



**Agenda Item B.1
PUBLIC HEARING
Meeting Date: April 28, 2008**

TO: Planning Commission Chair and Members

FROM: Steve Chase, Planning and Environmental Services Director

CONTACT: Patricia S. Miller, Manager, Current Planning
Laura Vlk, Associate Planner

SUBJECT: 07-117-GPA, -RZ. -DP RV01: Winchester Union 76 Land Uses and Sale of Alcoholic Beverages Project;
20 Winchester Canyon Road / 7798 Calle Real; APN: 079-121-016

APPLICANT:

Jay Higgins
Brownstein Hyatt Farber Schreck
1020 State St
Santa Barbara, CA 93101

REQUEST:

A hearing on the request of Jay Higgins of Brownstein Hyatt Farber Schreck as agent for Tom Price, property owner to consider the following:

- A General Plan Amendment to change the General Plan land use designation from C-C Community Commercial to C-I Intersection/Highway Commercial;
- A rezone of the subject property from CH Highway Commercial to C-2 Retail Commercial; and
- A development plan revision to remove the portion of the 99-DP-041 project description/conditions of approval that restrict the sale of alcoholic beverages.

The request is also to accept a CEQA exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act Implementation Guidelines (finding of no possibility of significant impact).

Application Filed: June 6, 2007
Application Complete: October 3, 2007
Processing Deadline: 60 days from acceptance of the CEQA Notice of Exemption

JURISDICTION:

Pursuant to State Planning Law, adoption of any amendment to the City's General Plan is the responsibility of the City Council. Final action on any request for a rezone is also the responsibility of the City Council pursuant to Section 35-325 of the City's Inland Zoning Ordinance. Revisions to previously approved Final Development Plans are normally subject to review and action by the Planning Commission. However, pursuant to Section 35-292d, when multiple applications are under the jurisdiction of more than one decision-maker, the decision-maker with the highest jurisdiction is the decision-maker for all of the applications (i.e., the City Council). Therefore, the Planning Commission acts in an advisory capacity on this case, and as such, is charged with the responsibility for making a recommendation on the entire case to the City Council.

PROJECT DESCRIPTION:

The property is 54,784-square feet and development on site consists of a 1,150-square foot, one story structure which accommodates a convenience store with an office, walk-in-cooler, unisex bathroom and approximately 800-square feet of retail space. The property also has four (4) gasoline pumps on the south side of the structure along with associated fueling islands, lights, a canopy over the pumps, and other related equipment, and one diesel pump on the north side of the structure. The site is currently used for Union 76 gasoline station/convenience store functions, and operating hours for the facility are limited to 6:00am to 10:00pm. A total of nine (9) parking spaces are provided on site.

The subject property would be re-designated from C-C Community Commercial to C-I Intersection/Highway Commercial, to make the existing use on the property an allowable use in accordance with Table 2-2 of the General Plan's Land Use Element. The property would also be rezoned from CH Highway Commercial to C-2 Retail Commercial. The purpose of this request is so the property will have zoning regulations that would not restrict the existing convenience store on site from selling alcohol for off-site consumption (the CH zone district has provisions within it that expressly prohibit such sales). A Development Plan revision is also necessary to remove the portion of the 99-DP-041 project description/conditions of approval that restrict the sale of alcoholic beverages on site.

The operating hours of the gasoline station/convenience store would not change as a result of this application (6:00am – 10:00pm) and no additional floor area, physical development, or changes to vehicle access are proposed with this request. However, the applicant does propose to install video surveillance to deter negative activity on site, and if necessary, accommodate future police investigations. Ultimately, approval of alcohol sales will be decided upon by the California Department of Alcoholic Beverage Control (ABC); however, the applicant cannot file an application with them unless local regulations allow for such sales. The applicant intends to file for an application with the ABC to transfer an existing license for the sale of off-site alcohol from a site in the City of Santa Barbara to the subject site.

The property is currently served, and will continue to be served by the Goleta Water District, Goleta West Sanitary District, Southern California Edison, Southern California Gas Company, and Allied Waste Services.

BACKGROUND:

The subject lot was created through the approval of Land Use Rider 57192 (1973) by the County of Santa Barbara. The Land Use Rider is authorized under Section 66499.34 of the California Government Code and allows the issuance of a certificate of compliance for such property upon request of the property owner or a vendee of such person pursuant to a contract of sale.

Permit history for the site does not indicate when the existing convenience store and gasoline station were approved. However, in January of 2002, 99-DP-041 and associated Land Use Permit 01-LUP-00000-00401 were approved/issued for the remodeling of the service building, demolition of the existing canopy, construction of a new canopy, the installation of four (4) gasoline pumps on the south side of the building and one (1) diesel gasoline pump on the north side of the structure, and associated landscaping, lighting and other related equipment. No other structural development has occurred on site since.

SITE INFORMATION:

Location	20 Winchester Canyon Road / 7798 Calle Real (Corner of Calle Real and Winchester Canyon Road)
General Plan Land Use Designation	Community Commercial (C-C)
Ordinance, Zoning District	Article III, CH Highway Commercial
Lot Size	54,784-square feet
Present Development and Use	Union 76 gasoline station and convenience store
Surrounding Zoning/Uses	<i>North:</i> Santa Barbara West Mobile Home Park; MHP Mobile Home Park <i>East:</i> The Timbers Restaurant; C-1 Limited Commercial <i>South:</i> Calle Real / Highway U.S. 101 <i>West:</i> Winchester Canyon Road and Winchester Commons; DR 4.6 Design Residential

ISSUES:

Noise

The Santa Barbara West mobile home park is directly adjacent to the site at the northern property line, and the commercial operations on site have been the cause of noise complaints of the neighbors of the park in the past. However, efforts by the residents, the subject site's property owner and the City in 2005 were successful in resolving the noise issue as indicated by data from the Santa Barbara County Sheriff's Department. This information shows that there were seven (7) noise complaints ("disturbing peace") in 2005, one (1) in 2006, and zero (0) in 2007. Many of these complaints were the result of commercial vehicles fueling with their engines and/or radios on while fueling; however, other complaints also involved disturbances caused by people in the parking lot of the station.

The Santa Barbara County Sheriff's Department has stated that there is a concern that if alcohol sales on site increases vehicular and pedestrian traffic, additional complaints could result. In an attempt to mitigate this potential impact, the applicant has included the installation of video surveillance in the project description as a means to deter negative activity on site, and if necessary, accommodate future police investigations.

Moreover, staff recommends/has included a condition of approval that would require the applicant to submit a plan to the City regarding employee alcohol awareness training programs and policies. The plan would outline a mandatory alcohol awareness training program for all employees having contact with the public and shall state management's policies addressing alcohol consumption and inebriation. The property owner would be required to provide the City with an annual report regarding compliance with this condition.

Public Services

The addition of alcohol sales for off-site consumption could increase vehicular and pedestrian traffic on site, therefore, potentially resulting in the need for additional police services. However, the Santa Barbara County Sheriff's Department has indicated that if additional complaints resulted from this proposal, the hiring of additional staff would not be required.

