



# RESOLUTION No. 25-157

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

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

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

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

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

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

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

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

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

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

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

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

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

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

- Ayes: Supervisors Heidi Hall, Robb Tucker, Lisa Swarthout, Susan Hoek, and Hardy Bullock.
- Noes: None.
- Absent: None.
- Abstain: None.
- Recuse: None.

ATTEST:

TINE MATHIASSEN  
Chief Deputy Clerk of the Board of Supervisors

for  
By: Cancer, Deputy COB

Heidi Hall

Heidi Hall, Chair

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

**A. PLANNING DEPARTMENT**

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

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

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

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

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

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

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

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

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

**Responsible Agency:** Planning Department

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

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

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

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

**Responsible Agency:** Planning Department

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

**Timing:** Prior to map recordation

**Reporting:** Approval of the Final Map for recordation

**Responsible Agency:** Planning Department

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

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

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

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

**Responsible Agency:** Planning Department

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

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

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

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

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

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

***Responsible Agency:** Planning Department*

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

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

**Reporting:** Planning Department Approval of Grading and Construction Permits

**Responsible Agency:** Planning Department

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

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

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

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

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

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

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

20. **Mitigation Measure 19A: Appropriately Dispose of Vegetative and Toxic Waste.**  
The following mitigation measure shall be required and shall be included as a note on the supplemental data sheets that record concurrently with the Final Map: Neither stumps nor industrial toxic waste (petroleum and other chemical products) are accepted at the McCourtney Road transfer station and if encountered, shall be properly disposed of in compliance with existing regulations and facilities.
- Timing:** Prior to map recordation and prior to issuance of grading/improvement/building permits  
**Reporting:** Agency approval of permits or plans  
**Responsible Agency:** Planning Department

**B. DEPARTMENT OF PUBLIC WORKS**

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

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

2. Road Improvements: Prior to recordation of the Final Map, project roadways shall be improved to the following standards and shall meet Sections 16.10.040 Design Geometrics and 16010.050 Structural Section Design:
  - a) ~~Banner Quaker Hill Road, Red Dog Road and Red Dog Crossing Road~~ are classified as Minor Collector Roads and shall be improved to these standards per County Std. Dwg. A-2. If the existing roads meets these standards, the Engineer of Record may submit a plan and certification verifying these standards.
3. Driveway Improvements: Driveway Improvements will be required at the time of building permit issuance for any future residences or accessory dwelling units. The following notes shall be included on the Supplemental Data Sheet for the Final Map:
  - a) All Driveways shall conform to County Standard Drawings C-2, B-8, A-6 and Fire Safe Driveway Standards for width, grades, curves, sight distance and all applicable Code requirements at the time of Building Permit. Driveway design shall be shown on the Residential Site/Grading Plan and approved by the Fire Marshall and Building Department prior to the issuance of any Building Permit.
  - b) All Driveways are subject to a County Encroachment Permit issued by the Public Works Department (DPW) and shall be applied for and issued by DPW prior to the issuance of any Building Permit.
4. Engineers Certification: The subdivider's engineer shall certify that any Road Improvements have been completed in conformance with the applicable standards as noted in B.2.a above.
5. Encroachment Permit: Prior to any work within the right of way, the applicant shall obtain an encroachment permit from the County, which includes a Traffic Control Plan showing all public roadways where work is to be performed and indicates each stage of work, closure dates for street and section of closure (if necessary and otherwise allowed by local jurisdiction), signage, flaggers, and any other pertinent information. The Traffic Control Plan shall be reviewed and approved by the County before the contractor begins work.
6. Offers of Dedication: With map recordation, the applicant shall offer for Dedication to the County of Nevada, for Public Road, Public Utility and Emergency Access purposes, a 60-foot-wide right-of-way for Red Dog Road and Red Dog Crossing Road, along the entire project frontage. This dedication can be made utilizing record information and need not be based on a current survey of the road.
7. Deferral of Improvements: If the applicant desires to record the Final Map prior to completion of the grading and improvements as shown on the approved grading and improvement plans, the applicant shall enter into an agreement to complete the grading and public improvements; and shall post sufficient surety guaranteeing the

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

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

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

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

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

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

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

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

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

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

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

**C. ENVIRONMENTAL HEALTH DEPARTMENT**

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

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

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

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

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

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

Please be advised of the following land development requirements:

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

**D. NEVADA COUNTY CONSOLIDATED FIRE DISTRICT**

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

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

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

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

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

**E. NEVADA COUNTY OFFICE OF THE FIRE MARSHAL**

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

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

**F. NORTHERN SIERRA AIR QUALITY MANAGEMENT DISTRICT**

1. **Mitigation Measure 3A: Reduce emissions during construction.** The following are the minimum recommended mitigation measures designed to help reduce project emissions related to construction, which shall be included as a note on all plans prior to issuance of all grading, improvement, and building permits. In addition to these measures, all statewide air pollution control regulations shall be followed, including diesel regulations (which may be accessed at [www.arb.ca.gov/diesel/diesel.htm](http://www.arb.ca.gov/diesel/diesel.htm)). This note shall be included on the Supplemental Map.
  1. At least 50% of the mobile off-road construction equipment in use at any time on the project shall be equipped with Tier 1 engines (or cleaner).
  2. All architectural coatings shall comply with the California Air Resources Board's 2007 Suggested Control Measure for Architectural Coatings (available at [www.arb.ca.gov/coatings/arch/Approved\\_2007\\_SCM.pdf](http://www.arb.ca.gov/coatings/arch/Approved_2007_SCM.pdf)).
  3. Construction equipment idling times shall be minimized either by shutting equipment off when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]) and all construction equipment shall also be maintained and properly tuned in accordance with manufacturer's specifications." Clear signage shall be provided for construction workers at all access points.
  4. The applicant shall use reasonable precautions to minimize dust generation. Reasonable precautions may include watering exposed soils, as well as any stockpiled material, and limiting traffic speeds. Such methods shall be noted on improvement plans prior to approval.

