ATTACHMENT V

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Mendocino County

Meeting: Board of Supervisors on 2024-05-07 9:00 AM - Regular Meeting

Meeting Time: May 07, 2024 at 9:00am PDT
12 Comments Comments Open

Agenda Item

4l) Noticed Public Hearing - Discussion and Possible Action to Consider an Appeal of the Planning Commission's Denial of Minor 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, Twenty-Eight (28) 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, Located at 9621 and 9601 North State Street, Redwood Valley, APNs: 162-100-58 and 162-100-59 Which May Include Additional Direction to Staff (Continued from March 26, 2024) (Sponsor: Planning and Building Services)

Agenda Summary Resolution Resolution (Redline) Memo FINAL Memo 2 U_2021-0016 Draft Revised Addendum 05-06-24 Revised Addendum to the TIS for a Gas Station at 9621 North State Street 05-06-24 RE_ Draft Revised Addendum to the Transportation Impact Study for a Gas Station at 9621 North State Street 05-06-24 BOS Faizon Comment 5-7-24 05-06-24 Faizon Traffic Study Comment 5-7-24 05-06-24 BOS Formula Business Comment 5-7-24 05-06-24 BOS Lawsuits Comment 5-7-24

If you are a human, ignore this field
Select a Position: Oppose Neutral Support

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10 Public Comments

-

Susan Sher 9 months ago
Oppose

There is a myriad of reasons why the appeal of the Planning Commission's denial of the use permit for this gas station should be denied. Many commenters who also oppose the project have eloquently weighed in so I will not reiterate those arguments. I will instead, focus on just one aspect.

I served on the now defunct Mendocino County Climate Action Advisory Committee (MCCAAC). This Committee was tasked with "making recommendations to the Board of Supervisors regarding implementation of a Mendocino County Sustainability and Climate Action Program." I was the principal author of the first Climate Emergency Declaration (CED). The CED was unanimously adopted by the Board of Supervisors on July 21, 2020 with just minor modifications. Three of the five supervisors serving at that time continue to serve on the current Board.

While the 2020 CED does not explicitly prohibit the construction of any new gas stations in the County, it contains several provisions that clearly provide that the County will do all within its power to "transition away from fossil fuels" and focus on "enacting policies that dramatically reduce heat-trapping emissions." The CED concludes by resolving that "the Board of Supervisors commits to addressing the climate implications of all policies and actions that come before the Board that have the potential to impact greenhouse gas emissions, carbon sequestration, and disaster preparedness within the County . . ." Surely, implicit in that commitment is to promote clean transportation projects while discouraging the unnecessary and harmful expansion of fossil fuel gas stations.

This past February, the BoS renewed its commitment to restore a safe and stable climate by unanimously approving a new climate emergency resolution. All Supervisors currently serving participated in this vote. The recent Resolution unequivocally provides that "in order to avoid irreversible, catastrophic climate change impacts, the County must focus not only on reducing its emissions but must also take action to enable its residents to prepare for significant ecological and economic impacts due to climate change." Surely, that action does not foresee expansion of fossil fuel gas stations.

Several neighboring juridictions have gone further to reduce greenhouse gas emissions and discourage use of gas-powered vehicles. In the past three years, the County of Sonoma as well as the cities of Santa Rosa, Petaluma, Rohnert Park, Sebastopol, Windsor and Cotati have passed ordinances prohibiting the development of new retail gas stations. These forward-thinking actions serve to reduce reliance on fossil fuels and protect the health of the planet and of residents, rather than fatten the purses of developers.

It is important to point out that the County has more than enough options for the purchase of gas; denying the appeal of the proposed Redwood Valley gas station is not a ban on the sale of gasoline to owners of gas-powered vehicles but rather, imposition of a sensible limit on the unnecessary proliferation of gas stations.

Reversing the decision of the Planning Commission and allowing this gas station to move forward would be in direct contravention of the commitments you made in approving both Climate Emergency Declarations to effectively address the causes of climate change. Please honor these promises to your constituents to do everything in your power to encourage a swift and effective transition away from fossil fuel reliance. I trust you will do the right thing.