Traffic

Approving the sale of alcohol for off-site consumption at this property could increase traffic. However, if existing customers who intend to purchase gasoline and convenience store items including alcohol are not able to purchase alcohol on site, they would the, and assumably currently do, make an additional trip into the City to an establishment that is permitted to sell alcohol.

To provide a comparative analysis of a similar proposal, staff has studied the Rancho San Marcos Golf Course Expansion project (Santa Barbara County case no. 90-CUP-104, 03-RVP-00000-00002). This proposal requested an allowance to sell alcohol for on site consumption as the golf course had historically been prohibited from serving alcoholic beverages due to the risk of alcohol-related accidents on Highway 154 (where

the golf course is accessed from). Analysis of the request to allow the serving of alcohol on site included historical data for similar configured roadways. This data did not show evidence to suggest a post-project increase in accident rates on the highway as a result of allowing an alcohol license.

Based upon the aforementioned information, and since no alcohol will be consumed on site, staff has concluded that allowing the sale of alcohol for off-site consumption at the subject property is unlikely to contribute to an increase in alcohol-related accidents on U.S. Highway 101. Additionally, the condition of approval requiring an employee alcohol awareness program would further lessen the possibility of this proposal increasing alcohol related accidents.

ANALYSIS:

Environmental Analysis

The proposed project qualifies for an exemption from the California Environmental Quality Act (CEQA) Guidelines pursuant to the general rule that "CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." (CEQA Implementation Guidelines §15061[b][3]).

The land use re-designation of the property, the rezoning of the property, and the development plan revision would not cause a significant land use/zoning impact, as proposed. The land use re-designation would make the existing use on the property consistent with allowable uses in accordance with Table 2-2 of the General Plan's Land Use Element.

The rezoning of the property would make the existing use on site more consistent with its current use. The purpose and intent of the CH zone district is to provide areas adjacent and accessible to highways or freeways *exclusively* for uses which serve the highway traveler. In 1984, the CH zoning regulations were amended to prohibit the sales of alcohol in this zone district as the Santa Barbara County Planning Commission determined that alcohol is not essential to the highway travelers needs. At that time, there were only 1,709 parcels within 1 mile of the project site, and today, there are 2,821. As a result, it can be presumed that the customer base of the gasoline station/convenience store is no longer *exclusively* highway or freeway travelers, but instead, a split of both highway travelers and local residents.

The development plan revision to delete the restriction on alcohol sales would make the existing development plan for the site (99-DP-041) consistent with the proposed zoning designation, which allows for the sale of alcohol.

There is no possibility that the project would have a significant impact in the following areas: aesthetics, agricultural resources, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality,

mineral resources, parking, population and housing, recreation, and utilities and service systems.

As discussed above, the potential impacts related to noise, public services and traffic would be minimal to none with the continued compliance with 99-DP-041 condition of approval number 15 (requiring tankers to turn off engines/radios while refueling), the proposed installation of video surveillance, and implementation of the employee alcohol awareness program condition of approval. Therefore, the project may be considered exempt from the provisions of the California Environmental Quality Act.

General Plan Consistency

Staff has reviewed the proposed project's consistency with the General Plan, and has found that the project does not conflict with the following applicable policies of the Plan:

Land Use Plan Map and General Policies (LU 1.1; 3.3, Table 2-2, and LU 3.5)

The change of land use designation would make the existing use on site consistent with allowable uses in accordance with Table 2-2. Policy 3.3 describes the intent of the property's existing land use designation, CC Community Commercial, which specifically does not allow auto service (gas) stations. Policy LU 3.5 describes the intent of the C-I Intersection/Highway Commercial land use designation, which allows auto service (gas) stations, and aims to provide for a limited variety of commercial uses of low to moderate intensity located at major roadway intersections.

By re-designating the property to the C-I Intersection/Highway Commercial land use designation, the existing use on site would be an allowable use, and be able to continue to provide gasoline station and convenience store services to highway travelers and the local community at the Winchester Canyon Road/Calle Real/Highway U.S. 101 intersection. Therefore, if the project is approved, it can be found consistent with these applicable land use element policies. Note that if the General Plan Amendment is not approved, the use on the property will be considered legal, non-conforming, which was not the intent of the City.

Noise Element (Policy NE 1.1, Table 9-2, and Policy NE 5.5)

Policy NE 1.1 and Table 9-2 provide criteria to establish compatibility of land use and noise exposure. As stated above, potential noise impacts would be minimal to none with continued compliance with 99-DP-041 condition of approval number 15 (requiring tankers to turn off their engines and/or radios while fueling), the proposed installation of video surveillance, and implementation of the employee alcohol awareness program condition of approval.

As a result, the proposed use can be found to be consistent with the adopted General Plan.

Zoning Ordinance Consistency

Rezone

The CH zoning designation of the subject property was appropriate in 1984 and prior to then, when there were only 1,709 developed, residential parcels within a one mile radius of the property; hence, the convenience store mainly served highway travelers. Today, there are 2,821 developed, residential parcels within a one mile radius of the property (new development includes the Santa Barbara West mobile home park and Winchester Commons), thereby, the property presumably not only serves highway travelers, but also the local community.

Furthermore, a comparative analysis performed by staff shows that other similarly located (near the freeway and residential areas) are permitted to sell alcohol per applicable zoning regulations. In summary, the analysis shows that there are eight (8) gasoline stations within ¼ mile of the U.S. Highway 101 in the City of Goleta (inclusive of the subject property). Of these stations, all but the subject station are within a zoning designation that allows the sale of alcohol. Four (4) of these stations are adjacent to an U.S. Highway 101 on/off-ramp; 1) The Glen Annie Mobil, 2) the Fairview and Calle Real Shell, 3) the Fairview and Calle Real Union 76, and 4) the Fairview and Calle Real Exxon. Of these four (4) stations, the Glen Annie Mobil and the Fairview and Calle Real Exxon have residential properties within 500-feet. The nearest residential property from the Glen Annie Mobil is approximately 230-feet away, and the closest residential property to the Fairview and Calle Real Exxon is approximately 380-feet away. The subject property is directly adjacent to the Santa Barbara West mobile home park.

Based upon this data, Staff is able to conclude that the proposed rezone would provide consistency as it relates to the zoning designation of gasoline stations within the City.

Applicable Zone District Development Standards

No new physical development to the property is proposed as part of this project. The existing development was deemed in conformance with the CH zone district regulations of the Inland Zoning Ordinance with the approval/issuance of 99-DP-041 and associated Land Use Permit 01-LUP-00000-00401. The existing development on site would conform to the C-2 zone district regulations.

The proposed amount of parking spaces (9) are in excess of the amount required by the City's parking regulations (2 per the Inland Zoning Ordinance §35-258{5}), and conform to the amount required by 99-DP-049. No additional parking impact is anticipated with the subject proposal.

The site's Development Plan/landscape plan provided for 7.5% landscaping on site (only 5% is required in the CH zone district). The C-2 zone district, however, only requires that landscaping on site be in conformance with an approved Development Plan/landscape plan. In order for the applicant to conform to the property's approved Development Plan/landscape plan, they will need to re-install all landscaping that was approved on the landscape plan, and does not exist today.

Goleta Growth Management Ordinance (GGMO)

The proposed project would not result in new gross square footage and is therefore not subject to Ordinance 03-04, the Goleta Growth Management Ordinance.