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

**Reporting:** Agency approval of the Final Map recordation and future permit issuance  
**Responsible Agency:** Planning Department / NSAQMD

2. **Mitigation Measure 3B: Comply with open burning prohibitions.** Use alternatives to open burning of vegetative material on the project site, unless deemed infeasible by the Air Pollution Control Officer. Treat cleared vegetation by legal means other than open burning, such as chipping, shredding, grinding, use as firewood, and conversion to biomass fuel. Open burning of site-cleared vegetation shall be permitted only upon Northern Sierra Air Quality Management District (NSAQMD) approval of documentation showing alternatives are unobtainable or economically infeasible. Obtain an approval letter from NSAQMD prior to approval of improvement or grading plans for road, driveway or future residential construction indicating the approved method of cleared vegetation disposal. Note such methods on any project plans prior to approval. At no time shall open burning of materials generated by this project occur at another site unless approved in advance by the NSAQMD.  
*Timing:* Prior to map recordation and prior to issuance of grading/improvement/building permits  
*Reporting:* Agency approval of the Final Map recordation and future permit issuance  
*Responsible Agency:* Planning Department / NSAQMD
3. **Mitigation Measure 3C: Provide energy-efficient utilities.** Residential improvement plans shall include documentation that they comply with the following measures prior to issuance of building permit. This mitigation shall be included as a note on the Supplemental Map prior to recordation.
  1. The project shall use energy efficient lighting (includes controls) and process systems beyond Title 24 requirements where practicable (e.g. water heating, furnaces, boiler units, etc.)
  2. The project shall utilize water heating featuring low-NOx water heating burners if electric water heating is not used.
  3. The project shall use energy efficient, automated controls for air conditioning beyond Title 24 requirements where practicable.  
*Timing:* Prior to map recordation and prior to issuance of the residential building permits  
*Reporting:* Agency approval of the Final Map recordation and building permits  
*Responsible Agency:* Planning Department / NSAQMD
4. **Mitigation Measure 3D: Limit wood stoves.** The project shall include no more than one wood-fired heat source in any residential unit, which may be a pellet stove or an EPA-certified wood stove, and open fireplaces shall not be permitted within this project. Each residence shall be equipped with a non-woodburning source of heat. This mitigation shall be included as a note on the Supplemental Map prior to recordation and implemented prior to the issuance of residential building permits.  
*Timing:* Prior to map recordation and prior to issuance of grading/improvement/building permits  
*Reporting:* Agency approval of the Final Map recordation and future permit issuance  
*Responsible Agency:* Planning Department / NSAQMD

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

#### **G. NEVADA IRRIGATION DISTRICT**

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

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

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

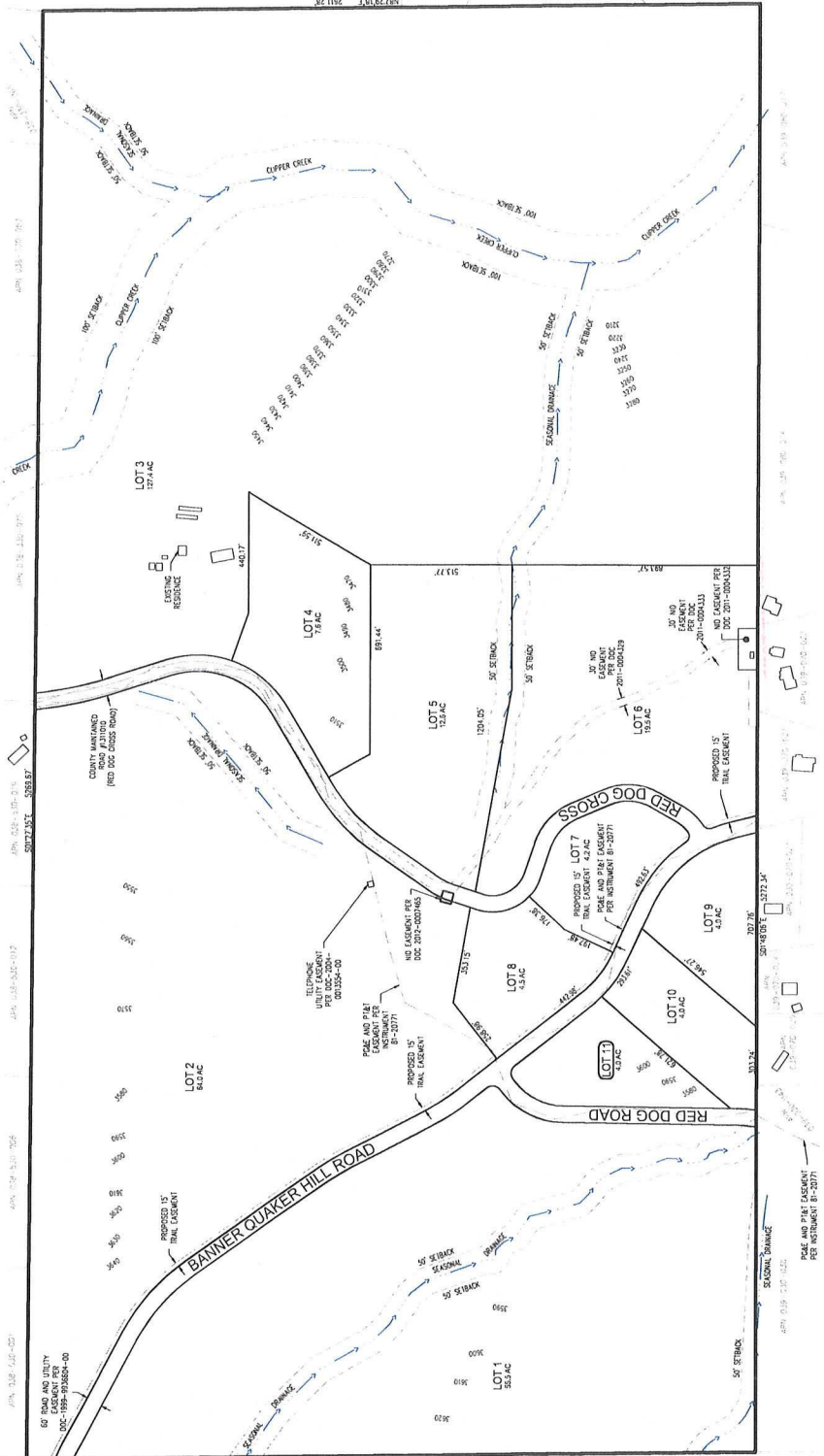
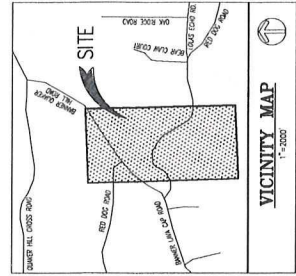
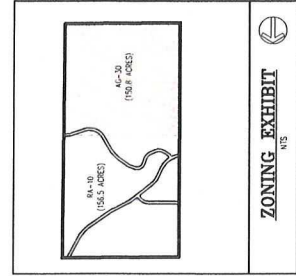
**H. CALIFORNIA DEPARTMENT OF FISH & WILDLIFE**

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



REV.	DESCRIPTION	DATE
DESIGNED-REW		
DRWG. SEC. DMS/IMP		
DATE: JANUARY 2023		

TENTATIVE MAP FOR  
**PAYE SUBDIVISION**  
JANUARY 2023



**SHEET INDEX**

SHEET C1.0 - TENTATIVE MAP  
SHEET C1.1 - SUPPLEMENTAL DATA SHEET





CALIFORNIA

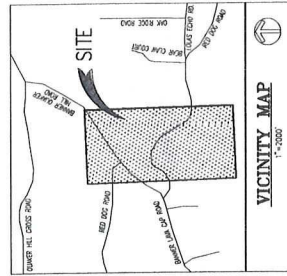
PAYE SUBDIVISION  
 BANNER QUAKER HILL ROAD / RED DOG CROSS ROAD  
 SUPPLEMENTAL DATA SHEET

