

1 **NEVADA COUNTY PLANNING COMMISSION**  
2 **NEVADA COUNTY, CALIFORNIA**

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4 **MINUTES** of the meeting of June 24, 2021, 1:30 p.m., Board Chambers, Eric Rood Administration Center,  
5 950 Maidu Avenue, Nevada City, California via remote  
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8 **MEMBERS PRESENT:** Commissioners Duncan, Coleman-Hunt, Greeno, Ingram Spencer, and  
9 Mastrodonato.

10  
11 **MEMBERS ABSENT:** None.

12  
13 **STAFF PRESENT:** Planning Director, Brian Foss; Principal Planner, Tyler Barrington; Deputy County  
14 Counsel, Rhetta VanderPloeg; Senior Planner, Matt Kelley; Senior CDA Technician, Shannon Paulus;  
15 Administrative Assistant, Shelley Romriell.  
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17  
18 **PUBLIC HEARINGS:**

- 19  
20 1. Higgins Fuel Station Page 1, Line 46  
21 PLN20-0087; AAP20-0005; DVP20-1; EIS20-0003  
22

23 **STANDING ORDERS:** Salute to the Flag - Roll Call - Corrections to Agenda.  
24

25 **CALL MEETING TO ORDER:** The meeting was called to order at 1:30 p.m. Roll call was taken.  
26

27 **CHANGES TO AGENDA:** None  
28

29 **PUBLIC COMMENT:** Members of the public shall be allowed to address the Commission on items not  
30 appearing on the agenda which are of interest to the public and are within the subject matter jurisdiction of  
31 the Planning Commission, provided that no action shall be taken unless otherwise authorized by  
32 Subdivision (6) of Section 54954.2 of the Government Code. None  
33

34 **COMMISSION BUSINESS:** None  
35

36 **CONSENT ITEMS:**

- 37 1. Acceptance of 2021-02-25 Planning Commission Hearing Minutes.  
38 2. Acceptance of 2021-03-25 Planning Commission Hearing Minutes.  
39 3. Acceptance of 2021-04-08 Planning Commission Hearing Minutes.  
40

41 **Motion** to approve the Consent Items by Commissioner Ingram Spencer; **second** by Commissioner  
42 Coleman-Hunt. **Motion carried on a voice vote 5/0.**  
43

44 **PUBLIC HEARING:**

45  
46 **PLN20-0087; AAP20-0005; DVP20-1; EIS20-0003:** The project as proposed is a combined application  
47 for a Development Permit (DVP20-1) to construct a proposed Fuel Station with four (4) self-service pump  
48 islands and eight (8) fueling positions adjacent the existing Holiday Market Grocery Store. Development  
49 would consist of the construction of a proposed approximately 4,524-square-foot Fuel Station canopy that  
50 would be approximately 22 feet in height for the Fuel Station and the installation of two (2) underground  
51 fuel storage tanks, consisting of one (1) 15,000-gallon tank for regular unleaded fuel and one (1) 12,000-  
52 gallon tank (split between 6,000 gallons for premium unleaded and 6,000 gallons for diesel). The proposed  
53 Fuel Station would be constructed within an existing approximately 20,000-square-foot area of the project

54 site that has been graded, compacted with gravel and landscaped that is located south of the existing  
55 Holiday Market Grocery Store, which is contained within an existing approximately 50,000-square-foot  
56 building area that was approved for development as part of the Higgins Marketplace. Additional  
57 development of the Fuel Station would consist of the construction of associated signage for the proposed  
58 Fuel Station. The project as proposed also includes a request to amend the previously approved Use Permit,  
59 U04-019 (AAP20-0005), to recognize the reduction in the size of the Holiday Market Grocery Store, from  
60 approximately 50,000 square feet to approximately 30,000 square feet. The Higgins Marketplace project  
61 was originally approved by the Nevada County Board of Supervisors on August 18, 2009 (EIR04-001,  
62 GP04-005, Z04-012, PM04-020, U04-019). **APN: 057-260-024. RECOMMENDED**  
63 **ENVIRONMENTAL DETERMINATION:** Approve an Addendum (EIS20-0003) to the certified Final  
64 Higgins Marketplace Environmental Impact Report (EIR04-001, SCH# 2005022022) pursuant to Section  
65 15164 of the California Environmental Act Guidelines. **RECOMMENDED PROJECT ACTION:**  
66 Approve the Amendment to the Approved Permit (AAP20-0005), and Development Permit (DVP20-1)  
67 **PLANNER:** Matt Kelley, Senior Planner  
68