RECOMMENDATION:

The Planning Commission's action should include the following:

1. Adopt Planning Commission Resolution 08-___ (Attachment 1), thereby recommending to the City Council approval of Case No. 07-117-GPA, -RZ, -DP RV01.

Refer back to staff for appropriate findings and conditions, if the Planning Commission takes other than the recommended action.

APPEALS PROCEDURE:

The Planning Commission's action on the various related requests is advisory to the City Council and will automatically be forwarded to the City Council. No appeal would be necessary in order for the City Council to hear this matter.

Submitted By:

Approved By:

Laura Vlk
Associate Planner

Patricia S. Miller
Planning Commission Secretary

ATTACHMENTS:

1. Planning Commission Resolution 08-___
2. CEQA Notice of Exemption
3. Project Plans dated June 6, 2007 (11" x 17")

ATTACHMENT 1

Planning Commission Resolution 08-__

**PLANNING COMMISSION
RESOLUTION NO. 08-__**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GOLETA
RECOMMENDING TO THE CITY COUNCIL APPROVAL OF VARIOUS ACTIONS
RELATED TO THE WINCHESTER UNION 76 LAND USES
AND SALE OF ALCOHOLIC BEVERAGES PROJECT,
CASE NO. 07-117-GPA, -RZ, -DP RV01 AT 20 WINCHESTER CANYON / 7798
CALLE REAL; ASSESSOR PARCEL NUMBER 073-020-025**

WHEREAS, an application was submitted on June 6, 2007 by Jay Higgins of Brownstein Hyatt Farber Schreck as agent for Tom Price, property owner, requesting approval of a General Plan Amendment, Rezone, and Development Plan Revision; and

WHEREAS, the application was found complete for processing on October 3, 2007; and

WHEREAS, the application is for a General Plan Amendment to change the land use designation of the subject property from CC Community Commercial to C-I Intersection/Highway Commercial, a rezone of the subject property from CH Highway Commercial to C-2 Retail Commercial, and a development plan revision to delete the portion of the project description/conditions of approval of 99-DP-041 that prohibit alcohol sales on site; and

WHEREAS, the procedures for processing the project application have been followed as required by state and local laws; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the project application on April 28, 2008, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission has considered the entire administrative record, including application materials, staff report, the CEQA exemption, and oral and written testimony from interested persons; and

WHEREAS, the Planning Commission finds that approval of Case No. 07-117-GPA; RZ; DP RV01 would be consistent with the City's General Plan, the provisions of Article III, Chapter 35 of the Goleta Municipal Code (the Inland Zoning Ordinance); and the ability to make the required findings, including findings pursuant to the California Environmental Quality Act (CEQA).

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF GOLETA AS FOLLOWS:

Section 1. Recommendation for Acceptance of the CEQA Exemption

The Planning Commission hereby recommends that the City Council adopt the CEQA findings set forth in Exhibit 1 to this resolution, pursuant to Section 15061(b)(3) of the State Guidelines for Implementation of the California Environmental Quality Act.

Section 2. Recommendation for the General Plan Amendment.

The Planning Commission hereby recommends that the City Council adopt the findings set forth in Exhibit 1 of this resolution pursuant to Section 65358 of the Government Code for an amendment to the General Plan Land Use Plan Map (Figure 2-1) to change the land use designation of the subject property from CC Community Commercial to C-I Intersection/Highway Commercial as requested by the applicant to make the property consistent with the existing use on site.

Section 3. Recommendation for Rezoning.

The Planning Commission hereby recommends that the City Council adopt the findings for a rezoning of the property, set forth in Exhibit 1 to this resolution, pursuant to Section 35-325 of Chapter 35, Article III, the Inland Zoning Ordinance, of the Goleta Municipal Code.

Section 4. Recommendation for the Development Plan Revision.

The Planning Commission hereby recommends that the City Council adopt the findings set forth in Exhibit 1 of this resolution pursuant to Section 35-317 of Chapter 35, Article III, the Inland Zoning Ordinance, of the Goleta Municipal Code

Section 5. Documents. The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the City Clerk, City of Goleta, 130 Cremona Drive, Suite B, Goleta, California, 93117.

Section 6. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2008.

KENNETH KNIGHT, CHAIR

ATTEST:

APPROVED AS TO FORM:

DEBORAH CONSTANTINO
CITY CLERK

JULIE HAYWARD BIGGS
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA)
CITY OF GOLETA) ss.

I, DEBORAH CONSTANTINO, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Planning Commission Resolution No. 08-__ was duly adopted by the Planning Commission of the City of Goleta at a regular meeting held on the 28th day of April, 2008, by the following vote of the Commission members:

AYES:

NOES:

ABSENT:

(SEAL)

DEBORAH CONSTANTINO
CITY CLERK

**EXHIBIT 1
FINDINGS
WINCHSTER UNION 76 LAND USES AND SALE OF
ALCOHOLIC BEVERAGES PROJECT
20 WINCHESTER CANYON ROAD / 7798 CALLE REAL, APN: 079-121-016
CASE NO. 07-117-GPA, -RZ, -DP RV01**

1.0 CEQA Findings

As discussed in the staff report, the proposed project qualifies for an Exemption from the California Environmental Quality Act (CEQA) Guidelines pursuant to the general rule that “CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” (CEQA Implementation Guidelines §15061[b][3]).

ADMINISTRATIVE FINDINGS

2.0 General Plan Amendment: Government Code Section 65358 requires that any adopted general plan amendment must be in the public interest.

The proposed amendment to the land use plan map would provide the property with a more appropriate land use designation for the existing use on site. Staff believes that it was not intended to designate this property within a land use designation that specifically prohibits a gasoline station use upon creation of the General Plan. Therefore, this amendment would be in the public interest in that intended uses for the property will be allowed on the property now and in the future.

3.0 Rezone: Pursuant to City of Goleta Municipal Code, Article III, Section 35-325.5, a Rezone shall be approved only if all of the following findings can be made:

3.1 The request is in the interest of the general community welfare.

The rezoning of the property would make the existing use on site more consistent with its current use. The purpose and intent of the CH zone district is to provide areas adjacent and accessible to highways or freeways *exclusively* for uses which serve the highway traveler. In 1984, the CH zoning regulations were amended to prohibit the sales of alcohol in this zone district as the Santa Barbara County Planning Commission determined that alcohol is not essential to the highway travelers needs. At this time, there were only 1,709 parcels within 1 mile of the project site, and today, there are 2,821. As a result, it can be presumed that the customer base of the gasoline station/convenience store is no longer

exclusively highway or freeway travelers, but instead, a split of both highway travelers and local residents.

Moreover, as discussed in the staff report, if existing customers who intend to purchase gasoline and convenience store items including alcohol are not able to purchase alcohol on site, they would the, and assumably currently do, make an additional trip into the City to an establishment that is permitted to sell alcohol. By allowing the sales of alcohol for off-site consumption at this property, there is the potential for less vehicle trips into the City from both highway travelers and nearby residents.

As a result of providing a zoning district consistent with the approved and the City's intended use of the site, and by potentially reducing trips into the City, this proposal is found to be in the interest of the general community welfare.

