foley: I just had a couple of concerns. Commissioner Garst kind of already addressed one
1304 with the approved Holiday Gas Station that's going in there as well. Thank you for clarifying where that's
1305 going to be, so we just have an idea of the location of that and how that's going to play out with the Chevron
1306 and with this proposed project as well. My only other real concern was addressed by Rob when he spoke
1307 about the traffic concerns. I live down in this area. It's a busy intersection and it makes sense that this
1308 business is to mainly capture that eastbound traffic leaving Lake of the Pines, rather than trying to capture
1309 traffic coming north and south on Hwy. 49. Because I do agree that that's not going to make much sense
1310 for someone to enter into the gas station off Hwy. 49 and having to do a U-turn there in front of the fire
1311 station. My only other real concern, and Higgins addressed it, was really for the impacts on the fire station
1312 that this is going to be a neighboring project. It's going to be open 24 hours a day. Obviously, there are
1313 impacts that come along with that, and I just wanted to make sure that you know, we've taken every
1314 mitigation effort that we possibly can to make sure that there's not an impact on the Higgins Fire
1315 Department. Not only do the firefighters work there, but they live there as well, they're sleeping there, and
1316 so just to make sure that it's not a disturbance, but I'm happy to hear that that's kind of been worked out
1317 already between Higgins Fire and the applicant, and if they're happy with it, then that's really all that's
1318 required.

1319
1320 Planner Barrington: Great. Thank you. I just will note that the Higgins Fire District was a part of the
1321 Development Review Committee meetings that we held at the onset of the project and that's where the fence
1322 kind of became involved in the project.

1323
1324 Commissioner Foley: So that's really all I have.

1325
1326 Vice-Chair McAteer: Great. Thank you. I'm interested in that Higgins corner group, the... whatever you
1327 called it, I forget the name they have down there, the South County group that you brought together, the
1328 MAC down there. When you say people came to the meetings and all: how are they noticed? How are
1329 those groups noticed?

1330
1331 Planner Barrington: Commissioner McAteer, members of the Commission, they're noticed similar to how
1332 this particular body is noticed. I don't know that they have a surrounding property owner notice requirement,
1333 such as the Planning Commission does, but they would be legally noticed in the newspaper and posted at
1334 the County sites.

1335
1336 Director Foss: They they're run through our Board office. The MAC is appointed by the District Supervisor,
1337 and so they have a list of people that they reach out to and notify, they do postings around the neighborhood
1338 and do mailings. I don't know that there's a standard, you know, 500-foot radius. They notice Lake of the
1339 Pines, the neighborhood around there, Cascade Shores, those sorts of things. But it is a County function,
1340 it's an arm of the County Supervisor.

1341
1342 Vice-Chair McAteer: Oh, OK. Thank you. So, with that, we had this project down in Penn Valley about
1343 doing an outdoor amphitheater or whatever else, and that MAC chimed in on the project and said they had
1344 approved it. Was there a vote in this MAC, or did they...how was their response to this?

1346 Planner Barrington: Great. The South County Mac is essentially... the way that they operate is based on
1347 the direction from their supervisor. In Penn Valley, the MAC provides, typically, a written recommendation
1348 for projects. In South County, through this review process, the supervisor at the time, Supervisor Scofield,
1349 didn't have the Commission make an actual recommendation. They just took public comment and gave
1350 feedback to the applicant regarding design and the things that Rob outlined.

1351
1352 Vice-Chair McAteer: And you were at these couple of meetings Tyler?

1353
1354 Planner Barrington: Correct, I was.

1355
1356 Vice-Chair McAteer: How many were in attendance? Just so I get an idea.

1357
1358 Planner Barrington: Well, the Wolf Craft Collective...was that one of them?

1359
1360 Vice-Chair McAteer: Yeah.

1361
1362 Planner Barrington: So, there were quite a few. But I would say 10 or 15, plus or minus.

1363
1364 Mr. Wood: They were well attended, but there were two projects.

1365
1366 Vice-Chair McAteer: OK. So, Auburn Gas: this isn't...are they in the gas business for a number of gas
1367 stations? Is this one of a number of...do they own the other Arco down on Dry Creek?

