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

**MINUTES** of the meeting of August 10, 2017, 1:30 PM, Board Chambers, Eric Rood Administration Center, 950 Maidu Avenue, Nevada City, California

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**MEMBERS PRESENT:** Chair Aguilar and Commissioners Heck, Duncan, James and Jensen.

**MEMBERS ABSENT:** None.

**STAFF PRESENT:** Planning Director, Brian Foss; Associate Planner, JD Trebec; Deputy County Counsel, Rhetta VanderPloeg; Deputy Fire Marshal, Matt Furtado; Administrative Assistant, Tine Mathiasen.

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**PUBLIC HEARINGS:**

1. Northern Sierra Propane Development Permit  
PLN16-0072; DVP16-8; EIS16-0002

Page 1, Line 43

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

**CALL MEETING TO ORDER:** The meeting was called to order at 1:30 p.m. Roll call was taken.

**CHANGES TO AGENDA:** None.

**PUBLIC COMMENT:** Members of the public shall be allowed to address the Commission on items not appearing on the agenda which are of interest to the public and are 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. None.

**COMMISSION BUSINESS:** None

**CONSENT ITEMS:**

1. Acceptance of 6-22-2017 Hearing Minutes
2. Acceptance of 7-13-2017 Hearing Minutes
3. PLN17-0082; EXT17-0008: Extension of Time for Winds Aloft Final Map (FM04-002; EIS04-030)

**Motion** to approve the 6-22-2017 Hearing Minutes by Commissioner Duncan; **second** by Commissioner Heck. **Motion carried on a voice vote 4/0 (Chair Aguilar abstained).**

**Motion** to approve the 7-13-2017 Hearing Minutes, as amended, by Commissioner Duncan; **second** by Commissioner Heck. **Motion carried on a voice vote 4/0 (Commissioner Jensen abstained).**

**Motion** to approve the Extensions of Time for Winds Aloft Final Map (PLN17-0082) by Commissioner James; **second** by Commissioner Heck. **Motion carried on a voice vote 5/0.**

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**PUBLIC HEARING:**

**PLN16-0072; DVP16-8; EIS16-0002:** The proposed Development Permit would allow the construction and operation of a propane distribution business consisting of a 2,000-square foot office, 2,016-square foot warehouse, and 2,500-square foot outdoor storage area with two 30,000-gallon propane tanks for a propane business. The office and warehouse would each have a dark green seamed metal roof, brown plank lap siding, and corrugated metal wainscoting. The office would be approximately 17 feet high and the warehouse would be less than 23 feet high. Seventeen public and employee parking spaces will be provided, ten in front of the business and seven in the rear, with two ADA accessible spaces, and a van/car pool space included. A six-foot tall solid wall would screen the service vehicle parking area from residences to the north and east. Five pole-mounted lights less than fifteen feet tall are proposed: two at the corners of the front parking area and three in the rear. A 14-square foot monument sign is proposed at the entrance. Approximately 6,000 cubic yards of material will be excavated and used as fill onsite. The project would cover a third of the parcel with impervious surfaces including the buildings, pavement, curbs, walkways, and gravel. The remainder of the parcel coverage would consist of approximately 20 percent landscaping and approximately 48 percent open space. **PROJECT LOCATION:** 13145 Loma Rica Drive, Grass Valley in the Loma Rica Industrial Area. **APN:** 06-920-10 **RECOMMENDED ENVIRONMENTAL DETERMINATION:** Mitigated Negative Declaration **PLANNER:** JD Trebec, Associate Planner.

Chair Aguilar asked for any disclosures by Commissioners.

Commissioner Heck disclosed that she was a customer of Northern Sierra Propane and that her home is between 1,000 and 1,500 feet from the project site. She is outside of the 500-foot area in which she would need to recuse herself and she is choosing to act as a full Commissioner for this item.

Commissioner James said he is also a customer of Northern Sierra Propane.

Planner Trebec began by introducing the proposed project’s location and entitlements. He discussed the site’s zoning designation and showed a map of zoning districts in the vicinity. As background to the proposed project, Planner Trebec discussed the history of the site, including the approval, expiration, reapproval and appeal of a previously proposed Development Permit for the site. The approval was upheld by the Board of Supervisors with some changes to the building colors, landscaping, and noise mitigations, including increased height of the sound-dampening wall. The current proposal is different from the previously approved project, including in that the southern third of the site will be left mostly undisturbed. Planner Trebec next discussed concerns regarding airport compatibility, including an explanation of the B2 zone designation and its notes about noise coming from the airport as well as its prohibition of the above-ground storage of large amounts of flammable material. The applicant went to the Airport Land Use Commission for a determination on whether the project was compatible and consistent with the Airport Land Use Compatibility Plan. The Commission found the proposed storage tanks to be outside of the safety zone that prohibits the aboveground storage. In May, the ALUC determined that it was compatible and was not a safety concern for the airport. In addition, Planner Trebec also spoke to the Fire Marshal and local fire department about safety. The Calfire air attack base and the battalion chief for the emergency communications center for three counties had no objections to the proposed project. Planner Trebec then gave an overview of traffic, circulation, parking, water and sewer for

