



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

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MEMORANDUM

DATE: MAY 19, 2026

TO: HONORABLE BOARD OF SUPERVISORS

FROM: LIAM CROWLEY, PLANNER III

SUBJECT: APPEAL OF USE PERMIT AND VARIANCE U_2021-0016/V_2021-0005 (FAIZAN)

(A) BACKGROUND:

In 2015, the current owner applied for a Minor Use Permit to develop a gasoline service station at the same location, including a 3,000 square foot office and convenience store, 6 fueling pumps under a 4,000 square foot fueling canopy, 30,000-gallon underground fuel storage tank, and a parking waiver to reduce the required 37 off-street parking spaces to 30 spaces. The owner also applied for a concurrent Variance to allow a 2-foot front yard setback where 20 feet is required for the fueling canopy. These applications were approved by the Planning Commission in September 2016, but they expired in 2018 without being vested (i.e., work was not commenced prior to expiration).

(B) PROJECT DESCRIPTION:

In 2021, the owner applied for a new Minor Use Permit and Variance to develop a gasoline service station at this location, though the scope of the project was revised to expand the gas station to ten (10) gas pumps under two (2) separate illuminated canopies, twenty-eight (28) new parking spaces, landscaping, and convert part of an existing structure to a convenience store. A concurrent Variance was requested for a sixty-five (65) foot tall business identification sign, to increase the allowable sign area from one hundred twenty-eight (128) square feet to seven hundred thirty-nine (739) square feet, and to reduce the front yard setback from twenty (20) feet to two (2) feet. The proposal also included a fuel price sign adjacent to the fuel station.

(C) PLANNING COMMISSION REVIEW:

(C)(1) First PC Hearing: The Planning Commission held a public hearing on December 7, 2023 to consider the project, including the staff report and Mitigated Negative Declaration (MND) prepared by staff in accordance with the California Environmental Quality Act (CEQA) (see attachments E and F). Staff initially recommended approval of certain elements of the project, denial of other elements, and the adoption of the MND.

(C)(2) Zoning Consistency: The project site is within the Commercial (C) General Plan Land Use Classification and Limited Commercial (C-1) zoning district, which makes the land appropriate for a variety of commercial uses. The proposed fuel station and convenience store were determined to be compatible with the intent of the Commercial classification by staff. The proposed business identification sign and fuel price sign were also determined to be compatible with the Commercial classification because they are considered accessory uses subordinate to the primary fuel station and convenience store uses. Mendocino County Code (MCC) Section 20.088.005 describes the intent of the C-1 district as follows:

This district is intended to create and enhance areas where public facilities and services are available. It is also intended to facilitate a balance between jobs and housing, provide for the possibility of live/work spaces, and provide additional opportunities for affordable housing. A limited number of retail commercial goods and services are desired primarily

to meet day to day needs of local residents and to facilitate livable/walkable communities and live/work opportunities. Typically this district would be applied in conjunction with residential uses and would permit only those uses which do not significantly increase traffic, noise or other impacts.

Staff determined that the project would preserve the integrity of the C-1 zoning district because (1) the proposed uses were either permitted by right in the C-1 zoning district or were permitted upon issuance of a Minor Use Permit (retail food and beverage stores such as convenience stores are permitted by right, while gas stations required a Minor Use Permit), (2) the lots abut property within the C-2 district, an area identified for commercial growth, (3) mitigation measures were included in the recommendation for adoption that would reduce the significance of traffic impacts, and (4) the opportunity for live/work space is limited under existing conditions. Thus, staff recommended approval of the fuel station use and convenience store use.

(C)(3) Front-Yard Setback Variance: Staff also recommended that the Planning Commission approve a variance to allow a front-yard setback of two (2) feet where twenty (20) feet is normally required. This was because two large easements run laterally through the project site. Combined with the twenty (20) foot setback requirement, the easements constrain the buildable area of the project site (see page 16 of attachment E).

(C)(4) Sign Area Variance: Staff also recommended that the Planning Commission approve a variance to allow a maximum sign area of five hundred twelve (512) square feet, instead of the maximum one hundred twenty-eight (128) square feet normally allowed. This was due to the topography of the highway gradient northwest of the project site, high speed of travel along the highway, and the setback between the property boundary and US-101 corridor. Although the site contains six (6) spaces that may be offered for lease, the overall maximum square footage for on-site signs is limited to one hundred twenty-eight (128) square feet. The various commercial businesses on the lot may be denied the opportunity to construct a sign that otherwise could be constructed if the businesses were located on separate lots. The variance would allow the consolidation of multiple signs onto one large business identification sign and reduce visual clutter in accordance with General Plan Policy DE-87.