NEVADA COUNTY

DATE: JANUARY 2025	DESIGNED: REV
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TRIAL: 101, 19, 0315	DATE
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C1.1

Attachment 4.b

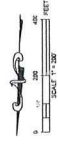
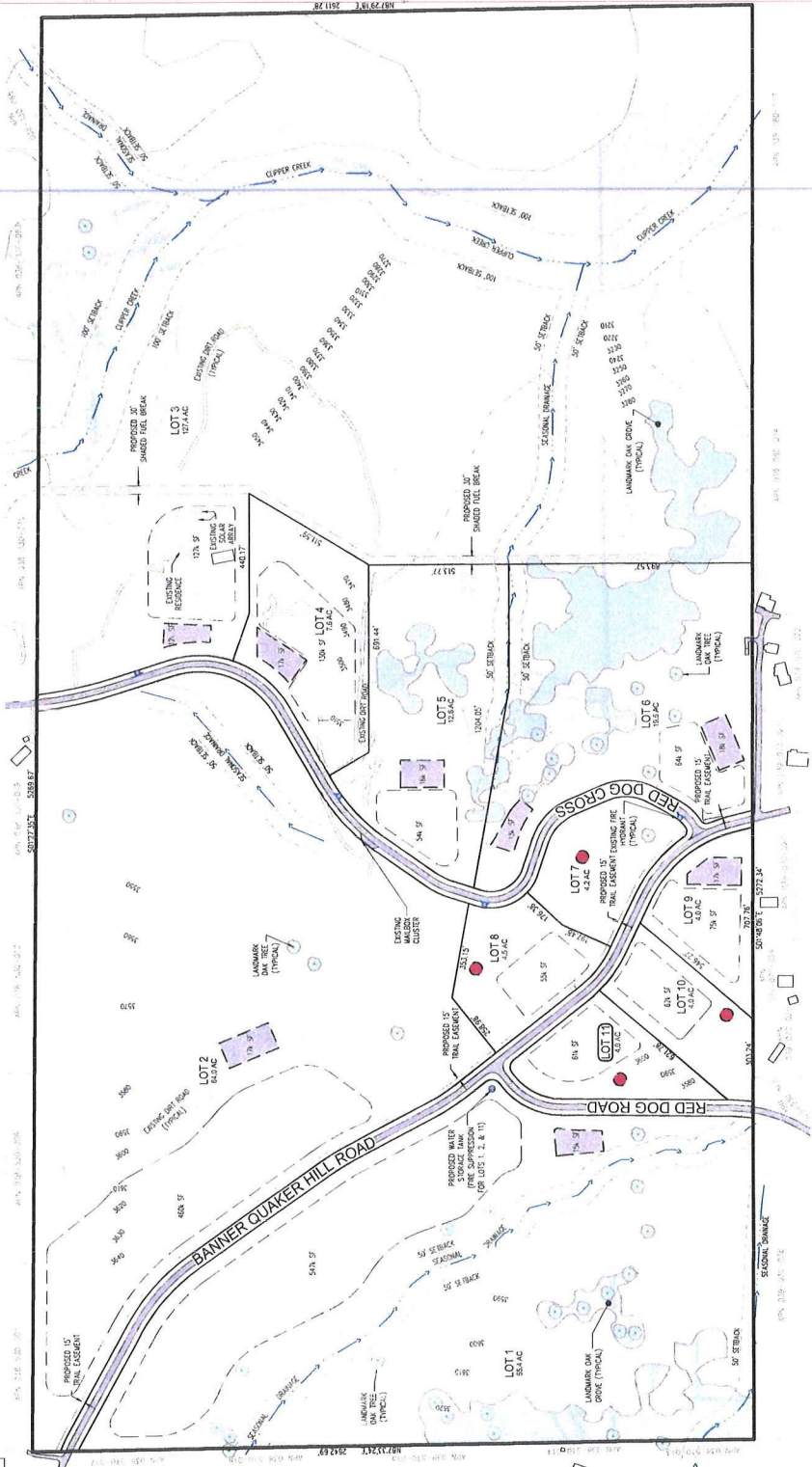


**GENERAL NOTES**

1. PROPERTY LINES ARE CALCULATED FROM RECORD DATA AND FIELD MEASUREMENTS.
2. ALL DIMENSIONS NOT SHOWN ON THIS DRAWING SHALL BE SHOWN ON THE ORIGINAL SURVEY RECORDS.
3. ALL DIMENSIONS NOT SHOWN ON THIS DRAWING SHALL BE SHOWN ON THE ORIGINAL SURVEY RECORDS.
4. EXISTING LANDMARK OAK TREES & TREES SHOWN ARE BASED ON FINANCIAL RECORDS OF CHERRY-LANE BUILDING CONSULTING (2017) AND DEED MAPPING CONSISTENT WITH DEFINITION AS SET FORTH IN THE NEVADA COUNTY LAND USE AND DEVELOPMENT CODE, SEC. 1-4-4.215.

**LEGEND**

[Symbol]	EXISTING PROPERTY BOUNDARY
[Symbol]	PROPOSED LOT LINE
[Symbol]	CONTOUR LINE
[Symbol]	EXISTING 30% SLOPE
[Symbol]	PROPOSED 30% SLOPE
[Symbol]	MINIMUM USABLE BUFFER WIDTH (MINIMUM)
[Symbol]	EXISTING LANDMARK OAK TREES
[Symbol]	PROPOSED SHARED FUEL BREAK
[Symbol]	EXISTING DRAINAGE WATER COURSE
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[Symbol]	PROPOSED FISH HATCHERY
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**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.

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**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

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

**COMMISSION BUSINESS:** Planning Commissioner Training: County Counsel’s Annual “Role of the Planning Commissioner” and Brown Act Training.

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

*[minutes follow as direct transcript]*

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

109 though none of them were in the room together talking, the chain connects three people. That can be a  
110 problem. Another common problem is just replying all when you mean to reply to one: you get an e-mail  
111 about some topic, some Commission topic from staff or from an attorney, and then you reply all with your  
112 comments. That is a meeting. You're telling the other Commissioners, or at least three, what you're thinking  
113 about Commission business. Also, just a word of warning about group text, private messages, social media,  
114 things like that: if it's Commission business and you're talking about it on there, you just have to be very  
115 careful because other Commissioners might be, you know, you might have a social media post with a bunch  
116 of comments, and you don't see all the comments, but maybe one Commissioner says something here,  
117 another Commissioner gives it a thumbs up, and another Commissioner says something way down again.  
118 You have more than... a quorum discussing Commission business, that's a problem. Very quickly, the  
119 consequences for violating the Brown Act: There are three. I think the most common one is corrective  
120 action. You do something, you're notified that this may have violated the Brown Act. There might be a  
121 lawsuit. You might have to come back [to] your next meeting and redo the thing that you did. Doesn't seem  
122 like that big a deal. It isn't, necessarily, but that's the, I think, most common corrective action for a Brown  
123 Act violation. The next one is a lawsuit to nullify what action the Commission took. The court finds that it  
124 violated the Brown Act. It will nullify the action, and it will almost certainly issue attorney's fees, which  
125 can be expensive. The third one that everyone should be aware of, but is exceedingly uncommon, is  
126 intentional knowledgeable violations of the Brown Act can be charged as a misdemeanor. Again, not a  
127 common one. I'm not even aware of it happening ever in my experience, but it is something that's possible  
128 for knowing, willful violations of the Brown Act. I will turn it over to Sims to go through the refresher, but  
129 if you have any questions, I'm going to stay for the presentation. We're available for questions after.  
130

