



Department of Conservation and Development

County Planning Commission

Wednesday, April 10, 2024 – 6:30 P.M.

STAFF REPORT

Agenda Item # _____

Project Title:	Byron Corners General Plan Amendment, Rezone and Development Plan to Reconstruct a Gas Station and Retail Building
County File(s):	CDGP10-00003, CDRZ13-03222, and CDLP/DP13-02025
Applicant:	Continental Development Consultants
Owner:	Jasvir Singh
Zoning:	A-2 General Agricultural District (A-2) and R-B Retail Business District (R-B)
General Plan:	Single-Family Residential-High Density (SH)
Site Address/Location:	15031 Byron Highway, Byron/APN'S: 002-140-010, 025 and 027.
California Environmental Quality Act (CEQA) Status:	Per California Code of Regulations Section 15070 an Initial Study has been prepared for the project.
Project Planner:	Francisco Avila, Principal Planner (925) 655-2866
Staff Recommendation:	Adopt a motion recommending that the Board of Supervisors approve the project.

I. PROJECT SUMMARY

The applicant is requesting approval of a General Plan Amendment (GPA) designating the subject property Commercial (C) from Single-Family Residential-High (SH), Rezoning the property to Retail-Business (R-B) from A-2 General Agricultural (A-2) and approval of a Land Use Permit/Development Plan Combination to demolish an existing gas pump canopy (4 dispensers), convenience store and small restaurant to construct a new gas pump canopy (12 dispensers),

convenience store and restaurant. A variance for a free-standing sign within the front setback (2 feet proposed, 10 feet required) and two exceptions to Title 9 (914-2.004 "collect and convey" and 914-12.010 "maintenance") are being requested. The project also includes a Type 21 Alcohol Sales License – Off Sale General (beer, wine, and distilled spirits for consumption off the premises where sold) and 1,927 cubic yards of total grading which will raise the site elevation of the property by approximately 2 feet.

II. RECOMMENDATION

Staff recommends that the County Planning Commission:

1. OPEN the public hearing on the Byron Corners Project, RECEIVE testimony, and CLOSE the public hearing.
2. ADOPT a motion recommending that the Board of Supervisors:
 1. FIND that on the basis of the whole record before the County that there is no substantial evidence the project will have a significant effect on the environment and that the April 19, 2023, Mitigated Negative Declaration prepared for the project reflects the County's independent judgment and analysis;
 2. ADOPT the April 19, 2023, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project;
 3. APPROVE the General Plan Amendment of the entire site from Single-Family Residential-High Density to Commercial.
 4. APPROVE the Rezoning of Assessor Parcel Numbers: 002-140-025 and 027 from A-2 General Agricultural District to R-B Retail Business District.
 5. APPROVE the Land Use Permit/Development Plan for the Project (County File #CDLP/DP13-02025).
 6. APPROVE the findings in support of the Project.
 7. APPROVE the Project conditions of approval.
 8. DIRECT the Department of Conservation and Development to file a CEQA Notice of Determination with the County Clerk.

9. SPECIFY that the Department of Conservation and Development, located at 30 Muir Street, Martinez, California, is the custodian of the documents and other material that constitutes the record of proceedings upon which the decision of the Board of Supervisors is based.

III. BACKGROUND

The subject gas station and convenience store have been in operation since the 1980's and no longer complies with current codes and design standards, therefore the applicant is seeking approval to demolish all improvements and construct a new larger gas station and convenience store/restaurant. As the General Plan designation for the site is Single-Family Residential High-Density (SH), a General Plan Amendment from SH to Commercial is necessary. The site also has two different zoning designations, A-2 General Agricultural District and R-B Retail Business. Thus, the project also includes a rezoning request to change the A-2 portion of the site to R-B for overall consistency with the required zoning and planned Commercial General Plan designation.

In March of 2011 the Board of Supervisors approved General Plan Amendment Feasibility request CDGP10-00003 allowing the County review process to proceed for the project. As a result, the applicant submitted the necessary rezoning and land use permit/development plan combination applications in January of 2013. While under review, in 2014 the applicant acquired an adjacent property and re-designed the project to include additional gas pump dispensers and a larger convenience store/restaurant. Since that time, the project has stalled for periods of time, however, at this time, the applicant has provided all necessary plans and reports in order to complete the environmental review and support the project.