Respectfully,
Susan Sher

-

Neil Altimari 9 months ago
Oppose

As a resident, homeowner, and property owner in Redwood Valley I OPPOSE this project. Not only does Redwood Valley not need another gas station, but the Faizon Corporation has a horrible environmental track record. They have said their violations which have amounted to over $500,000 in fines were "housekeeping" things. I urge the board to do more research on this claim, as I have found it to be simply not true. I also think it speaks volumes that when it appeared Faizon would not get their way by having everyone on the board bend to their will, they made threats of selling the property to the tribe and further threatened Supervisor Williams trying to scare him into recusing himself from this matter.

Excuse me, but Supervisor Williams is doing exactly what he was elected to do- speak and make decisions on behalf of the residents of Mendocino County. As an active and involved community member that lives here and works here I can tell you first hand that there is no mass support of this project. In fact it is quite the opposite. If you engage with the community either online, or in person, you will easily find that Redwood Valley residents oppose this project easily by a margin of 100 to 1, if not a 1,000 to 1.

Do the right thing and represent the residents of Redwood Valley and Mendocino County properly by opposing this project. Do not let Faizon's threats bully you into making a decision that should not be made. Faizon's past actions of environmental violations should speak themself on if this corporation can be trusted to be a good steward for the environment. Once the damage is done, the damage is done. There are many past sites of gas stations across the nation that sit vacant to this day because of the environmental damage the stations have caused to the land beneath them, making them unsuitable for any future development. We don't need yet another site.

Did you know that Baker's Creek, a beautiful freshwater tributary to the Russian River is just 700 feet away from this project site? According to the California Department of Fish and Wildlife Stream Inventory Report, Baker's Creek is home to Salmonid fish species Steelhead trout, which is listed as threatened on the federal and state endangered species lists. Ask yourselves if it is wise to approve a project that involves placing a large gas station, whose chief product of sale is petroleum products, a known carcinogen and hazard to fish and wildlife, which is to be operated by a corporation with a known history environmental violations in such close proximity to freshwater tributary that is home to a federal and state listed threatened species.

Thank you for your time and I hope you will do the right thing and make the decision that the local residents want and OPPOSE this project.

-

Peter McNamee 9 months ago

The Mendocino County Board of Supervisors should affirm the determination of the Planning Commission to deny the Faizan Corporation’s Gas Station Project.

The proposed new gas station is a nuisance detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in or passing through the neighborhood of the proposed use and would be detrimental and injurious to property and improvements in the neighborhood.

Further, increased traffic on a high speed highway intersection which was never designed to handle the volume of traffic that would result endangers the safety of the public and emergency response personnel that would respond to inevitable collisions. All traffic studies done to date including those commissioned by Faizan's own experts show that traffic due to the Project would amplify the number of cars and trucks crossing US 101 at this intersection, increasing the likelihood of additional collisions. Given the speed of traffic on US 101, resulting collisions would likely be severe and many would be fatal.

There are no mitigation measures that will avoid the significant adverse transportation impacts caused by the Project. Therefore, the finding contained in Mendocino County Code Section 20.196.020 that might otherwise allow for approval of this project cannot be made.

Further, the draft addendum to the Traffic Study submitted by the applicant the day before the previous public hearing is deficient, inadequate and lacks credibility. The addendum attempts to supplant previous higher volume traffic assessments based upon inadequate traffic study sampling and suspect data. The unsubstantiated addendum study is of a single fueling station located in Ukiah, far from the proposed project site, which is owned by the Applicant and the new study was compiled by a consultant paid by the applicant. During the public hearing, the preparer of the study stated traffic counts were not as firm as they would like them to be and not normal. The seemingly low number of transactions at the Ukiah gas station could be a result of a number of factors which are not comparable to Faizan's proposed project on hwy 101.

As stated by Caltrans in their letter of February 18, 2022, the proposed Project would be the first fueling station motorists see when traveling southbound on US 101 since Laytonville. Common sense and CalTrans assessments demonstrate that a greater share of US 101 travelers would stop at the proposed Project than the applicant contends.

As set forth in the record of numerous previous public hearings and in objective assessments of highly qualified experts, approval of the Project would be detrimental to the health, safety, peace, morals, comfort, and general welfare of the public.

