

**RESOLUTION NO. 26-**

**RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS UPHOLDING THE DECISION OF THE PLANNING COMMISSION TO DENY USE PERMIT AND VARIANCE U\_2021-0016 / V\_2021-0005**

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 Section 20.196.010(C); 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 a continued public hearing on January 4, 2024, at which time the Planning Commission heard and received all 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, CEQA does not apply to projects which a public agency rejects or disapproves, as CEQA Guidelines Section 15270(A) provides that projects which are disapproved are Statutorily Exempt from CEQA; 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 and other correspondence, and continued the hearing to May 7, 2024; and

WHEREAS, the Mendocino County Board of Supervisors held a duly noticed 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 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 to 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, and encroachment permit requirements; have conducted additional research regarding the proposed variance; and have discussed the 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 traffic mitigation, including the construction of right-turn lanes; 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

WHEREAS, the Board of Supervisors renewed their declaration of a local emergency related to climate change on March 24, 2026; and

WHEREAS, on September 23, 2020, Governor Newsom issued Executive Order N-79-204, setting 2035 as the year by which all new vehicles sold in California must be zero-emission.

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

1. The Board of Supervisors hereby affirms the determinations of the Planning Commission.
2. The Board of Supervisors hereby denies the Appeal and affirms the Planning Commission's denial of the Project and findings regarding the Project and making the following additional findings in support of the denial:
  - a. The granting of such Use Permit would constitute a nuisance or be detrimental

to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in or passing through the neighborhood of the proposed use and would be detrimental or injurious to property and improvements in the neighborhood. The projected increased traffic and safety impacts of the proposed Project would require closure of the US 101 median at the intersection of North State Street (CR 104) and Uva Drive (CR 239). Increased traffic due to the Project would increase the number of cars and trucks crossing US 101 at this intersection, increasing the likelihood of additional collisions which given the speeds of traffic on US 101 would likely be severe if not fatal. Closure of the intersection is necessary mitigation to reduce potentially significant transportation safety impacts caused by the project to less than significant levels. This closure would eliminate the current ability of motorists to turn from either County road onto US 101 or turn from US 101 onto either County road. In addition, motorists would be unable to cross US 101 from one County road to the other. If the median were to be closed, motorists traveling along US 101 would be required to use the West Road (CR 237) interchange to access North State Street and in turn the project site and neighboring properties. If the Project were to be approved, the required transportation mitigation would be a detriment to the general welfare of those residing or working in the vicinity because it would limit circulation options and would increase the length of trips made to and from the vicinity and would place an undue burden on the existing businesses in the area by limiting customer traffic. Customer traffic would be limited because motorists would be required to use the West road interchange south of the site to access businesses along North State Street rather than using the North State Street/Uva Drive intersection. There are no alternative mitigation measures that are equivalent or as effective in mitigating or avoiding the potentially significant transportation impacts caused by the Project. Therefore, finding (B) contained in Mendocino County Code Section 20.196.020 cannot be made.

- b. The appeal asserts that the Planning Commission's decision was not supported by substantial evidence. However, in the context of a use permit, the permit applicant bears the burden of demonstrating its entitlement to the use permit. If a permit is granted, the agency's findings must be supported by substantial evidence. If a permit is denied, the agency is determining that the applicant has failed to carry its burden of proof as to its entitlement to the use permit. The determination that a party has failed to carry its burden of proof is not required to be supported by substantial evidence; it is the lack of evidence of sufficient weight and credibility to convince the decision-making body that results in the determination. *Hauser v. Ventura County Bd. of Supervisors* (2018) 20 Cal.App.5th 572, 576. Statements by the public and the Commission reflected concerns that approving the proposed project with all proposed mitigation measures would create a detriment to the general welfare of those residing or working in the vicinity because of the resulting limited circulation options.
- c. The appeal asserts that there was no evidence that the proposed project would interfere with an easement. While there was discussion at the Planning Commission hearing about a private easement that crosses the proposed project site, the Planning Commission did not base its denial of the use permit on this issue. In fact, the Planning Commission's resolution does not mention easement interference.
- d. The appeal asserts that there was no evidence that environmental impacts could not be mitigated to acceptable levels with conditions of approval proposed by staff. However, the Planning Commission Resolution does not

assert that those mitigation measures and conditions of approval originally recommended by staff would not be sufficient to mitigate impacts. Rather, the resolution found that the closure of the US Route 101 median at the North State Street/Uva Drive intersection was necessary mitigation to reduce potentially significant transportation safety impacts. The Planning Commission then determined that the closure of that intersection would be a detriment to the general welfare.

- e. The appeal asserts that the proposed freeway conditions are exactions as defined in the *Dolan v. City of Tigard* decision. However, denial of the project would not require implementation of the freeway conditions. As such, no exaction would occur. In addition, after the 2024 Board of Supervisors hearings on this project, the applicant has indicated its willingness to proceed with the proposed freeway conditions notwithstanding these prior claims.
- f. The proposed project is inconsistent with General Plan Policy DE-220, which requires that development “*shall not hinder the maintenance and use of routes and sites critical to evacuation, emergency operations, and recovery.*” The necessary transportation impact mitigation measures would create impacts to existing evacuation routes. As noted in the 2020 Mendocino County Evacuation Plan, US Route 101 is the primary evacuation route in this area. Currently, residents to the south and west of Uva Drive can access US-101 through either the Uva Drive/North State Street intersection or the West Road interchange. Closure of the median at the Uva Drive/North State Street intersection could prevent evacuees from accessing the northbound US-101 lanes at this intersection. If evacuees must travel north to escape wildfire or other disasters, they would then be limited to using only the West Road Interchange. Similarly, emergency vehicles would have no way of crossing the highway at this intersection due to installation of the cable median barrier, which could hinder evacuation in the case of a disaster.
- g. The applicant sought a front yard setback variance as well as variances from the County’s signage limitations for sign height and size. The requested Variance application is processed concurrently with the Use Permit and have no independent value if the Use Permit is denied. As such, the Variance cannot be approved independently of the Use Permit and is denied.

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

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Deputy