(C)(5) Sign Height Variance: Finally, staff recommended that the Planning Commission deny a variance to allow a sixty-five (65) foot tall sign where twenty-five (25) feet is normally the maximum permitted. In staff's opinion, the requisite findings for approval of a sign height variance could not be met because the applicant had not established that the sign height variance was *"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."* On-site signs are limited to twenty-five (25) feet regardless of which zone or property they are located. Other properties do not possess the ability to construct sixty-five (65) foot tall signs.

(C)(6) Mitigation Measures: Some of the mitigation measures recommended by staff as conditions of approval included, but were not limited to, a requirement that the applicant submit final signage, landscaping, irrigation, hazard materials management, and circulation plans in compliance with applicable regulations, and the construction of a commercial driveway approach onto North State Street with a culvert or swale (see attachment E).

(C)(7) Transportation Impacts: To evaluate the project's potential transportation impacts and in accordance with Caltrans comments, the applicant submitted a Transportation Impact Study of the project (see attachment A). Based on the Transportation Impact Study and further comments from Caltrans, it was determined that the installation of acceleration/deceleration ("right-turn lanes") and the closure of the median at the North State Street/Uva Drive intersection would be necessary to mitigate potentially significant transportation impacts due to the project (see attachment E). The increased number of trips expected to be induced by the establishment of a fuel station and convenience store could worsen existing unsafe conditions at this intersection, which is adjacent to the project site. Closure of the median would (1) prevent motorists traveling southbound on US-101 from turning left onto North State Street, (2) prevent motorists traveling northbound on US-101 from turning left onto Uva Drive, and (3) prevent motorists from traveling from North State Street across US-101 to Uva Drive, and vice versa. At the Planning Commission, the applicant contested the adoption of the condition requiring the closure of the median, arguing that the cost of such a measure was not proportional to the transportation impacts. Ultimately, the Planning Commission agreed with staff's determination that closure of the median was necessary. However, the Planning Commission determined that the necessary median closure would constitute a

nuisance or be detrimental to public welfare because it would eliminate circulation options, increase the length of trips to and from the vicinity, and place an undue burden on existing businesses in the area by potentially limiting customer traffic. As such, the Planning Commission continued the matter to the January 4, 2024 meeting with direction to staff to prepare an alternative resolution for denial based on these impacts.

(C)(7) Second PC Hearing, Denial, & Appeal: At the January 4, 2024 meeting, staff presented the alternative resolution and the Planning Commission denied the project (see attachment J). On January 5, 2024 the applicant appealed the decision of the Planning Commission on multiple grounds, including (1) that the Planning Commission's decision was not supported by substantial evidence that the project would be a nuisance, (2) that there was no evidence that the project's environmental impacts could not be mitigated to acceptable levels with the conditions of approval proposed by staff, and (3) that the proposed freeway conditions were exactions as defined in the *Dolan v. City of Tigard* decision (see attachment K).

(D) BOARD OF SUPERVISORS REVIEW:

(D)(1) First BOS Hearing: The Board of Supervisors held a noticed public hearing to consider the appeal on March 26, 2024. On the day prior to that hearing, the applicant submitted an "Addendum to the Transportation Impact Study" (see attachment L). This addendum presented new information and conclusions that were intended to supersede the original study, including a conclusion that the originally recommended acceleration/deceleration lanes were no longer necessary. However, the methods and conclusions of the addendum were called into question by the Board. As such, the Board directed Planning & Building Services 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 and other correspondence, and continued the hearing to May 7, 2024 (see attachment P).

(D)(2) Second BOS Hearing: The Board reconvened the public hearing on May 7, 2024. On the day prior to that hearing, the applicant submitted a "Revised Addendum to the Transportation Impact Study" which responded to questions from the Board regarding the methods and conclusions within the addendum and attempted to reinforce the conclusions of the addendum with additional information, including new traffic counts (see attachment R). Due to the lack of time in which the Board had the opportunity to review the Revised Addendum and lack of comment from Caltrans on the Revised Addendum, the Board 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 (see attachment X).

(D)(3) Post-Hearing Discussions: After further informal discussion between staff, the applicant, and Caltrans, it was determined that to accept the results presented in the Revised Addendum, the entirety of the Transportation Impact Study must be revised, including the assumptions originally agreed upon by the traffic engineer and Caltrans. On May 16, 2024, the applicant by email (1) agreed to void or withdraw the previously submitted Revised Addendum to the Transportation Impact Study and (2) agreed to the previously recommended mitigation measures, including the closure of the US-101 median and the installation of acceleration and deceleration lanes (see attachment Y).