1368
1369 Mr. Wood: I don't know if they own that one, but they do own several gas stations throughout California.

1370
1371 Vice-Chair McAteer: It's not the Dwell family at all, is it? Tom Dwell, who's the principal?

1372
1373 Mr. Wood: Not that I know of.

1374
1375 Vice-Chair McAteer: OK. Because I know he lives in Lake of the Pines, and that's why I've sort of asked
1376 it. So, there is no signage on the Highway 49 side of this building, is that correct?

1377
1378 Planner Barrington: That is correct. Now like I mentioned, because we're prohibiting the large pole or goal
1379 post sign, we are allowing them to move that monument sign closer to the highway should they desire.

1380
1381 Vice-Chair McAteer: And this Higgins Community District sign - that's not being paid for by the applicant
1382 here; it's going to have to be some other entity?

1383
1384 Planner Barrington: Correct. I think the way that the Condition is written, and the desire of the area plan is
1385 that the community would later come forward and help design that sign so it meets what the intention of
1386 the community is, but the Condition itself reserves that area, so that it could be placed there. I believe there
1387 are two locations identified in the Greater Higgins Area Plan for this sign. One was on the south side of the
1388 road, and one is on the north side, with the north side being the more desirable.

1389
1390 Vice-Chair McAteer: Are the Holiday Market people still working with you? And they know that there's
1391 potentially going to be four gas stations?

1392
1393 Planner Barrington: I haven't heard from them since they got their approval for the extension of time, but
1394 I assume they're moving forward at some point.

1395
1396 Vice-Chair McAteer: OK. And how about the gas station, the other one? I can't remember the name of it.

1397
1398 Planner Barrington: Wolf Gas?

Vice-Chair McAteer: Yeah. Are there any plans for improvement to that center?

Planner Barrington: Not that I'm aware of. We have had correspondence with someone who has an approved site plan, if you will, from the '90s that they're working on, bringing their nursery - it's a nursery and a vet clinic - that was approved, but they never quite met their Conditions of Approval. But that's a little bit farther west of the gas station. I just want to note that the Planning Department, we don't solicit development, so we're not out choosing whether we get more gas stations here. The applicant, the property owner, is the one who comes in, and then it's our job to review that for consistency with our codes.

Vice-Chair McAteer: Talk to me about EV charging stations, especially...are there other public charging stations down in the Lake of the Pines area that you know of?

Planner Barrington: Not that I'm aware of.

Vice-Chair McAteer: And Holiday Market doesn't have any over there?

Planner Barrington: I don't think so. They may have. They probably came under earlier codes, and they might be set up to connect to them, but I don't believe they have them.

Vice-Chair McAteer: OK, I think that takes care of my questions. Thank you. So, anything else the applicant would like to chime in to us about?

Mr. Wood: I have nothing to add.

Vice-Chair McAteer: OK. So, with that, I'll turn to Commissioners as to what next steps.

Planner Barrington: Yeah, sorry about that. Next time, I'll put the full action on there, but it's on page 21 of your staff report.

Commissioner Foley: I got it right here.

Motion made by Commissioner Foley to recommend that the Board of Supervisors, after review and consideration, adopt the proposed Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (EIS24-0002) provided in Attachment 2 pursuant to Sections 15074 and 15097 of the California Environmental Quality Act Guidelines, and make Findings A through C.

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

Motion made by Commissioner Foley to recommend that the Board of Supervisors, after reviewing and considering the proposed project, approve the Development Permit (DVP23-0005), subject to the Conditions of Approval and Mitigation Monitoring and Reporting Program (Attachment 1), and pursuant to the Nevada County Zoning Regulations make the following findings A through L.

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

Planner Barrington: I'll note that there's a 10-day appeal period for that action.

Vice-Chair McAteer: OK. Thank you very much. Best to you and your adventure here.

INFORMATIONAL ITEMS & ON-GOING PROJECT UPDATES:

Vice-Chair McAteer: Tyler, thank you very much. We'll turn over to Mr. Foss for any thoughts, upcoming meetings, etc.