69 Senior Planner Matt Kelley introduced himself to the Commission and started his presentation. He reviewed  
70 the project site, which contains the newly developed Holiday Market, zoning, project background with  
71 previously approved EIR overview and overall site plan for the Higgins Marketplace. He explained the  
72 project as proposed also included a request to amend the previously approved Use Permit, U04-019  
73 (AAP20-0005), to recognize the reduction in the size of the Holiday Market Grocery Store, from  
74 approximately 50,000 square feet to approximately 30,000 square feet which would provide an existing  
75 approximately 20,000-square-foot area for the fuel station. Planner Kelley continued his presentation  
76 reviewing the site design providing photo's showing the lighting plan, landscaping plan, and signage for  
77 the proposed fuel station. He continued by explaining hazards and hazardous materials in regards to a fuel  
78 station, and operation of a fuel station, which would be required to meet all existing state and federal  
79 regulations for hazardous material dispensing and storage of fuel. Planner Kelley stated circulation and  
80 traffic in regards to public access, coming from Woodridge Drive and Higgins Road, would not be changing  
81 from the previously approved project. The applicant submitted an updated traffic analysis which did not  
82 identify additional mitigation measures for impacts to traffic. Senior Planner Kelley explained the proposed  
83 modified project does meet zoning and general plan policy consistency. He also explained staff concluded  
84 there were no new significant impacts that would occur as a result of the proposed modified project based  
85 on the Addendum to the Certified Final Environmental Impact Report. He reported that during the comment  
86 period of the Addendum to the Certified Final EIR, comments were received from the United Auburn Indian  
87 Community, expressing concerns regarding the language that is in the environmental document in reference  
88 to mitigation measures and treatment of travel, culture and resources. The comments were both analyzed  
89 and reviewed by staff and Senior Planner Kelley explained the mitigation measures that were incorporated  
90 into the modified project, are the same as the original project, which was previously approved. Senior  
91 Planner Kelley concluded his presentation and recommended the Planning Commission to take the  
92 following actions: 1) Approve the Environmental Impact Report (EIR04-001) pursuant to Section 15164 of  
93 the California Environmental Quality Act guidelines making finding A through E. 2) Approve Development  
94 permit (DVP20-1) to allow construction of a proposed Fuel Station pursuant to Nevada County Land Use  
95 and Development Code section L-II 5.6.G and 5.5.2.C making findings A through L. 3) Approve the  
96 Amendment to an Approved Permit (AAP20-0005) pursuant to Nevada County Land Use and Development  
97 Code section L-II 5.6.G and 5.5.2.C making findings A thorough L. He offered to answer any questions  
98 from the Commission.  
99

100 Chair Duncan thanked Planner Kelley for explaining the history of the project and asked if the Commission  
101 had any questions for Staff.  
102

103 Commissioner Ingram Spencer asked with the expanding of the driveway for ingress and egress, if there is  
104 a timing issue with peak hours, in regards to people using the pumps and deliveries to the store as to not  
105 impact the driveways and both Higgins Road and Woodbridge Road.  
106

107 Planner Kelley explained the hours of operation would be the same as the Holiday Market with deliveries  
108 scheduled to be in the early morning or later in the afternoon. He did not anticipate any impact to traffic.  
109 Planner Kelley deferred to the Applicant and Public Works for further questions.

110  
111 Chair Duncan asked for any further questions.