100 the project. The building design is compatible with Loma Rica Drive Industrial Area Plan design  
101 guidelines. It is designed such that there will be no light spill onto adjacent properties. There will  
102 be a sound-attenuating wall on southeast corner, dampening any noise produced onsite to reduce  
103 any significant impact on neighbors. He described the proposed wall, as well as the fence and  
104 driveway gate. The HOA was concerned that the landscaping provide screening of the site from  
105 Loma Rica Drive. A combination of deciduous and evergreen trees was proposed to screen the  
106 business. The condition was modified as a compromise between the HOA and the applicant to  
107 change the ratio to include more cedars. The proposed sign meets design guidelines for the area.  
108 Environmental Review identified potential impacts of the project but they were mitigated to less  
109 than significant levels and staff recommends that a Mitigated Negative Declaration be adopted for  
110 the project. Public comment was received from the Wawona Madrono HOA and neighbors, and a  
111 variety of concerns were expressed. Planner Trebec then listed some of the concerns and staff's  
112 responses. In regard to the propane storage, Planner Trebec noted that there were a number of  
113 above-ground tanks already in the area, they are regulated to meet safety requirements, various  
114 fire safety professionals expressed no objection and an additional hearing was held on the matter  
115 by the ALUC. In regard to landscape screening concerns, staff worked with the HOA and is  
116 requiring additional cedars. The outdoor use area is on the interior side of the industrial park, will  
117 be used for storage and is screened from the road. Light poles will be under 15 feet in height and  
118 there will be no light spillover. A mitigating measure requires that construction hours be limited  
119 to weekdays. As noted in the memo, the height of the noise attenuating wall will be increased from  
120 6 to 8 feet. Dust is addressed through a standard mitigation measure. To address odor concerns,  
121 different locations for the trash enclosure were explored but it was determined that it should remain  
122 on the eastern boundary. A memo was provided to the Commission which included a revised  
123 mitigation measure condition of approval increasing the height of the sound attenuating wall. With  
124 all the considerations, a propane business would be consistent with the Industrial general plan  
125 designation and zoning district, consistent with Loma Rica design guidelines, consistent with the  
126 area plan and consistent with the Airport Land Use Compatibility Plan. With the revised  
127 environmental action and conditions of approval, staff recommends that the Planning Commission  
128 adopt the Mitigated Negative Declaration and approve the Development Permit.

129  
130 Chair Aguilar asked the Commission for questions.

131  
132 Commissioner Heck asked about odors and if the company will be off-gassing the tanks at certain  
133 times.

134  
135 Planner Trebec directed the question to the applicant. He discussed the county Environmental  
136 Health Department and the state-required reporting system.

137  
138 Commissioner Heck said she wants to listen to the applicant and public before asking further  
139 questions.

140  
141 Chair Aguilar asked what will be stored in the outdoor storage.

142  
143 Planner Trebec said the smaller tanks would be stored outside.

144  
145 Chair Aguilar asked if there will be green slats in the fence.

146  
147 Planner Trebec said it will be chain-link with green vinyl slats to screen.

148

149 Chair Aguilar asked if it would be six feet high.

150

151 Planner Trebec said yes.

152

153 Commissioner Duncan noted the public comment letters from neighbors that questioned land use  
154 compatibility with the proposed project. She asked Planner Trebec to address the concerns at the  
155 end of public testimony.

156

157 Planner Trebec said he would.

158

159 Commissioner Jensen said he is waiting to hear from the applicant.

160

161 Chair Aguilar offered the applicant's representative an opportunity to speak.

162

163 Kevin Nelson introduced himself as representing the applicant. Ed Rodgers, the owner of Northern  
164 Sierra Propane, and Wendy Youngman, the company's operations manager, were also present. Mr.  
165 Rodgers has been in the industry for 30+ years and can answer safety questions. There have been  
166 hurdles, especially in relation to the airport. Most of the Commissioners have seen this property  
167 before. He added several points to what Planner Trebec had presented. In regard to the trees, the  
168 landscape architect noted the existing theme of colorful trees mixed with evergreens along Loma  
169 Rica Drive. However, the applicant and the HOA were able to find a compromise. The applicant  
170 has no objections to everything being green, but he would love to get input from the  
171 Commissioners. The applicant likes the idea of some color in the trees but wants to be respectful  
172 of the neighbors as well. Mr. Nelson then brought up the concerns of the neighbor to the east, one  
173 of which is the compatibility with the zoning. He would like to hear the concerns. He has spoken  
174 with Planner Trebec about some of them and would like to address them following the public  
175 comments. He then discussed noise and the beeps of vehicles and trucks. The large turn-around  
176 area should provide enough room so that delivery trucks shouldn't be backing up at all except once  
177 a day in late afternoon when they back into the parking stalls by the sound wall. The propane  
178 company recognizes the neighbor's concern and wants to be good neighbors. The backup safety  
179 devices are the lowest they can be and meet the safety requirements. The applicant is confident  
180 that they will be less than the allowable decibels for either industrial or residential. The applicant  
181 is happy with the condition to keep it to the minimal decibels. The owners would like to extend  
182 the perimeter fencing to secure the whole rear area. The neighbor to the east is approximately 200  
183 feet horizontally southeast of the parking area and 30 to 35 feet vertically below. Most of any  
184 sound would go over the top of the neighbors.