IV. GENERAL INFORMATION

- A. General Plan: The site currently has a General Plan land use designation of Single-Family Residential-High Density (SH). This land use designation allows a density of 5.0 and 7.2 single family units per net acre. Primary land uses which are permitted in this designation include single-family homes and accessory structures, as well as, small residential care and childcare facilities, churches, and other similar places of worship.

- B. Zoning: The site has dual zoning of A-2 General Agricultural District (A-2) and R-B Retail Business District (R-B). The A-2 zoning district requires a 5-acre minimum parcel size and the R-B zoning district requires a minimum of 3,500-square-feet in area. The A-2 General Agricultural District is intended to provide areas primarily for the commercial production of food and fiber and other compatible uses. The R-B Retail Business District is intended to provide areas consisting of service orientated activities such as, convenience stores, contractor's yards, and various shops, given that the activity does not create significant amounts of odors, dust, or smoke.
- C. Environmental Review: A Mitigated Negative Declaration (MND) (attached) was prepared for the project. The MND identified several potentially significant environmental impacts, however, mitigations were identified which lessen the impacts to less than significant. The public review and comment period for the MND extended from April 19, 2023, to May 19, 2023. Several comments were received during the comment period and are discussed in Section IX.
- D. Previous Applications:
1. BIDA11-00315: A County issued "Deemed Approved" status for the alcohol sales at the premises in 2011.
 2. BICO-0000143128: A tenant improvement to add a convenient store. This permit was issued in 1988.
 3. LP2138-86: A land use permit to construct and operate a gas station. The Board of Supervisors approved the project on May 5, 1987.
 4. LP2038-79: This land use application included a 4-unit apartment building which was denied by the Zoning Administrator on October 29, 1979.

V. SITE/AREA DESCRIPTION

The subject site consists of three irregularly shaped parcels (Assessor's Parcel Numbers: 002-140-010, 025 and 027) located in a rural area of Byron. The northern portion of the site is developed with a gas station, convenience store and small restaurant. Access to the gas station is achieved via two driveways, one directly adjacent to Byron Highway and the other on Camino Diablo. The southern portion of the site is developed with a single-family residence. Parcels in the vicinity range in size from 0.30-acre residential sites, to over 100-acre agricultural operations. Other

zoning districts in the immediate vicinity are A-2 General Agricultural District, R-6 Single-Family Residential District, and General Commercial. The Union Pacific Railroad Company owns and operates a railroad directly to the west of the site.

VI. PROJECT DESCRIPTION

The applicant is requesting approval of a General Plan Amendment (GPA), rezoning and land use permit/development plan combination to allow for the following:

1. GPA from Single-Family Residential-High Density (SH) to Commercial (CO),
2. Rezoning of Assessor's Parcel Numbers: 002-140-025 and 027 from A-2 General Agricultural District (A-2) to Retail Business District (R-B),
3. Land Use Permit/Development Plan combination,
4. Demolition of a 908 square-foot existing gas pump canopy,
5. Demolition of a 2,180 square-foot convenient store,
6. Construction of a new 4,652 square-foot gas pump canopy,
7. Construction of a new 3,713 square-foot convenient store,
8. Construction of a new 1,145 square-foot retail space to be used as a restaurant,
9. Type 21 Alcohol Sales License – Off Sale General (beer, wine, and distilled spirits for consumption off the premises where sold), and
10. Variance for a free-standing sign within the front setback (2 feet proposed, 10 feet required).

The project will also include 23 off-street parking spaces (plus 12 spaces at pump dispensers for 35 total), 2 Americans with Disabilities Act compliant spaces and 3 Electric Vehicle spaces, 12 new gas pump dispensers, a 54 square-foot monument sign, access improvements, drainage improvements, and landscaping. Site preparation will consist of 1,927 cubic yards of total grading (246 cubic yards of cut, and 1681 cubic yards of import) which will result in raising the elevation of the property by approximately 2 feet. One existing water well will be decommissioned and relocated on the southeastern portion of the site.

Two exception requests have been submitted. The first is to Section 914-2.004 of the County Ordinance which requires that all storm water originating on the project site be collected and conveyed to an existing adequate storm drainage system which conveys the storm water to an adequate natural watercourse. The second is to Section 914-12.010 which requires maintenance of a detention basin facility through either an existing public maintenance entity or by the creation of a public maintenance entity.

