



RESOLUTION No. 16-500

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION DENYING THE APPEAL FILED BY JAMES POWELL AND CAROL FULLER POWELL (“APPELLANTS”) REGARDING THE PLANNING COMMISSION’S JULY 28, 2016 APPROVAL OF THE BYERS WAREHOUSE PROJECT (“PROJECT”) CONSISTING OF THE ADOPTION OF A MITIGATED NEGATIVE DECLARATION (EIS15-019) AND APPROVAL OF A SUBDIVISION MAP AMENDMENT (AM14-001), DEVELOPMENT PERMIT (DP15-006), BIOLOGICAL MANAGEMENT PLAN (MGT15-020), FLOODPLAIN MANAGEMENT PLAN (MGT16-001), AND PETITION FOR EXCEPTIONS TO ROAD STANDARDS (MI15-020) FOR THE BYERS WAREHOUSE PROJECT ON PROPERTY LOCATED AT 11773 SLOW POKE LANE, GRASS VALLEY (APN 09-320-25), AND SUSTAINING THE PLANNING COMMISSION’S SAID ACTIONS ON THE PROJECT

WHEREAS, on July 28, 2016, after a duly noticed public hearing, the Nevada County Planning Commission considered the application of Raymond W. Byers and public testimony before taking action to approve the Byers Warehouse Project (Project) consisting of adopting a Mitigated Negative Declaration and approving a Subdivision Map Amendment, Development Permit, Biological Management Plan, Floodplain Management Plan, and Petition for Exceptions to Road Standards, subject to conditions of approval;

WHEREAS, on August 5, 2016, James Powell and Carol Fuller Powell (Appellants), filed a timely appeal to all of the Planning Commission’s actions taken on July 28, 2016;

WHEREAS, on September 13, 2016, the Board of Supervisors agreed to accept the appeal as to the Planning Commission’s actions on the Project and scheduled the appeal for hearing on October 11, 2016;

WHEREAS, on October 11, 2016, the Board of Supervisors held a duly noticed public hearing at which the Board considered all evidence both oral and written regarding the appeal and denied the appeal.

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

1. The facts set forth above are true and correct;
2. The Planning Commission’s action on the Mitigated Negative Declaration is upheld with the following findings A-C:
 - A. The project, including the Subdivision Map Amendment, Development Permit, Biological Management Plan, Floodplain Management Plan, and Petition for Exceptions to Road Standards, has been reviewed pursuant to the California Environmental Quality Act and the County’s environmental review guidelines (Nevada County Land Use and Development Code Chapter 13), and that there is no substantial evidence in the record supporting a fair argument that the proposed project, as mitigated and conditioned, might have any significant adverse impact on the environment;

- B. The Mitigated Negative Declaration (EIS15-019) reflects the independent judgment of the Planning Commission and the Board of Supervisors, and that the mitigation measures contained therein and imposed as conditions of the project, and agreed to by the applicant, will reduce potentially significant impacts to less than significant levels; and
 - C. The location and custodian of the documents which constitute the record of these proceedings is the Nevada County Planning Department, 950 Maidu Avenue, Nevada City, California.
3. The Planning Commission's action on the Biological Resources Management Plan is upheld with the following findings A-B:
- A. The issuance of the Biological Management Plan is consistent with the provisions of Section 4.3. Resource Standards of the Nevada County Land Use and Development Code, in that encroachment into watercourse setbacks is necessary due to parcel configuration and site topography; and
 - B. Minimization of impacts to waterways and associated habitat has been attained through the incorporation of mitigation measures identified by Glenn Delisle in his Management Plan dated June 2015.
4. The Planning Commission's action on the Floodplain Management Plan is upheld with the following findings A-B:
- A. The issuance of the Floodplain Management Plan is consistent with the provisions of Section 4.3. Resource Standards of the Nevada County Land Use and Development Code, in that encroachment into floodplain setbacks is necessary due to parcel configuration and site topography; and
 - B. Minimization of impacts to the floodplain setback has been attained through the incorporation of mitigation measures identified by SCO Planning & Engineering in the Management Plan dated December 16, 2015.
5. The Planning Commission's action on the Petition for Exceptions is upheld with the following findings A-D:
- A. The Petition for Exceptions is necessary because there are special circumstances or conditions affecting the subject property including the existing residential development on Slow Poke Lane;
 - B. The Petition for Exceptions is necessary for the preservation of a substantial property right of the petitioner because the petitioner has been conducting business at the current location for approximately 25 years;
 - C. The granting of the Petition for Exceptions will not be detrimental or injurious to other property in the territory in which said property is located because of the required turnouts which will allow for fire safe access; and
 - D. The granting of the Petition for Exceptions to road standards will not constitute a grant of special privileges inconsistent with the limitations upon similar properties.
6. The Planning Commission's action on the Map Amendment is upheld with the following findings A-G:
- A. The Map Amendment removing a non-existent pond and ditch and setbacks from South Fork Wolf Creek from the recorded map is consistent with the Nevada County Land Use and Development Code Section L-II 4.3.10 which establishes standards for setbacks applicable to water features;

