



December 21, 2022

Zoning Administrator
County of Mendocino
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Subject: Variance (V_2021-0003) to Allow a Double-Faced Sign to Extend 13 Feet Above the 35 Foot Height Restriction, 210 Norgard Lane, Ukiah; APN: 184-063-11.

Dear Zoning Administrator,

The City of Ukiah requests that this Variance be denied for the reasons contained in this correspondence, or at a minimum elevated to the review of the Mendocino County Planning Commission. The City of Ukiah contends that several of the findings made to support this request are inappropriate. More importantly, the Staff Report and Findings disregard the impact of this Variance to an identified Disadvantaged Unincorporated Community (DUC) known to both the County of Mendocino and the City of Ukiah. The proposed billboard within the Norgard Lane community is a *transaction of decline*. It is an extractive economic land use that adds no value to this neighborhood, which is more than just a grouping of parcels zoned limited-industrial (I-1). Furthermore, the analysis provided to the Zoning Administrator is at odds with clearly stated guidance contained within the Ukiah Valley Area Plan (UVAP), as well as the 2009 General Plan that discourages the proliferation of signs and billboards, and in-fact encourages the reduction of such signage through the amortization process (Policy DE-88).

As understood, this project not consistent with the Mendocino County Sign Regulations Section 20.184.010(D) Height. This code section requires that no portion of an off-premise, freestanding sign or its supporting structures exceed thirty-five (35) feet in height. Because the structure requested is 13 feet taller than the allowed height, a Variance is required.

Please see below for additional considerations, detailed reasoning for denial, as well as questions to County Staff that should be addressed as part of the hearing before the Zoning Administrator.

1. **Notice and Agency Comment:** While not a primary consideration for denial, the City of Ukiah contends that this request was not appropriately noticed per County Code (MCC 20.200.025) or the California Environmental Quality Act (CEQA). Even though the application is in close proximity to the City's jurisdiction, upon review of email and USPS correspondence, no referral was received alerting the City that this request had been scheduled before the Zoning Administrator, either as a referral entity or as an adjacent property owner.

Additionally, site visits conducted by City Staff on December 15, 2022 and December 16, 2022 did not identify any public notice placed on-site. It is recognized that on-site posting is not required, and that failure to receive a required notice shall not invalidate the Variance, but it is discouraging that a greater attempt was not made to notify individuals or agencies that would be affected by the decision, especially given that the subject property is within an identified DUC.

- Can it be confirmed that public notice was provided to all property owners of record within 300 feet?

Within Table 2 (Agency Comments) of the Staff Report, it is indicated that comments were provided by the Airport Land Use Commission, Building Services (Community Development), as well as Caltrans (California Department of Transportation). Unfortunately, these comment letters are not included in the hearing packet for review of the Zoning Administrator. While the comments of the California Department of Transportation receive mention and discussion, those provided by the Airport Land Use Commission and the City of Ukiah are negated. The Staff Report even notes that “...however comments were still received from the city through a subsequent referral to the City.”

- Why are original comments from referral agencies not included in the hearing packet for review by the Zoning Administrator?

It is also unclear if a referral to all agencies was in fact facilitated as there are substantial typographical errors identified in Table 2. For example, the Staff Report identifies the Ukiah Valley Fire Department, which is in fact the Ukiah Valley Fire Authority. Also, the Staff Report cites the Will County Water District, rather than the Willow County Water District. These errors raise questions if adequate notice to referral entities was in fact undertaken.

2. **Site Visit.** The analysis provided in the Staff Report appears detached and disconnected from the actual improvements and context of this neighborhood. The Staff Report does not indicate that County Staff visited the Subject Property before preparing this analysis.

- Was a Site Visit conducted by County Staff to the Subject Property? If so, when?
- Why are recent images of the site not provided, but rather a Google Street View from April 2012?

By including a Google Street View image from 2012, trees along Norgard Lane, as well as other characteristics of the site, are not conveyed appropriately. The City would encourage that a site visit be conducted and more appropriate imagery utilized in this Staff Report to the Zoning Administrator. Otherwise, the analysis provided lacks crucial observations that could help inform the decision of the Zoning Administrator.

3. **CEQA Exemption:** The Staff Report cites CEQA Section 15305, Class 5a for its Environmental Review. The Staff Report states that this determination is for “setback Variances that do not result in the creation of any new parcels.” No analysis is offered to support this cited CEQA exemption, which upon closer examination does not appear sufficient to grant a Variance for a height increase. Upon closer review of CEQA, Section 15305(a) is stated as follows:

“Minor lot line adjustments, side yard, and setback Variances not resulting in the creation of a new parcel.”

The issue of height is not addressed by this categorical exemption. Rather the exemption appears intended to address minor setbacks for improvements. As a whole, Section 15305 appears focused on Lot/Boundary Line Adjustments and similar subdivision activity, not Variances. While other CEQA Categorical Exemptions may be appropriate for this project, the cited exemption does not appear consistent with the requested project, nor is analysis or explanation provided to justify its usage.