On September 27, 2024, Caltrans provided additional comments on the project (see attachment Z). Caltrans reiterated their position that the median of US-101 at North State Street/Uva Drive must be closed and that acceleration/deceleration lanes should be installed if the project is to be approved. Caltrans provided additional information about their Quality Management Assurance Process (QMAP) that would guide the completion of the freeway improvements. Notably, the existing Freeway Agreement between the County and Caltrans for this section of US-101 would need to be revised and formally adopted to facilitate closure of the median. Freeway Agreements document the understanding between Caltrans and local agencies relating to the planned traffic circulation features of a section of freeway. The most recent Freeway Agreement for this section of US-101 was adopted in 1983 (see attachments AA and BB). According to Chapter 24 of Caltrans' Project Development Procedures Manual, Caltrans would prepare a Draft Freeway Agreement which would be routed internally for review. After review, Caltrans would prepare a Final Freeway Agreement that would be sent to Mendocino County. The County would then need to hold a statutorily required public hearing, approve the Freeway Agreement, and send the resolution to Caltrans. Caltrans would then conduct a final review, execute the agreement, and send the final executed agreement back to Mendocino County for filing.

Caltrans also noted that the QMAP requires a contractual agreement and an exchange of funds to reimburse Caltrans for review and oversight of the design, permitting, and construction of the freeway

improvements. These are called Cooperative Agreements. Cooperative Agreements are designed for agreements with other government agencies. According to Caltrans' Encroachment Permits Manual, *"working with a local agency is generally preferable to a private entity. When dealing with a private entity, it is best to have the local public agency represent the private entity and Caltrans will enter into a standard project development agreement with the local public agency."* As such, Caltrans has requested that Mendocino County enter into a QMAP agreement with Caltrans on the applicant's behalf. If a local agency is not willing to represent the private entity, Caltrans may decide to enter into a Highway Improvement Agreement (HIA) instead of a Cooperative Agreement, as a last resort. According to Caltrans' comment letter, the QMAP process normally takes eighteen (18) months to establish a Cooperative Agreement, fund a reimbursement account for staff review time, and assign a project manager to direct the review of the engineered plan set for consistency with State standards. These steps all require subsequent actions by the Board of Supervisors after any approval of the use permit, and an investment of staff time. As such, an at-cost reimbursement agreement for County staff time is recommended as a condition of permit approval. The alternative would mean a significant investment of developer and staff time prior to the discretionary approval of the use permit.

In addition to freeway improvements, further discussion with the applicant in late 2024 revealed that the applicant could not provide evidence of legal access to the rear parking area behind the proposed convenience store. As such, the rear parking area spaces could not be counted toward the total of fifty-three (53) that would be required. In addition, it was found that certain portions of the canopies depicted on the site plan continued to overlap the easements that run through the property. Therefore, the applicant submitted a revised site plan on January 24, 2025 that included the provision of additional parking spaces and moved the location of the proposed fuel canopies completely outside the boundaries of the easements (see attachment CC). As such, the requested front yard setback variance would change from two (2) feet to zero (0) feet. Staff finds that this additional reduction in front yard setback would be permissible as discussed in the Minimum Front Yard Variance Findings section of the attached resolution. The special circumstance applicable to the property (the buildable area constrained by easements) has not changed and is not due to any action of the applicant. Adjacent lots are within a different zoning district (C-2), which has a Minimum Front Yard of ten (10) feet. Adjacent lots are also subject to the easements running through the property, but this constraint is not typical of C-1 zoned lots in Mendocino County when considering the establishment of commercial uses. The recommended mitigation measures and conditions of approval, particularly those recommended by Mendocino County Department of Transportation, would ensure that the reduced setback would not be materially detrimental to public welfare, injurious to property in the vicinity, or adversely affect the General Plan.

(D)(4): CEQA Determination: In accordance with the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration (MND) was prepared for the project. The MND was circulated for public review in 2023. After the MND was circulated, additional correspondence and project revisions occurred, as explained above. As such, the MND was revised to incorporate the information and project revisions. In addition, mitigation measure TRA-3 was replaced with a new mitigation measure that merely added more information about Caltrans' QMAP process. This revised mitigation measure is recommended as condition of approval #33 in the attached resolution. Per CEQA Guidelines Sections 15073.5 and 15074.1, the MND was not recirculated for public review because the revisions were insignificant. A recommended finding has been added to the resolution which explains this in greater detail. A redline version of the revised MND is included as an attachment.

On September 10, 2024, the Board adopted a comprehensive update of the inland Mendocino County Zoning Code. Part of this update eliminated the distinction between "Minor Use Permit" and "Major Use Permit" within the code. As such, this application is now considered only a "Use Permit". Additionally, the update revised the findings that must be made to approve a Use Permit. The recommended findings within the attached resolution reference the updated findings.