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

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

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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

270 a 10-year rollout process, which would be ending in about three years from now, in 2028. What this project  
271 is proposing is an immediate rezone out of the Timber Production Zone, so three years early to rezone the  
272 northern portion of this on an immediate basis to RA-10, and the southern portion to AG-30. In addition  
273 to the immediate rezone, the project also proposes a Tentative Parcel Map to divide two legal parcels into  
274 11 lots, ranging in size from four acres to 127.4 acres. All 11 proposed lots would be served by individual  
275 septic systems, and seven of the lots would be served by public water provided by the Nevada Irrigation  
276 District. While the remaining four would be served by private wells. As we can see on the map on the  
277 screen right now, the project parcels are indicated in that crosshatching. They're primarily surrounded by  
278 RA-10 and also fairly higher-density development, which is already predominantly developed with single-  
279 family residential homes, while the southern portion of the proposed project area is mostly surrounded by  
280 AG-30 zoning, with lower densities on primarily undeveloped parcels. As we can also see, this project is  
281 served by County-maintained mileage, Banner Quaker Hill Road bisecting the parcel, and also Red Dog  
282 Road. While this project was reviewed, it was evaluated for compliance with all of the site development  
283 standards required by the County Land Use Code. Part of that review is ensuring that the density that the  
284 zoning allows for an area will not be exceeded. The potential density here would be 20 lots. This project's  
285 only proposing 11 lots. Another part of the site development standards is ensuring that the minimum parcel  
286 sizes are adhered to. What you see is that there are some four-acre lots, and the reason that works is because  
287 the County Code allows for density averaging, so while there are some lots smaller than the minimum  
288 parcel size, we can see those over South of Red Dog Road on the left side, that those smaller lots are OK  
289 because it averages out to a parcel size that's consistent with the zoning district standards. The zoning  
290 district also allows for things such as limitations on impervious surface or building heights. This project  
291 does not propose any new structures or construction at this time, so building heights and impervious surface  
292 standards will not be exceeded. All of these parcels are also developed with building envelopes. The  
293 building envelopes are developed to avoid the setbacks required by the zoning district, and therefore any  
294 future development will not be encroaching upon the setbacks. Finally, in regard to the site development  
295 standards, the RA and AG zoning district require road frontage. All of these proposed lots have at least  
296 200 feet of road frontage, so they're consistent with that standard as well. I just wanted to provide a little  
297 bit more detail about how this density is working on this lot, on the subdivision. What we can see is that  
298 Lots 1 and 2 are actually larger than the minimum parcel size, so they could be subdivided further in the  
299 future. This isn't proposed with this project, to divide those lots any further at this time, but we want what  
300 we want to do is ensure that a subsequent subdivision can't result in more density than the zoning would  
301 allow for, and so what we propose and which is has been accepted by the applicant's representative is a  
302 deed restriction on Lot 3, which would prohibit that from further subdivision, ensuring that this would be  
303 consistent with the 20-parcel density, even moving forward into the future. One of the benefits of  
304 preventing Lot 3 from being further subdivided is that it further encourages or aligns with the general plan  
305 policy of clustering, because we're clustering all of the development to the north, while we have a kind of  
306 a large, unfragmented habitat that would be on Lot 3 to the south. So, now we're moving on to the traffic  
307 and access for this. All these lots would be served by existing County roads: Red Dog Road, Red Dog Cross  
308 Road, and Banner Quaker Hill Road. No new access would need to be developed for these lots, but one of  
309 the things that the Department of Public Works required is a certification from a private engineer prior to  
310 recordation to ensure that all these roads meet the A2 County Road standards. If the roads are inadequate  
311 in some way to those road standards, the applicant would be required to improve those roads to meet those  
312 standards that Public Works is looking for. It was also evaluated that these roads and these lots are not  
313 beyond dead-end road standards. Finally, based off of the trip generation rates expected for these single-  
314 family lots, it is estimated that they would generate 104 daily trips, which is below the traffic screening  
315 thresholds determined by the Nevada County Transportation Commission. Like most of Nevada County,  
316 these parcels are in a very high fire severity area, so there was review from the Nevada County Consolidated  
317 Fire Marshall, in addition to the Nevada County Office of the Fire Marshall, so this project has been  
318 conditioned in a way to mitigate that fire risk to the greatest extent practical and to levels of less-than-  
319 significance, pursuant to CEQA. One of the things that they're proposing is that Lot 1 will be developed  
320 with a 10,000-gallon water tank. This is meant to serve Lots 1, 2 and 11. The reason these lots have to be  
321 served by the water tank is because they're greater than 750 feet away from those existing fire hydrants that  
322 are on Red Dog Cross Road. The remaining lots would all be served by those fire hydrants. Furthermore,  
323 in ways to mitigate those impacts, it's also proposed that a fuel break be installed along the property line of

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

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

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

378 Commissioner Foley: Yes, I have one clarification comment, and this is just kind of historical clarification.  
379 The 10-year roll out period: is this consistent for all rezones, or was this specific to this project?  
380

381

382 Planner Nicholas: Commissioner Foley, that 10-year roll out period is required for any rezone out of Timber  
383 Production Zone, pursuant to the Nevada County Code.  
384

385 Commissioner Foley: Understood. Thank you.  
386

387 Vice-Chair McAteer: And David, I have a question. On Lot 3, there's an existing residence, is that correct?  
388

389 Planner Nicholas: Yes, Commissioner.  
390

391 Vice-Chair McAteer: And I think that's the applicant [who] lives there, is that also true, I think, yeah?  
392

393 Planner Nicholas: I'm not sure.  
394

395 Vice-Chair McAteer: OK, so that's the only existing...I drove up there. That's the only existing structure  
396 within all those acreages?  
397

398 Planner Nicholas: Yes, that's correct. That's the only existing structure out there, that's what my observation  
399 was, too, based off of my site visit.  
400

401 Vice-Chair McAteer: And so, I'm looking at the bottom of the map, which all these maps are now sideways  
402 or upside down up there, and there are a whole bunch of other structures down there. Not in the property  
403 that we're talking about, but these are..., are those homes right along there, do you see what I'm talking  
404 about?  
405

406 Planner Nicholas: Commissioner McAteer, are you referring to the grey structures?  
407

408 Vice-Chair McAteer: I'm referring to all of these structures down on the... is it the west side? Down by  
409 Lot 9 and 10, those are all subdivided parcels there, is that correct? Of homes, private homes?  
410

