

RESOLUTION NO. 26-

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS REVERSING THE DECISION OF THE PLANNING COMMISSION AND APPROVING AND MODIFYING USE PERMIT AND VARIANCE U_2021-0016/V_2021-0005, APPROVING A USE PERMIT TO ESTABLISH AND OPERATE A GAS STATION AND CONVENIENCE STORE, AND APPROVING VARIANCES FOR A REDUCED FRONT YARD SETBACK AND ALLOWABLE SIGN AREA AND DISAPPROVING A VARIANCE FOR A SIXTY-FIVE FOOT TALL BUSINESS IDENTIFICATION SIGN

WHEREAS, the applicant, Faizan Corporation & 898 Main Street LLC, filed an application for a Minor Use Permit and Variance with the Mendocino County Department of Planning and Building Services to establish and operate a gas station with ten (10) gas pumps, two (2) separate illuminated canopies, twenty-eight (28) new parking spaces, landscaping, and convert part of an existing structure to a convenience store, and allow a concurrent Variance for a sixty-five (65) foot tall business identification sign, increased allowable sign area, and reduced front yard setback (the "Project"); located at 9621 & 9601 North State Street, Redwood Valley; APNs 162-100-58 & 162-100-59; and

WHEREAS, pursuant to Public Resources Code Section 21080(b)(5), the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; "CEQA"), an Initial Study and draft Mitigated Negative Declaration (SCH No. 2023110067) was prepared for the Project and noticed and made available for agency and public review on November 2, 2023 in accordance with CEQA and the State and County CEQA Guidelines; and

WHEREAS, the Zoning Administrator referred the Project to the Planning Commission for consideration in accordance with Mendocino County Code (MCC) Section 20.196.010(C); and

WHEREAS, a Mitigated Negative Declaration was prepared for the Project and noticed and made available for agency and public review on November 3, 2023 in accordance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines; and

WHEREAS, the Mitigated Negative Declaration was revised to include additional information which clarified project revisions and correspondence that occurred after the Mitigated Negative Declaration was circulated, but which did not result in the identification of new environmental effects, and where mitigation measure TRA-3 was replaced with an equally effective measure that merely clarified details of Caltrans' encroachment permit process; and

WHEREAS, in accordance with CEQA Guidelines Sections 15073.5 and 15074.1 recirculation of the Mitigated Negative Declaration was not required because the revised mitigation measure is equivalent to the superseded mitigation measure, would not cause any potentially significant effects on the environment, and has been made a condition of approval; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on December 7, 2023, at which time the Planning Commission heard and received relevant testimony and evidence presented orally or in writing regarding the Mitigated Negative Declaration and the Project. All interested persons were given an opportunity to hear and be heard regarding the Mitigated Negative Declaration and the Project, and the Planning Commission continued this matter to January 4, 2024, with direction to staff to prepare an alternative resolution for denial for their consideration; and

WHEREAS, in accordance with the applicable provisions of law, the Planning Commission held the continued public hearing on January 4, 2024, at which time the Planning Commission heard and received all additional relevant testimony and evidence presented orally or in writing

regarding the Project and Mitigated Negative Declaration. All interested persons were given an opportunity to hear and be heard regarding the Project and Mitigated Negative Declaration; and

WHEREAS, the Planning Commission, on January 4, 2024, adopted Resolution No. PC_2024-0001 denying the Project; and

WHEREAS, on January 5, 2024, Brian S. Momsen, on behalf of Faizan Corporation and 898 Main Street LLC, filed an appeal of the decision by the Planning Commission on multiple grounds (the "Appeal"); and

WHEREAS, the Mendocino County Board of Supervisors held a duly noticed public hearing on March 26, 2024, to hear all relevant testimony and evidence presented orally or in writing regarding the Project and Appeal. All interested persons were given an opportunity to hear and be heard regarding the Project and Appeal; and

WHEREAS, on the day prior to the public hearing, the applicant submitted what was referred to as an Addendum to the Transportation Impact Study prepared by the applicant for the project; and

WHEREAS, at the March 26, 2024, hearing, the Board of Supervisors directed the Planning and Building Services Director to work with Supervisor Williams and Supervisor McGourty to document denial based on health, safety, peace, morals, comfort, and general welfare, referencing the Planning Commission action and other correspondence and testimony received, and continued the hearing to May 7, 2024; and

WHEREAS, the Mendocino County Board of Supervisors held the continued public hearing on May 7, 2024, to hear all relevant testimony and evidence presented orally or in writing regarding the Project and Appeal. All interested persons were given an opportunity to hear and be heard regarding the Project and Appeal; and

WHEREAS, on the day prior to the May 7, 2024, public hearing, the applicant submitted what was referred to as a Revised Addendum to the Transportation Impact Study prepared by the applicant for the project; and