- B. The Map Amendment will have a cumulatively minor impact on the subdivision and its impacts in that provisions are currently in place for managing resources and mitigating any potential impacts to resources;
 - C. The Map Amendment conforms to the provisions of Government Code Section 66474;
 - D. The Map Amendment will not affect any of the other findings for approval required by the Nevada County Subdivision Ordinance;
 - E. The Map Amendment is necessary because there are changes in the circumstances which make the conditions sought to be changed no longer appropriate or necessary as the pond and ditch previously identified in Book 3 of Subdivision Maps at Page 222 no longer exist;
 - F. The Map Amendment does not impose any additional burden on the present fee owner of the property; and
 - G. The Map Amendment does not alter any right, title, or interest in the real property reflected on the map recorded as Parcel 2 in Book 3 of Subdivision Maps at Page 222.
7. The Planning Commission's action on the Development Permit is upheld with the following findings A-L:
- A. This project as conditioned and mitigated is consistent with the General Plan goals, objectives and policies, and with the Industrial General Plan land use map designation applicable to this project site;
 - B. The proposed use is allowed within and is consistent with the purpose of the M1 zoning district within which the project is located, which allows light industrial uses with an approved development permit;
 - C. The proposed use and any facilities, as conditioned, will meet all applicable provisions of the Land Use and Development Code or a same practical effect of those provisions, including design and siting to meet the intent of the Site Development Standards mitigating the impact of development on environmentally sensitive resources;
 - D. The site for the proposed use is adequate in size, shape and location to accommodate the proposed use and all facilities needed for that use and reasonable expansion thereof, if any, and to make appropriate transitions to nearby properties and permitted uses thereon, without compromising site development standards;
 - E. That East Bennett Road, a County-maintained road; Lava Rock Avenue, a private road; and Slow Poke Lane, a private road, are adequate in size, width, and pavement type to carry the quantity and kinds of traffic generated by this project in that the project, which involves the construction of a warehouse building to store materials already being stored onsite, would not generate additional traffic;
 - F. The proposed use and facilities are compatible with, and not detrimental to, existing and anticipated future uses on-site, on abutting property and in the nearby surrounding neighborhood or area;
 - G. Adequate provisions exist for water and sanitation for the proposed use;
 - H. Adequate provisions exist for emergency access to the site;

- I. That this development permit, proposing a warehouse building for an existing light industrial use, is consistent with the intent of the design goals, standards, and provisions of the Nevada County Zoning Ordinance;
- J. That based on the comments received and conditions applied from the Nevada County Departments of Building, Public Works, Planning, and Environmental Health; Northern Sierra Air Quality Management District; and the Nevada County Fire Marshal's Office, adequate public services exist in the immediate area to support the project, including adequate public roads, public utilities, and fire protection services;
- K. All feasible mitigation measures have been imposed upon the project to offset the impacts this project may have on air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hydrology and water quality, noise, transportation and circulation, and utilities and service systems; and
- L. That the conditions listed in Exhibit "A" are the minimum necessary to protect the public's health, safety and general welfare.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby denies the appeal of James Powell and Carol Fuller Powell, and upholds the decision of the Planning Commission to adopt a Mitigated Negative Declaration (EIS15-019) and approve the Subdivision Map Amendment (AM14-001), Development Permit (DP15-006), Biological Management Plan (MGT15-020), Floodplain Management Plan (MGT16-001), and Petition for Exceptions to Road Standards (MI15-020) for the Byers Warehouse Project on property located at 11773 Slow Poke Lane, Grass Valley based on the findings as set forth herein and adoption of the Conditions of Approval set forth in Exhibit "A."

The Clerk of the Board shall mail the Appellant a copy of this Resolution, and any appeal of this decision shall be governed by California Code of Civil Procedure section 1094.6.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 11th day of October, 2016, by the following vote of said Board:

Ayes: Supervisors Nathan H. Beason, Edward Scofield, Dan Miller, Hank Weston and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 


Dan Miller, Chair

10/12/2016 cc: Planning*
CoCo*
R. Byers
Appellants

EXHIBIT "A"
CONDITIONS OF APPROVAL
Byers Warehouse Project
DP15-006, AM14-001, MGT15-020, MGT16-001, MI15-020, EIS15-019

A. PLANNING DEPARTMENT

1. The approval authorizes the following:
 - a Development Permit (DP15-006) for 1,100 cubic yards of grading work and the construction of an 8,750-square-foot warehouse, a fire protection water storage tank, parking overflow areas, lighting, and landscaping on the existing Byers property at 11773 Slow Poke Lane, Grass Valley;
 - a Map Amendment (AM14-001) for Parcel 2 of PM 3/222 to remove a non-existent pond and ditch from the existing parcel map; remove building and septic setbacks from the creek, pond, and ditch; and record a new supplemental data sheet to show South Fork Wolf Creek and its floodplain, and their setbacks, as environmentally sensitive areas;
 - a Biological Resources Management Plan (MGT15-020) to reduce impacts from disturbance of the 100-foot non-disturbance buffer to South Fork Wolf Creek;
 - a Floodplain Management Plan (MGT16-001) to reduce impacts from encroachment into the 100-foot setback to the floodplain; and
 - a Petition for Exceptions (MI15-020) to reduce the standards for right-of-way width from 50 to 20 feet and roadway width from 20 to 15 feet, and eliminate the fuel modification requirement on the west side of Slow Poke Lane.