411 Planner Nicholas: Just to be clear, are you looking outside of the subdivision?  
412

413 Vice-Chair McAteer: Yes, I am.  
414

415 Planner Nicholas: Yes, those are currently subdivided properties and residences that are outside of the  
416 scope of the project.  
417

418 Vice-Chair McAteer: And generally, what...how big are those lots right there?  
419

420 Planner Nicholas: Those range in size from 1.5 acres to about 13 acres, all on that RA zoning surrounding  
421 the northern part of the subdivision.  
422

423 Vice-Chair McAteer: And those are sort of along...? I'm trying to get exactly where it is. Those would be  
424 along Banner. How would you gain access to those homes there? Is that along Red Dog? No.  
425

426 Planner Nicholas: It appears...  
427

428 Vice-Chair McAteer: Those are along Banner Quaker Hill Road, correct? Access to those homes?  
429

430 Planner Nicholas: So, I believe, Commissioner McAteer, you're referring to these homes in here *[refers to*

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

433

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

437

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

439

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

460

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

462

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

465

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

467

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

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

502  
503 Vice-Chair McAteer: Thank you very much, Maureen. Next speaker.

504  
505 Public commenter: Good afternoon, George Olive, long-time resident up there on Banner. There's a bad  
506 mismatch between the level of concern about wildfire and evacuation in rural areas like Banner and  
507 priorities in the Planning Department. The word "evacuation" doesn't even appear in the staff report. It's  
508 not in there. The word "wildfire" does; there is a little section about wildfire, but evacuation of these types  
509 of areas has to become a priority for planning staff. How are all the people going to get out of these tangles?  
510 There are roads all off the roads mentioned in this plan, and Banner Lava Cap Road isn't even mentioned  
511 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  
512 there seems to be a shortage of thoroughness in the planning that has gone in around response to emergency,  
513 as prior speakers have said. The Firehouse isn't going to get built. A helipad? Yeah, right. We need to  
514 think about this. It's going to be really a mess if a fire comes up out of the canyons that surround this  
515 project. Terry, sounds like you went up there. Clipper Creek is really steep. Greenhorn Creek is right there  
516 too. Deer Creek is right there too. There are three canyons that all climb up to this place, and one of the  
517 fires is going to come up. Scott's Flat Lake comes up to Banner Quaker Cross. It is really steep to Pasquale  
518 Road. That fire is going to roar, so there needs to be more thought put into how many people we want to be  
519 living there, how many cars we want to be coming and going, and how the hell we're going to get people  
520 out of there. If this project goes forward, I hope the county prioritizes improvements to all of the roads,  
521 knocking back all of the vegetation, etc., because it is a really dangerous situation as Moe has mentioned.  
522 So friends of Banner Mountain is quite well organized; we have our own Firewise community, a lot of  
523 thinking and a lot of talking about an evacuation exercise of some sort, multi-agency... be a real pain in the  
524 neck, but boy, we would really love to see an attempt that was starting to be planned back before COVID.  
525 We'd love to see an attempt at an actual evacuation drill. Thank you.

526  
527 Vice-Chair McAteer: Thank you, George. Anyone else would like to speak?

528  
529 Public commenter: My name is Jacqueline Hervey. I live up on Banner Mountain. I have been told that  
530 when Deer Creek Park was originally developed around 1970, that the expectation of the Board of  
531 Supervisors was that these would all be vacation homes, and so we didn't really have to worry about things  
532 like fire evacuation and a lot of people living up on the mountain. These were temporary homes. A few  
533 people will be there at a time. But, now things have changed, and it's fully occupied by full-time residents.  
534 So, in addition to the evacuation problems there would have been then, now the Board of Supervisors has  
535 authorized ADU units, tiny homes on wheels, and although no one currently expects all of those to be built,  
536 no one expected Deer Creek Park to be fully built and lived in. As one makes a decision on evacuation and  
537 other things, you have to consider that at some point in time, these could be fully built out. To the approval  
538 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 hydrated 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

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

594  
595 Vice-Chair McAteer: Do you have any comments around anything that the public had to say that you'd  
596 like to share some thoughts on?

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

605  
606 Vice-Chair McAteer: OK. Thank you very much. So, stick around there. I'm going to open it up to the  
607 Commission and, beginning with you, Commissioner Garst.

608  
609 Commissioner Garst: Thank you, Terry. I just want to disclose that I own property 2.5 miles approximately  
610 from this site. I don't think that's close enough to have to do anything, but I wanted to disclose that  
611 information. So, I'm quite familiar with this area, and drive past it every day. I had a couple of questions.  
612 First of all, I just wanted to clarify to the public that we are not hearing a rezoning application. We are just  
613 considering whether to allow the rezoning to take place three years earlier than it would have otherwise  
614 taken effect. I just wanted to clarify that. I was wondering, in the original rezoning application, why it was  
615 determined to rezone these RA-10 and AG-30 when the parcels are smaller, and then now we're going  
616 through the density averaging, so I was just wondering if you could address that.

617  
618 Mr. Goodman: Yeah, thank you, Commissioner Gerst. From my understanding, when the property was  
619 approved for the rezone in 2018, it was to return it to what's compatible with the existing General Plan  
620 designations, and then through density averaging policy and encourage clustering within the development  
621 code. That's where we're resulting, with lots that are smaller.

622  
623 Commissioner Garst: Thanks. There was mention in here about the shaded fuel break, and that Lots 4, 5,  
624 and 6 will be required to maintain that. I'm wondering what provisions are in place to require that  
625 maintenance. What tools are being put in place?

626  
627 Mr. Goodman: Sure, thank you. We coordinated closely with the Nevada County Consolidated fire district  
628 on finding a mechanism that would effectuate that, and it would be the responsibility of each individual  
629 property owner to maintain that fuel break. But one of the conditions as I understand it for this project  
630 would be to develop the fuel break prior to the subdivision.

631  
632 Commissioner Garst: I think that was all I had.

633  
634 Vice-Chair McAteer: Commissioner Foley?

635  
636 Commissioner Foley: Yeah. Thank you. I have a few questions. In regard to Lot 7: I know we've heard  
637 that, you know, it could be used for various fire applications. I'm curious: is there an expiring time on the  
638 gift to Consolidated Fire? Like, if it's not used within a certain number of years, it could be developed for  
639 residential use?

640  
641 Mr. Goodman: Thank you for the question, Commissioner Foley. There is no expiration. It would be an  
642 unencumbered donation to the fire district, and they would be able to do what they see fit with it as it aligns  
643 with the public's interest.

644  
645 Commissioner Foley: OK, I'm just curious if, you know, if these lots were developed in the future,

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

654

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

660

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

663

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

666

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

668

669 Vice-Chair McAteer: OK, thank you. So, Mr. Foss, I have a question because it came up from some of the  
670 comments here. Why aren't...with the...the number one issue in this community happens to be evacuation,  
671 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  
672 be something that we in the County just sort of add on, to be able to say, you know, "Gee, evacuation in  
673 any developments is a critical component." Could you comment on the evacuation portion and what your  
674 thoughts are on potentially putting it into subsequent...?