WHEREAS, at the May 7, 2024, hearing, the Board of Supervisors directed staff to clarify studies, to ensure that all studies are complete and adequate to enable the Board to make a final decision, and continued the hearing to a date uncertain; and

WHEREAS, since that continuance, staff of the Department have conducted these reviews; have had multiple discussions with Caltrans regarding the potential impact of the Project, the procedures for ~~amending the Freeway Agreement~~implementing transportation-related mitigation measures and conditions of approval, and encroachment permit requirements; have conducted additional research regarding the proposed variance; and have discussed the Project and appeal with a new attorney retained by the appellant; and

WHEREAS, the applicant has agreed to withdraw the Revised Addendum to the Transportation Impact Study and thereby abandon the conclusions and recommendations contained therein, and has agreed to implement the originally recommended transportation-related mitigation measures and conditions of approval~~traffic mitigation measures~~, including the construction of ~~right turn acceleration and deceleration~~ lanes on northbound Highway 101 and the closure of the median at its intersection with North State Street and Uva Drive; and

WHEREAS, the Mendocino County Board of Supervisors held a duly noticed Public Hearing on May 19, 2026, to hear all relevant testimony and evidence presented orally or in writing regarding the Project and Appeal. All interested persons were given an opportunity to hear and be heard regarding the Project and Appeal; and

NOW, THEREFORE, BE IT RESOLVED that on the basis of the whole of the record before it, the Mendocino County Board of Supervisors grants the Appeal and makes the following findings and determinations:

1. The Board of Supervisors hereby reverses the Planning Commission's denial of the Project and findings regarding the Project and modifies and approves the Project, except for the requested sign height variance, which is denied.
2. In modifying, approving, and denying portions of the Project, the Board of Supervisors hereby makes the following findings, adopts a revised project description contained in the attached Exhibit A, and adopts the conditions of approval contained in the attached Exhibit A in support of the approval:

3. Use Permit Findings:

- a. Pursuant to MCC Section 20.196.020(A), *the proposed use is permitted within the applicable zone and complies with all other applicable provisions of this Division and all other titles of the Mendocino County Code, General Plan, and any applicable Specific Plan.* As noted in the General Plan Consistency section of the staff report, the proposed fuel station and convenience store are commercial uses. The Project site is accessed from public roads. As the site has been classified by the General Plan as land appropriate for a variety of commercial uses, the fuel station and convenience store are compatible with the intent of the Commercial land use designation. The commercial use is also supported by General Plan Policy DE-48. Use of the existing commercial structure for a convenience store is supported by Policy DE-95.

The proposed fuel price sign and business identification sign are accessory uses subordinate to the fuel station and convenience store. The fuel price sign is typical of fuel stations and appropriate as an accessory use. According to the submitted plans, the business identification sign would include space for multiple business. This would reduce the need for multiple single-purpose signs for each business in compliance with General Plan Policy DE-87 and DE-88. As accessory uses, the signs are compatible with the intent of the Commercial designation.

- b. Pursuant to MCC Section 20.196.020(B), *the proposed use will not constitute a nuisance or be detrimental to the public health, safety, or general welfare of the persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the county.* The project is not expected to result in a nuisance or otherwise be detrimental within the meaning of this finding. The proposed commercial activities would occur within an existing commercial area. Compliance with recommended conditions of approval and applicable regulatory standards would ensure that potential detriments have been avoided or reduced. For example, the development of an engineered swale in accordance with Department of Transportation regulations would ensure that stormwater is treated, compliance with Underground Storage Tank regulations would mitigate potential gasoline leaks and vapors, and the front yard setback variance would prevent the fuel pumps and canopies from obstructing the easements crossing through the property.
- c. Pursuant to MCC Section 20.196.020(C), *the proposed use complies with any design or development standards applicable to the zone or the use in question, unless waived or modified pursuant to the provisions of this Division.* As noted

in the Zoning Consistency section of the staff report, the proposed uses are either permitted by right in the C-1 district, or upon issuance of a Use Permit. The lots abut property within the C-2 district, an area identified for commercial growth. Mitigation measures, as identified in the Initial Study/Mitigated Negative Declaration, have been included as conditions of approval to reduce the significance of traffic impacts. The opportunity for live/work space is limited under existing conditions. The proposed project would not undermine the integrity of the zoning district because the property is entirely surrounded by properties zoned to the similar C-2 zoning district and would not significantly increase traffic through the closure of the US-101 median and installation of acceleration and deceleration lanes. If carried out in accordance with the conditions of approval, the project would comply with sign regulations, off-street parking requirements, height limit, setbacks, and all other applicable regulations for the use and zone in which the project is located, except for those elements of the project which are granted variances under this Resolution.