VII. AGENCY COMMENTS

- A. Department of Conservation and Development, Alcohol Planner: In an Agency Comment Request Form dated June 15, 2023, staff indicated that the project complies with the Alcoholic Beverage Sales ordinance.
- B. Department of Conservation and Development, Building Inspection Division (BI): BI staff returned an Agency Comment Request dated July 7, 2017, indicating that the project must comply with the current building codes.
- C. Department of Conservation and Development, Advanced Planning Section: Advanced Planning staff provided the necessary General Plan Amendment findings in an email dated June 8, 2023.
- D. Department of Conservation and Development, Transportation Planning Section: In a correspondence dated January 6, 2022, staff indicated that the Traffic Impact Study prepared for the project is acceptable.
- E. Application and Permit Center Floodplain Technician: In a returned Agency Comment Request form dated June 22, 2017, staff indicated that the project site is located in Flood Zone X, therefore no floodplain permit will be required for the project.
- F. Public Works Department, Engineering Services: In a memorandum dated December 5, 2023, staff provided their recommended conditions of approval for the project.
- G. Contra Costa Health Services, Department of Environmental Health: In a letter dated June 30, 2017, staff indicated that the project sponsor must obtain all necessary permits to decommission and drill new wells on the property.
- H. Contra Costa Health Services, Hazardous Materials: In a correspondence dated June 26, 2017, staff indicated that the applicant must obtain a permit from County Hazard Material Programs.
- I. Contra Costa County, Fire Protection District: In a letter dated January 24, 2017, staff indicated that the project must comply with all applicable codes and regulations.
- J. Byron Sanitary District: In a returned Agency Comment Request form dated June 19, 2017, staff indicated that the applicant is required to comply with all ordinances, including applying for a wastewater discharge permit.

- K. Byron Municipal Advisory Council (BMAC): The BMAC considered the application at their June 27, 2017, meeting, and unanimously recommended approval of the project.
- L. Chevron: In a correspondence dated April 23, 2013, Chevron staff indicated that two historical pipelines are located within the project vicinity and should be considered when implementing the project. A map was attached to the correspondence detailing the location of the pipelines which are outside of the project boundaries across Byron Highway.

VIII. STAFF ANALYSIS

General Plan Amendment

The site currently has a General Plan land use designation of Single-Family Residential-High Density (SH). This land use designation anticipates single-family homes and accessory structures, as well as, small residential care and childcare facilities, churches, and other similar places of worship.

The project aims to change the current SH General Plan designation to Commercial (CO). The CO designation allows for a broad range of commercial uses typically found in smaller-scale neighborhood, community, and thoroughfare commercial districts. Gas stations, convenient stores and restaurants fit into this category of smaller-scale neighborhood uses that are allowed. The following development standards apply to uses in this designation:

- 1. Maximum site coverage: 40 percent (28 percent proposed)
- 2. Maximum building height: 35 feet (22 feet proposed)
- 3. Maximum floor area ratio: 1.0 (0.28 proposed)
- 4. Average employees per gross acre: 160 employees (less than 10 employees)

As proposed, the proposed gas station, convenient store and restaurant complies with the development standards as described above.

Rezone

The project site consists of three parcels. The northern most parcel (APN: 002-140-010) is currently developed with a gas station, convenience store and restaurant. The zoning for this parcel is R-B Retail Business (R-B) and does not require a re-zoning. As the project includes the demolition of all improvements and construction of an

expanded gas station, convenience store and restaurant. The two southern parcels (APN's: 002-140-025 and 027) will need to be re-zoned from A-2 General Agricultural District (A-2) to R-B.

Table 3-5 of the 2005-2020 County General Plan outlines which specific zoning districts are consistent with each General Plan designation. As indicated within that table, the General Plan designation of CO is consistent with the R-B zoning district. Furthermore, as the project site is located immediately adjacent to the Byron Highway, which is a heavily traveled roadway and within close proximity to established commercial, agricultural and residential neighborhoods the rezoning to allow an expansion of the existing retail uses is justified.

Comparison of Existing and Proposed Zoning Designations

Table 1. below provides a comparison of the development standards of each district.