675

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

693

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

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

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

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

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

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

722  
723 Mr. Paye: Mark Paye.

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

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

728  
729 Got it.

730  
731 Mr. Paye: We've met.

732  
733 Vice-Chair McAteer: Yes, sir.

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

739  
740 Vice-Chair McAteer: Great.

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

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

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

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

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

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

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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

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

969 require external illumination. Typically, in Nevada County, we allow for downward-facing gooseneck  
970 lighting to go over the sign and face down, and that's very much consistent with the existing development  
971 to the south. I finally want to also reference the proposed gateway identification sign. This is approximately  
972 in this location here [referring to PowerPoint slide]. That will be vetted, and it will be determined what  
973 the style will be by the community at a later date. This is one of the policies and recommendations of the  
974 Greater Higgins Area Plan. This location was actually determined to be the most suitable because of its  
975 visibility to the driver on State Highway 49. Condition of Approval 810 requires that they dedicate either  
976 an easement or a deed restriction that would prohibit that area from being developed for a future sign to be  
977 placed there. I might also note the County's Code does require and recommend that monument signs include  
978 a native base that's in a landscaped area, and so those Conditions of Approval require that for the monument  
979 sign as well. Regarding landscaping, the applicant did provide a preliminary landscaping plan, which is  
980 included in your staff report. It does demonstrate that shade covering will be provided [over] 40% of the  
981 overall parking area within 15 years, which is consistent with County policy. It provides for adequate  
982 screening of roads and neighboring properties. There is proposed extensive landscaping for the site, and in  
983 the colors and plans below, which kind of gives you an idea of what the planting pallet will be. I'll note that  
984 the landscaping does and is required to meet the County's minimum landscaping requirements, as well as  
985 the State Model Water Efficiency Landscape Ordinance Standards, and they demonstrated that they can  
986 meet those standards. Their standard Condition of Approval, specifically 810 Planning Commission that  
987 will require them to provide a letter of surety, before final occupancy, [stating] that all planting has been in  
988 place. Then, they'll have to maintain that throughout the duration of the operation of the site. I didn't go  
989 over lighting specifically, but I'll speak to that lighting. These two fixtures are what is being proposed  
990 [referring to PowerPoint slide]. The one on the left is the parking lot lighting, and then the one on the right  
991 is gooseneck lighting that'll be on the building for security purposes. These are consistent with the County's  
992 requirements that they're downward facing, fully shielded. Your staff report does note that the original  
993 photometric plan showed for a little bit of light spill coming off of the site, and therefore Condition of  
994 Approval A.10 and A.12, actually A.12, requires that they submit a final photometric plan demonstrating  
995 that they can comply with the County standards, which is to not allow light spill. And there's some  
996 suggestions in that Condition that specifically could require the removal of some lights, lowering them, or  
997 using less intense lighting fixtures. The project is compliant with all of the County's site development  
998 standards, including setbacks. I would note that the height of the building is approximately 24 feet. The  
999 fueling canopy is approximately 18 feet where 45 feet is allowed in this area of the county. The design  
1000 utilizes earth tones and natural materials consistent with the western Nevada County design guidelines, as  
1001 well as the Greater Higgins Area Plan, which recommends that the design of commercial uses be consistent  
1002 with other development in the area, and the design was specifically done to reflect the neighboring property  
1003 to the south, which is developed with a number of different commercial uses. The solid waste enclosure, as  
1004 well as the retaining walls, are designed to be consistent to match the proposed building and meet the  
1005 background requirements for that waste enclosure. The retaining walls will be dressed up with...I forget  
1006 the exact name of the materials, but anyway, it's not just your standard split seam wall, it's dressed up with  
1007 a material and I can look it up in a minute. The parking: I believe 17 spaces is actually required, but they're  
1008 providing 19. I mentioned that ADA space, as well as four charging stations. Regarding signage: with the  
1009 Conditions of Approval, that signage is compliant with the County's design guidelines and zoning  
1010 guidelines, and I previously mentioned that it will have to be externally illuminated versus internally  
1011 illuminated. Specifically addressing environmental review, the project Initial Study and Proposed Mitigated  
1012 Negative Declaration was available between February 7th, 2025, and March 10th, 2025. All of the proposed  
1013 impacts identified as part of this project were mitigated to less-than-significant levels. We did receive some  
1014 public comments during the public review period from the United Auburn Indian Community stating that  
1015 they had no further comments, from Caltrans stating that they were comfortable with the analysis and didn't  
1016 have any other additional comments and that wanted to be apprised of future movement on this project  
1017 which is included in the project's Condition of Approvals. We did receive two public comments as a part  
1018 of that review period. Those comments address things like public safety, noise, and traffic generated by  
1019 this project. I will note that traffic was reviewed by both Public Works, the Nevada County Transportation  
1020 Commission, and Caltrans, and no adverse issues were identified. It's designed to meet the County's access  
1021 requirements and didn't exceed thresholds for level of service or VMT (vehicle miles traveled). I would like  
1022 to point out that we did receive some additional public comments, which are included in the staff memo to