185

186 Chair Aguilar asked about the height of the fence and whether it is slatted.

187

188 Mr. Nelson said it will match the front perimeter, a six-foot chain link with vinyl green slats.

189

190 Chair Aguilar asked the Commissioners for questions.

191

192 Commissioner Duncan asked if there are three delivery trucks.

193

194 Mr. Nelson said currently, and there will be up to four.

195

196 Commissioner Duncan asked if there will be four trucks backing up into those spaces in the  
197 afternoon.

198  
199 Mr. Nelson said correct, once per day.  
200  
201 Chair Aguilar asked if there will be pumps on the tanks or on the trucks, or if it will be gravity fed.  
202 He asked about whether there will be noise to be concerned about.  
203  
204 Mr. Nelson said there is some. It is an electric pump so it is pretty quiet.  
205  
206 Chair Aguilar invited the owner to talk.  
207  
208 Ed Rodgers introduced himself as the owner of Northern Sierra. He said the big trucks that deliver  
209 to the tanks are self-contained. The company delivery trucks back up, hook up a hose and use an  
210 electric pump. The decibel level is very low.  
211  
212 Commissioner Jensen said the plans show a picnic area that is covered. He asked what the covering  
213 will look like.  
214  
215 Mr. Nelson clarified if Commissioner Jensen was asking about in between the buildings.  
216  
217 Commissioner Jensen said yes.  
218  
219 Mr. Nelson said that area is not covered as it will be pretty shaded.  
220  
221 Commissioner Jensen clarified that there will be no structure.  
222  
223 Mr. Nelson said no structure in between the buildings. There will be a couple outdoor picnic areas.  
224  
225 Commissioner Jensen said maybe an umbrella on a picnic table.  
226  
227 Mr. Nelson agreed.  
228  
229 Commissioner Jensen asked if there were plans for solar.  
230  
231 Mr. Nelson said not at this time. The southern exposure on the office building would be a prime  
232 candidate.  
233  
234 Commissioner Jensen asked if the 30,000 tanks require cooling.  
235  
236 Mr. Nelson said no.  
237  
238 Chair Aguilar asked what the evergreens were trying to screen.  
239  
240 Mr. Nelson said several things. There are existing cedars and pines, most of which are being saved.  
241 The building sits about 12 to 15 feet below the road, providing natural screening. They will fill in  
242 additional trees with the cut slope. It will be possible to see some screened rooftop but it will be  
243 difficult to see main body of the building. It will be 100 feet from and 12 feet below the road.  
244  
245 Chair Aguilar asked for an explanation of the evergreen idea.  
246

247 Mr. Nelson said the Association wanted it to be screened year round rather than just during the  
248 summer with the deciduous. The leaves would fall off so it would be more visible in the winter  
249 time.

250  
251 Chair Aguilar asked for more questions.

252  
253 Commissioner Heck said she would like her question about the off-gassing of the tanks answered.  
254 She has experience with Ferrell smelling like propane gas at routine times. She asked if there have  
255 been advancements or if that is still part of the business.

256  
257 Mr. Rogers said there's many advancements. The major one is the automatic shutoff for any leak.

258  
259 Commissioner Heck said she was not speaking of leaking, rather something purposeful, maybe on  
260 fill days.

261  
262 Mr. Rogers said it wouldn't actually be a leak, it would be a spill. That can't happen anymore.

263  
264 Commissioner Jensen asked if there's no such thing as pressure relief valve that would spill  
265 propane into the atmosphere anymore.

266  
267 Mr. Rogers said only in the case of a fire. In a large county fire, it would be a firefight that would  
268 be taken care of with hoses.

269  
270 Chair Aguilar asked if they still burn propane in little tanks. He has seen maybe six-foot tails.

271  
272 Mr. Rogers said it is called a burn off. It is done to empty a tank and leave no fumes. It might be a  
273 gallon or a gallon and a half.

274  
275 Chair Aguilar asked if the burn offs prevent the fumes.

276  
277 Mr. Rogers said it looks like a big flame but it's 270 cubic feet per gallon.

278  
279 Chair Aguilar opened public comment at 2:10 p.m.

280  
281 Kim Crevoiserat introduced herself as the owner of the property to the east of the property  
282 discussed today. She noted that her concerns were forwarded from the Clerk to the Commission  
283 to review. She has read all the documents and researched the county plan, codes and Loma Rica  
284 Area Plan in order to find if this property would be a good fit next to a residential area. It is not.  
285 She asked the Commission to put in some of the businesses that are already there, like an  
286 upholstery maker, furniture maker and a microbrew materials supplier. When she thinks of  
287 compatibility with a residential area, those other businesses have zero impact on her property and  
288 neighboring properties in terms of resale value and insurance. A business that has hazardous  
289 material next to a residential home is not compatible. The fact that there has to be a perimeter fence  
290 to protect the product from the public is an indication that it should not be next to other people's  
291 homes. There are kids in the neighborhood, ATVs around on her property, children riding their  
292 bikes, and people in and out and around the facility, which is why there must be a fence around  
293 the facility. All the other propane businesses have a security fence with a security gate around the  
294 complete perimeter of their property. The trucks are parked within that security facility or secured  
295 gate so that no one has access to them. All the other businesses are located more centrally within