Table 1. Zoning Comparison Between A-2 and R-B,

Topic	A-2	R-B	R-B, More or Less Restrictive
Minimum Lot Area	5-acres	3,500 sq.ft.	More
Average Width	250 feet	35 feet	More
Lot Depth	200 feet	None	Less
Side Yards	40-foot aggregate 20-foot min. side	None	Less
Front Setback	25 feet primary 20 feet secondary	10 ft. from road/hwy	More
Rear Yard	15 feet	None	Less
Building Height Max	2.5 stories or 35 feet	50 ft.	Less
Land Use Permit/ Development Plan Req'd	LUP req.	DP req.	Same
Lot Coverage	None	None	Same

Parking	County Off-street Parking Ordinance would Apply.	County Off-Street Parking Ordinance would apply.	Same
Variances Allowed?	Yes	Yes	Same

Source: Title 8 Zoning Code

The Retail Business zoning district requires approval of a discretionary application prior to developing a particular site. It is that review process that allows County decision makers and the public alike (public comment/appeal process) to determine what uses are appropriate for the subject site.

Examples of uses allowed with discretionary review in the R-B district are:

1. *Lumber yard, cabinet shop, sheet metal shop;*
2. *Animal hospital, commercial dog kennel, hobby dog kennel;*
3. *Auto garage, contractor's yard;*
4. *Residential apartment units;*
5. *A manufacturing research use within an enclosed building;*
6. *Single room occupancy facilities; and*
7. *Commercial cannabis activities.*

Both zoning districts allow neighborhood service-oriented businesses, however, the A-2 district does not provide the flexibility needed to establish a modern commercial gas station/restaurant/convenient store that will serve the immediate Byron community. Although the proposed R-B district allows uses which tend to be more intense, the subject property will essentially contain the same current uses. Any proposed future use other than what is currently proposed, would require approval from the County and must undergo its own environmental review. For those reasons it is unlikely that a major change in use other than retail would be considered for this site. Nevertheless, the primary land uses in the R-B district are generally community orientated services such as dry cleaners, restaurants and other residentially compatible uses.

Nevertheless, gas stations typically store and transport large volumes of fuel which is highly combustible. There are risks associated with permitting these types of uses in any portion of the County. However, the industry is heavily regulated, and transport of any fuel will be routed through Byron Highway which is away from the residential community to the east. Moreover, all existing underground storage tanks

for gas and diesel will remain in their current location which will limit site disturbance. Given that California codes are typically more stringent than Federal standards, the project will represent a minimal risk of exposure to the public and overall is considered a benefit to an area that is lacking in community services.

IX. ENVIRONMENTAL REVIEW

In accordance with the state *Guidelines for Implementation of the California Environmental Quality Act (CEQA)*, an initial study was prepared to determine potential environmental impacts of the proposed project. The initial study identified potentially significant impacts in the environmental areas of air quality, cultural resources, hazards/hazardous materials, transportation/traffic, and tribal cultural resources. Upon completion of the initial study, it was determined that mitigation measures could be incorporated into the project that would reduce project impacts to a less than significant level.

The Initial Study and Notice of Public Review and Notice of Intent to Adopt a Mitigated Negative Declaration was posted with the County Recorder and circulated for public review on April 19, 2023. The final day for providing comments on the adequacy of the initial study was May 19, 2023. Three emails from immediate neighbors and one letter from an attorney on behalf of a neighbor were received during the comment period. The collective areas of concern are: traffic, drainage, and property management (trash/loitering etc.). The comments and staff responses are as follows:

1. Area of Concern - Traffic: Neighbors are concerned that the project will add an unacceptable amount of new traffic which will exacerbate existing congestion at this location.

Staff Response: The driveway's current position on Byron Highway is extremely close to the intersection, leading to significant congestion and interruptions in traffic flow. To alleviate this concern, the project proposes to shift the driveway approximately 100 feet south (away from the intersection) from its present location. This strategic relocation is designed to diminish congestion and facilitate more efficient truck movements within the site without hindering the regular traffic flow.

The project also includes 35 total off-street parking spaces compared to the current 8 spaces available. This amount of parking is compliant with zoning regulations and should alleviate the need for patrons and vendors to park within adjacent streets. These assumptions were confirmed within the traffic

study prepared for the project which was reviewed and determined acceptable by the DCD Traffic Division staff and the Department of Public Works Engineering Services Division. Additionally, COA #22, requires the project proponent to pay a fair-share towards the construction of a traffic signal at the Holway Drive/Camino Diablo intersection, which will further optimize the area's traffic circulation. Therefore, as proposed, the project will enhance on-site circulation, provide better driveway alignment and include ample off-street parking that will generally improve traffic related issues at the site and area in general.