3.2 The request is consistent with the General Plan, the requirements of State planning and zoning laws, and this Article.

The request for a Rezone will be consistent with the General Plan if the General Plan Amendment is approved as specified in the Planning Commission staff report. The proposal is consistent with the requirements of State planning and zoning laws, and Article III, Chapter 35 of the Goleta Municipal Code.

3.3 The request is consistent with good zoning and planning practices.

The proposed zoning designation of C-2 (Retail Commercial) will be consistent with the property's existing use serving both highway travelers and the local community. The rezone would allow the existing convenience store on site to provide its customer base with an expanded selection of merchandise, which may in turn, prevent excess trips into the City for such products.

4.0 Final Development Plan: Pursuant to Sections 35-233, 35-233A, and 35-317, of Article III, Chapter 35, of the Goleta Municipal Code (Inland Zoning Ordinance), a Preliminary or Final Development Plan shall be approved only if all of the following findings can be made:

4.1 That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the density and intensity of development proposed.

No development is proposed with this application. The existing development on site would be consistent with the C-2 Retail Commercial

zoning regulations related to size, shape, location, and physical characteristics.

4.2 *That adverse impacts are mitigated to the maximum extent feasible.*

As discussed in the staff report, the potential impacts related to noise, public services and traffic would be minimal to none with the continued conformance with condition number 15 (requiring tankers to turn off their engines and/or radios while fueling), of 99-DP-041, the proposed installation of video surveillance, and implementation of the employee alcohol awareness program condition of approval.

4.3 *That streets and highways are adequate and properly designed.*

All existing streets and highways serving the proposed project are adequate and properly designed.

4.4 *That there are adequate public services, including but not limited to, fire protection, water supply, sewage disposal, and police protection to serve the project.*

The proposed project is currently served by, and will continue to be served, by the Santa Barbara County Fire Department, the Goleta Water District, the Goleta West Sanitary District, Southern California Gas Company, Southern California Edison, and the Santa Barbara County Sheriff's Department.

4.5 *That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding areas.*

The proposal would serve both highway travelers from the adjacent U.S. Highway 101 as well as the local community in adjacent/near by residential areas. As discussed in the staff report, the potential impacts related to noise, public services and traffic would be minimal to none with the continued conformance with condition number 15 (requiring tankers to turn off their engines and/or radios while fueling), of 99-DP-041, the proposed installation of video surveillance, and implementation of the employee alcohol awareness program condition of approval. Therefore, the project is found to be in conformance with this finding.

4.6 *That the project is in conformance with 1) the General Plan and 2) the applicable provisions of this Article.*

If the proposed General Plan Amendment to re-designate the subject property from CC Community Commercial to C-I Intersection/Highway

Commercial is approved, this proposal will be in conformance with the City's General Plan. The existing development on site is consistent with the provisions of the existing zoning regulations applicable to the property (CH Highway Commercial) as well as with the proposed zoning regulations (C-2 Retail Commercial). The proposed revision to 99-DP-041 would provide consistency between the zoning ordinance and the property's Development Plan.

- 4.7 *That in designated rural areas the use is compatible with and subordinate to the scenic and rural character of the area.*

The project is not located in a designated rural area.

- 4.8 *That the project will not conflict with any easements required for public access through, or public use of a portion of the property.*

The project will not conflict with any easements required for public access through, or public use of a portion of the property as no new structural development is proposed.

- 4.9 *Such plan is in substantial conformity with any approved Preliminary or Revised Preliminary Development Plan.*

The proposal has been found to be in conformance with the approved Preliminary Development Plan for the site with the exception of the required landscaping. The applicant will be required to bring the property into conformance with the approved landscape plan for the site.

**EXHIBIT 2
CONDITIONS OF APPROVAL
WINCHESTER UNION 76 LAND USES AND SALE OF
ALCOHOLIC BEVERAGES PROJECT
20 WINCHESTER CANYON ROAD / 7798 CALLE REAL; APN: 079-121-016
CASE NO. 07-117-GPA, -RZ, -DP RV01**

1. AUTHORIZATION

Subject to the conditions set forth below, this permit authorizes implementation of Case No. 07-117-GPA, -RZ, -DP RV01. Any deviations from the project description in the staff report, exhibits, or conditions must be reviewed and approved by the City of Goleta for conformity with this approval. Deviations may require changes to the permit to be approved and/or further environmental review. Deviations without the above-described approval will constitute a violation of the permit approval.

2. AUTHORIZED DEVELOPMENT

The property is 54,784-square feet and development on site consists of a 1,150-square foot, one story structure which accommodates a convenience store with an office, walk-in-cooler, unisex bathroom and approximately 800-square feet of retail space. The property also has four (4) gasoline pumps on the south side of the structure along with associated fueling islands, lights, a canopy over the pumps, and other related equipment, and one diesel pump on the north side of the structure. The site is currently used for Union 76 gasoline station/convenience store functions, and operating hours for the facility are limited to 6:00am to 10:00pm. A total of nine (9) parking spaces are provided on site.

The subject property would be re-designated from C-C Community Commercial to C-I Intersection/Highway Commercial, to make the existing use on the property an allowable use in accordance with Table 2-2 of the General Plan's Land Use Element. The property would also be rezoned from CH Highway Commercial to C-2 Retail Commercial. The purpose of this request is so the property will have zoning regulations that would not restrict the existing convenience store on site from selling alcohol for off-site consumption (the CH zone district has provisions within it that expressly prohibit such sales). A Development Plan revision is also necessary to remove the portion of the 99-DP-041 project description/conditions of approval that restrict the sale of alcoholic beverages on site.

The operating hours of the gasoline station/convenience store would not change as a result of this application (6:00am – 10:00pm) and no additional floor area, physical development, or changes to vehicle access are proposed with this request. However, the applicant does propose to install video surveillance to deter negative activity on site, and if necessary, accommodate future police

investigations. Ultimately, approval of alcohol sales will be decided upon by the California Department of Alcoholic Beverage Control (ABC); however, the applicant cannot file an application with them unless local regulations allow for such sales. The applicant intends to file for an application with the ABC to transfer an existing license for the sale of off-site alcohol from a site in the City of Santa Barbara to the subject site.

CONDITIONS REQUIRED PRIOR TO LAND USE PERMIT APPROVAL

3. **FEES REQUIRED:** The Applicant shall pay all applicable permit processing fees in full prior to approval of a Land Use Permit.
4. **PERMIT COMPLIANCE DEPOSIT REQUIRED:** Planning and Environmental Services Permit Compliance shall be required. The Applicant agrees to pay Permit Compliance fees prior to approval of a Land Use Permit for project implementation to cover the full costs of compliance monitoring. The decision of the Director shall be final in the event of any dispute.
5. **EMPLOYEE ALCOHOL AWARENESS TRAINING:** Prior to Land Use Permit issuance, the applicant shall submit a plan to the City detailing employee alcohol awareness training programs and policies. The plan shall outline a mandatory alcohol awareness training program for all employees having contact with the public and shall state management's policies addressing alcohol consumption and inebriation. The property owner is required to provide the City with an annual report regarding compliance with this condition.