Any intensification of use, which includes any modification that could result in a direct or indirect impact on the physical environment such as changes associated with privacy, aesthetics, noise, and onsite activity, shall require additional environmental review to ensure compatibility with adjacent uses. This approval shall override the original Conditions of Approval and Mitigation Measures from SP82-004, with the exception of Conditions A.16-A.20 shown below, which shall continue to apply to this project.

2. The approvals for DP15-006, AM14-001, MGT15-020, MGT16-001, and MI15-020 are contingent on final approval of the Zoning Map Amendment (Z16-001) which takes effect 30 days from final action by the Board of Supervisors on the Zoning Map Amendment.
3. Recordation of the Amended Map (AM14-001) must be completed, and construction pursuant to this permit approval (DP15-006) must be completed and the use commenced thereon, within three (3) years from the effective date of the approval of the Zoning Map Amendment (Z16-001) (30 days from final action of the Board of Supervisors), unless an extension of time for reasonable cause is requested prior to the expiration date, and granted by the Planning Commission pursuant to Section 5.10 of the Nevada County Land Use and Development Code. If no extension is granted, the permit shall become null and void, as to the portion of the approved use not completed.

4. Prior to recordation of the Amended Map, submit to the Planning Department for review and approval two copies of the Map Amendment/Certificate of Correction to Parcel 2 of PM3/222 and any supplemental information maps or exhibits to be recorded, delineating the correct surveyed location of South Fork Wolf Creek, removing the pond and ditch which no longer exist, and removing the building and septic setbacks from the creek, pond and ditch. South Fork Wolf Creek, the 100-year floodplain, and their respective 100-foot setbacks shall be identified as “Environmentally Sensitive Areas” (ESAs) on the Supplemental Data Sheet recorded concurrently with the Map Amendment/Certificate of Correction, accompanied by a Note advising that “no new disturbance shall be allowed within the ESAs unless a Management Plan, or other process established by County ordinances, authorizes disturbance.”
5. This approval is for two fully shielded, downward facing light fixtures wall mounted at a height of approximately 8 feet as shown in preliminary plans in compliance with Land Use and Development Code Section L-II 4.2.8. Prior to final approval of the building permit for the project, all existing and proposed light fixtures shall be fully shielded and directed downward to prevent light trespass and to prevent the light source or lens from being visible from adjacent residential uses and roadways. Improvement plans shall depict the location, height and positioning of all light fixtures and shall provide a description of the type and style of lighting proposed. Fixtures shall have high efficiency lamps. High pressure sodium, and mercury vapor light fixtures are prohibited. Lighting shall be turned off between 11 p.m. and sunrise, except where a safety or security need is clearly demonstrated, and all security fixtures shall be shielded and aimed so that illumination is directed only to the designated area and not cast on other areas. Motion sensors can provide greater security than continuous lighting and are the preferred alternative to continuous nighttime lighting. All exterior lighting shall be maintained as approved and installed. All exterior lighting shall be maintained as installed.
6. Parking areas shall be constructed in accordance with the design standards of Section L-II 4.2.9 of the Land Use and Development Code, including surfacing, curbing, slope, drainage, backout area, driveway/aisle widths, parking stall sizes, and accessibility standards. A minimum of 30 parking spaces, including 2 disabled parking stalls, shall be provided in substantial conformance with approved site plans and maintained for the life of the project.
7. Prior to issuance of any grading or building permits, the applicant shall submit a Final Landscape Plan in conformance with the requirements of Sections L-II 4.2.7 of the Land Use and Development Code, prepared, signed and stamped by a licensed landscape architect, to the Planning Department for review and approval, including the following:
 - a. All details depicted on the preliminary plans and any modifications included by these conditions of approval; and
 - b. The location of all required plant materials, evenly dispersed within each required planting area (interior parking lot landscaping and residential buffers); and;

- c. A legend listing the type, number and size of plant materials, indicating both the both the required number and the provided number of each plant type. List plants for each required landscaped area. Include a listing of water usage type, or hydrozone, for each plant type. List plant materials in groupings of trees, shrubs, and ground cover plants. Show both common names and botanical names. Native vegetation must be included in all required plantings pursuant to subsection L-II 4.2.7.E.2.b of the Land Use and Development Code; and
- d. Irrigation plan per subsection L-II 4.2.7.E.3.c of the Land Use and Development Code; and
- e. A note on the plan, certified by a licensed landscape architect, landscape designer, or horticulturalist, that trees are located on the plan so as to cover 40% of the parking area with tree canopies within 15 years, consistent with Land Use and Development Code Section L-II 4.2.7.E.2.g; and
- f. A note that “All plantings and irrigation shall be maintained by the property owner and in any case where a required planting has not survived the property owner shall be responsible for replacement with equal or better plant materials.”

Prior to final occupancy, the landscape architect/property owner shall verify that all plant materials have been established for said building and parking area(s) pursuant to the approved plan.