I urge the Mendocino Board of Supervisors to deny Faizan Corporation's appeal of the Planning Commission's decision.

Sincerely,
Peter McNamee
Mendocino County Resident

- Christine Boyd 9 months ago
  Oppose

  Here we go again. The applicant gets yet another chance to move forward on a project local residents actively oppose, but the corporation has deep pockets, enabling to keep at their application while we local residents have to spend our time repeating the same old arguments as to why we DO NOT want the Faizan LLC operating a huge gas station in our jurisdiction. They seem to be focusing on a few things as this moves ahead: 1) They don't want to spend a penny extra to improve the safety of what would be a dangerous development on Highway 101; 2) They'll sue anyone and everyone who opposes them, for whatever spurious reason they can get an attorney to cite; 3) They care nothing about local residents or the

environment; and 4) Paying huge penalties ($500,000) for violating laws and regulations is just the cost of doing business for a Limited Liability Corporation. Please, Honorable Board, call their bluff and deny this project once and for all.

I've sent letters, given testimony, and listened to the arguments. Others have articulated excellent reasons why this project should be denied. But the documents attached to this Agenda item fail to repeat what to me is a critical issue about this project: Faizan LLC cannot be trusted to safely and legally operate a gas station, sited adjacent to the headwaters of the Russian River and its tributaries. Faizan has committed at least 64 documented violations of the Health and Safety Code and the Business and Professional Code, which they had their lawyer state were "only paper violations." Well, all laws are written on paper. The implication is that a "paper violation" doesn't matter. Is the pollution of the Ukiah groundwater, within a few feet of a city well, by gasoline and its bi-products (including carcinogens) matter? The State Water Resources Control Board thinks it does, hence the $500,000 fine. Faizan operates LOTS of gas stations. Isn't it obvious that they have the knowledge of the rules and regulations? They deliberately violated them. This is NOT the sort of company we need operating a gas station. Add this to all the other reasons being cited and we hope you will conclude that this project should not be welcomed into Mendocino County. Thank you.

- Thomas Rawles 9 months ago
  Oppose

  To: Mendocino County Board of Supervisors

  From: Thomas B. Rawles & Family
  9581 North State Street
  Redwood Valley. Ca, 95470

  POSITION: OPPOSE

  Concerns Regarding: Discussion and Possible Action to Consider an Appeal of the Planning Commission's Denial of Minor Use Permit and Variance (U_2021-0016/V_2021-0005)

  As an adjoining property owner, I have stated my concerns regarding this development at the December 7, 2023, January 4, 2024, Planning Commission and the Board of Supervisor meetings. Previously, I have stated that I have a 40-foot easement that runs through the middle of the proposed project. This easement was in place before the current ownership of the Faizon Corporation. Previous property owners deeded the easement on November 16, 1976, when the entrance was changed for safety concerns of the prior access from North State St.(Formerly Hwy. 101).

  The Faizon Corporation has yet to sufficiently address how they will prevent my easement from being blocked, a crucial access point for my home and ranch operations. The easement must always be clear to maintain ranching operations and home deliveries. Additionally, emergency vehicles will need access to my property in the case of an emergency. The easement is a 'non-buildable easement". Putting gas pumps to the west of my easement and a convenience store to the east is passively building a gas station/ convenience store over my family's easement.

  I urge the Mendocino County Board of Supervisors to follow the Planning Commission's decision to deny the Minor Use Permit. Approving the permit would be a nuisance and detrimental to my family's health, safety, peace, morals, comfort, and general welfare since we reside and work in this neighborhood. It would also be detrimental and harmful to my family property and improvements. Granting the variance will create a burden on the family to file a civil lawsuit.

The Planning Commission found that the proposed project's projected increased traffic and safety impacts would require the closure of the US 101 median at the intersection of North State Street and Uva Drive. Regardless of the projections, the station would increase the number of cars and trucks crossing US 101 at this intersection, increasing the likelihood of additional collisions, which, given the traffic speeds 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 another. 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 approved, the required transportation mitigation would be a detriment to the general welfare of my family and my neighbors residing or working in the area because it would limit circulation options and place an undue burden on the existing ranchers and homeowners.