296 the Loma Rica business park, which is exactly what the area plan says it should be with the  
297 defensible space around them away from residences. This lot is at the end and is deeply forested,  
298 there are a number of homes right there, and there is no defensible space should there be an  
299 accident. Accidents do happen, mostly out of handling and human error. The risk that anyone can  
300 contain a fire before it spreads to the neighboring homes is unlikely. She is concerned about the  
301 resaleability of her property. She wondered if the Commissioners would invest their life savings  
302 into a home that had a propane facility with tanks, trucks and customers filling personal tanks next  
303 door. She is also concerned about the impact on her ability to have insurance because it is a high  
304 fire hazard area. She is a Northern Sierra customer and is in support of their business. When she  
305 purchased the home, she had a very hard time getting insurance and there was only one company  
306 that would give them a policy. She is afraid the policy will be canceled or her rates will be raised  
307 so much that she won't be able to afford it if the company found out about Northern Sierra. She  
308 would need to sell her home if that happened, but she would not be able to because nobody would  
309 put their money into it. Nobody would care if there were a different type of business there. The  
310 perception of fire risk around hazardous materials like propane is that there is a fire hazard, it is  
311 not safe and it should not be next to families. It doesn't belong and there is a compatibility issue.  
312 It is not in compliance with the Loma Rica Industrial Area Plan. Special sound mitigation measures  
313 were adopted by the company to prevent sound but when she went through this the last time, the  
314 Board of Supervisors heard a sound specialist talk about how sound travels. The wall was not  
315 meant for sound but for privacy reasons. It was meant to screen the residence and the business. It  
316 is not a sound attenuation feature. Residential limits were put on the lot because sound bounces up  
317 and over and is not stopped by a concrete wall. She asked the Commission to have a sound  
318 specialist come talk about whether they will be within the limits of a residential area if they do  
319 decide the project is compatible. The code says when an industrial lot is adjacent to residential  
320 property, the lighter of the two is the restriction. All they get is the residential limit plus five  
321 decibels. Trucks make between 97 and 112 decibels. Residential limits plus five put this at 60 and  
322 80 decibels, which is 30 decibels higher. It will carry over the wall and affect quality of life. The  
323 property owner ought to be clear with potential buyers and explain that this is a special situation  
324 and that the code has protections built into it for residential neighbors. If there aren't any  
325 protections, no one will invest. All of her money is in her house and she will lose that investment  
326 if there is a propane business next door. The protections say that there should be no impact to  
327 devalue her property by development in the future. This is said clearly in the general plan and area  
328 plan. She asked the Commissioners to think about they would do if their neighbor was going to be  
329 a propane service business with tanks and trucks. The impact is terrifying. It is not compliant with  
330 the code, it is not compatible. The Board of Supervisors has already recognized that special things  
331 need to be in place when abutting residential, which need to be recognized or incorporated. It  
332 would be more appropriate for this type of business to be developed in a different area away from  
333 residential properties and away from the Wawona Madrono neighborhood. It is not the correct site  
334 for that type of business. She asked the Commission to scan the information she sent them,  
335 including the study she attached. The information in the study is frightening in its discussion of  
336 the risks and the lives lost. It shouldn't be next to homes. Perception is that propane is a very safe  
337 fuel, which it is if it is handled properly. Studies say that someone is more likely to be hit by  
338 lightning than get injured in a propane fire. The problem with those numbers is that they are not  
339 limited to properties that are directly adjacent to propane facilities like this one. Most facilities are  
340 located away from residential communities and when fires or accidents happen there are no injuries  
341 to persons unless there is somebody directly involved in the accident on the site. No homes are  
342 lost because there is a defensible space around the facility. There is no defensible space around  
343 this property. It is right next to homes. Fires do happen and they are extremely dangerous. She  
344 doesn't want to lose her investment.

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Don Crevoiserat said his wife has spent days or weeks researching this. He reiterated that he is a very satisfied customer of Northern Sierra Propane and most residents of Wawona Madrono are also customers. He doesn't begrudge them the opportunity to expand the business. Mr. Koslin has a right to sell his property. But Mr. Koslin knowingly purchased a commercial industrial lot next to a residential lot. He had the same level of understanding as they did purchasing a residential lot next to an adjacent industrial. His family pored through the general plan and area plan and made the decision to purchase the home based on the provisions set forth in those plans that said special care must be taken when looking at residential abutting industrial use. They thought that there were so many clearly stated provisions that something like this would never happen. He and his wife disagree with Planner Trebec about its compatibility. It says that special care has to be taken with the type of businesses that are put adjacent, which is why they say to put businesses like propane in the center of park where there has been cleared defensible space in case of accidents. Putting it at the site is simply not compatible. If the Commission disagrees and feels like it is compatible, he respects that decision and the Commission's expertise in these matters. He had a discussion with Mr. Nelson and told him very clearly about the concern of the lack of a wall on Mr. Nelson's initial proposed plan. He is pleased to see that there is an 8-foot concrete wall indicated. He had also asked Mr. Nelson to consider relocating the dumpster and as well as the trucks south, as even with the wall, they are still going to see the upper third of the trucks. Because the property is forested, residents to the south would never see the trucks if they were moved, while his family will look at them every time they go in and out of their property. Mr. Nelson said he would add a chain-link fence to part of the property, but there is nothing screening or protecting the facility north of that area and people can simply walk down an embankment and onto the site. He had asked Mr. Nelson to extend a wall to Loma Rica. A previously proposed fence was removed on the last go around, and he asked the Commission to extend it if they felt it was an appropriate facility. His biggest concern is that no insurance company will insure his home and therefore no one can ever buy it. His life's earnings and a big part of his retirement plan are poured into the home so this would be financially disastrous. This is not the right property to expand the business and the applicant has other options in Nevada County.