- 8. Pursuant to LUDC Sec. L-II 4.2.11, outdoor storage, solid waste disposal areas, mechanical equipment and utilities shall be screened from public view. Walls used for screening purposes shall be buffered from view by landscaping. All outdoor solid waste receptacles, and /or recycling storage areas, shall be placed within a solid screen enclosure constructed of materials and colors compatible with building style, at least one foot higher than the receptacle. Pursuant to LUDC Sec. L-II 4.2.13, solid waste and recycling areas shall provide protections from adverse weather conditions which might render the collected materials unmarketable and shall be sufficient in capacity, number, and distribution to serve the project. Prior to approval of building permits, compliance with this condition shall be shown on plans. All solid waste and recycling areas shall be maintained as installed and in compliance with this condition.
- 9. Design of the warehouse building shall be in substantial conformance to that authorized in this approval and shown in preliminary plans, including a pre-fabricated, pre-painted metal warehouse structure of a symmetrical gable style design with a “brownstone” base color on the exterior walls and “koko brown” trim and non-reflective roof color. Final building plans and elevations shall represent the following design details: color, non-reflective materials, and architectural features.
- 10. Consistent with the Western Nevada County Design Guidelines, prior to building permit approval, the applicant shall minimize the visual impact of the large massing of the proposed building with the use of at least one method of articulation to break up the massing of the northwest elevation, which could include awnings over the man doors, structural bays, wainscoting, windows, varied rooflines, or other articulated architectural features.

11. Prior to building permit issuance, the applicant shall record an overflight notice for the property given that it is within Zone D of the Airport Land Use Compatibility Plan area.
12. Prior to finalization of building permits for the project, the applicant shall provide evidence that all structures located onsite, including the storage containers, have been permitted or are otherwise authorized (e.g., by grandfathered right) by the Nevada County Building Department, or have been removed from the property. Evidence of authorization may consist of building permits, Assessor's records, engineer's estimates of construction dates, or other means acceptable to the Building Department.
13. Prior to permit finalization, the applicant shall contact the Planning Department for a field inspection to verify all Conditions of Approval and ordinance requirements have been satisfied. Fees for such inspection shall be applicable on the project building permit.
14. A final set of plans shall be submitted to the Planning Department for review and inspection purposes.
15. Within 15 days after project approval the applicant shall sign and file with the Nevada County Planning Department a Defense and Indemnification Agreement, in a form approved by County Counsel. No further permits or approvals shall be issued for the project, including without limitation a grading permit, building permit or final map approval, unless and until the applicant has fully complied with this condition. The standard Defense and Indemnification Agreement shall be attached to the approval letter.
16. Due to the close proximity of residential housing, hours of operation of the project shall be from 7:00 a.m. to 7:00 p.m., except for the short term loading and unloading of equipment and any maintenance which is conducted within an enclosed building (Original Condition B.2 from SP82-004)
17. All gasoline, oil, grease and/or lubricants shall be stored inside the existing building or on an elevated platform adjacent to the structure (Original Condition B.3 from SP82-004).
18. The project site shall be totally fenced with a minimum six-foot high chain link fence with slats (Original Condition B.4 from SP82-004).
19. There shall be no vegetative or soil disturbance within the flood plain areas as designated on the Site Plan in that area of South Wolf Creek (Original Condition B.6 from SP82-004).
20. Uncontained trash shall not be placed within 100 feet of South Wolf Creek (based on Original Condition D.8 from SP82-004).
21. **Avoid impacts to nesting raptors and migratory birds (Mitigation Measure 4A).** The following measures shall be implemented to protect nesting birds and shall be noted on the grading and construction plans for this project:

1. Tree removal shall be avoided if feasible during the breeding season (February 1 – July 31). Alternatively, the developer shall initiate pre-construction surveys, conducted to verify that the construction zone area and those trees designated for removal do not support nesting migratory birds. In this alternative, the following measures shall be implemented to protect nesting birds and shall be shown on the proposed grading and construction plans for this project:
 - a. If tree removal must occur during the nesting season, surveys for nesting raptors and migratory birds are required prior to any construction-related activities or other site disturbances initiated during the breeding season (February 1 – July 31). For all construction activities between February 1 and July 31, including vegetation removal or mastication and site preparation activities, pre-construction surveys for nesting raptors and migratory birds shall be conducted by a qualified biologist between dawn and 11 a.m. pursuant to California Department of Fish and Wildlife (CDFW) requirements. These surveys shall be accomplished within 7 days prior to commencement of any grading or vegetation removal. The survey extent shall include all areas within 300 feet of vegetation removal, ground disturbance, and equipment staging, or to the property line if neighboring properties are closer than 300 feet and will not allow access for survey work. The results of the survey work, including a list of species detected (by visual or auditory means) and mapping of the locations of any active nests or proximal nest-site related activity, shall be submitted to the Nevada County Planning Department within one week of survey work and prior to the delivery of construction equipment to the site and issuance of a grading permit. If no active nests are found, no further mitigation shall be required.
 - b. The County shall require an additional survey if periods of construction inactivity exceed a period of two weeks, an interval during which bird species, in the absence of human or construction-related disturbances, may establish a nesting territory and initiate egg laying and incubation.
 - c. Should any active nests or breeding areas be discovered, a buffer zone (protected area surrounding the nest) and monitoring plan, if needed, shall be developed by a qualified biologist and reported to the California Department of Fish and Wildlife. Nest locations shall be mapped and submitted along with a report stating the survey results, to the Planning Department within one week of survey completion. A qualified wildlife biologist shall monitor the progression of reproductive states of any active nests until a determination is made that nestlings have fledged and that a sufficient time for fledging dispersal has elapsed; construction activities shall be prohibited within the buffer zone until such determination is made.