GENERAL CONDITIONS

6. **CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (ABC) PERMIT:** The applicant shall obtain approval from the ABC for double transfer of license no. 443314 prior to commencement of the sale of alcohol. If said license is not obtained, or at any time expires or is revoked, no alcohol sales shall be allowed on site.
7. **PERMIT NON-TRANSFERABLE:** This permit is granted for the property described in the application on file with the Planning and Environmental Services Department and may not be transferred from one property to another.
8. **SUBSTANTIAL CONFORMITY, AMENDMENTS, AND REVISIONS:** Any changes to the revised, final development plan shall be reviewed and approved pursuant to Section 35-315.11 of the Goleta Municipal Code.
9. **FAILURE TO COMPLY WITH CONDITIONS:** If the Applicant, owner or tenant fails to comply with any of the conditions of this permit, the Applicant, owner or tenant may be subject to a civil fine pursuant to the City Code and/or permit revocation.

10. **EXPIRATION:** Approval of the Development Plan Revision shall expire five (5) years from the effective date of the Development Plan Revision, unless prior to the expiration date, the necessary follow-up Land Use Permit has been approved or a time extension has been requested by the Applicant. The decision-maker with jurisdiction over the project may, upon good cause shown, grant a time extension for one year.
11. **PERMIT REVISIONS WITH TIME EXTENSION:** If the Applicant requests a time extension of this project, the project may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts. Mitigation fees shall be those in effect at the time of approval of a Land Use Permit.
12. **COMPLETENESS AND ACCURACY:** The Applicant shall be responsible for the completeness and accuracy of all forms and supporting materials submitted in connection with any application. Any errors or discrepancies found therein may constitute grounds for the revocation of any approvals.
13. **REVOCAION:** Pursuant to the provisions of Section 35-315 of the Goleta Municipal Code, the decision-maker with jurisdiction over the project may hold a noticed public hearing after the sale of alcohol for off-site consumption commences. If the decision-maker with jurisdiction over the project determines at that hearing that the Applicant is not in compliance with any one or more of the Conditions of Approval of this permit, it is empowered, in addition to revoking the permit pursuant to said section, to amend, alter, delete, or add Conditions of Approval to this permit. It may also direct that the Applicant apply for a Substantial Conformity Determination, Amendment, or Revision.
14. **APPROVAL RUNS WITH THE LAND:** The Development Plan Revision approval runs with the land and the rights and obligations thereof, including the responsibility to comply with conditions of approval, shall be binding upon successors in interest in the real property unless or until such permits are expressly abandoned.
15. **NEW OR CHANGED USE:** Any new or changed use on the site shall be subject to appropriate review by the City, including building code compliance and environmental review if applicable.
16. **SUBSEQUENT APPROVAL:** On the date a subsequent Preliminary or Final Development Plan is approved for this site, any previously approved but unbuilt plans shall become null and void.
17. **SIGN PERMIT REQUIRED:** No signs are authorized with this Development Plan. All signs require separate permits and shall comply with City of Goleta Chapter 35, Article I, Sign Regulations and with setbacks specified in Article III, Inland Zoning Ordinance.

18. **INDEMNITY AND SEPARATION CLAUSES:** Applicant agrees, as a condition of this approval, at Applicant's expense, to defend, indemnify, and hold harmless the City of Goleta or its agents, officers and employees from any claim, action or proceeding against the City of Goleta or its agents, officers, or employees, to attack, review, set aside, void, or annul, in whole or in part, the City of Goleta approval of the Conditional Use Permit or any condition attached thereto or any proceedings, acts, or determinations taken, done or made prior to the approval that were part of the approval process.

19. **LEGAL CHALLENGE:** In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the City of Goleta and substitute conditions may be imposed.

20. **PRIOR CONDITIONS OF APPROVAL:** All conditions of approval from Development Plan 99-DP-041 shall remain in force with the exception of the portion of the project description/conditions of approval that restrict the sale of alcohol on site. The conditions of approval for Case No. 99-DP-041 are herein incorporated below.

-----END OF NEW CONDITIONS-----

**PRICE/UNOCAL '76 GAS STATION/CONVENIENCE STORE DEVELOPMENT PLAN
CONDITIONS OF APPROVAL - CASE NO. 99-DP-041**

This Development Plan is based upon and limited to compliance with the project description, the hearing exhibits marked Exhibits A-D dated February 9, 2001, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the Director of Planning and Development for conformity with this approval. Deviations may require modification to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

The project description is as follows:

1. The proposed project would involve the remodeling of a former office and automobile service bay area into a convenience store and would include a unisex bathroom, an office, a walk in cooler and approximately 800 square feet of retail pace. Retail sales would include items associated with a convenience store, ~~but would not include alcoholic beverages.~~

New fueling facilities consisting of one diesel and four (4) unleaded gasoline pumps would be located on three islands, two islands on the south side of the proposed convenience store and one island to the north of the proposed store. Each of the islands on the south side of the store would include two pumps and would be covered by an approximately 2,000 sq.ft. canopy, supported by two, steel pillars. Each unleaded pump would include two fuel dispensers/fueling stations. The proposed diesel pump would be located on the island to the north of the store and would have two diesel fuel dispensers/fueling stations. The diesel island would not be covered. The existing attached triangular canopy would be removed and placed with the detached, rectangular canopy discussed above. Self-service water and air dispensers would be provided under the new canopy between the unleaded fuel pumps. The entire asphalt area of the property would be re-surfaced as part of this project.

The convenience store and gas sales would operate daily from 6:00 a.m. to 10:00 p.m. Proposed parking includes four spaces along the eastern property line, three spaces along the eastern wall of the convenience store, and one handicapped space along the western wall of the convenience store. Access to the site would be provided by two driveways on Winchester Canyon and two driveways from Calle Real (along the southern property line), and one driveway along the northern property line. Water would be provided by an existing connection to the Goleta Water District and sewer service would be provided by an existing connection to the Goleta West Sanitary District.

Proposed landscaping includes a new five-foot wide strip of plants along all four property lines as well as new planters around all sides of the convenience market. The existing planters at the northwest and southwest corners of the property and in the southeastern area of the property would be replanted. Landscaping will consist of a combination of drought tolerant and decorative species, including trees and shrubs. Additionally, four barrels will act as planters around the fueling island. Approximately 7.5% of the net area of the property would be landscaped. The existing mature sycamore tree located near southeast corner of the property would be retained as well as the large palm located at the northwest corner of the site.

The proposed project includes one freestanding sign advertising the Union '76 logo and gas prices at the southwest corner of the property. The sign would measure approximately five feet wide by thirteen feet long, for a sign area of approximately 65 sq.ft. The sign would be supported by two poles, and would reach a maximum height of twenty-five feet. Additionally, an internally lit wall sign, two feet wide by thirteen feet [all, displaying the number "76" is proposed along the top of the western wall of the convenience marker. This wall sign shall be illuminated with the minimum wattage feasible in order to minimize adverse impacts on the surrounding neighborhood. The signs will be designed in the standard orange, blue and white Union '76 corporate colors.