- d. Pursuant to MCC Section 20.196.020(D), *adequate utilities, access roads, drainage and other necessary facilities have been or are being provided*. Upon completion of the recommended conditions of approval, the site would be provided with adequate access in compliance with County DOT and Caltrans standards. Conditions of approval require the applicant to (1) construct a commercial driveway approach onto North State Street to provide a transition from the County road to private property, (2) provide a circulation plan showing that truck turn movements of fuel delivery trucks can be made, and (3) provide documentation of access easements from adjacent property to the service station or otherwise show a way to keep all traffic on the fuel station parcel. Additionally, the applicant is required to comply with the conditions of approval related to Caltrans' requirements to close the US-101 median and install acceleration and deceleration lanes on northbound US-101. Conditions of approval also require the applicant to comply with any applicable Environmental Health and Building Division standards for modifications to the existing structure, construction of fueling stations, installation of underground storage tanks, and sign construction. The project is subject to applicable local, state, and federal regulations regarding drainage. Conditions of approval are recommended which would require the applicant to construct a culvert or swale for post-construction drainage to DOT standards.

The Board of Supervisors hereby finds and determines that the construction of the improvements to US-101 required by conditions of approval 31 and 33 are directly attributable to the project and are required for the public health, safety and welfare. The improvements are specifically necessary in order to provide for safer access to and from the project from northbound US-101 and foreclose the possibility of dangerous crossings of US-101 to and from southbound US-101, and the Board of Supervisors has elected to impose these improvements as a condition of approval of the project.

4. Minimum Front Yard Variance Findings:

- a. Pursuant to MCC Section 20.200.020(A), *there are special circumstances applicable to the property involved, including size, shape, topography, location, or surrounding*. As discussed in the Staff Report for V_2015-0001, a 55-foot-wide easement and overlapping 40-foot-wide easement are located on the property. The easements run laterally through the parking area in front of the existing commercial buildings (see *Attachment CC* to the staff report accompanying this resolution). Combined with the required 20-foot front yard, the easements create a constrained area in which additional or replacement

commercial structures may be located, including the proposed fueling stations and canopy. To avoid the easements, any future building construction would have to be located behind the existing commercial buildings, in the parking area in front of the existing buildings, or within the narrow strip of land between the 20-foot setback line and the edge of the easements. Alternatively, without a variance the development potential of the parcel is constrained to a smaller portion of the property than without the easements. If the fueling stations were required to meet the 20-foot setback, the structure would encroach upon the easements. The only other place in which the fueling stations could be located would be the parking area behind the commercial structure, but adequate access is not available to accommodate this. The easements span the width of the property, thereby creating a special circumstance.

- b. Pursuant to MCC Section 20.200.020(B), *such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in the Division*. The easements and commercial structures were in place prior to current ownership of the property. As such, their limiting influence on the proposed development was not due to any action of the applicant. As “Automotive and Equipment-Gasoline Sales” are a permitted use in the C-1 district upon issuance of a Use Permit, it is reasonable for an applicant to seek establishment of this use and associated structures, including fueling stations and a canopy. The buildable space between the front yard setback line and the edge of the easements (approximately 6 feet) would not allow reasonable development of this use.
- c. Pursuant to MCC Section 20.200.020(C), *such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property in question*. The adjacent lots are within a different zoning district (C-2), which only has a Minimum Front Yard of 10 feet. The lot west of the site is subject to the same 55-foot access easement, but other lots in the vicinity do not have the same easement constraints. Although directly adjacent lots are not within the same zone as the subject property, other properties in the vicinity along North State Street are within the C-1 zone, such as APN 162-100-14, 162-140-34, 162-140-35, and 162-140-36. These properties contain sufficient land to build additional commercial structures that meet setback requirements and avoid or are not affected by easements. As discussed in the staff report for V_2015-0001, the circumstances applicable to the subject property are not typical of C-1 lots in Mendocino County when considering the establishment of a fueling station and canopy.
- d. Pursuant to MCC Section 20.200.020(D), *the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located*. Granting of the variance would allow the fueling stations and canopy to be positioned zero (0) feet from the property boundary. The proposed project would include a commercial driveway approach adjacent to the structures. Provided the recommendations from DOT are adopted as conditions of approval, the placement of these structures would not be expected to create a hazard or other materially detrimental impact within the meaning of this finding. The large swale between the property and North State Street right-of-way, including the proposed landscaped frontages along the commercial driveway, would allow a buffer between the edge of the fueling canopies and motorists traveling along North State Street. Additional measures required by DOT, including the circulation plan, engineered swale, commercial driveway approach, and documentation of access to the fueling stations would ensure

that damage to the County road and to vehicles would be mitigated, that large trucks would not obstruct circulation through the property, and that stormwater is conveyed appropriately.

- e. Pursuant to MCC Section 20.200.020(E), *the granting of such variance will not adversely affect the General Plan*. As noted above, the Project is consistent with the intent of the General Plan Commercial designation. This variance is not expected to conflict with applicable General Plan goals and policies as conditions of approval are recommended to account for anticipated impacts.