Timing: Prior to issuance of grading and improvement permits

Reporting: Approval of grading and improvement permits

Responsible Agency: Planning Department

22. **Prepare and implement an Erosion and Sediment Control Plan to prevent erosion and sedimentation into South Fork Wolf Creek during construction (Mitigation Measure 4B).** To protect water quality in South Fork Wolf Creek, the contractor shall implement standard Best Management Practices (BMPs) prior to and during construction and grading on the site. These measures shall be incorporated into all final grading and

construction plans and shall include but not be limited to the following:

1. BMPs for temporary erosion control shall be implemented to control any pollutants that could potentially affect the quality of storm water discharges from the site. BMPs include but are not limited to installing silt-fencing, straw or coir logs or rolls, or other sediment barriers to keep erodible soils out of drainages. Before the first heavy rains and prior to removing the barriers, soil or other sediments or debris that accumulates behind the barriers shall be removed and transported away from the wetlands for disposal.
2. Disruption of soils shall be minimized; disturbed areas shall be graded to minimize surface erosion and siltation to the drainages; bare soils shall be immediately stabilized and revegetated. Seeded areas shall be covered with broadcast straw or mulch.
3. Construction material storage areas containing hazardous or potentially toxic materials shall have an impermeable membrane between the ground and the hazardous material and be placed outside of the non-disturbance at 100 feet or greater.
4. Good housekeeping practices, use of safer alternative products, such as biodegradable hydraulic fluids, shall be utilized where feasible.
5. The contractor shall exercise every reasonable precaution to protect drainages at the project site from pollution with fuels, oils, bitumen, calcium chloride, and other harmful materials. Construction byproducts and pollutants such as oil, cement, and wash water shall be prevented from discharging into drainages and shall be collected and removed from the site. No slash or other natural debris shall be placed in or adjacent to drainages.
6. Disruption of soils and native vegetation shall be minimized to limit potential erosion and downstream sedimentation; disturbed areas shall be graded to minimize surface erosion and siltation; bare soils shall be immediately stabilized and re-vegetated. If straw is used for mulch or for erosion control, use only certified weed-free straw or rice straw to minimize the risk of introduction of noxious weeds, such as yellow star thistle and goat grass.
7. No fill shall be placed within the designated 100-year floodplain.
8. At no time shall heavy equipment operate in flowing water.
9. Equipment or vehicle maintenance or refueling shall occur as far from the pond and overflow channel as possible. The contractor shall immediately contain and clean up any petroleum or other chemical spills with absorbent materials such as sawdust or cat litter. For other hazardous materials, follow cleanup instructions on the package.
10. Topsoil shall be stockpiled for later reuse as applicable.

Timing: Prior to issuance of grading, improvement, and building permits

Reporting: Approval of grading and improvement permits

Responsible Agency: Planning Department

23. **Revegetate disturbed areas and clean up work areas within 100 feet of South Fork Wolf Creek (Mitigation Measure 4C).** To protect water quality in South Fork Wolf Creek, the applicant shall revegetate all disturbed areas and clean up all work areas immediately following completion of grading activities, and shall maintain the site in a

debris-free condition for the duration of project operations. These measures shall be incorporated into all final grading and construction plans and shall include:

1. Stockpiled topsoil shall be combined with wood chips, compost and other soil amendments for placement on all graded areas. The primary objectives of the soil amendments and revegetation is to create site conditions that keep sediment on site, produce a stable soil surface, resist erosion and are aesthetically similar to the surrounding native forest ecosystem.
2. Exposed bare soil within 100 feet of South Fork Wolf Creek shall be protected against loss from erosion by the seeding of an erosion-control mixture and restored with a combination of native grasses, rice straw wattles, a mulch of native straw or certified weed-free straw, and a planting of native riparian species or another option approved by CDFW or RWQCB. Geo-fabrics, jutes or other mats may be used in conjunction with revegetation and soil stabilization. The restoration grass species chosen, which shall be a native erosion seed mix, shall include the criteria of tolerance to drought and nutrient-poor soils. Seeded banks shall be covered with mulch to accelerate plant growth. Non-native species that are known to invade wildlands, such as orchard grass, velvet grass, rose clover, winter and spring vetch, and wild oats shall not be used as these species displace native species.
3. All debris, litter, and construction materials shall be removed from the work site immediately upon completion. The project site shall be maintained in a debris-free condition for the duration of project operations.
4. The applicant shall schedule an inspection with the Planning Department within three weeks following completion of grading activities for a compliance check with this mitigation measure.

***Timing:** Prior to issuance of grading, improvement, and building permits, and during project operation*

***Reporting:** Approval of grading, improvement and building permits*

***Responsible Agency:** Planning Department*

24. **Halt work and contact the appropriate agencies if human remains or cultural materials are discovered during project construction (Mitigation Measure 5A).** All equipment operators and employees involved in any form of ground disturbance shall be advised of the remote possibility of encountering subsurface cultural resources. If such resources are encountered or suspected, work 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 and the Native American Heritage Commission be contacted and, 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. A note to this effect shall be included on the grading and construction plans for each phase of this project.