2. Area of Concern - Drainage: Neighbors are concerned that the project will worsen localized flooding by adding increased impervious surfaces and that the hazardous materials associated with the refueling may be transported in stormwater runoff.

Staff Response: The entire site's drainage is required to be addressed as part of the project design. As such, the proposal includes landscaping, a retention pond and porous asphalt which will encompass 30% of the site. Currently, approximately a third of the runoff from parcel-2 (APN #002-140-025) – situated behind the gas station – drains onto Byron Highway and then into a ditch at the eastern end of the site. In contrast, the post-development strategy channels the runoff from both parcels 2 and 3 (APN #002-140-027) to an on-site detention pond first, before draining into the ditch. This modification will result in flow rate reductions of 0.158 cubic feet per second (cfs) (10yr-3hr storm) and 0.273cfs (100yr-3hr storm) between the pre and post-development phases. The Department of Public Works, Engineering Services Division has reviewed the drainage plans for the project and deemed them satisfactory.

In terms of water quality, the areas where vehicles park and refuel will be graded such that water will be effectively directed away. Notably, the new design elevates this zone by approximately 2.5 ft compared to its current position. While the existing fuel dispensing area is below the roadway centerline, the proposal places it above, reducing potential contact with rainwater runoff and virtually eliminating flood risks. The large canopy overhang which covers the fueling area will provide additional protection. Additionally, the project's design has an integrated bio-retention system to filter out trash and other contaminants from the rainwater runoff prior to being released downstream. On-site stormwater gates will further capture debris, ensuring the maintenance of water quality standards. All of these

design elements are considered improvements to the site's drainage system compared to the existing conditions of the site which was developed many years ago.

3. Area of Concern – Sewer System and Trash: Neighbors are concerned that the project will place additional strain on the existing sewer system, exacerbate public loitering, and contribute to more trash migrating from this site to the nearby drainage ditch.

Staff Response: The project will include an on-site grease interceptor that will reduce the burden on the existing sewer system. By releasing "cleaner water" into the system, functionality of the sewer should improve compared to existing conditions. Issues related to waste management will be fully controlled by construction of a 130 sq.ft. trash enclosure, on-site trash receptacles will be placed between fuel dispensers and inside buildings, as well as, restrooms. With this approach, trash collection and management should result in very little to no trash migrating off-site into the neighborhood or nearby drainage ditch. Overall, the project will provide a quality fuel and eating option to this area where historically few improvements have occurred. It is expected that public loitering will be curbed once construction of the family orientated restaurant is completed.

X. TRAFFIC/OFF-STREET PARKING

The project is to demolish and expand a gas station, restaurant and convenience store. Given these uses, the project is estimated to generate 100 or more AM and PM peak-hour trips, therefore, the applicant has contracted TJKM to prepare a Traffic Impact Analysis (TIA) for the project – dated January 3, 2022 (supplemental Technical Memorandum dated January 6, 2023). The report analyzed existing conditions, existing with project conditions, cumulative without project and cumulative with project conditions. Key intersections within the immediate area have been studied in preparation of the report, in part using traffic counts during, weekday AM and PM peak hour traffic volumes. According to the report, the project's passenger vehicle trip generation is approximately 1,348 daily trips (1,290 existing minus 2,518 total proposed trips equals 1,348 new trips).

The operation of roadway facilities are described with the term level of service (LOS, a qualitative description of traffic flow based on such factors as speed, travel time, delay, and freedom to maneuver). Six levels are defined from LOS A, as free-flowing operating conditions, to LOS F, or the over-capacity operating conditions. LOS E represents "at-capacity" operations. When traffic volumes exceed intersection

capacity, stop-and-go conditions result, and operations are designated as LOS F. Due to the addition of the project related traffic, the delay at the intersection of Holway Drive/Camino Diablo will increase by 1.7 seconds resulting in a 40.3 second delay (LOS E).

The following mitigation measure once implemented will maintain acceptable levels of service: *"At least 30-days prior to requesting Final Building Inspections (occupancy), the applicant shall provide evidence for review and approval of CDD staff, that the fair-share payment has been made towards the installation of a traffic signal at the Holway Drive/Camino Diablo intersection".* Installation of the signal light would result in improved LOS performance, reducing the impact to less-than-significant.