5. Maximum Sign Area Variance Findings:

- a. Pursuant to MCC Section 20.200.020(A), *there are special circumstances applicable to the property involved, including size, shape, topography, location, or surrounding*. As discussed in the staff report, the topography northwest of the project site, the highway gradient, the high speed of travel along the highway, and the setback between the property boundary and the US 101 corridor creates a special circumstance when considering an increased maximum sign area. The proposed gas station is expected to attract a large share of trips from US 101 motorists. When traveling southbound along US 101, the site is obscured by the highway gradient until about 1,000 feet northwest of the intersection of North State Street/Uva Drive. Though the adjacent properties are similarly obscured by the highway gradient, the gradient does appear to create a special circumstance because other commercial areas along the US 101 corridor, particularly those in the Redwood Valley area further south, are not obscured in this way. Motorists traveling at a higher speed along US 101 may not have time to see or focus on smaller signs, particularly because the North State Street corridor extends the distance between the highway and the site.
- b. Pursuant to MCC Section 20.200.020(B), *such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in the Division*. The topography northwest of the project site, the highway gradient, the highway itself, and the configuration of the subject lots were present prior to the current owner purchasing the property. As such, these circumstances were not caused by any action of the applicant.
- c. Pursuant to MCC Section 20.200.020(C), *such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property in question*. The adjacent APNs 162-100-55 and 162-100-68 contain one (1) commercial business each. APN 162-100-58 contains an existing commercial structure with six (6) leased spaces. If the maximum total sign area were to be interpreted literally per Section 20.184.030(D), the multiple commercial businesses on this lot may be denied the opportunity to construct a sign that could otherwise be constructed if the businesses were on separate lots. In this way, the on-site sign regulations penalize any property with multiple businesses on a single legal parcel. Additionally, other properties south of the site are not obscured by the highway gradient, giving more time for motorists traveling at higher speeds to view signs. Other commercial properties immediately adjacent to the site are not similarly penalized because they contain only one business. The proposed sign would consolidate advertising for multiple businesses within one sign. Therefore, it would be appropriate to allow an increased maximum sign area to preserve the right to construct a sign which

can adequately be seen by US 101 passersby, and which allows multiple businesses on a single lot to have their own advertising space.

- d. Pursuant to MCC Section 20.200.020(D), *the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located.* Granting of a variance for an increased maximum sign area would allow consolidation of multiple business advertisements on a single sign while allowing larger text or graphics that could be more visible from US 101. Such a sign may attract additional traffic to the commercial area. As the sign would be located in an existing commercial area and would not be granted an increase in height, it is not expected to create aesthetic impacts or other detriments to residential areas.
- e. Pursuant to MCC Section 20.200.020(E), *the granting of such variance will not adversely affect the General Plan.* Granting of a variance for an increase maximum sign area is supported by General Plan Policy DE-48 which encourages business expansion and is consistent with Policy DE-87 which states that “*signage should enhance the visual appearance of developments, unify streetscapes, and reduce visual clutter often associated with multiple, single-purpose signs.*”
- f. The applicant originally requested a variance which would allow for a total sign area of approximately 739 square feet where 128 square feet is normally the maximum allowed, which would accommodate the proposed fuel price freestanding sign and multi-tenant shopping center freestanding sign. However, because the substantial property right extends only to the ability of the six (6) leased spaces on APN 162-100-58 and the single business on APN 162-100-59 to construct reasonably sized signs, the maximum sign area allowed by this variance should correspond with the maximum allowable sign area under the assumption that each separate business is its own separate lot. As such, the originally requested variance to 971 square feet is denied and a modified variance allowance is approved as follows: Because the maximum area of freestanding signs is normally sixty-four (64) square feet in accordance with MCC Section 20.184.030(B)(2)(c) and because APN 162-100-59 is in fact a separate lot where the maximum total sign area is one hundred twenty-eight (128) square feet in accordance with MCC Section 20.184.030(D), a reasonable sign area allowance would be 64 multiplied by 6 and added to 128, for a total allowable sign area of five hundred twelve (512) square feet across the two lots.

6. Denial of Sign Height Variance Finding:

- a. Pursuant to MCC Section 20.200.020, before any variance may be granted or modified it shall be shown that the findings contained in MCC Section 20.200.020, subdivision (A) through (E) must be met. The requested Variance to allow a 65-foot-tall freestanding sign does not meet finding (C) because the sign height regulations apply to all zoning districts within the jurisdiction of Mendocino County. Other properties in the same vicinity and zone as the subject property do not possess the right to construct a 65-foot-tall sign. Therefore, a substantial property right is not denied to the subject property. The ability to attract traffic from southbound US 101 is not a substantial property right that is possessed by other property in the vicinity and denied to the subject property. Adjacent properties are also affected by the topography of US 101 and have not been granted sign height variances of their own.