***Timing:** Prior to issuance of grading and improvement permits*

***Reporting:** Approval of grading and improvement permits*

Responsible Agency: Planning Department

25. **Install fencing along the northern boundary of the parking area (Mitigation Measure 9B).** Prior to issuance of grading or improvement permits for the project, the applicant shall install fencing along the entire extent of the northern boundary of the parking area, consistent with the existing fencing onsite (chain link with wooden slats), which shall be repaired as necessary. All fencing shall be maintained for the life of the project.
Timing: Prior to issuance of grading and improvement plans
Reporting: Approval of grading and improvement permits
Responsible Agency: Nevada County Planning Department

26. **Limit construction work hours to 7:00 AM to 7:00 PM (Mitigation Measure 12A).** 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 these hours of construction.
Timing: Prior to issuance of grading and building permits
Reporting: Approval of grading and improvement permits
Responsible Agency: Nevada County Planning Department

27. **Appropriately dispose of vegetative and toxic waste during project construction (Mitigation Measure 17A).** 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. This mitigation measure shall be included as a note on all grading and improvement plans, which shall be reviewed and approved by the Planning Department prior to permit issuance.
Timing: Prior to issuance of grading and improvement permits
Reporting: Approval of grading and improvement permits
Responsible Agency: Nevada County Planning Department

B. DEPARTMENT OF PUBLIC WORKS

1. Prior to recordation of the Map Amendment/Certificate of Correction for Parcel 2 of PM 3/222, the applicant shall submit to the County Surveyor two copies of the Map Amendment/Certificate of Correction as approved by the Planning Commission, in accordance with Subdivision Map Act, Sections 66469-66472.1, along with a map check fee pursuant to the most current Fee Resolution of the Board of Supervisors, for review and approval by the Planning Department and County Surveyor. The map shall then be filed with the County Recorder.

2. Pursuant to Section 66470, the amending map or certificate of correction shall be prepared and signed by a registered civil engineer or licensed land surveyor prior to review and recordation.

3. Prior to issuance of any building permits, the applicant shall pay applicable traffic mitigation fees, unless it can be demonstrated that the original use permit allowed the storage containers, which the warehouse is replacing, by right.
4. Prior to issuance of a building permit, the applicant shall prepare a drainage report documenting the net increase in impervious surface and ensuring that the project is adequately accounting for increased stormwater runoff, and that the net runoff is equal to or less than pre-existing conditions. Recommendations to maintain a no-net-increase in stormwater runoff, e.g., upsizing the infiltration trench, shall be implemented prior to issuance of a building permit for the new warehouse.
5. **Prepare and implement an Erosion and Sediment Control Plan (Mitigation Measure 6A).** Prior to issuance of grading permits or improvement plans for all project-related grading including road construction and drainage improvements, said permits or plans shall incorporate, at a minimum, the following erosion and sediment control measures:
 1. During construction, Best Management Practices (BMPs) for temporary erosion control shall be implemented to control any pollutants that could potentially affect the quality of storm water discharges from the site. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared in accordance with California State Water Resources Control Board (SWRCB) requirements. This SWPPP includes the implementation of BMPs for Erosion Control, Sediment Control, Tracking Control, Wind Erosion Control, Waste Management and Materials Pollution Control.
 2. If applicable, topsoil shall be removed and stockpiled for later reuse prior to excavation activities. Topsoil shall be identified by the soil-revegetation specialist who will identify both extent and depth of the topsoil to be removed.
 3. Upon completion of grading, stockpiled topsoil shall be combined with wood chips, compost and other soil amendments for placement on all graded areas. Revegetation shall consist of native seed mixes only. The primary objectives of the soil amendments and revegetation is to create site conditions that keep sediment on site, produce a stable soil surface, resist erosion and are aesthetically similar to the surrounding native forest ecosystem.
 4. Geo-fabrics, jutes or other mats may be used in conjunction with revegetation and soil stabilization.

Timing: Prior to issuance of grading and improvement permits

Reporting: Approval of grading and improvement permits

Responsible Agency: Planning Department and Department of Public Works

6. **Prepare a geotechnical report for project grading and structural work (Mitigation Measure 6B).** Prior to issuance of grading permits and improvement plans, an updated/current soils or geotechnical report shall be prepared a licensed engineer and submitted to the Nevada County Planning Department, and recommendations therein followed for all subsequent grading and structural work.

Timing: Prior to issuance of grading and improvement permits

Reporting: Approval of grading and improvement permits

Responsible Agency: Planning Department and Department of Public Works

7. **Limit the grading season (Mitigation Measure 6C).** Grading plans shall include the time of year for construction activities. No grading shall occur after October 15 or before May 1 unless the Chief Building Inspector or his/her authorized agent determines project soil conditions to be adequate to accommodate construction activities.

Timing: Prior to issuance of grading and improvement permits

Reporting: Approval of grading and improvement permits

Responsible Agency: Planning Department and Department of Public Works

8. **Implement the recommendations of a drainage report for the project (Mitigation Measure 9A).** Prior to issuance of grading or improvement permits for the project, the applicant shall submit for the review and approval of the Public Works Department an updated drainage report that documents the net increase in impervious surface, ensures that the project is adequately accounting for increased stormwater runoff, and ensures that net runoff is equal to or less than pre-project conditions. The drainage report shall include the infiltration trench as shown in the preliminary drainage report, updated to meet the drainage needs of the approved project. All recommendations of the drainage report as approved by the Public Works Department shall be installed with improvement plans.