1023 the Commission dated 3/27/25. Those public comments were very similar in nature: concerns over public  
1024 safety, over noise, and over the impacts of this commercial development, and I would note that no new  
1025 impacts were identified that weren't otherwise reviewed and considered by the proposed Mitigate Negative  
1026 Declaration and the project Conditions of Approval. I would also make a special note that the one of these  
1027 letters was from a law firm out of Irvine, CA, and that request was to extend the public comment period  
1028 because essentially they are inferring that staff didn't make or the County didn't make the subsequent  
1029 supporting documentation available to the reviewer. I would note that our typical process was followed for  
1030 noticing this. It did notify where you could obtain online copies of the Initial Study, it provided the planner's  
1031 contact information where they had the opportunity to contact the planner to request additional information.  
1032 It also noted that hard copies were available here at the County office during the public review period for  
1033 the CEQA document. No attempt was made by this law firm or whoever they're representing to obtain this  
1034 information. They also didn't identify any additional environmental concerns as a part of their review. I  
1035 also want to note that while this meeting was going on, it was indicated that we received a second letter  
1036 from the same law firm stating that we didn't make the biological inventory, the traffic study, the  
1037 preliminary drainage analysis, the geotechnical engineering report available to them. Very similar  
1038 comments, and I would note that that's been available through the public portal to anyone since the inception  
1039 of the project, approximately a year and a half ago. So, it would be available, and should they have reached  
1040 out to staff; staff would make that available to them, because this is all public information. The Initial Study  
1041 did utilize the same consistent practice that the Planning Department does, because should we attach the  
1042 traffic study, the geotechnical engineer report, the drainage analysis, and all those things, you'd end up with  
1043 like a 400-page Initial Study with every project. So those are always available for review by the public and  
1044 therefore staff do not recommend extending the public comment period for the Initial Study. The other  
1045 thing I wanted to note is that that letter came in approximately 11 days after the close of that period. With  
1046 that, I would note that all, as I previously mentioned, all impacts have been mitigated. The Conditions of  
1047 Approval ensure that this project is consistent with zoning. I will note some of the key Mitigation Measures  
1048 and Conditions of Approval I went into was the prohibition of the 25-foot-tall pole sign. There is one large  
1049 sign in this area, but it's for a multi-tenant project, the Holiday Market. But as I previously mentioned, the  
1050 Chevron immediately south of the site was not allowed to have such a tall sign. There are significant  
1051 requirements from the Air Quality Management District that will be adhered to, and we also...going back a  
1052 little bit, some of those comments that we received from the public were that air quality was not considered,  
1053 but we did receive a letter from Air Quality [Management District] that noted that all their concerns have  
1054 been met through the review of the Initial Study. I mentioned that no internally-lit signage will be included  
1055 as a part of this project with the exception of the pricing sign as required by state law. There is a requirement  
1056 that they annex into a public PRD [Permanent Road Division], because of the access of the right-in and  
1057 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  
1058 U-turn to get back to it, trucks will have to be routed down Woodbridge Lane through Higgins Road and  
1059 then back to the site to the service fueling station, and that's a requirement that the applicant will put on  
1060 their truck drivers. But because the trucks will be using that road, Public Works required that they annex  
1061 into that and help pay their fair share for utilization of those roads. This project will be required to maintain  
1062 sight distance and then they pay a traffic impact mitigation fee. There are standard protections for cultural  
1063 and archaeological resources as a part of this project. None were found as a part of the review, but it's  
1064 always unknown, once you start digging in the ground, what you'll find, and so those are included. There  
1065 are requirements for oversight by the Department of Environmental Health related to the convenience store  
1066 food use and also the fueling station. There was review and approval by the County Fire Marshall, who  
1067 coordinated with Higgins Fire Protection District. There's also a requirement that this project meet County  
1068 noise standards, and that includes a Mitigation Measure for limited construction times from 7:00 AM to  
1069 7:00 PM on Monday through Saturday. With that being said, this project is determined to be consistent  
1070 with several goals and policies of the County General Plan as outlined in your staff report, pages 18 through  
1071 20. It's consistent with the C2 or Community Commercial zoning district by being a project that is allowed  
1072 with the Development Permit as long as they meet all County site development standards. It's also consistent  
1073 with the SC Combining District. They provided a Scenic Corridor analysis, which is included in your  
1074 packet, which is a requirement of that zoning district [that they] can demonstrate how it won't result in  
1075 significant visual impacts. The screening landscaping will help it blend into the environment; the internal  
1076 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

1131 the trips are pass-by trips. What that means is, if there's a total trip count estimated for a project such as  
1132 this of, say, 2,070% of those trips are already on the street, they're already on Combie Road in the street  
1133 system. There's a huge reduction. These aren't new trips and new traffic counts for a project like this. Most  
1134 are pass-by trips. Another question that came up was on truck delivery and a concern about trucks making  
1135 a U-turn at the traffic light at Higgins. They wouldn't go that route. First of all, they get instructions and  
1136 directions to the delivery address and that the direction they're going to go is coming from Auburn or  
1137 Sacramento. They're going to take a right on Woodridge. You can see the yellow line there. Left on Higgins,  
1138 and then a left on Combie. As staff pointed out, we have a Condition that we have to annex into the PRD,  
1139 so that we pay our fair share on that road system to maintain it. Ultimately, no U-turns are necessary. The  
1140 big question on some people's minds is, "Why a gas station?" There's lots of reasons why a gas station,  
1141 especially at this location. Number one, convenience. It's a very easy-in, easy-out coming from the east, as  
1142 you can see by the aerial photo. There's a lot of development to the east. That's lake of the Pines there  
1143 [referring to PowerPoint slide] that you see, which leads into the next thing of relieving congestion.  
1144 Chevron being the primary service station there, this would reduce wait times and congestion at the pump,  
1145 especially during AM and PM peak hours. It definitely captures the demand, both existing and future.  
1146 There's a big demand now with existing... you can see how much development is there at Lake of the Pines.  
1147 I'll just note that the surrounding area to this north and to the south and to the east has a significant amount  
1148 of R3 and R2 zoning that are undeveloped parcels. R3 is a high-density residential zone. R2 is a medium-  
1149 density residential zone. As those parcels build out over the years, there'll even be a much larger increase  
1150 in demand than there is currently. Again, I already went over the pass-by trips. It reduces the amount of  
1151 new traffic for a project like this. Competition and choice are always good. I think ultimately that's always  
1152 good for the consumer. It brings prices down. I'll note that Arco generally has the cheapest prices out of  
1153 any gas stations. Getting gas here, rather than in Auburn, keeps money in the county. There's also going to  
1154 be employment needed, so it adds to the employment. Lastly, this type of use (gas station) is very similar...  
1155 it's kind of a unique land use that creates synergy - gas stations, fast food restaurants, hotels. They're unique  
1156 in that one may do OK; two, three, or four of this type of use creates a synergy. It's very common with these  
1157 types of uses. There's a lot of reasons why to put a gas station at this location. Just to summarize, as staff  
1158 pointed out, the project is consistent with the General Plan, it's consistent with the zoning ordinance, it's  
1159 consistent with the Higgins Area Plan. It complies with CEQA; a full CEQA review was done, and all  
1160 impacts were found to be able to be mitigated to less-than-significant levels, which is the threshold. All the  
1161 required findings, both for the environmental review, the MND and the Development Permit were made.  
1162 As far as a public benefit: a multi-use trail would be provided by this project along the entire frontage of  
1163 the project, a 12-foot-wide concrete multi-purpose trail that is slated to connect from Hwy. 49 all the way  
1164 out to Lake of the Pines. This also provides a convenient option for residents. It's a very great location for  
1165 people coming from the east, coming from Lake of the Pines, and future build-out in those higher residential  
1166 areas. It's a very convenient way to, on your way to work, right in and right out, and they're back on the  
1167 highway either going towards Grass Valley or towards Auburn. So, as a convenient-based use and an infill  
1168 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,  
1169 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  
1170 the convenience-based uses that are already on the road. It's absolutely an ideal location for this type of use,  
1171 and with that I'm happy to answer any questions.

1172  
1173 Vice-Chair McAteer: Good. We'll get that right after we hear from the public, OK? Great. Thank you. So,  
1174 would anyone from the public would like to chat with us for up to three minutes? Please come on down.  
1175 You're the next contestant.

1176  
1177 Public commenter: My name's John Newton. I'm a Placer County resident, but also a commercial real estate  
1178 broker and somebody active in this part of the world. I think these types of projects are vital for our  
1179 community and I'm going to speak in favor of it. I hope you find that as well. It's a really important project.  
1180 I'm super excited there's an EV charging station because I drive an electric car. I don't have a gas car. So,  
1181 I'm excited. You know, we need more of those in our community. I'm excited that that's part of what this  
1182 project would provide. I hope that you vote in favor. Thank you for your time.  
1183

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.