Respectfully,

Thomas (Tom) Rawles
9581 North State St
Redwood Valley CA, 95479
707-391-7577

-

Eileen Mitro 9 months ago
Oppose

Your proposed resolution to deny the Minor Use Permit and Variance for a possible new gas station in Redwood Valley is the right thing to do. All of us in Climate Action Mendocino are opposed to Faizan's proposal. The threats to the health of residents in the area, traffic safety, the enviable peaceful ambience of Redwood Valley and the general welfare of the Redwood Valley residents are truly compelling arguments for denial. We wholly support your Resolution denying the Minor Use Permit and Variance.

-

Charlene McAllister 9 months ago
Oppose

The League of Women Voters of Mendocino County believes that land use planning should be utilized as a means to determine how local communities should change and develop. Additionally, land use decisions should related to and protect the overall quality of the environment. In reviewing the material submitted, and noting that the Planning Commission had previously denied the permit based on environmental concerns the LWV Mendocino County urges the supervisors to deny the above referenced permit.
Charlene McAllister, President, LWV Mendocino County

-

Sheilah Rogers 9 months ago
Oppose

Really? Yet another gas station on a 6-7 mile stretch of road? We already have one in "downtown" Redwood Valley, one at the Casino just off HWY 101 and one at the Forks also just off Hwy 101. Community of Redwood Valley residents are also listening to the caution of Caltrans about safety issues for this location. Please deny this appeal. Sheilah Rogers

Rosemary Eddy 9 months ago
Oppose

Having lived for nearly 27 years in Redwood Valley, my family travels daily in and around the Hwy 101 corridor in our area. Currently, gasoline stations lie within convenient distances of the Talmage exit, each of three Ukiah exits, the Lake Mendocino Dr. exit, and the Redwood Valley exit. There is no need for others positioned along the Hwy 101 corridor between Hopland and Willits.

At the most recent RVMAC, former Mendocino County Sheriff Tom Allman described the Willits grade as a dark and lonely expanse for drivers to traverse, and that the proposed well-lit, ten-pump filling station at the base of the grade in Redwood Valley would mitigate the pain of the long stretch northward. From my home on Uva Dr. (1/2 mile from West Road) to Brown's Corner in Willits is 12 miles, a distance easily traveled by car, even if the sudden illumination of of an automobile's gas light alerts the driver after beginning the ascent to Willits from Redwood Valley. A filling station at the base of the grade will not improve a seismically unstable landscape, nor will it improve visibility along the route. Mr. Allman also reiterated his position that first responders need speedier access to fuel in cases of emergency, necessitating this ill-conceived project at the base of the grade. The Coyote Valley Casino filling station can fulfill the emergency needs of first responders in our area. Locals know how to access currently operated filling stations; travelers from outside of our area have ample options for full and self-service stations in this corridor. Fossil fuels dwindle (and therefore fewer gasoline/diesel-fueled vehicles are on our roads), and e-vehicles will remain in greater demand for the foreseeable future in California. The proposed gas station and convenience store project in northern Redwood Valley is ill-timed, poorly conceived, unnecessary, and does not align with the RVMAC vision for our community. I am vehemently opposed to this project. Please honor the spirit of our community and mindset of its members: do not approve the appeal of the Planning Commission's Denial of Minor Use Permit and Variance (U_2021-0016/V_2021-0005).

Dolly Riley 9 months ago
Oppose

Honorable Supervisors,
A lot of people do not want to see a 10-pump gas station and convenience store built in Redwood Valley for reasons of increased traffic, pollution, bright lights that obscure the night sky, and more alcoholic beverage sales. We do not want a repeat of Faizon Corporation’s failure to label fuel dispensers with the correct octane rating, failure to adequately calibrate gas pump equipment to detect leaks, and failure to comply with hazardous waste laws (Sonoma County DA 1-30-23).
As our Board of Supervisors, you can deny this permit based on the 2016 Formula Business Ordinance, a “community character” measure, based on ridding Redwood Valley of Dollar General. The formula