1454 Director Foss: Sure, thank you, Chair McAteer. At this point, we are likely to have a hearing on April 24th,
1455 that would be our next meeting. Yes, that's the right date, and a potential with a map and a rezoning project,
1456 as well as a development agreement, so potentially two agenda items on that day. Beyond that, I don't know
1457 that we have anything scheduled, but we don't have anything earlier. The next planned one will be on April
1458 24th, and trying to think of any other updates at the Board. Any questions on any projects or any other
1459 issues?

1460
1461 Vice-Chair McAteer: No. I do think when we get our newest Commissioner that there's some type of
1462 workshop to be able to discuss relevant topics, not just Brown Act issues, but more in terms of going through
1463 some of the planning process, maybe meeting some of the Planning Department or...something that we
1464 create this rapport between the Department and the Committee would be of real value.

1465
1466 Commissioner Foley: *[inaudible]*

1467
1468 Commissioner Garst: *[inaudible]*

1469
1470 Vice-Chair McAteer: Very valuable. Thank you. But I do think...I would love to have a chance to just
1471 have a conversation, maybe with Tyler and you, Brian, about things like evacuation routes, like things like
1472 EV charging stations - those kinds of things which are bigger and futuristic-looking, which I think would
1473 be quite valuable.

1474
1475 Director Foss: Sure. and we can do that one-on-one, and then if we're looking at more of a workshop type
1476 of situation, we'll have to notice it and it'll have to be open to the public because of the Brown Act issues.

1477
1478 Vice-Chair McAteer: Right. I'm just suggesting that Commissioners submit things that they might be
1479 interested in having a conversation about, and I would bet that whatever Joe puts in, I'd be interested in
1480 hearing. So, if we had the chance of just putting ideas, those would be two of mine, which are evacuations
1481 and EV charging. Just the chance to be able to have that at the end of some meeting, to be able to answer
1482 some of those questions would be valuable.

1483
1484 Director Foss: OK. Understood.

1485
1486 Vice-Chair McAteer: I don't know how the rest of my Commissioners feel, but I think that's... better
1487 knowledge base helps being a more informed Commissioner. Anything else from anyone?

1488
1489 Commissioner Garst: I was just curious if any of the upcoming applications are getting close, any of the
1490 ones that are on this list, to a complete status?

1491
1492 Director Foss: Is there anyone in particular?

1493
1494 Commissioner Garst: No, I was just curious if they were getting...anything's coming up in the pipeline?

1495
1496 Director Foss: They're all in various stages. Some are moving, some aren't, and like I said, nothing is within
1497 the next month or two. I can follow up and give you more if you'd like.

1498
1499 Commissioner Garst: Thanks.

1500
1501 Planner Barrington: I will note that the Holiday Market in Penn Valley did come back in recently and was
1502 redistributed for agency comments. That's one of the larger ones on that list. I believe that's getting some
1503 momentum.

1504
1505 Vice-Chair McAteer: Where is that? Are they...new land? Are they building a whole new complex?
1506

1507 Planner Barrington: They're proposing just a new, standalone, I think it's an approximately 30,000-square-
1508 foot Holiday Market, and it's adjacent to the existing commercial development down there right off of
1509 Pleasant Valley Road, before you get to the mini storage, on the right-hand side.

1510
1511 Vice-Chair McAteer: Before you get to the mini storage. So, not far from the intersection way up there
1512 from ...?

1513
1514 Planner Barrington: Correct.

1515
1516 Vice-Chair McAteer: Oh, OK. Really moving it. OK.

1517
1518 Commissioner Garst: *[inaudible]*

1519
1520 Vice-Chair McAteer: Well, they do, but it's pretty small, and so... OK. Right. Anything else from you,
1521 John? Anything? OK, great to have you here. That's good. Thank you very much. We're adjourned.

1522
1523 Vice-Chair McAteer adjourned the meeting at 3:46 p.m.

1524
1525 □ There being no further business to come before the Commission, the meeting was adjourned at 3:46 p.m.
1526 to the next meeting, to be held on April 24, 2025, in the Board Chambers, Eric Rood Administration Center,
1527 950 Maidu Avenue, Nevada City, California.

1528 _____

1529
1530
1531 Passed and accepted this day of , 2025.

1532
1533 _____ Brian Foss, Ex-Officio Secretary