Nathaniel Crevoiserat discussed the threat of fire that the property brings. Hazardous material has its own hazards and should be taken care of. He understands that propane is a very safe liquid fuel. However, accidents do happen. There is a list of many propane facility fires, the most recent of which was just five days prior where a propane truck caught fire and caused property damage. He gave other examples as well, including tank explosions and facility fires that caught residences on fire. Property fires do happen and are a hazard. Fire risk in the county is very high, especially in his neighborhood. A fire station is not extremely close to the facility. If a fire were to occur, it would be five to ten minutes for a response to occur. Fire will spread into the neighborhood and clear through all the houses. Not just his family's property is at risk, but also the lives and investments of every other homeowner in the area. There is no defensible space in the area. He then read a blurb from his research regarding a propane facility fire that required a huge response from multiple agencies. There is no defensible space near the facility. If a fire were to occur, the entire neighborhood would go up with it, resulting in property damage and possible lives at risk or lost. The Commission must consider the risks. All other propane facilities in the Loma Rica area are within are within the facility of all the industrial sites. None are near residential or forested areas. He asked the Commission to reconsider approving this because he fears for the investments and lives of those around him.



393 Elissa Crevoiserat discussed the Greenhorn campground fire. Despite a mandatory evacuation,  
394 many of her friends were not able to leave the area because there was only one exit. It was a scary  
395 situation. As shown in the aerial view of the project site, the 30,000 gallon tanks are between her  
396 home and her driveway exit to the road. If there was a fire, there would be no exit for her family.  
397 Also, the last time the County approved a building for the site, the Board of Supervisors ruled that  
398 the wall was not tall enough to provide privacy not only from the residents seeing the business but  
399 also from them being able to see the family property. Because the propane delivery trucks are at  
400 least ten feet tall, the drivers will be able to see her property and family. While she appreciates that  
401 it was raised to eight feet, it is not tall enough considering the delivery truck height.

402  
403 Chair Aguilar closed public comment at 2:33 p.m. and asked staff to address the issues.

404  
405 Planner Trebec first addressed compatibility. The Loma Rica Drive Industrial Area Plan Design  
406 Guidelines do have guidelines regarding industrial areas that are adjacent to residential areas.  
407 Guideline 1 says “All new development abutting residential zoning should be designed to  
408 minimize outdoor activity areas.” There is an outdoor storage area but there is not production,  
409 fabrication or a typical industrial outdoor use proposed. Guideline 2 says “All new redevelopment  
410 abutting residential zoning should be designed to minimize views of activity, storage and parking  
411 areas from residential properties and residential roads.” There is a sound-attenuating wall,  
412 landscaping screening and fencing for the storage area on the interior front. It is an industrial use  
413 and the mitigation measures were written to reduce any impacts to a level of less than significant.  
414 It is zoned light industrial and they meet all the requirements for that. Security fencing will enclose  
415 the area. A fence will cut off the open area that Mr. Crevoiserat expressed concern about. The  
416 project will be fully enclosed in security fencing with a gate across the driveway. The sound-  
417 attenuating wall is being held to the standard of a CMU block wall. Data says there is a 50 decibel  
418 reduction in noise through dampening and the walls are quite effective. The wall has been  
419 increased to 8 feet to screen large trucks and to dampen noise substantially. Planner Trebec noted  
420 that he has invited the fire chief and deputy fire marshal to address fire concerns. The project was  
421 run through fire departments, the airport, the emergency command center and the Calfire air attack  
422 base, and they had no opposition to the project.

423  
424 Chair Aguilar asked if the Commissioners had questions on fire safety issues.

425  
426 Commissioner Duncan asked if they needed to be specific to fire safety.

427  
428 Commissioner Heck said she would like to hear from the fire chief on the issue of increased fire  
429 hazard and defensible space.

430  
431 Matt Furtado introduced himself as Deputy Fire Marshal for Nevada County and Calfire.

432  
433 Terry McMahan introduced himself as Deputy Fire Marshal for Nevada County Consolidated Fire  
434 District.

435  
436 Deputy Marshal Furtado asked what Commissioner Heck would like addressed.

437  
438 Commissioner Heck asked if there is defensible space should there be an accident, as the project  
439 is proposed.

440

441 Deputy Marshal Furtado said that because about 2/3 of the site will be developed, that will take  
442 care of many vegetation issues. On the bottom third of the property, any part that is within 100 feet  
443 of the tanks or any structure will have to be modified to the state's defensible space standards. The  
444 state code does not address the proximity or distance between industrial and residential. The  
445 determination on whether they should abut should be made by the Commission. There have been  
446 propane facility failures and incidents. Things become fire code after numerous incidents and after  
447 improvements have been to safety features or operational procedures to ensure something does not  
448 occur again. There is never a guarantee that there won't be an incident. Unless there is a  
449 catastrophic failure like a tank rupture, fires typically do not leave the facility. Whether a site is in  
450 the middle of an industrial complex or surrounded by homes, defensible space is viewed the same.  
451 It has to meet minimum standards and there is concern for all infrastructure, regardless of the type.