1238 There'll be four charging stations, but then during construction, before we get to Certificate of Occupancy.  
1239 They will be level two charging, not super chargers, but level two.

1240  
1241 Commissioner Garst: Thank you. I wanted to address the changes to the signage, and I'm curious why the  
1242 nonconforming signage was not addressed in the application and was instead addressed through the  
1243 Conditions of Approval. This seems not the typical way of dealing with that. I think it would have been  
1244 nice, especially given the requirements for the signage to be on natural material, the base requirements not  
1245 being able to see what's being proposed to meet that requirement is unfortunate. So, I'm just curious why  
1246 that was decided.

1247  
1248 Planner Barrington: Commissioner Garst, technically our code does allow for a 25-foot-tall sign along the  
1249 highway. During the review process, that wasn't caught in terms of how it relates to the Scenic Corridor  
1250 and the Greater Higgins Area Plan. When I took the project over, I identified that as a potential concern,  
1251 and as we were developing the CEQA document and noticed some of the other signage didn't meet the  
1252 criteria in terms of the right sizing and having a design that included the architectural base and things like  
1253 that. Because the project was deemed complete in January of 2024, I had to kind of move with what we had  
1254 originally required of the applicant and then do what I could through the Conditions of Approval to meet  
1255 the County standards.

1256  
1257 Commissioner Garst: OK, thank you. That makes sense. So how will those changes be submitted? And  
1258 will those just be reviewed internally with the Planning Department?

1259  
1260 Planner Barrington: Correct. So as a part of the building permit review for the project, we'll be looking at  
1261 the sign plan when the proposed project is reviewed, and then prior to issuing final occupancy, staff will do  
1262 a site visit to ensure that it was constructed as designed and that the landscaping is in, the lighting meets  
1263 their criteria, and so forth.

1264  
1265 Commissioner Garst: OK. Thank you. Are signs...signs are allowed to be outside of the building setbacks  
1266 or inside of the building setbacks, even when they're on permanent foundations?

1267  
1268 Planner Barrington: Typically, signs are allowed as long as they don't obstruct sight distance.

1269  
1270 Commissioner Garst: OK. And the design requirements for the building: are those specific to the Higgins  
1271 General Plan or those County requirements?

1272  
1273 Planner Barrington: Both. The western Nevada County design guidelines are kind of the guiding  
1274 document, but those are further refined by the Greater Higgins Area Plan consistent with most of our area  
1275 plans. The primary policy in the area plan was to be compatible with existing design in the area and so that's  
1276 why they utilize roof colors that were consistent with the CVS across the street.

1277  
1278 Commissioner Garst: OK, thank you. Last year we reviewed an extension for the use permit for the Holiday  
1279 Market gas station. I was not a Commissioner at the time when that initial application came in front of the  
1280 Commission. I'm curious if you can show us on a map where that would be located, just mostly out of  
1281 curiosity as to how many gas stations and how close they'll be to each other?

1282  
1283 Planner Barrington: The applicant's slide probably shows it better, but it's essentially where the cursor is  
1284 [referring to PowerPoint slide]. And the project site is here.

1285  
1286 Commissioner Garst: OK, I see, So it'll be off Woodridge Drive?

1287  
1288 Planner Barrington: Correct. Next to the Holiday Market.

1289  
1290 Commissioner Garst: OK. But more internal than ...

1291

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?  
1345

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?

1399

1400 Vice-Chair McAteer: Yeah. Are there any plans for improvement to that center?  
1401  
1402 Planner Barrington: Not that I'm aware of. We have had correspondence with someone who has an  
1403 approved site plan, if you will, from the '90s that they're working on, bringing their nursery - it's a nursery  
1404 and a vet clinic - that was approved, but they never quite met their Conditions of Approval. But that's a  
1405 little bit farther west of the gas station. I just want to note that the Planning Department, we don't solicit  
1406 development, so we're not out choosing whether we get more gas stations here. The applicant, the property  
1407 owner, is the one who comes in, and then it's our job to review that for consistency with our codes.  
1408  
1409 Vice-Chair McAteer: Talk to me about EV charging stations, especially...are there other public charging  
1410 stations down in the Lake of the Pines area that you know of?  
1411  
1412 Planner Barrington: Not that I'm aware of.  
1413  
1414 Vice-Chair McAteer: And Holiday Market doesn't have any over there?  
1415  
1416 Planner Barrington: I don't think so. They may have. They probably came under earlier codes, and they  
1417 might be set up to connect to them, but I don't believe they have them.  
1418  
1419 Vice-Chair McAteer: OK, I think that takes care of my questions. Thank you. So, anything else the  
1420 applicant would like to chime in to us about?  
1421  
1422 Mr. Wood: I have nothing to add.  
1423  
1424 Vice-Chair McAteer: OK. So, with that, I'll turn to Commissioners as to what next steps.  
1425  
1426 Planner Barrington: Yeah, sorry about that. Next time, I'll put the full action on there, but it's on page 21  
1427 of your staff report.  
1428  
1429 Commissioner Foley: I got it right here.  
1430  
1431 **Motion made by Commissioner Foley to recommend that the Board of Supervisors, after review and**  
1432 **consideration, adopt the proposed Mitigated Negative Declaration and Mitigation Monitoring and**  
1433 **Reporting Program (EIS24-0002) provided in Attachment 2 pursuant to Sections 15074 and 15097 of**  
1434 **the California Environmental Quality Act Guidelines, and make Findings A through C.**  
1435  
1436 **Second by Commissioner Garst. Motion carried on a 3/0 vote.**  
1437  
1438 **Motion made by Commissioner Foley to recommend that the Board of Supervisors, after reviewing**  
1439 **and considering the proposed project, approve the Development Permit (DVP23-0005), subject to the**  
1440 **Conditions of Approval and Mitigation Monitoring and Reporting Program (Attachment 1), and**  
1441 **pursuant to the Nevada County Zoning Regulations make the following findings A through L.**  
1442  
1443 **Second by Commissioner Garst. Motion carried on a 3/0 vote.**  
1444  
1445 Planner Barrington: I'll note that there's a 10-day appeal period for that action.  
1446  
1447 Vice-Chair McAteer: OK. Thank you very much. Best to you and your adventure here.  
1448  
1449 **INFORMATIONAL ITEMS & ON-GOING PROJECT UPDATES:**  
1450  
1451 Vice-Chair McAteer: Tyler, thank you very much. We'll turn over to Mr. Foss for any thoughts, upcoming  
1452 meetings, etc.  
1453

1454 Director Foss: Sure, thank you, Chair McAteer. At this point, we are likely to have a hearing on April 24<sup>th</sup>,  
1455 that would be our next meeting. Yes, that's the right date, and a potential with a map and a rezone 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 24<sup>th</sup>, 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