This property has been identified as a Leaking Underground Fuel Tank (LUFT) site by the Protection Services Division (PSD) of the Fire Department. The necessary soil remediation is included as part of this project description. Soil remediation would be achieved through a combination of soil vapor extraction, bioventing, groundwater pump and treat, air sparging, ORC injection, and/or chemical injection. The applicant proposes to use the existing two. 12,000 gallon gasoline underground storage tanks as well as one existing 10,000 gallon underground diesel storage tank as long as required testing and soil remediation efforts for the site do not indicate that any of these three tanks require replacement. The existing 500-gallon underground waste oil storage tank has not been identified as a leaking storage facility but it would be removed and no replacement tank would be installed as part of this project.

Project-Specific Conditions

AESTHETICS / VISUAL RESOURCES

2. In order to minimize impacts on neighboring properties, all exterior night lighting installed on the project site shall be of low intensity, low glare design, and shall be hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. Additionally, all lights, including those associated with the signs shall be turned off at 10:00 p.m. when the gas station closes. Applicant shall develop a Lighting Plan incorporating these requirements. **Plan Requirements and Timing:** The locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture and the height of the fixtures shall all be depicted on a Lighting Plan to be reviewed and approved by P&D and the BAR prior to the issuance of a Land Use Permit for structures.

Monitoring: Permit Compliance shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan.

3. In order to reduce visual impacts to the surrounding residential neighborhoods and highway travelers, the freestanding sign on the property shall be limited to a height of 25 feet. **Plan Requirements and Timing:** P&D shall ensure sign plans conform to this requirement prior to issuance of a Sign Certificate of Conformance (SCC) for this project.

Monitoring: Permit Compliance shall ensure compliance with approved sign permit prior to final occupancy clearance.

AIR QUALITY

4. If the construction site is graded and left undeveloped for over four weeks, the applicant shall employ the following methods immediately to inhibit dust generation:

- a) seeding and watering to revegetate graded areas; and/or
- b) spreading of soil binders; and/or
- c) any other methods deemed appropriate by Planning and Development.

Plan Requirements: These requirements shall be noted on all plans. **Timing:** Plans are required prior to approval of a Land Use Permit.

Monitoring: Grading Inspector shall perform periodic site inspections.

5. Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site. Follow the dust control measures listed below:
- a) During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
 - b) During construction, Water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
 - c) Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.

Plan Requirements: All requirements shall be shown on grading and building plans. **Timing:** Condition shall be adhered to throughout all grading and construction periods.

Monitoring: P&D shall ensure measures are on plans. P&D, Grading and Building inspectors shall spot check; Grading and Building shall ensure compliance on-site. APCD inspectors shall respond to nuisance complaints.

6. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering as necessary to prevent transport of dust off-site. Their duties shall include holiday and weekend periods when work may not be in progress. **Plan Requirements:** The name and telephone number of such persons shall be provided to tile APCD. **Timing:** The dust monitor shall be designated prior to approval of Land Use Permit.

Monitoring: P&D shall contact the designated monitor as necessary to ensure compliance with dust control measures.

CULTURAL / ARCHAEOLOGICAL RESOURCES

7. In the event that archaeological remains are encountered during site grading, pipe replacement, or soil remediation, work shall be stopped immediately or redirected until a P&D qualified archaeologist and Native American

representative are retained by the applicant to evaluate the significance of the find, pursuant to Phase II investigations of the County Archaeological Guidelines. If remains are found to be significant, they shall be subject to a Phase III mitigation program consistent with County Archaeological Guidelines, and funded by the applicant. **Plan Requirements:** This condition shall be printed on all building and grading plans. **Timing:** P&D shall check plans prior to approval of Land Use Permits.

Monitoring: P&D shall spot check in the field. Permit Compliance shall be responsible for Phase II and/or Phase III coordination, as necessary.

8. Depending on the extent of contamination and the type of remediation required by P&D, additional permits from P&D may be required. **Plan Requirements and Timing:** Results of the Phase III study: as well as a copy of the remediation plan prepared by PSD staff, shall be forwarded to P&D staff prior to commencement of remediation.

Monitoring: P&D staff shall confirm receipt of the Phase 111 report and remediation plans prior to Land Use Permit approval for the gas station.

9. Remediation as required by the Protection Services Division (PSD) of the Fire Department, shall be commenced prior to Land Use Permit approval for the gasoline station. **Plan Requirements and Timing:** Proof of soil remediation commencement shall be forwarded to PSD staff prior to Land Use Permit approval for the gasoline station.

Monitoring: PSD staff shall confirm receipt prior to Land Use Permit approval for the gas station.

10. The tank system (underground tanks, dispensers, and all associated equipment) shall receive a permit from PSD, subject to the requirements provided for in Senate Bill 989, including but not limited to double-walled tanks and piping, provisions for under-dispenser leak containment and underground leak monitors. **Plan Requirements and Timing:** Prior to occupancy clearance, the applicant shall submit proof of a permit from P&D.

Monitoring: Permit Compliance shall confirm receipt of such permit prior to occupancy clearance.

11. The applicant shall implement a Hazardous Materials Business Plan (HMBP) including provisions for the storage and sale of gasoline as well as an emergency response plan for the gasoline station. **Plan Requirements and Timing:** Prior to land use clearance, the applicant shall submit a HMBP to PSD and P&D for review and approval. The plan shall be updated annually and shall include a monitoring section. The components of the HMBP shall be implemented as indicated in the approved Business Plan.

Monitoring: Fire Department will monitor as specified in the Business Plan.

NOISE

12. Construction activity for site preparation and for future development shall be limited to the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday. No construction shall occur on weekends or State holidays (e.g. Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions. **Plan Requirements:** A sign stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout all grading and construction activities. Violations may result in suspension of permits.

Monitoring: Building Inspectors and Permit Compliance shall spot check and respond to complaints.

13. Stationary construction equipment that generates noise which exceeds 65 dB(A) at the property lines of the nearby residential areas shall be shielded to a level below 65 dB(A) at those property lines and shall be located a minimum of 75 feet from occupied residences. **Plan Requirements:** Noise specifications for construction equipment shall be submitted to P&D staff for review. The temporary equipment area with appropriate acoustics shielding shall be designated on building and grading plans. **Timing:** Equipment and shielding shall remain in the designated location throughout construction activities.

Monitoring: P&D staff shall review construction equipment specifications and acoustic shielding provisions on plans prior to Land Use Clearance. Permit Compliance shall spot check and respond to complaints.

14. Permanent equipment (including but not limited to air compressors for the water and air pumps, and fuel pumps) that generates noise which exceeds 65 dB(A) at the property lines of the nearby residential areas shall be shielded to a level below 65 dB(A) at those property lines, and shall be located a minimum of 75 feet from occupied residences. **Plan Requirements:** Prior to approval of a Land Use Permit, noise specifications for all permanent, noise-generating equipment shall be submitted to P&D for review. In the event that the specifications show a noise level exceeding 65dBA at the property line, appropriate acoustic shielding shall be designated on building plans. **Timing:** Equipment shielding shall be in place prior to occupancy clearance and shall remain in place throughout the life of the project.

Monitoring: Perimit Compliance shall spot check and respond to complaints.