business policy requires the BOS to consider chain stores, defined as retail and restaurant businesses with 10 or more locations, to allow and consider the public's voice through public hearings, to determine if the proposed business fits the "community character." Faizon Corporation has at least 10 gas stations throughout California, Alameda, Contra Costa, Lake, Marin, Mendocino, and Yolo Counties, with convenience stores and similar marquees and facades. Their website purports to have 700 retail outlets.
The 2016 Formula Business Ordinance establishes special requirements and regulations to retain and enhance special features of community areas, and commercial places, within Mendocino County by (A) enhancing visual attractiveness…restricting standardized features that detract from the distinctive character of the community areas, and (B) Protect diverse commercial activities of each community area and commercial places by encouraging a variety of commercial land uses, that serve the needs of the community…An unneeded gas station with a 512 sq ft sign, bright lights, traffic, and pollution based on Faizon's past record, would detract from the distinctive character of the Redwood Valley community. Unneeded gas stations and convenience stores do not provide a variety of commercial land uses. Increased traffic would thwart sense of community and create opportunity for more crime. Please apply the 2016 Formula Business Ordinance in your decision to deny a permit to Faizon Corporation.
As to Faizon Corporation's March 25, 2024 traffic study, which purports that there is really less traffic than Caltrans has stated in their studies and reports, such a fantasy is not credible as they compared the project to their other gas station, a poor comparison. CalTrans has submitted reports establishing a volume of traffic, and holds that if the service station project goes forward, the center median of Hwy 101 at North State St and Uva Drive will need to be closed and acceleration and deceleration lanes will be required for northbound traffic. The new traffic study issued by West Trans, a company on the Faizon payroll, said that due to the pandemic more people work from home, shop online, and drive economy cars and all of this will decrease traffic, with the intention of Faizon not having to pay for the 101 freeway improvements. These are flawed conclusions. Mendocino County has very few people that work from home based on our service economy. Most people shop online after work. And the fuel economy of cars only justifies increased driving, not the other way around. A new, unneeded, large gas station would ATTRACT more cars to stop (when they could just as easily stop at Lake Mendocino Drive for gas). As in any attraction, if you build it, they will come. Faizon's argument that there will be less traffic than predicted in the CalTrans report is self-serving. Please deny the gas station permit.
Consider Faizon's attorney's threats of lawsuit. They want Supervisor Ted Williams to recuse himself. This is absurd, as he has listened to all of the evidence and testimony in Faizon's appeal of denial of permit on March 26, 2024, and then stated his motion. This is asking a segment of the County, the 5th district, to forego representation. The best thing you can do is to be unified in your denial of this permit. If it is allowed to be permitted, Faizon will not be done. They will of course protest having to pay for a center median on Hwy 101 as required by CalTrans, an argument previewed in their recent traffic study. Should they be allowed to build minus the center median, this would open up the County for wrongful death lawsuit when there is a catastrophic accident.
Even if Faizon Corporation agrees to comply and pay the estimated $2 million for this requirement, which they do not want to pay for, then Redwood Valley citizens still do not want this gas station. The project would decrease local quality of life, and the cutoff of east-west traffic would constrain neighbors' free movement along with slowing firefighting access in times of disaster. This dilemma, your decision, it what it looks like when corporations have more rights and wealth than citizens. The only thing left to do is to do the right thing; deny the permit and go forward.
Consider Faizon's request for variance. Mr. Tom Rawles, a neighbor, has a right-of-way that would be infringed upon and he has not been made whole in this regard should the project go forward. The right of the local public who enjoy the current tenant, Thai Tasty restaurant, would lose this gem to a totally unwanted and unneeded "convenience store."
This project is detrimental to quality of life, as expressed in the County General Plan, which holds weight. Consider the applicant's past record of pollution, the noise, increased traffic, and bright lights. The Planning Commission earlier stated this discretionary minor 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.
This 7-county company has a record of multiple pollution and mislabeling violations, the Mendocino

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County 2016 Formula Business Ordinance does not allow the convenience store, the Redwood Valley Design Guidelines (found on the RVMAC website under Resources) does not allow for it, and the people of Redwood Valley have expressed a resounding NO against the project as unwanted and unneeded. Please uphold the Planning Commission decision to deny the permit based on the detrimental center median that would be required, and the requested variance that steals a neighbor's right-of way.
Sincerely, Dolly Riley

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