Pedestrians will access the site from Byron Highway and Camino Diablo via new sidewalks within a dedicated Right-of-Way space along the site's frontage. These sidewalks will connect to existing striped crosswalks at this intersection. The project's internal walkways are required to meet American with Disabilities Act standards and will be reviewed as part of the Building Permit Plan Check Process for the project. On-site bicycle parking has also been identified within the project footprint and will encourage an alternative means of travel other than automotive vehicles.

OFF-STREET PARKING

The project includes 35 off-street parking spaces. This amount of parking will adequately accommodate all patrons and vendors visiting the site. Compared to the current 8 spaces provided, the 35 spaces will eliminate the need for customers to park on adjacent streets. The project's compliance with Chapter 82-16 Off-Street Parking, is demonstrated within the table below:

	<u>Minimum Required</u>	<u>Proposed</u>
<u>Gas Station/Convenient Store:</u>	0.9 per pump x 12 = 11	11
<u>Retail Store:</u>	1 per 300 SF/3,542=12	12
<u>Restaurant:</u>	1 per 100 SF/1,151=12	12
<u>TOTAL REQUIRED</u>	35	35

Of the 35 total parking spaces provided, 2 will be Americans with Disabilities Act (ADA) compliant. Additionally, 2 spaces will incorporate electric vehicle charging stations. Lastly, to promote alternative modes of transportation, 4 short-term bicycle spaces will be provided on racks and 4 long-term bicycle spaces will be provided via lockers. The project's design has been reviewed by all County responsible agencies

which determined that the project complies with applicable codes and regulations. Nevertheless, the project proponent will have to submit final improvement plans to each agency for review and approval prior to issuance of building permits. Therefore, the project is not expected to create any parking related issues or hazards to pedestrians/vehicles.

XI. DRAINAGE/EXCEPTION REQUEST

The proposed development introduces new impervious surface areas which alters the existing drainage patterns on the site and drainage facilities downstream. The grading and drainage plan contours show the northern parcel (APN: 002-140-010) will generally drain towards the proposed landscaping and bioretention basin. Runoff will then flow into the stormwater infrastructure of Camino Diablo towards the northern segment of an earthen ditch east of the property that flows into Frisk Creek. The two southern parcels (APN's: 002-140-025 & 027) are shown to drain into a proposed bioretention basin that outflows into the south portion of the eastern earthen ditch. The County Public Works Department has reviewed the project and the preliminary Storm Water Control Plan for the project and deemed it preliminarily complete.

According to the Public Works Department, there have been reports in the past of the drainage ditch east of the project site causing flooding. The Stormwater Control Plan for the project indicates that overall flow rates into the ditch will be reduced during storm events due to the installation of the bioretention basins which meters flows. Furthermore, Section 914-2.004 of the County Ordinance requires that all storm water originating on the project site be collected and conveyed to an existing adequate storm drainage system which conveys the storm water to an adequate natural watercourse. The drainage study for this project verifies that compliance with section 914-2.004 can't be met, because the earthen ditch and all downstream facilities are privately owned by private parties and are shown to be inadequate (thus, improvements are not at the discretion of the developer). Therefore, the applicant has submitted a request for an exception.

Additionally, Section 914-12.010 requires maintenance of a detention basin facility through either an existing public maintenance entity or by the creation of a public maintenance entity. Given the relatively small size of the detention basin at 1,850 cu.ft., an exception to this section can be supported for the private maintenance of the proposed detention basin. Public Works has supported each exception request, and provided recommended conditions of approval that will ensure compliance with federal pollutant discharge and county storm water management regulations. The following Findings are in support of the exception requests:

Finding #1 – That there are unusual circumstances or conditions affecting the property. The existing drainage ditch hydraulic analysis indicates that the system collecting & conveying pre-development storm water 10-yr flows is inadequate. This is because the ditch traverses several private properties and with multiple culverts of unknown sizes and hydraulic properties. Any improvements to the on-site portion of the channel will not improve the channel's capacity as the further downstream flows remain constrained. So, the existing overall drainage system will continue to remain inadequate. The use of a private detention basin is necessary to make certain that the post development flows don't exceed predevelopment flows which will alleviate the inadequacy of the natural water course (drainage ditch).

Finding #2 – That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant. Site design parameters for retaining post-development onsite flows are fully utilized in the form of a private detention basin. These flows have to be collected and conveyed into existing public storm drainage, so that the applicant can exercise the right to develop the business to remain & compete with the growing market, in compliance with Contra Costa County municipal code as well as California Building Code. The exception is required to preserve substantial property rights of the property owner for the betterment of the property.