15. Refueling tankers shall turn off radios and stop truck engines while refueling. Delivery trucks shall stop truck engines as well as turn off radios and refrigeration units while performing deliveries. Delivery and refueling hours shall be limited to the hours between 8:00 a.m. and 5:00 p.m. Applicant shall provide a sign stating this requirement to delivery personnel, and shall post it in a location visible from the delivery area(s). **Timing:** Sign shall be in place prior to occupancy clearance.

Monitoring: Permit Compliance shall spot check and respond to complaints.

PUBLIC FACILITIES

16. The permittee shall develop and implement a Solid Waste Management Program. The program shall identify the amount of waste generation projected during processing of the project. The program shall include, but is not limited to the following measures:
- a) Provisions for storage bins for recyclable materials, both inside the convenience market and outside (near the pumps for public use and inside the trash enclosure for employee use).
 - b) Establishment of a recyclable material pickup area and schedule.
 - c) Implementation of a program to purchase materials that have recycled content for project construction and operation (i.e. canopy materials, cups, napkins, straws and other utensils used in the convenience market), as well as pre-packaged products, where available. The program should include requesting suppliers to show recycled materials content. To ensure compliance the applicant shall develop an integrated solid waste management program, including recommended source reduction, recycling, and/or composting programs, subject to P&D approval prior to Land Use Permit Approval.

Plan Requirements: The applicant shall submit a Solid Waste Management Program to P&D for review and approval prior to Land Use Permit approval.

Timing: Program components shall be implemented prior to occupancy clearance and throughout the life of the project. Reports on materials purchased, recycled content, participation, and other available information shall be made to permit compliance annually.

Monitoring: P&D shall site inspect during construction, prior to occupancy clearance and throughout the life of the project. .

17. Demolition and/or excess construction materials shall be separated onsite for reuse/recycling or proper disposal (e.g., concrete and asphalt). During grading and construction, separate bins for recycling of construction materials and brush shall be provided onsite. **Plan Requirements:** This requirement shall be printed on all grading and construction plans. Permittee shall provide P&D with receipts for recycled material for separate bins. **Timing:** Materials shall be recycled as

necessary throughout construction. All demolition and/or excess construction materials shall be recycled prior to occupancy clearance.

Monitoring: P&D shall site inspect during construction and prior to occupancy clearance.

TRANSPORTATION / CIRCULATION

18. Construction equipment and construction employee vehicles shall park onsite. No construction-related parking is to occur on Winchester Canyon Road, or on the access easements used by the Timbers Restaurant along the northern and southern property lines. A sign stating this requirement shall be posted by the owner in a conspicuous location on site. **Plan Requirement and Timing:** This requirement shall be printed on all plans. The sign shall be posted by the owner prior to Land Use Permit approval and shall remain in place until completion of construction.

Monitoring: Permit Compliance shall spot check and respond to complaints.

WATER RESOURCES

19. A spill response plan shall be included as part of the HMBP and shall include the following components:
- a) Fuel dispensing areas shall be maintained using dry cleanup methods such as sweeping for removal of litter and debris, or use of rags and absorbents for leaks and spills. Fueling areas should never be washed down unless the wash water is collected and disposed of properly.
 - b) Fuel dispensing nozzles shall be fitted with "hold-open latches" (automatic shutoffs).
 - c) All employees shall be trained upon hiring, and annually thereafter, on proper methods for handling and disposing of waste. Owner shall make sure that all employees understand storm water discharge prohibitions, wastewater drainage requirements, and these best management practices. A training log or similar method shall be used to document training.
 - d) Drains within the facility boundary shall be labeled by paint/stencil (or equivalent), to indicate whether they flow to an oil/water separator, directly to the sewer, or to a storm drain.

Plan Requirements and Timing: These provisions shall be included in the HMBP.

Monitoring: P&D staff shall verify that the HMBP contains a spill response plan, including these provisions, prior to land use clearance. Permit Compliance shall confirm the installation of the fuel dispensing nozzles with "hold-open latches" and labeling of onsite drains prior to occupancy clearance. A training log shall be submitted yearly to P&D staff.

20. Signs shall be posted at the fuel dispensers warning vehicle owners/operators against "topping off" of vehicle fuel tanks. **Plan Requirements and Timing:** Signs shall be posted by the owner prior to occupancy clearance.

Monitoring: Permit Compliance staff shall confirm installation of the signs prior to occupancy clearance.

21. The possibility of storm water pollution from outside waste receptacles shall be minimized by at least one of the following:
- a) use only watertight waste receptacle(s) and keep the lid(s) closed, or
 - b) grade and pave the waste receptacle area to prevent run-on of storm water: or
 - c) install a roof over the waste receptacle area, or
 - d) install a low containment berm around the waste receptacle area, or
 - e) use and maintain drip pans under waste receptacles.

Plan Requirements and Timing: Storm water pollution minimization provision(s) shall be depicted on all site/construction plans.

Monitoring: P&D shall confirm depiction of provisions on plans prior to Land Use Clearance. Permit Compliance shall ensure implementation of chosen provisions.

22. Fuel dispensing areas must be paved with Portland cement concrete (or equivalent smooth impervious surface), with a 2% to 4% slope to prevent ponding, and must be separated from the rest of the site by a grade break that prevents run-on of storm water to the extent practicable. The fuel dispensing area is defined as extending 6.5 feet from the corner of each fuel dispenser or the length at which the hose and nozzle assembly may be operated plus one foot, whichever is less. **Plan Requirements and Timing:** Concrete area shall be noted on all plans.

Monitoring: P&D shall confirm notation on plans prior to land use clearance. Permit Compliance shall ensure implementation.

23. The gasoline dispensing area must be covered, and the cover's minimum dimensions must be equal to or greater than the area within the grade break of the gasoline dispensing area. The cover must not drain onto the gasoline dispensing area. **Plan Requirements and Timing:** This requirement shall be visually depicted on all plans.

Monitoring: P&D shall confirm depiction of this requirement on plan prior to land use clearance. Permit Compliance shall ensure implementation.

County Rules and Regulations

24. Project plans submitted for approval of any Land Use Permit for the project shall revise the location of the proposed 25 foot high, free standing sign within the planter area at the southwest corner of the property so that said sign meets the minimum 15 foot setback required for all signs in the CH zone district.

Monitoring: P&D staff shall ensure that the location of said sign is amended per this condition prior to the approval of any Land Use Permit for the project.

25. Prior to approval of any Land use Permit for the project, the applicant shall prepare a detailed landscaping and irrigation system plan for review and approval by P&D staff. Said plans shall indicate the size of all listed plant materials and shall include a note requiring the property owner to connect the irrigation system to reclaimed water lines either within Winchester Canyon Road or Calle Real within six (6) months of the installation of said lines by the provider of such reclaimed water. In addition, the applicant shall record a Notice to Property Owner, in a form acceptable to County Counsel and P&D, notifying future owners of the property of this requirement prior to the approval of any Land Use Permit for the project.

Monitoring: P&D staff shall review and approve the required detailed landscape and irrigation system plan as well as the Notice to Property Owner verify recordation of said notice prior to approval of any Land Use Permit for the project.