452  
453 Commissioner Duncan asked if fire goes up rather than spread laterally if there is a rupture.

454  
455 Deputy Marshal Furtado said not necessarily. Propane is heavier than air so it can run downhill.  
456 The most catastrophic thing that can occur is a complete tank failure or BLEVE, which is also the  
457 rarest of things that can occur. Safety features in place usually mitigate the majority of problems.

458  
459 Commissioner Heck asked if the development plan incorporated any type of additional fire flow.  
460 She asked if the development plan will have any of their own special fire capabilities in the event  
461 of fire.

462  
463 Deputy Marshal McMahan noted the hydrant system on Loma Rica. One hydrant will be added on  
464 site. The applicant will sprinkler the buildings. There is a hydrant located near the fence by the  
465 driveway. There are better than 1,500 gallons of water per minute available on Loma Rica Drive,  
466 which was the requirement.

467  
468 Chair Aguilar asked if there were more questions of the fire experts, then asked for any questions  
469 of the applicant.

470  
471 Commissioner Duncan said one of the concerns is trespassing on the site. She asked if perimeter  
472 fencing would be helpful in deterring that type of activity.

473  
474 Mr. Nelson said there will be perimeter fencing around the rear facility area where the tanks,  
475 storage and trucks are. Perimeter fencing along the property line may not provide any additional  
476 security than just securing the rear area. The provided security fencing should be sufficient. They  
477 can't prevent people from wandering any of the backyards, whether they be industrial or residential  
478 properties. There are also environmental concerns with deer migrations they want to be sensitive  
479 to. They are securing the rear area that could be vandalized or disturbed. They would prefer to  
480 leave the rest of the property natural. He is not sure how securing the property boundary would be  
481 any benefit to anybody.

482  
483 Commissioner Duncan asked if vandals decided to approach the tank area, whether they could do  
484 damage and cause a release of propane.

485  
486 Mr. Nelson said whether they jumped the fence at the top of the development or downhill at the  
487 property line, they have to jump a fence somewhere to access that area.

488  
489 Commissioner Duncan asked about people coming in on ATVs.

490  
491 Mr. Nelson said the steepness of the south portion of the property is 30 percent and it is heavily  
492 treed. It is a difficult walk, let alone on an off-road vehicle. There are no trails through there.

493  
494 Commissioner Duncan asked if Mr. Nelson could see access points.

495  
496 Mr. Nelson said no, there are no access points to allow that type of vehicle. The applicant does  
497 understand the Crevoiserat's concerns, and anything he says differently sounds insensitive and  
498 inconsiderate. But this is an industrial zoned property and has been since 1980s. They bought the  
499 property knowing it was industrial, same as Mr. Koslin bought the property knowing he abuts  
500 residential. Whether it is a propane company, furniture or a brewery, the potential fire hazards are  
501 the same. It is a regulated business that Northern Sierra Propane has been doing for a long time.  
502 Some of the fire statistics were mostly private fires, not business fires.

503  
504 Commissioner Heck said she toured other propane companies and the current site for Northern  
505 Sierra. They all have perimeter fencing and many of them are higher. One has barbed wire to  
506 prevent vandalism. She doesn't know if those were conditions of approval or elective, but all of  
507 those sites have perimeter fencing that is something greater than a six-foot chain link fence.

508  
509 Chair Aguilar said he doesn't think barbed wire is allowed. He knows it is not allowed in the city.

510  
511 Commissioner Heck said it is on the Ace site.

512  
513 Chair Aguilar asked if barbed wire was allowed in the county.

514  
515 Director Foss said the county doesn't have restrictions against it.

516  
517 Chair Aguilar said that they are in the county. Besides the comments from the Crevoiserats, it  
518 seems like a good project. If this was a project without negative comments, he has to ask if this  
519 was still something he'd be concerned with, if it wasn't up against the residential properties. It is  
520 a well laid out project. He doesn't like the idea of having to put up a sound wall. An eight-foot  
521 sound wall is tall. With the angle and the truck location, you may not even see the top of the trucks.  
522 The idea is to minimize the impacts so they are less than significant, not eliminate them to zero.  
523 This is a service industry and it provides quite a bit of public service, competition and energy itself.  
524 He weighs that with the concerns of the neighbors. The applicant has minimized the project and  
525 addressed concerns of safety. He does like the added security fencing and the deciduous in front  
526 more so than evergreens. It is a mistake to landscape by committee and the landscape architect has  
527 made an informed recommendation. They are not trying to hide the facility. The facility will not  
528 increase property values but he doesn't know if it will decrease them. It will probably increase  
529 other properties in the industrial park. That is a balance, too.

530  
531 Commissioner Duncan asked Planner Trebec about land use compatibility. Industrial and  
532 residential are not normally great neighbors and there are potential conflicts but the Loma Rica  
533 Plan has been in place for quite some time. She asked if there is language in there that suggested  
534 this type of facility would not go on that particular parcel. The homeowners thought that they  
535 would be protected against this. This is not a special Use Permit to allow this type of business to  
536 go in there. She asked if they are allowed by-right under the industrial zoning to submit an  
537 application.