4. **Airport Land Use:** While the Staff Report indicates that a “*Determination of No Hazard to Air Navigation*” was obtained from the FAA and that the project complies with Airport Land Use Commission (ALUC) policy (even though it is within an Airspace Critical Protection Zone), it negates to mention that this project was not actually reviewed by the Mendocino County ALUC.

As understood, the ALUC must respond to a Local Agency’s request for a consistency determination within 60 days from the date of referral. Even though a Staff Report was prepared and agendized (ALUC_2022-0001), this request was not evaluated by the Mendocino ALUC. The Staff Report should convey that while scheduled for review on June 16, 2022, it was not actually evaluated, nor provided a consistency determination by vote of the Commissioners.

- As required by UKIALUCP Policy 2.2.7(f), was the County of Mendocino notified of the ALUC’s determination in writing?

Given the importance of the Airspace Critical Protection Zone to the Ukiah Municipal Airport, it is disconcerting that the ALUC was not provided an opportunity to review, evaluate, and approve or deny this request, even though it was agendized for review and discussion, and a hearing undertaken that day. This process and the omission of this fact gives the appearance that a loophole was utilized to avoid discussion before the ALUC given the incompatible nature of the request.

5. **Dark Skies:** As conveyed, the proposed sign will utilize a lighting system that projects upwards toward the sign face on both sides. The Staff Report ignores that the proposed sign would not comply with Dark Sky considerations found in the General Plan, as well as the Ukiah Valley Area Plan, and it offers no analysis, simply statements and conclusions. Furthermore, it does not analyze impact or considerations to the associated neighborhood, even though the Staff Report states: *“While there are other billboards along US 101 with lighting, this will be one of the only billboards with lighting near a residential neighborhood.”*

General Plan Policy RM-134, as well UVAP Policy CD 2.2 discourage inappropriate lighting. CD2.2b states that the *“County will conduct design review of proposed discretionary projects. Outdoor lighting for new projects will not be allowed to cause light trespass and will limit light pollution to the degree feasible.”* This is important, as CD 2.2 is a mitigation measure of the UVAP to ensure that new development, especially projects subject to discretionary review, will not create glare and include lights that will adversely affect nighttime views.

While a photometric plan is provided as part of the hearing packet, no analysis is conveyed to determine if the submitted plan complies with the County’s adopted General Plan and Specific Plans. On its face, it is difficult to understand how a proposed sign utilizing a lighting system that projects upwards complies with the County’s adopted Dark Sky policies.

- Why was the submitted photometric plan not analyzed for conformance with the County’s Dark Sky mitigation measures and policies?

6. **Environmental Justice/DUC:** Today, and throughout much of California and United States history, communities with lower incomes, and higher proportions of minority residents often bear a disproportionately large burden of exposure to environmental hazards and nuisance. These environmental inequities are largely a result of land use policy and zoning regulations (e.g., residential uses located adjacent to industrial uses). The Norgard Lane community exemplifies these transgressions, and the placement of a billboard on this subject property would compound historical errors. The analysis provided in this Staff Report appears to support the request for the Variance, due to the fact the property and adjacent neighborhood are zoned limited industrial (I-1), which is inappropriate given that the area contain no industrial uses, and is comprised of residences, a majority of which feature home-owner exemptions. This is a community that is negatively compounded by freeway and airport noise, flooding, proximity to agricultural activities, and a sub-standard County road. The community was first identified as a DUC by the City of Ukiah as part of their 6th Cycle Housing Element, and was updated as part of the City’s 2040 General Plan.

- If this community were zoned appropriately to reflect its residential uses, would the County support a Variance to construct a billboard?

As the City pursues annexation of properties owned by the City, but under the jurisdiction of the County in 2023, the City will consider and encourage annexation of this DUC per the requirements of SB244.

7. **Findings:** The City of Ukiah contends that Finding D and Finding E supporting this request are inappropriate. Below are the provided Findings and a response from the City of Ukiah.

D) That the granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such a vicinity and zone in which the property is located.

The Variance request will not be detrimental to the public welfare or injurious to the property or improvements as this is an industrial property where off-site billboard signs are a permitted use (MCC section 20.184.010(A)), the additional 13 feet in height will not add additional detrimental effects than would be permitted with just a ministerial building permit and the additional height will not add any injurious elements. The off-site sign is permitted by right on the subject property, should the sign be lowered to the standard 35-foot height limit and move it back away from US 101 so it will be more visible from the freeway, it would only further impact the residential area. The proposed sign location is as far away from the residential area while still utilizing the property right for an off-site sign. Finding (D) can be made

The City of Ukiah disagrees with the assessment provided in Finding D, as the approval of this Variance does not consider the potential nuisance created by increased light-pollution created by the proposed billboard, which was not appropriately analyzed in the Staff Report. As noted on page 6 of the Staff Report, “While there are other billboards along US 101 with lighting, this will be one of the only billboards with lighting near a residential neighborhood.” Again, this billboard was not analyzed for the nuisance created by additional lighting, and being located within a DUC, the provided analysis ignores the compounding inequities accumulated in this neighborhood over the years.