26. The applicant's acceptance of this permit and/or commencement of construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the permittee.
27. Approval of the Development Plan shall expire five (5) years after approval by the Director of the Planning & Development Department, unless prior to the expiration date, substantial physical construction has been completed on the development or the applicant has applied for a time extension. The Director may, upon good cause shown, grant a time extension for one year.
28. All time limits may be extended by the Director of the Planning & Development Department for good cause shown, provided a written request, including a statement of reasons for the time limit extension request is filed with Planning & Development prior to the expiration date.
29. If the applicant requests a time extension for this permit/project, the permit/project may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project

- impacts. Mitigation fees shall be those in effect at the time of issuance of a Land Use Permit.
30. Applicant shall not be authorized to pay fees to any Department until all other conditions of approval required to be met prior to issuance of a Land Use Permit have been satisfied.
 31. The applicant shall ensure that the project complies with all approved plans and all project conditions including those that must be monitored after the project is built and occupied. To accomplish this, the applicant agrees to:
 - a) Contact P&D compliance as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities.
 - b) Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting with the owner, compliance staff: other agency personnel and with key construction personnel.
 - c) Pay fees prior to issuance of Land Use Permits as authorized under ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute.
 32. Compliance with Departmental letters as follows:
 - a) Air Pollution Control District dated November 10, 1999;
 - b) Fire Department dated October 20, 1999;
 - c) Road Division (Public Works) dated January 30, 2001;
 - d) Environmental Health Services dated August 17,2000; and
 - e) Flood Control District dated January 30, 2001.
 33. All applicable final conditions of approval shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
 34. Prior to issuance of a Land Use Permit, the applicant shall pay all applicable P&D permit processing fees in full.
 35. Any change of use in the proposed building or structure shall be subject to environmental analysis and appropriate review by the County including building code compliance.

36. Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Development Plan. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
37. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the County shall review the entire project and substitute conditions may be imposed.
38. Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging or rebuilding of any building, structure, or improvement, the applicant shall obtain a Land Use and Building Permit from Planning & Development. The Permit is required by ordinance and is necessary to ensure implementation of the conditions required by the Director of the Planning & Development Department. Before Planning Development will issue any Permit, the applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the applicant has satisfied all pre-construction conditions. A form for such clearance is available in Planning & Development.
39. No permits for development, including grading, shall be issued except in conformance with an approved Final Development Plan. The size, shape, arrangement, use, and location of buildings, walkways, parking areas, and landscaped areas shall be developed in conformity with the approved Development Plan marked exhibits A -D. dated February 9, 2001. The Director of P&D shall determine substantial conformity.
40. On the date a subsequent Preliminary of Final Development Plan is approved for this site, any previously approved but unbuilt plans shall become null and void.

-----END OF CONDITIONS-----

ATTACHMENT 2

CEQA Notice of Exemption



ATTACHMENT 2 NOTICE OF EXEMPTION

Planning and Environmental Services
130 Cremona Drive, Suite B, Goleta, CA 93117
Phone: (805) 961-7500 Fax: (805) 961-7551

PROJECT DESCRIPTION

**Case No. 07-117-GPA; RZ; DP RV01: Union 76 Alcohol Sales for Off-site Consumption
20 Winchester Canyon Road / 7798 Calle Real; APN: 079-121-016**

The property is 54,784-square feet and development on site consists of a 1,150-square foot, one story structure which accommodates a convenience store with an office, walk-in-cooler, unisex bathroom and approximately 800-square feet of retail space. The property also has four (4) gasoline pumps on the south side of the structure along with associated fueling islands, lights, a canopy over the pumps, and other related equipment, and one diesel pump on the north side of the structure. The site is currently used for Union 76 gasoline station/convenience store functions, and operating hours for the facility are limited to 6:00am to 10:00pm. A total of nine (9) parking spaces are provided on site.

The subject property would be re-designated from C-C Community Commercial to C-I Intersection/Highway Commercial, to make the existing use on the property an allowable use in accordance with Table 2-2 of the General Plan's Land Use Element. The property would also be rezoned from CH Highway Commercial to C-2 Retail Commercial. The purpose of this request is so the property will have zoning regulations that would not restrict the existing convenience store on site from selling alcohol for off-site consumption (the CH zone district has provisions within it that expressly prohibit such sales). A Development Plan revision is also necessary to remove the portion of the 99-DP-041 project description/conditions of approval that restrict the sale of alcoholic beverages on site.

The operating hours of the gasoline station/convenience store would not change as a result of this application (6:00am – 10:00pm) and no additional floor area, physical development, or changes to vehicle access are proposed with this request. However, the applicant does propose to install video surveillance to deter negative activity on site, and if necessary, accommodate future police investigations. Ultimately, approval of alcohol sales will be decided upon by the California Department of Alcoholic Beverage Control (ABC); however, the applicant cannot file an application with them unless local regulations allow for such sales. The applicant intends to file for an application with the ABC to transfer an existing license for the sale of off-site alcohol from a site in the City of Santa Barbara to the subject site.

FINDING

The Planning and Environmental Services Department of the City of Goleta has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

- Ministerial Project
- Categorical Exemption, Section 15311(a)
- Statutory Exemption
- Emergency Project
- Disapproval [CEQA Guidelines, Section 15270]
- No Possibility of Significant Effect [CEQA Guidelines, §15061(b)(3)]

SUPPORTING REASONS

Environmental Analysis

The proposed project qualifies for an exemption from the California Environmental Quality Act (CEQA) Guidelines pursuant to the general rule that “CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” (CEQA Implementation Guidelines §15061[b][3]).

The land use re-designation of the property, the rezoning of the property, and the development plan revision would not cause a significant land use/zoning impact, as proposed. The land use re-designation would make the existing use on the property consistent with allowable uses in accordance with Table 2-2 of the General Plan’s Land Use Element.

The rezoning of the property would make the existing use on site more consistent with its current use. The purpose and intent of the CH zone district is to provide areas adjacent and accessible to highways or freeways *exclusively* for uses which serve the highway traveler. In 1984, the CH zoning regulations were amended to prohibit the sales of alcohol in this zone district as the Santa Barbara County Planning Commission determined that alcohol is not essential to the highway travelers needs. At that time, there were only 1,709 parcels within 1 mile of the project site, and today, there are 2,821. As a result, it can be presumed that the customer base of the gasoline station/convenience store is no longer *exclusively* highway or freeway travelers, but instead, a split of both highway travelers and local residents.

The development plan revision to delete the restriction on alcohol sales would make the existing development plan for the site (99-DP-041) consistent with the proposed zoning designation, which allows for the sale of alcohol.

There is no possibility that the project would have a significant impact in the following areas: aesthetics, agricultural resources, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, mineral resources, parking, population and housing, recreation, and utilities and service systems.

The potential impacts related to noise, public services and traffic would be minimal to none with the continued compliance with 99-DP-041 condition of approval number 15 (requiring tankers to turn off engines/radios while refueling), the proposed installation of video surveillance, and implementation of the employee alcohol awareness program condition of approval. Therefore, the project may be considered exempt from the provisions of the California Environmental Quality Act.

Patricia S. Miller
Manager, Current Planning Division

Date

Note: A copy must be filed with the County Clerk of the Board after project approval and posted by the Clerk of the Board for a period of 30 days to begin a 35 day statute of limitations on legal challenges.