538

539 Planner Trebec said there is no prohibition as far as the specific use. The guidelines were written  
540 for the area with recognition that there is some residential. Propane is not specifically called out.  
541 The original idea for the airport was to be an airpark, with residential and industrial access to the  
542 airport so it was designed like that. The area plan was meant to spur economic development and  
543 provide uniformity in the aesthetics of the area. It was for economic development and the  
544 guidelines are guidance. There is no specific prohibition of propane or any specific type of industry  
545 at the outlying areas. It is not specifically addressed, just that more intensive uses would be more  
546 interior than exterior. They are guidelines.

547  
548 Commissioner James asked Planner Trebec to read the first guideline special to the airport  
549 industrial park again.

550  
551 Planner Trebec read the first guideline that specifically refers to abutting residential areas: “All  
552 new development abutting residential zoning should be designed to minimize outdoor activity  
553 areas.”

554  
555 Commissioner James asked Planner Trebec to show exactly where the newly added fencing will  
556 go.

557  
558 Planner Trebec displayed the lighting and screening slide and described the fence. The fence  
559 follows anywhere that is not walled to enclose the rest of the development.

560  
561 Commissioner James said he likes changing color and leaves in landscape. It provides interest to  
562 a facility and he would like to see it happen on the frontage of this particular facility.

563  
564 Commissioner Jensen said it adds color for two or three weeks in the fall. If during the rest of the  
565 winter it can be seen through, it should go back to the cedar trees.

566  
567 Commissioner Heck said she was having difficulty seeing how the particular use of propane  
568 distribution and storage facility is compatible with residential. There are many industrial uses that  
569 could make use of a property like this that are not propane that do not provide hazardous materials  
570 and the hazards that those bring to the adjacent residential area. She looked at the references that  
571 the Crevoiserats provided. It says to maintain compatibility between neighboring land uses, and  
572 sites adjacent to lands designated for residential land use must be designated to minimize impacts.  
573 This is a wonderful plan and they have done as much as they can. But she has a hard time, thinking  
574 how it would make her feel if it were her house. Neighboring property values certainly will not go  
575 up and may very definitely go down. They will have difficulties with the insurance markets being  
576 close to a hazardous materials storage area. She has sympathy for that. It is a great project and  
577 local business, and the neighbor’s property value will likely decrease and they may have a difficult  
578 time getting insurance. She asked how one weighs out which is greater than the other.

579  
580 Chair Aguilar said to look at the general plan. He spoke to looking at whether a project meets the  
581 criteria of the general plan, being sympathetic to neighbors’ concerns, asking if the facility  
582 provides a public service, and the importance of defaulting to the minority. He said the project  
583 does meet the rules and laws and does provide a service. The owner of the facility has invested in  
584 the property knowing what the zoning laws are. He asked himself what would not be compatible  
585 there. It is always difficult in regard to the line between residential and industrial. The Commission  
586 has to rely on the general plan, the public and the mandate on what is fair for all involved.

587

588 Commissioner Heck said that in her reading of the Loma Rica Drive Industrial Area Plan, this is  
589 not a compatible use. Other uses could be put on the lot that would not have the negative impacts  
590 on the adjoining property. There are other properties that the facility could pursue. This lot is the  
591 issue. She supports local business but has a hard time with the impact on the neighbors.

592  
593 Chair Aguilar said his concern is with fire. He is not concerned with the trucks as they have been  
594 mitigated with the sound wall. It is a low impact business to a neighborhood. The public is not  
595 coming much. In talking with the fire deputies, he is satisfied.

596  
597 Mr. Nelson said the applicant did look at all industrial properties in the county. Right now, this is  
598 the only one available that would suit their needs.

599  
600 Ms. Crevoiserat asked to say something about fire.

601  
602 Chair Aguilar said no, public comment is closed unless there is a vote to reopen it.

603  
604 There were no motions to reopen public comment.

605  
606 Commissioner James asked if there was anything in the general plan or the airport land use plan  
607 that specifically addresses this issue as not compatible.

608  
609 Planner Trebec asked Commissioner James to specify which issue.

610  
611 Commissioner James said this type of use. He asked if there was anything in those documents that  
612 specifically addresses propane storage as not compatible with any neighbors, whether they be  
613 business or residence.

614  
615 Director Foss said no.

616  
617 Commissioner Duncan said what they say is that it is an allowed use and could go in.

618  
619 Director Foss said it is allowed with a Development Permit, which is a slightly lower level than a  
620 Use Permit. Use Permits look at compatibility issues whereas Development Permit are more  
621 straightforward and look at design guidelines. There is a small difference.

622  
623 Commissioner Duncan said if a homeowner inquired about a residential property adjacent to an  
624 industrial, there is a high potential that something not compatible with residential could go in.

625  
626 Director Foss said staff would likely hand them the allowed use table with all the uses and explain  
627 which ones require discretionary permits and which ones are just allowed with building permits.  
628 There is a table that outlines what types of activities and business could go in that zone.

629  
630 Commissioner Jensen told Commissioner Heck that if she did not want to make a motion, he could.

631  
632 Commissioner Heck said she would appreciate that. She explained that custom dictated that she  
633 would make the motion as the proposed project was in Supervisorial District I. She is sympathetic  
634 to the homeowners so would appreciate Commission Jensen making the motion.