The applicant's letter mentions signs for the Super 8 Motel, Starbucks, Jensen's Truck Stop, and the Coyote Valley Casino (see Street View 4-8 Attachment). As the other signs are located in the Ukiah area, only the Coyote Valley Casino is within the same vicinity as the project site. The Ukiah area has a greater degree of urbanization along US 101. Two of the signs mentioned in the applicant's letter are within the Ukiah city limits (Super 8 & Starbucks). The factors which may determine what height of a sign may constitute a "substantial property right" are fundamentally different in the Ukiah area. A greater amount of commercial land is available along the US 101 corridor in Ukiah, therefore, a greater number of businesses must compete. The geometry of the US 101 corridor may also be a determining factor, including the overpasses present in the Ukiah area. In addition, the Coyote Valley Casino gas station sign does not appear to exceed the twenty-five (25) foot height limit, though that property is not within the jurisdiction of Mendocino County. Therefore, finding (C) cannot be made for an increase in height because a substantial property right has not been denied to the property in question. Because finding (C) cannot be made, the request is inconsistent with Section 20.200.020, and the Variance must be denied.

7. Mitigated Negative Declaration Findings:

- a. Pursuant to Public Resources Code Section 21080(b)(5), the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; "CEQA"), an Initial Study and draft Mitigated Negative Declaration (SCH No. 2023110067) was prepared for the Project and noticed and made available for agency and public review on November 2, 2023 in accordance with CEQA and the State and County CEQA Guidelines.
- b. Pursuant to CEQA Guidelines Section 15073.5 and 15074.1, the Mitigated Negative Declaration was revised to include additional information regarding further discussion and correspondence between the applicant, County staff, and Caltrans regarding transportation impacts, but which did not result in the identification of any new environmental effects or new determinations regarding existing effects. The Mitigated Negative Declaration was also revised to account for project description revisions that were added in response to comments that were not required by CEQA, would not create new environmental effects, and are not necessary to mitigate environmental effects. These revisions included the submittal of a revised site plan which altered the proposed location of fueling canopies by approximately two (2) feet and included additional parking spaces. These changes have no effect on the determinations made within the Mitigated Negative Declaration or the mitigation measures included therein. The Mitigated Negative Declaration was also revised to replace mitigation measure TRA-3 with an equally effective mitigation measure. The existing mitigation measure TRA-3 requires that the median of US-101 be closed in accordance with Caltrans' QMAP encroachment permit process. The revised mitigation measure requires the same freeway improvements but merely explains the QMAP encroachment permit process in more detail. This revised mitigation measure would not cause any potentially significant environmental effects because the required freeway improvement would remain the same as the superseded measure. As such, the Mitigated Negative Declaration was not recirculated.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby adopts the Mitigated Negative Declaration and associated Mitigation Monitoring and Reporting Program and certifies that the Mitigated Negative Declaration has been completed, reviewed, and considered, together

with the comments received during the public review process, in compliance with CEQA and State and County CEQA Guidelines, and finds that the Mitigated Negative Declaration reflects the independent judgment and analysis of the Board of Supervisors; and

BE IT FURTHER RESOLVED that the Clerk of the Board is designated as the custodian of the documents and other materials that constitute the record of the proceedings upon which the Board's decisions herein are based. These documents may be found at the office of the Clerk of the Board of Supervisors, 501 Low Gap Road, Ukiah, California 95482.

The foregoing Resolution introduced by Supervisor _____, seconded by Supervisor _____, and carried this 19th day of May, 2026, by the following vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: DARCIE ANTLE
Clerk of the Board

BERNIE NORVELL, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT
County Counsel

BY: DARCIE ANTLE
Clerk of the Board

Deputy

EXHIBIT A

CONDITIONS OF APPROVAL AND MITIGATION MEASURES

U_2021-0016/V_2021-0005 – FAIZAN CORPORATION & 898 MAIN STREET LLC

MAY 19, 2026

Use Permit and Variance U_2021-0016/V_2021-0005 to establish and operate a gas station with ten (10) gas pumps, two (2) separate illuminated canopies, thirty (30) new parking spaces, landscaping, conversion of part of an existing structure to a convenience store, and concurrent variance for a sixty-five (65) foot tall business identification sign, increase in the allowable sign area, and to reduce the front yard setback.

APPROVED PROJECT DESCRIPTION: Use Permit (U_2021-0016) to establish and operate a gasoline service station and convenience store (“Automotive and Equipment – Gasoline Sales” per Mendocino County Code §20.024.025(D)), comprising ten (10) gas pumps, two (2) separate illuminated canopies, a freestanding fuel price pole sign, thirty (30) new parking spaces, landscaping, conversion of part of an existing structure to a convenience store, underground fuel storage tanks, and a freestanding business identification sign. The project also includes a setback variance to allow a minimum front yard setback of zero (0) feet where twenty (20) is required and a maximum sign area variance to allow a maximum sign area of five hundred twelve (512) square feet where one hundred twenty-eight (128) is required. Freestanding signs would be allowed to exceed sixty-four (64) square feet, but the total sign area shall not exceed five hundred twelve (512) square feet. The request Variance (V_2021-0005) to allow construction of a sixty-five (65) foot tall freestanding sign where a maximum of twenty-five (25) feet is required, is denied.