In 2025 and early 2026, staff continued discussions with Caltrans regarding the procedures for amending the Freeway Agreement and encroachment permit requirements, conducted additional research regarding the proposed variances, and discussed the project and the appeal with a new attorney retained by the applicant.

After the revisions to the project scope addressing parking and easement concerns and abandonment of the applicant's previous arguments against the inclusion of transportation mitigation measures, staff concludes that traffic impacts can be adequately mitigated using the methods originally recommended to the Planning Commission, including the closure of the median at North State Street/Uva Drive and the

construction of acceleration/deceleration lanes (right-turn lanes). As such, staff recommends that the decision of the Planning Commission be reversed, and the project be approved in accordance with the findings and conditions of approval contained in the attached resolution. However, staff continues to recommend that the portion of the concurrent variance for the sixty-five (65) foot tall sign be denied.

Recommended Action and Alternate Actions:

Given the applicant's willingness to move forward with the project and agreement to construct the improvements required for the mitigation measures related to US 101, the staff recommended action is to: Adopt the 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.

Staff's recommendation is in part based on Condition of Approval Number 33 regarding the closure of the freeway median. This condition explicitly provides that approval of an amended Freeway Agreement is a discretionary action by both Caltrans and the County, and that this condition in no way limits the discretion of the County regarding its future action on an amended Freeway Agreement. However, based on staff's conversation with Caltrans, the Freeway Agreement amendment does typically follow a project approval, and the amendment in this case involves a change to US 101 that was specifically a part of the mitigated negative declaration for this project.

As discussed above, Caltrans says that navigating the QMAP and Freeway Agreement amendment processes takes approximately 18 months, which makes the timing of any approval of the use permit potentially challenging. Approval of the use permit now leaves a future public hearing and action of the Board regarding the QMAP-related agreements and Freeway Agreement. Approval of the use permit later in time, at the time of QMAP-related agreements and the Freeway Agreement, likely requires a significant investment of time and effort by Caltrans, the applicant and the County, including construction design, prior to any actual indication of formal County support for the project. Requiring such an outlay of time and effort for any traffic inducing project at this location could be a significant deterrent to commercial investment. Even if in either scenario Caltrans and the County were compensated for their time through a reimbursement agreement, the staff time spent is still time spent on this project as opposed to others.

Alternative Resolution:

Staff has also included a draft alternative resolution for the Board's consideration, which would deny the appeal and the proposed project. This is based on the prior Board direction regarding this project, which had been to prepare a resolution denying the use permit.

The primary basis for denying the use permit remains the impacts to circulation that would occur as a result of the closure of the median of US 101. Many of the objections raised at prior public hearings on this project appear to be speculative or general in nature, or can be addressed through conditions of approval and mitigation measures. In addition, a conditional use permit regulates land, not individuals, and we recommend against adding conditions of approval or reasons for denial on the nature of the applicant as opposed to the use of the property.

Attachments:

- A. 08-31-23 Transportation Impact Study (TIS)
- B. 12-07-23 Staff Memo to Planning Commission
- C. 12-07-23 Planning Commission Public Comments Combined
- D. 12-07-23 Planning Commission Meeting Minutes
- E. 01-04-24 Planning Commission Notice, Staff Report, & Attachments
- F. 01-04-24 Planning Commission Initial Study / Mitigated Negative Declaration
- G. 01-04-24 Planning Commission Public Comments Combined
- H. 01-04-24 Staff Memo to Planning Commission
- I. 01-04-24 Planning Commission Meeting Minutes
- J. 01-04-24 Planning Commission Resolution
- K. 01-05-24 Planning Appeal Application
- L. 03-25-24 Addendum to TIS
- M. 03-26-24 Staff Memo to Board of Supervisors (BOS)

N. 03-26-24 BOS Draft Denial Resolution
O. 03-26-24 BOS Public Comments (Granicus)
P. 03-26-24 BOS Meeting Minutes
Q. 04-10-24 Letter from Applicant Attorney
R. 05-06-24 Revised Addendum to TIS
S. 05-07-24 Staff Memo to BOS
T. 05-07-24 BOS Resolution for Denial (Redline)
U. 05-07-24 BOS Resolution for Denial (Clean)
V. 05-07-24 BOS Public Comments (Granicus)
W. 05-07-24 BOS Public Comments Combined
X. 05-07-24 BOS Meeting Minutes
Y. 05-16-24 Acceptance Email
Z. 09-27-24 Caltrans Comments
AA. 01-21-25 Existing Freeway Agreement Map
BB. 01-21-25 Existing Freeway Agreement Written
CC. 01-24-25 Revised Site Plan