Finding #3 – That the granting of exception will not be materially detrimental to the public welfare or injurious to other property in the territory, in which the property is situated. Section 914-2.004 requires construction of improvements to make the system adequate. However, post development runoff is lower than predevelopment flows and will alleviate some capacity concerns of the public drainage infrastructure. Additionally, existing drainage patterns are maintained. The proposed development is physically suitable for the type, density and intensity for this site. The use of detention basins is necessary to mitigate post development flows and comply with this finding. Hence, granting of the exception will not be materially detrimental to the public welfare or injurious to other property/properties in the project vicinity.

XII. ALCOHOL SALES/TAKE-OUT FOOD

The applicant is proposing to demolish and construct a new larger convenience store which will sell alcoholic beverages. County Code Chapter 82-38.406 (5) requires approval of a land use permit for an alcohol sales activity which increases the floor or display area by 20%. Thus, this project includes the necessary findings in order to support the request. The project also includes demolition and construction of a larger restaurant. County Code Section 82-38.204(c) defines an alcoholic beverage

sales commercial activity as the retail sale of alcoholic beverages in an establishment that is not a full-service restaurant. Therefore, the proposed alcohol sales within the restaurant is considered exempt and separate from the convenience store portion of the project.

The Alcoholic Beverages Sales ordinance also establishes locational restrictions on where sales activities can occur. County Code Section 82-38.604(a)(1) restricts establishment of a new alcoholic beverage sales commercial activity within 700 feet of an existing alcoholic beverage sales commercial activity, (2) within 400 feet of a public or private accredited school, a public park, playground or recreational area, a place of worship, an alcohol or other drug recovery or treatment facility, or county social service office, and (3) within a Crime Reporting District, or within 600 feet of a Crime Reporting District, where the general crime rate exceeds the countywide general crime rate by more than 20 percent. According to the Department of Conservation and Development staff responsible for tracking these statistics, the project does not trigger any of these restrictions. Additionally, the area has not been determined by the State of California's Department Alcohol Beverage Control to be in an area which has an undue concentration of alcohol licenses. Therefore, the requested alcohol beverage sales at this site is an appropriate use.

XIII. SIGN PROGRAM / VARIANCE FOR MONUMENT SIGN

The applicant has provided a complete Sign Program for this project. Chapter 88-6 Signs of the County Code regulates, quantity, placement, lighting and size of new signs. The elevations for the gas pump canopy indicate that branding will be located on the fascia facing the Camino Diablo and Byron Highway corners of the site. The larger convenient store/restaurant building will have two identification signs on the front elevation facing Camino Diablo and one smaller sign on the side elevation facing Byron Highway. Preliminary review of the Sign Program indicates that each sign will conform to the County's Sign Ordinance. If approved, the Final Sign Program review will be conducted during the Condition of Approval Compliance Review which is prior to issuance of Building Permits.

The project also includes a variance request (10-ft setback required, 2 feet proposed) for the proposed monument sign located at the corner of Byron Highway/Camino Diablo. An existing monument sign has been established in this location for decades suggesting that the location is acceptable. To confirm there are no line-of-sight issues at this intersection, the applicant has provided an exhibit (attached) showing that the proposed signage is located outside of the prohibited "Sight Visibility Zone" as required by County Code Chapter 82-18 Sight Obstructions at Intersections.

Additionally, per the On-Site Circulation Plan (Sheet LP-RZ-2.2 of the plans) the path needed for a double tanker fuel truck dictates the location of the off-street parking etc. Therefore, given that a monument sign has been established in at this location for many years and that no viable alternative locations have been identified, supporting the variance request is justified.

XIV. SUMMARY

County staff has analyzed the proposed project in terms of neighborhood compatibility, environmental impact, appropriateness of use and conformance with the proposed County General Plan and zoning designations. The project will conform to all applicable development standards for the R-B Retail Business Zoning District (minus variance for monument sign location) and will add a modern gas station/convenient store/restaurant use and associated employment opportunities in an area with high demand for this type of development.

XV. CONCLUSION

Staff is recommending that the Planning Commission adopt a recommendation that the Board adopt the mitigated negative declaration prepared for the project, approve the General Plan Amendment and Rezoning and approve the Land Use Permit/Development Plan.