CONDITIONS OF APPROVAL AND MITIGATION MEASURES (as indicated by “*)”:**

Standard Conditions of Approval:

1. Failure of the permittee to make use of this permit within **two years (~~April 22, 2027~~May 19, 2028)** or failure to comply with the payment of any fees within specified time periods shall result in the automatic expiration of this permit.
2. In the event that use of the facility should cease operation for a period exceeding one year or more, the use shall be deemed invalid, and a new use permit and/or variance will be required for the operation as approved by U_2021-0016/V_2021-0005.
3. The granting of this permit shall be valid for a period of ten (10) years. **This permit shall expire on ~~April 22, 2035~~May 19, 2036.** The applicant has sole responsibility for renewing this permit before the expiration date listed above. The County will not provide a notice prior to the expiration date.
4. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified pursuant to Section 20.196.060 or 20.200.050.
5. The application, along with supplemental exhibits and related material, shall be considered elements of this entitlement and compliance therewith is mandatory, unless a modification has been approved by the governing body.
6. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State, and Federal agencies having jurisdiction.
7. This permit shall be subject to revocation or modification upon a finding of any one (1) or more of the following:
 - a. The permit was obtained or extended by fraud.

- b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare, or safety, or to be a nuisance.
 - d. A final judgement of a court of competent jurisdiction has declared one or more conditions to be void or ineffective or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
8. This permit is issued without a legal determination having been made upon the number, size, or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size, or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
 9. It shall be the responsibility of the applicant to ensure that contractors engaged to perform work on the site are aware of the conditions of this permit and that all work performed is in compliance with applicable conditions.
 10. This entitlement does not become effective or operative and no work shall be commenced under this entitlement under the California Department of Fish and Wildlife filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$3,018.75 or current fee shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services within five (5) days of the end of any appeal period. Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has “no effect” on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has sole responsibility to ensure timely compliance with this condition.**
 11. Prior to final of Building Permits and the commencement of operations, the owner/applicant shall submit a copy of their Mendocino County Business License to Planning & Building Services. This license shall be kept active. In the event that the license is inactive for a period of one (1) year or longer, the use shall be deemed invalid, and a new Use Permit will be required for the operation.

11.5. Pursuant to Government Code section 66020, the owner/applicant is hereby informed that the 90-day approval period in which the owner/applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun. Any protest must be in writing and delivered to the Director of Planning & Building Services.

Parking:

12. Prior to issuance of Building Permits, the owner/applicant shall submit a final parking plan subject to review and approval by the Director of Planning & Building Services or their designee. The plan shall demonstrate conformity with County off-street parking regulations in accordance with Chapter 20.180. In accordance with Section 20.180.015, the total number of parking spaces required for the site is fifty-three (53) The owner/applicant shall provide legal evidence of access to any parking spaces to be counted towards compliance with off-street parking requirements.

Aesthetics:

13. ** Prior to issuance of Building Permits, the owner/applicant shall submit a final signage plan subject to review and approval by the Director of Planning & Building Services or their designee. The plan shall demonstrate conformity with County sign regulations in accordance with Chapter

20.184. Pursuant to Section 20.184.045, this permit authorizes a variance to increase the maximum sign area on the entirety of the lot. Freestanding signs may exceed sixty-four square feet, but the total area of all signs, including fuel price signage, shall not exceed five hundred twelve (512) square feet. The final signage plan shall include a complete, itemized inventory of existing and proposed signage on the property to include scaled and dimensioned architectural drawings of each sign face. No freestanding sign shall exceed twenty-five (25) feet in height.

14. ** All external lighting, whether installed for security, safety, or landscape design purposes, shall be shielded, downcast, or shall be positioned in a manner that will not shine or allow light glare to exceed the boundaries of the parcel on which it is placed.
15. ** No signs shall be allowed within any public right-of-way or public roadway.
16. Prior to the issuance of Building Permits, a landscaping and irrigation plan that meets the requirements specified within the State of California's Model Water Efficient Landscape Ordinance (California Code of Regulations, Title 23, Division 2, Chapter 2.7) shall be submitted to and approved by the Director of Planning & Building Services or their designee if aggregate landscape area is equal to or greater than 500 square feet.