112  
113 Commissioner Coleman-Hunt spoke in regards to the comment letter from the United Auburn Indian  
114 Community and asked Planner Kelley to explain in further detail how this interaction with the tribe was  
115 conducted to address their concerns.

116  
117 Senior Planner Kelley explained that AB52 letters were sent out to all culturally affiliated tribes for  
118 comments. The United Auburn Indian Community's original comments indicated they were all in  
119 agreement with the mitigation measures and conditions as they were previously approved. Planner Kelley  
120 explained that over time the language in the mitigation measures for cultural resources had changed. United  
121 Auburn Indian Community was hoping to include some of that previous language in the mitigation  
122 measures. He further explained that modifying mitigation measures would require a Supplemental EIR.  
123 Planner Kelley advised the Planning Department reached out to United Auburn Indian Community for as  
124 required, and that their mitigation measures were incorporated as much as possible.

125  
126 Commissioner Coleman-Hunt asked if better communication with United Auburn Indian Community  
127 would be addressed on further projects.

128  
129 Principal Planner Tyler Barrington explained the Planning Department was trying to evolve the mitigation  
130 measures appropriately as they become aware of issues. He explained that standard language was used from  
131 the Zoning Ordinance for cultural resource mitigation measures. Principal Planner Barrington further  
132 explained they were working with United Auburn Indian Community in hopes to address concerns prior to  
133 the public review period of the initial study.

134  
135 Commissioner Coleman-Hunt thanked Principal Planner Barrington for his explanation.

136  
137 Chairman Duncan stated United Auburn Indian Community was trying to guide us and we needed to pay  
138 attention to their guidance.

139  
140 Commissioner Mastrodonato asked Senior Planner Kelley to clarify the business operation plan of the fuel  
141 center in regards to the daily operations and who would be monitoring the activity.

142  
143 Senior Planner Kelley explained the hours of operation would be the same hours as the Holiday Market.  
144 He further explained the fuel station would have card readers to purchase fuel at the pumps as well as the  
145 ability to purchase fuel inside the Holiday Market. Planner Kelley said he did not believe there would be  
146 additional staff on-site to monitor each customer.

147  
148 Commissioner Mastrodonato asked if it was standard operating procedure to operate a venue such as a fuel  
149 station without staff on site to monitor incidents and/or emergencies.

150  
151 Planner Kelley advised fuel pumps would be turned off outside of operating hours and there would be  
152 employees working inside the Holiday Market. He also explained that this was allowed and an appropriate  
153 use for this project.

154  
155 Commissioner Mastrodonato thanked Planner Kelley for his explanation.

156  
157 Chair Duncan asked if the project applicant would address the question during their presentation or answer  
158 directly after.

159  
160 Chair Duncan asked if there are any further questions for Senior Planner Kelley.

161  
162 With no further questions for Planner Kelly, Chair Duncan asked if the applicant Russell King would like  
163 to speak.

164  
165 Russell King of King Engineering introduced himself to the Commission as the project civil engineer. He  
166 also introduced Fred Katz, the developer of the Higgins Marketplace project, and North State Grocery  
167 representatives; Richie Morgan and Michel LeClerc. Mr. King thanked Planner Kelley for his thorough  
168 presentation and staff report. Regarding potential conflict of deliveries and customers, Mr. King explained  
169 the shopping center had multiple access points along Woodridge and Higgins Road for customers. He  
170 advised deliveries would be made at the north/north east end of the grocery building, with two access points  
171 for delivery trucks. He clarified where the loading dock was located, which was not generally where  
172 customers would be driving. Mr. King then asked Richie Morgan to speak regarding the operation of the  
173 business.