Timing: Prior to issuance of grading and improvement plans

Reporting: Approval of grading and improvement permits

Responsible Agency: Nevada County Public Works and Building Departments

9. **Install and maintain infiltration trench along the northern boundary of the parking area (Mitigation Measure 9C).** Prior to issuance of grading or improvement permits for the project, the applicant shall construct an infiltration trench designed to the specifications outlined in the updated drainage report. The infiltration trench shall be constructed as a linear narrow rock-filled trench with no outlet, which allows storm water to be stored and seep through the rock-lined bottom, and removes a portion of the fine sediment and associated storm water pollutants. These specifications shall be shown on project site plans. Additionally, the applicant shall also maintain the infiltration trench by performing the following routine maintenance activities:

1. On a monthly basis or as needed after storm events, remove obstruction, debris, and trash from infiltration trench and dispose of properly.
2. On a monthly basis during the wet season or as needed after storm events, inspect the trench to ensure that it drains between storms and within 96 hours (4 days) after rainfall to prevent mosquito breeding.
3. Annually inspect the filter fabric for sediment deposits by removing a small section of the top layer of rock lining.
4. As needed, trim and/or remove vegetation around the trench to maintain a neat and orderly appearance.
5. As needed, remove any trash and other debris from the trench perimeter and dispose of properly.

Timing: Prior to issuance of grading and improvement permits

Reporting: *Approval of grading and improvement permits*

Responsible Agency: *Nevada County Public Works and Building Departments*

C. ENVIRONMENTAL HEALTH DEPARTMENT

1. Prior to approval of any building or improvement permits, the applicant shall show through notation on the plan that the previously failed, secondary sewage disposal field, located under parking/driveway area west of existing shop building, will be made unavailable by removal of the diversion valve and installation of a hard-pipe bypass into the sewage pump tank alone. These improvements shall be implemented prior to issuance of final occupancy permit.
2. Prior to approval of any building or improvement permits, the applicant shall show through notation on the plans that an existing water supply well exists inside the proposed new storage building, and provide detailed specifications from a qualified well construction contractor as to how construction will occur over the existing well area. These specifications shall be implemented prior to issuance of final occupancy permit.
3. Prior to approval of any building or improvement permits, the applicant shall confirm the route of the sewage pump line to prevent any actual placement, or the representation of it in plan drawings, of the fire prevention water storage tank on top of the sewage pump line.
4. Obtain the appropriate permits from the Environmental Health Department for hazardous materials generation and storage, if applicable now or in the future. Prior to building occupancy, if any quantity of hazardous material is to be stored onsite, or any quantity of hazardous waste is to be generated or stored onsite, the applicant shall contact the Nevada County Environmental Health Department. If required, complete plans and specifications pertaining to any hazardous material materials storage, or hazardous waste generation, storage, and/or disposal shall be prepared, subject to the approval of the Environmental Health Department.

D. NEVADA COUNTY FIRE MARSHAL'S OFFICE

1. Fire flow requirements based on NFPA 1142 shall be utilized to determine the appropriate amount of stored water needed for the project. Plans shall be submitted to the Fire Marshal's Office and approved prior to any work on the system.
2. The draft hydrant shall be located near the east side of the southern abutment to the driveway entrance and shall be protected with bollards. This improvement shall be shown on building and improvement plans prior to permit approval and shall be installed prior to final occupancy permit.
3. A monitored Fire Alarm and Detection System in the new warehouse building shall be installed compliant with the 2013 California Fire Code, Section 907 prior to final occupancy permit.

4. All items stored within the new warehouse building shall comply with the 2013 California Fire Code, Section 315.
5. Fire Safety During Construction and Demolition: All applicable sections of the 2013 California Fire Code, Chapter 33 will be enforced.
6. All roadways and drivable surfaces within the facility shall be compliant with 2013 California Fire Code, Section 503.
7. The access road of Slow Poke Lane shall have two turnouts, one at the hard turn and one between the hard turn and the bridge per Nevada County Ordinance Section L-XVI 3.2. Turnouts shall be signed indicating that no parking is allowed.
8. Prior to any occupancy, 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 your 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. Additional clearing may be required by the Fire Marshal if extra hazardous conditions exist. All flammable vegetation and fuels caused by site development shall be legally disposed or removed.
9. Within ninety (90) days from the project approval date, the applicant shall submit a project-specific Fire Protection Plan to the Planning Department and for review and approval by the Office of the Fire Marshal. No grading or building permits shall be issued until the Fire Protection Plan is approved.

E. NEVADA COUNTY BUILDING DEPARTMENT

1. The applicant shall submit complete construction, utility, grading, drainage and erosion control plan for review at the time of building/grading submittal in conformance with Nevada County Land Use and Development Code Chapter V.
2. Two sets of wet stamped/signed complete geotechnical evaluation reports shall be submitted at the time of building/grading permit submittal.
3. All exterior doors shall be accessible and be on an accessible route leading to the accessible parking stalls(s) unless exempt per CBC 11B-206.4.1.
4. The applicant shall show a minimum of two (2) temporary bicycle racks per the CA Green Building Standards Code.