Air Quality:

17. ** The project is subject to all rules of Regulation 3 (Airborne Toxic Control Measures) of the Mendocino County Air Quality Management District (AQMD). Prior to issuance of Building Permits, the owner/applicant shall comply with applicable regulations and acquire any applicable permits from AQMD, including the installation of vapor control equipment for the gasoline dispensing facility. Written verification of compliance from AQMD shall be submitted to Planning & Building Services before the issuance of Building Permits.
18. ** Access roads, driveways, parking areas, and interior circulation routes shall be maintained in such a manner as to ensure minimum dust generation subject to AQMD Rule 430 (Fugitive Dust Emission). All grading must comply with AQMD Rule 430. Any rock material, including natural rock from the property, used for surfacing must comply with AQMD regulations regarding asbestos content.
19. ** Any demolition or renovation of structures may require asbestos clearance and notification to the AQMD. Prior to the issuance of any demolition building permits associated with the project, the owner/applicant shall submit a copy of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) clearance from the AQMD to Planning & Building Services.
20. ** Prior to the issuance of Building Permits, the owner/applicant shall contact the AQMD for a determination as to the need for an Asbestos Dust Mitigation Plan and/or Geologic Survey to comply with CCR Section 93105 and 93106 relating to naturally occurring asbestos. Written verification from AQMD shall be submitted to Planning & Building Services stating that the project is in compliance with State and Local regulations relating to naturally occurring asbestos.
21. In accordance with California Code of Regulations Title 13 Section 2485, except as provided in Section 2485 Subsection (d), any person that owns, operates, or causes to operate any diesel-fueled commercial motor vehicle subject to the requirements of this section shall comply with the following requirements:
 - a. No vehicle subject to this section shall idle for more than five (5) consecutive minutes at any location.
 - b. No diesel-fueled auxiliary power system (APS) subject to this section shall be operated for greater than five (5) minutes at any location within one hundred (100) feet of a restricted area as defined in Section 2485.

Cultural Resources:

22. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant/owner shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery and make notification of the discovery to the Director of Planning & Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

Geology & Soils:

23. ** The owner/applicant shall acknowledge in writing to Planning & Building Services that all grading activities and site preparation, at a minimum, shall adhere to the following "Best Management Practices". The applicant shall submit to Planning & Building Services an acknowledgement of these grading and site preparation standards:
- a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
 - b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
 - c. All concentrated water flows shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
 - d. Temporary erosion and sediment control measures shall be established and maintained until permanent protection is established.
 - e. Erosion control measures shall include, but are not limited to, seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1st.
 - f. All earth-moving activities shall be conducted between May 15th and October 15th of any given calendar year unless wet weather grading protocols are approved by the Department of Planning and Building Services or other agencies having jurisdiction.
 - g. Pursuant to the California Building Code and Mendocino County Building Regulations, a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
 - i. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1524 mm) in height and steeper than 1 unit vertical in 1½ units horizontal (66.7% slope).
 - ii. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards on any one lot and does not obstruct a drainage.

Hazards & Hazardous Materials:

24. Prior to issuance of Building Permits, a Hazardous Materials Management Plan (HMMP) approved by the Environmental Health Division shall be submitted to Planning & Building Services. An HMMP is required if any hazardous material/waste onsite exceeds 55 gallons (liquid), 500 pounds (solids), or 200 cubic feet (gases) in quantity. This plan shall be maintained and complied with for the duration of the project.
25. The owner/applicant shall comply with those recommendations in CAL FIRE Letter 336-21 dated August 31, 2021 or other alternatives acceptable to CAL FIRE. Prior to final of Building Permits, written verification from CAL FIRE shall be submitted by the owner/applicant to Planning & Building Services confirming that conditions have been met to the satisfaction of CAL FIRE.

Transportation/Circulation:

26. Prior to issuance of Building Permits, the owner/applicant shall construct a commercial driveway approach onto North State Street (CR 104), in accordance with Mendocino County Road and Development Standards No. A51B with concrete edges per County Standards A41A and A41B.
27. ** All commercial driveway approaches shall be constructed in accordance with Mendocino County Road and Development Standards. Per Standard A51B, the maximum width for a commercial driveway approach is 30 feet.
28. Prior to issuance of Building Permits, the owner/applicant shall provide a circulation plan including truck turn movements of fuel delivery trucks. Written verification shall be submitted from the Department of Transportation (DOT) to Planning & Building Services that this condition has been met to the satisfaction of DOT.
29. Prior to issuance of Building Permits, the owner/applicant shall provide documentation of access easements from APN 162-100-59 and APN 162-100-55 for access to the service station, or otherwise show a way to keep all traffic on the subject parcel. Written verification shall be submitted from the Department of Transportation (DOT) to Planning & Building Services that this condition has been met to the satisfaction of DOT.
30. ** Prior to issuance of Building Permits, the owner/applicant shall provide DOT with a site plan designed by a licensed civil engineer or hydrologist that provides for a properly designed culvert or swale for the driveway approach and post-construction drainage. Written verification shall be submitted from DOT to Planning & Building Services that this condition has been met to the satisfaction of DOT.
31. ** Prior to issuance of Building Permits, the owner/applicant shall provide a signing and striping plan prepared by a licensed traffic engineer for DOT's review showing the removal of left-turn and through movements from North State Street and Uva Drive onto Highway 101. The plan shall show all proposed signs and markings within Mendocino County Right of Way and Caltrans State Right of Way. The applicant shall provide the necessary signs and striping and pay for their installation by a qualified general contractor per Caltrans specifications. The applicant shall apply for encroachment permits from DOT and Caltrans for all work relating to the installation of any signs and pavement markings in State or County right of way. This encroachment permit will be separate from the encroachment permits relating to the new proposed site entrances. Written verification shall be submitted from DOT to Planning & Building Services that this condition has been met to the satisfaction of DOT.
32. The owner/applicant shall obtain an encroachment permit from the Mendocino County Department of Transportation for any work within the County right of way.
33. ** Prior to issuance of Building Permits, the median of US 101 at the North State Street / Uva Drive intersection shall be closed in accordance with Caltrans recommendations and Mitigation Measure TRA-3. Also, prior to the issuance of Building Permits, acceleration and deceleration lanes shall be installed on US 101 North at North State Street in accordance with Caltrans design standards in accordance with the Transportation Impact Study, Caltrans recommendations, and Mitigation Measure TRA-4. The median closure and acceleration/deceleration lanes shall be designed, approved, constructed, and funded as an oversight project under a Caltrans encroachment permit (QMAP) process. The QMAP process is outlined in the Caltrans' *Project Development Procedures Manual* (PDPM), including Chapter 2 and Chapter 9.
 - a. In accordance with Caltrans' QMAP process, either a Cooperative Agreement or Highway Improvement Agreement will need to be executed. A Cooperative Agreement is a formal contract between Caltrans and the County of Mendocino through which the parties outline their high-level responsibilities regarding an improvement to the State Highway System. A Highway Improvement Agreement is executed directly between Caltrans and a private entity as a last resort. Caltrans has stated that it prefers to work with a local public agency compared to a private entity. However, the County and owner/applicant will request that a Highway Improvement Agreement be executed directly between Caltrans and the

owner/applicant. If a Cooperative Agreement is pursued, it would include reimbursement provisions with Caltrans for staff time required as part of the QMAP and Freeway Agreement process.

- b. In accordance with Caltrans' QMAP process, either a Design Engineering Evaluation Report (DEER) or a Project Study Report – Project Development Support (PSR-PDS) shall be prepared. The DEER process is intended to streamline the project development process. A project must meet certain criteria to qualify for the DEER process. If the project does not qualify for the DEER process, a PSR-PDS shall be prepared. More information about the DEER and PSR-PDS processes can be found in Caltrans PDPM Appendix I and S, respectively.
- c. In accordance with Caltrans' QMAP process, a Quality Management Plan (QMP) shall be prepared. Caltrans must approve the QMP for each project component before construction may begin. More information can be found in Caltrans' *Quality Assurance Program Guide for Design Products* and *QMAP Utilizing DEER Documentation and Cooperative Agreements* documents.
- d. ~~Pursuant to Caltrans, c~~Closure of the US-101 median requires that the existing Freeway Agreement between the County of Mendocino and Caltrans to be amended and fully executed. Caltrans will prepare a Final Freeway Agreement which would be provided to the County of Mendocino. Pursuant to Streets and Highways Code Section 100.22, the County must then hold a public hearing and approve the amended Freeway Agreement. Approval of an amended Freeway Agreement is a discretionary action by both Caltrans and the County. This condition in no way limits the discretion of the County regarding its future action regarding an amended Freeway Agreement for US 101 requires the submission of a Resolution of Change by the Board of Supervisors, to document the change in freeway circulation that will occur as a result of this condition of approval. County staff is directed to bring a Resolution of Change to the Board of Supervisors in the future for its consideration, but this condition of approval in no way limits the discretion of the Board of Supervisors regarding the Resolution of Change.
- e. The owner/applicant shall provide all cooperation and assistance requested by County as part of the QMAP ~~and Freeway Agreement amendment~~ processes and shall enter into an at-cost reimbursement agreement with the County for all County staff and legal counsel time required as part of the QMAP ~~and Freeway Agreement amendment~~ process.

Utilities & Service Systems:

- 34. Project activities shall comply with the submitted Construction Waste Management Plan, including all applicable Best Management Practices (BMPs) identified in the plan.
- 35. Prior to final of Building Permits, the owner/applicant shall contract with a commercial solid waste disposal service to provide disposal services in accordance with Mendocino County Code Title 9A. The owner/applicant shall submit proof of contract to Planning & Building Services.