174  
175 Richie Morgan explained the stacking plan had a crosswalk that led to the trash enclosure. All receiving  
176 occurred from the crosswalk to the north, he didn't anticipate any conflict with vendors and customers. He  
177 continued to explain the business operation of unattended fuel without having employee's at the fuel pump.  
178 Mr. Morgan said they had 3 other stores that have this same operation; Cottonwood, Quincy and Chester.  
179 The fuel pumps would be credit and debit cards only. Customers that choose to pay cash inside the Holiday  
180 Market would receive a barcode receipt that would be readable at the pump. Mr. Morgan continued to  
181 explain Holiday Market staff would be monitoring the fuel station in regards to trash, ensure windshield  
182 washer bins were full, and attend to any customer needs. He also advised, per code, there was an automatic  
183 emergency valve at the station. Mr. Morgan asked if there were any further questions.

184  
185 Commissioner Mastrodonato and Chair Duncan thanked Mr. Morgan for his explanation.

186  
187 Chair Duncan asked if Mr. King had anything to add to his presentation.

188  
189 Mr. King stated he did not, and that he was available to answer any questions.

190  
191 Chair Duncan asked if there are any further questions.

192  
193 Commissioner Coleman-Hunt asked if there were charging stations for this project, if they had been  
194 considered and if not, why. She stated there was a move in California towards to all new electric vehicles  
195 by 2035 according to the Governor's executive order in September. She stated it would be nice for that area  
196 to have charging stations.

197  
198 Mr. King explained charging stations were a new requirement, and that this project was proposed prior to  
199 that requirement having been established therefore, it was not on their radar to include. He advised future  
200 projects would show proposed charging stations just as new residential projects are starting to require solar.  
201 He also explained this project did not propose new parking, so charging stations would not have been a  
202 good opportunity to add them with the fuel station.

203  
204 Commissioner Coleman-Hunt said this would be the third gas station being placed on this corner, and asked  
205 if there was a demand for more carbon fuel stations in the area. She stated she is concerned about continuing  
206 to support the carbon petroleum industry with another gas station and asked if the demand is really growing.

207  
208 Mr. Morgan confirmed there were 2 other fuel stations at that intersection. One being Chevron, which was  
209 a premium gas at a high price point, and the other fuel station was a small station with poor access. He  
210 explained the fuel used at the Higgins Fuel Station was unbranded so the prices were much more  
211 competitive and that this station would have better access. He also stated that customers would also be  
212 shopping at Holiday Market, reducing vehicle trips by making this marketplace a one stop shop.