635  
636 Commissioner Jensen said he was not sure if the Commission was ready.

637  
638 Commissioner Heck said at the time.  
639  
640 Chair Aguilar asked if there was more comment or discussion, then said he thought the  
641 Commission was ready. He mentioned the fencing and trees.  
642  
643 Commissioner Jensen said as modified.  
644  
645 Commissioner Heck and Chair Aguilar said possibly.  
646  
647 Chair Aguilar said Commissioner Jensen liked the trees the way they were.  
648  
649 Director Foss said staff was not clear on the Commission's direction on trees or the fence.  
650 Currently as conditioned there is an 8-foot sound wall and a condition that requires four cedar trees  
651 to be included along Loma Rica Drive and replace all cedars along the eastern property line. If  
652 there is a modification, staff would appreciate it being spelled out.  
653  
654 Commissioner Jensen clarified that right now the four cedar trees are in.  
655  
656 Director Foss said correct. There is a condition that requires a modification to the landscape plan  
657 to replace four of the proposed deciduous trees along Loma Rica Drive and all the deciduous trees  
658 along the eastern boundary with 15-gallon cedar trees. If the Commission would like that condition  
659 erased or modified, staff would appreciate it spelled out.  
660  
661 Commissioner Duncan clarified that the eastern boundary is shared with the industrial and the  
662 homeowner. With the addition of four extra on the frontage, the deciduous would stay, they  
663 wouldn't be taken out completely.  
664  
665 Director Foss said the current wording of the condition is to replace four of the eight.  
666  
667 Commissioner Jensen said he would get started and Director Foss could help.  
668  
669 **Motion by Commissioner Jensen** to adopt the proposed Mitigated Negative Declaration and  
670 Mitigation Monitoring and Reporting Program pursuant to Section 15074 of the California  
671 Environmental Quality Act Guidelines, making Findings A through E.  
672  
673 Commissioner Jensen clarified that it would not be modified.  
674  
675 Director Foss said no modification to the recommended action. There is a modification to the  
676 mitigation measure which Commission Jensen incorporated into the motion as it reads in the memo  
677 handed out today. The motion is correct.  
678  
679 **Second by Commissioner Duncan. Motion carried on a voice vote 4/1. (Commissioner Heck**  
680 **voted no.)**  
681  
682 **Motion by Commissioner Jensen** to approve the Development Permit (DVP16-8) to allow for  
683 the construction of an office and warehouse totaling 4,016 square feet with 2,500 square feet of  
684 outdoor storage area, and associated parking and infrastructure improvements, subject to the  
685 attached Mitigation Measures and Conditions of Approval, and making Findings A through M;

686  
687 Commissioner Jensen asked if he should say as modified, then pointed out that staff doesn't know  
688 what the corrections are.  
689  
690 Director Foss said correct and asked how Commissioner Jensen would like the conditions  
691 modified.  
692  
693 Commissioner Jensen said he wants the 6-foot sound wall to be 8-feet.  
694  
695 Director Foss said that is currently already conditioned. It was the change to the mitigation  
696 measure.  
697  
698 Commissioner Jensen said he would like the fence to enclose the complete development project  
699 parcel or part.  
700  
701 Mr. Nelson said not the entire parcel.  
702  
703 Commissioner Jensen said just the developed part. He would like the four trees on the east  
704 boundary.  
705  
706 Director Foss said the north.  
707  
708 Commissioner Jensen said the four other trees could stay in the front.  
709  
710 Commissioner Duncan said the four would be in the front and all the cedar plantings would be on  
711 the eastern boundary.  
712  
713 Commissioner James asked if it was the compromise.  
714  
715 Director Foss said that is how it was currently.  
716  
717 Commissioner Jensen said he would leave that. He stated that that was his motion.  
718  
719 Chair Aguilar asked if there was a second.  
720  
721 **Second by Commissioner Duncan.**  
722  
723 Chair Aguilar said he had a discussion. He asked if the applicant was planning on having a barbed  
724 wire fence.  
725  
726 Mr. Nelson said no.  
727  
728 Chair Aguilar asked if the owner wanted to do that.  
729  
730 Mr. Nelson said no.  
731  
732 Chair Aguilar asked Clerk Mathiasen to call the role.  
733

734 Commissioner Heck told the applicant that they had a great project and a great business. This is  
735 not about the business or how it is run. This is about the particular site and its proximity to the  
736 residential.

737  
738 **Motion carried on a voice vote 4/1. (Commissioner Heck voted no.)**

739  
740 Chair Aguilar noted that there is a ten-day appeal period.

741  
742 Discussion ensued regarding upcoming Commission meetings and ongoing project statuses.

743  
744 **Motion by Commissioner James; second by Commissioner Heck to adjourn. Motion carried**  
745 **on voice vote 5/0.**

746  
747 There being no further business to come before the Commission, the meeting was adjourned at  
748 3:24 p.m. to the next meeting tentatively scheduled for August 24, 2017, in the Board of  
749 Supervisors Chambers, 950 Maidu Avenue, Nevada City.

750  
751 \_\_\_\_\_  
752 Passed and accepted this        day of        , 2017.

753  
754 \_\_\_\_\_  
755 Brian Foss, Ex-Officio Secretary