Additionally, the Finding does not consider the financial detriment to nearby residences of the Norgard Lane community, particularly with regard to the potential reduction of property-values created by the construction of a billboard. Per [analysis conducted by Johnathan Snyder](#), homes within 500 feet of a billboard are worth \$30,826 less on average at the time of sale than those properties further away from billboards. The study also found that each additional billboard within a census tract resulted in a decrease in home values of nearly \$1,000.¹ This financial impact should be reviewed by the Zoning Administrator, and analysis

¹ Snyder, J. (2011). Beyond Aesthetics: How Billboards Affect Economic Prosperity. Philadelphia, Pennsylvania: Samuel S. Fels Fund.

provided to demonstrate that this request would not be injurious to properties within the vicinity and zone of this request.

While ministerial, should the proposed sign move closer to Townsend Lane as described in the provided Finding, it remains in a Critical Protection Zone and would be in greater conflict with the general flight patterns of fixed-wing aircraft associated with the Ukiah Municipal Airport. Consequentially, that hypothetical argument is less likely to receive ALUC approval, should it be reviewed.

E) That the granting of such Variance will not adversely affect the General Plan.

The General Plan is relatively silent when it comes to Variances and sign height limitations, the General Plan essentially defers to the Zoning Ordinance to enforce specific policies because of the individual specifics for each property that is subject to its own regulations. As such, adding the additional 13 feet in height to the billboard sign will not adversely affect the General Plan as this property is designated Industrial where off-site billboard signs are a permitted use (MCC section 20.184.010(A)). The additional 13 feet in height will not adversely affect the General Plan. Finding (E) can be made.

General Plan Note: Community character policies - Policy DE-87 "Signage should enhance the visual appearance of developments, unify streetscapes, and reduce visual clutter often associated with multiple, single-purpose signs." and Policy DE-88 "Limit billboards by emphasizing multiple-business and community highway signs, and reduction in existing billboards through amortization provisions." of the General Plan not only disapprove of the construction of new signs, it also promote the reducing of existing signs. While MCC section 20.184.010(A) allows for off-site signs in Industrial Zones, which the subject parcel is in, the policy of the General Plan overall is not in favor of new billboard signs.

However, the sign itself is not subject to this review process, merely the Variance request for the 13-foot height addition to go above the standard height limit for off-site signs.

Contradictorily, once Finding E is made, subsequent analysis of the Staff Report identifies the General Plan policies that refute the argument as to why the Finding can be made. The General Plan is not silent when it comes to billboards, as conveyed in the Staff Report, and it is misleading to state that *the sign itself is not subject to this review process, merely the Variance request for the 13-foot height addition*. The Variance to allow for the increased height is obviously connected to the billboard, and it is disingenuous to disconnect these issues.

While discussed in the Staff Report, the Finding and subsequent "General Plan Note" make no mention of the UVAP, which explicitly discourages billboards, especially in proximity to gateway views, such as those along the U.S. 101. Per the UVAP:

“Gateways are important because they provide a resident or visitor’s “first impression” of the Valley and its various community areas. The major Valley gateways include U.S. 101... Within the Valley, entrances to the various community areas such as the City of Ukiah, Talmage, and Calpella are also considered gateways. Several of the Valley’s gateways present a panorama of orchards, vineyards, trees, mountain sides, and various levels of development. It is important to protect and enhance gateway views which can become cluttered with too many structures and a proliferation of signs and billboards. The community wishes to preserve and enhance the beauty that is an attraction to visitors and source of pride for residents.”

Should the Variance grant the requested 13 feet in additional height, it will allow for a billboard that would adversely affect the County’s 2009 General Plan, which features multiple policies that encourage the amortization of such improvements. Perhaps, most importantly, the supporting statement for Finding E identifies no vision, goal, policy, or action item that actually supports the granting of the Variance. Positive General Plan attributions are absent from the analysis provided, which is concerning as this Finding should strive to connect why deviation from Mendocino County Code is appropriate and can be supported. Finally, the analysis provided in the Staff Report subsequent to Finding E contradicts why the Finding provided can in fact be made.

Again, the City of Ukiah requests that this Variance be denied for the reasons contained in this correspondence, or at a minimum elevated to the review of the Planning Commission. The City of Ukiah contends that several of the findings made to support this request are inappropriate. More importantly, the Staff Report and Findings disregard the impact to an identified DUC known to both the County of Mendocino and the City of Ukiah.

Your attention to these questions and considerations is appreciated. Please feel free to contact me should you have any questions regarding this agency response to V_2021-0003.

Sincerely,



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Cc: Julia Krog (Planning and Building Services, Director); Matt Goines (Planning and Building Services, Planner II); Craig Schlatter (Community Development Department, Director)