213  
214

215 Commissioner Coleman-Hunt thanked Mr. Morgan for his explanation.  
216  
217 Chair Duncan asked if there are any further questions. Hearing none, Chair Duncan opened for public  
218 comment.  
219  
220 Chair Duncan opened public comment at 2:19 p.m.  
221  
222 Chair Duncan closed public comment at 2:19 p.m.  
223  
224 Chair Duncan spoke in follow-up to other fuel stations at the intersection. She mentioned the Holiday  
225 Market fuel station offered an alternative to Chevron which was a more expensive fuel and the other lower  
226 cost gas station had poor access and was a small station with traffic issues. The Market place would offer  
227 modern pumps, better convenience, and safe access with better flow of traffic.  
228  
229 Chair Duncan asked for further comments.  
230  
231 Commissioner Mastrodonato asked if there would be a customer loyalty program.  
232  
233 Mr. Morgan advised there was a reward system when shopping at the grocery store and purchasing fuel  
234 which was a points system. He explained that these points could be used to purchase fuel or inside the  
235 grocery store. He advised that customers would need to identify themselves as loyalty customers in order  
236 to receive those points.  
237  
238 **Motion by Commissioner Greeno** to, after reviewing and considering the proposed Addendum to the  
239 Certified Final Higgins Marketplace Environmental Impact Report (EIS20-0003, SCH# 2005022022)  
240 (*Attachment 2*), and Mitigation and Monitoring and Reporting Program (*Attachment 1*) approve the  
241 Addendum to the Certified Final Higgins Marketplace Environmental Impact Report (EIS20-0003, SCH#  
242 2005022022) (*Attachment 2*) to the Certified Final Higgins Marketplace Environmental Impact Report  
243 (EIR04-001, SCH# 2005022022) pursuant to Section 15164 of the California Environmental Quality Act  
244 Guidelines making Findings A through E.: **Second by Commissioner Ingram Spencer. Motion carried**  
245 **on a roll call vote 4/1.** (Commissioner Coleman-Hunt voted no)  
246  
247 **Motion by Commissioner Ingram Spencer** to, approve Development Permit (DVP20-1), to allow the  
248 construction of a proposed Fuel Station with four (4) self-service pump islands and eight (8) fueling  
249 positions adjacent the existing Holiday Market Grocery Store, subject to the Mitigation Measures and  
250 Conditions of Approval shown in Attachment 1, pursuant to Nevada County Land Use and Development  
251 Code Section L-II 5.6.G and 5.5.2.C, making findings A through L: **Second by Commissioner**  
252 **Mastrodonato. Motion carried on a roll call vote 4/1.** (Commissioner Coleman-Hunt voted no)  
253  
254 **Motion by Commissioner Ingram Spencer** to, approve the Amendment to an Approved Permit (AAP20-  
255 0005) to recognize the reduction of the Holiday Market Grocery Store from approximately 50,000 square  
256 feet to approximately 30,000 square feet, subject to the Mitigation Measures and Conditions of Approval  
257 shown in Attachment 1, pursuant to Nevada County Land Use and Development Code Section L-II 5.6.G  
258 and 5.5.2.C, making findings A through L: **Second by Commissioner Greeno. Motion carried on a roll**  
259 **call vote 4/1.** . (Commissioner Coleman-Hunt voted no)  
260  
261 Chair Duncan asked if there were any informational items for the Commission to consider.  
262  
263 Commission Ingram Spencer asked Director Foss to update the Commission on the process on Cannabis  
264 permitting and code compliance.  
265  
266 Principal Planner Barrington advised there was a 10 day appeal process for the actions taken today. Chair  
267 Duncan concurred.  
268

269 Director Foss gave an overview of the application process for Cannabis operations. He stated the Cannabis  
270 Division was part of Code Compliance, which falls under the Building Department. Small commercial  
271 cannabis applications were processed through the Cannabis Division and applications that required an  
272 Administrative Development permit (ADP) were processed through the Planning Department. He further  
273 explained the application must meet the conditions of approval and the standards of the ordinance conducted  
274 through the annual cannabis license review. The inspections were done annually, and if there was anything  
275 out of code, the cannabis license would be revoked until the property was in compliance. He also explained  
276 that neighbors do have the right to appeal to the Board of Supervisors if they were unhappy with the  
277 approval of an operation.

278  
279 Commissioner Ingram Spencer thanked Director Foss for the overview of how the process worked. She  
280 stated she wanted to ensure the public was being responded to in regards to their complaints or concerns.

281  
282 Deputy County Counsel Rhetta VanderPloeg stated the topic of Cannabis compliance cannot have a  
283 question and answer unless it was an item on the agenda.

284  
285 Commissioner Ingram Spencer stated she understood the process and would like a contact person in  
286 Cannabis Division. She and thanked Director Foss for his explanation of the cannabis application process.

287  
288 Chair Duncan asked if Director Foss or the Commissioners had any other items to bring forward to the  
289 Commission. No further items were brought forward.

290  
291 Chair Duncan asked any Commissioners to let the Clerk Romriell know about any future absences.

292  
293 **Motion by Commissioner Coleman-Hunt; second by Commissioner Greeno to adjourn. Motion**  
294 **carried on voice vote 5/0.**

295  
296 There being no further business to come before the Commission, the meeting was adjourned at 2:38 p.m.  
297 to the next meeting is tentatively scheduled for August 12, 2021, in the Board of Supervisors Chambers,  
298 950 Maidu Avenue, Nevada City.

299  
300 \_\_\_\_\_  
301 Passed and accepted this 23 day of September, 2021.

302 Brian Foss (by SR)  
303 Brian Foss, Ex-Officio Secretary

304  
305