5. The applicant shall show a minimum of one (1) car pool/clean air vehicle parking space per the CA Green Building Standards Code.
6. Accessible plumbing fixtures shall be provided per the 2013 California Plumbing Code to serve the building (restrooms serving the building).
7. The Nevada County Special Inspection Agreement shall be completed and submitted at the time of permit submittal for all required project special inspections.
8. Truncated domes shall be placed where transitioning into a vehicular traffic area per the 2013 California Building Code.
9. **Comply with energy efficiency standards (Mitigation Measure 7A).** Prior to issuance of grading and building permits, the design of the project shall comply with the following standards:
 1. Energy-efficient lighting (controls) and process systems beyond Title 24 requirements shall be used where practicable (e.g., water heating, furnaces, boiler units).
 2. Water heating featuring low-NOx water heating burners shall be used if electric water heating is not used.
 3. Energy-efficient, automated controls for air conditioning beyond Title 24 requirements shall be used where practicable.
 4. Any wood burning heating devices shall be EPA Phase II certified.

Timing: Prior to issuance of grading and building permits
Reporting: Approval of grading and improvement permits
Responsible Agency: Building Department

10. **Limit timing and duration of soil export (Mitigation Measure 16A).** To minimize potential conflicts with existing traffic flow on East Bennett and surrounding roadways, and to minimize conflicts with residential users of Lava Rock Avenue and Slow Poke Lane, soil exporting activities are limited to non-peak traffic hours (9 a.m. to 4 p.m.), Monday through Friday. Soil exporting activities must be completed within 21 days of issuance of the grading permits, unless justifiable unforeseen circumstances occur (i.e. long periods of inclement weather or equipment failure) where an extension to this time frame may be allowed by the Building Department. Grading plans shall include a Note that reflects the restricted duration, hours and days for soil export activities.

Timing: Prior to grading permit issuance/during and after soil exporting activities
Reporting: Grading permit issuance
Responsible Agency: Planning and Building Departments

F. NORTHERN SIERRA AIR QUALITY MANAGEMENT DISTRICT

1. If the project is to include any source of air contaminants, such as a standby generator, spray booth, solvent tank or manufacturing apparatus that causes air pollution emissions, the applicant should contact the NSAQMD regarding the possible need for a permit.

2. **Implement dust control measures (Mitigation Measure 3A).** Prior to the approval of any grading and building permits, to reduce short-term construction impacts, all future development permits shall comply with the following standards to the satisfaction of the NSAQMD, which shall be noted on all grading plans and shall be included in project bidding documents:

1. The applicant shall implement all dust control measures in a timely manner during all phases of project development and construction.
2. All material excavated, stockpiled or graded shall be sufficiently watered, treated or converted to prevent fugitive dust from leaving the property boundaries and causing a public nuisance or a violation of an ambient air standard. Watering should occur at least twice daily, with complete site coverage.
3. All areas (including unpaved roads) with vehicle traffic shall be watered or have dust palliative applied as necessary for regular stabilization of dust emissions.
4. All land clearing, grading, earth moving, or excavation activities on a project shall be suspended as necessary to prevent excessive windblown dust when winds are expected to exceed 20 mph.
5. All on-site vehicle traffic shall be limited to a speed of 15 mph on unpaved roads.
6. All inactive disturbed portions of the development site shall be covered, seeded or watered until a suitable cover is established. Alternatively, the applicant shall be responsible for applying non-toxic soil stabilizers to all inactive construction areas.
7. All material transported off-site shall be either sufficiently watered or securely covered to prevent public nuisance.
8. Paved streets adjacent to the project shall be swept or washed at the end of each day, or as required to remove excessive accumulation of silt and/or mud which may have resulted from activities at the project site.

Timing: Prior to issuance of grading and improvement permits

Reporting: Approval of grading and improvement permits

Responsible Agency: Northern Sierra Air Quality Management District

3. **Use alternative methods to open burning for vegetation disposal (Mitigation Measure 3B).** Open burning of site-cleared vegetation is prohibited. Among suitable alternatives are chipping, grinding, hauling to an approved disposal site, cutting for firewood, and conversion to biomass fuel. This measure shall be included as a note on all grading and improvement plans and shall be included in project bidding documents.

Timing: Prior to issuance of grading and improvement permits and during construction activities

Reporting: Approval of grading and improvement permits

Responsible Agency: Northern Sierra Air Quality Management District

4. **Use grid power during construction (Mitigation Measure 3C).** Pursuant to NSAQMD mitigation for Level A projects, grid power shall be used (as opposed to diesel generators) for job site power needs where feasible during construction. This mitigation shall be included as a note on all grading, improvement, and building permits.

Timing: Prior to issuance of grading, improvement, and building permits

Reporting: Approval of grading, improvement, and building permits
Responsible Agency: Northern Sierra Air Quality Management District

5. **Comply with the Asbestos Airborne Toxic Control Measure (ACTM) for construction (Mitigation Measure 3D).** If serpentine, ultramafic rock, or naturally occurring asbestos is discovered during construction or grading, the NSAQMD shall be notified no later than the following business day and specific requirements contained in Section 93105 of Title 17 of the California Code of Regulations shall be strictly complied with. This measure shall be included as a note on all grading and improvement plans.

Timing: Prior to issuance of the grading and improvement permits and during grading

Reporting: Approval of grading and improvement permits

Responsible Agency: Northern Sierra Air Quality Management District

G. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

1. Pursuant to Section 21089 of the California Public Resource Code and Section 711.4 et. seq. of the California Fish & Game Code, a fee in the amount of \$2,210.25 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; it is not for County purposes.