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September 22 , 2010

Sent via electronic mail

Hon. Woody Fridae, Mayor
Members of the City Council of the City of Winters
City of Winters - City Hall
318 First Street
Winters, CA 95694

Re: *Appeal to Winters City Council Regarding Planning Commission Approval of a Burger King, Arco Gas Station, AM/PM Mini Mart and truck fueling facility.*

Dear Mayor Fridae and Council Members:

On behalf of our client, Winters Community Planning Association, we submit the following letter and attached documents in support of its members' appeal of the Planning Commission's approval of the ARCO/Burger King project ("project").¹ (See Attached Notice of Public Hearing attached as Exhibit A.) Our letter focuses on the Planning Commission's finding the project, consisting of a Burger King Drive-through Restaurant, Arco Gas Station, AM PM Convenience Mart, and Truck Fueling Facility, to be exempt from further CEQA review. The California Environmental Quality Act ("CEQA") (commencing with section 21000 of the Public Resources Code), the CEQA Guidelines,² and judicial decisions interpreting CEQA do not support the Planning Commission's finding.

A. Summary: The ARCO/Burger King Project is Not Totally Exempt from CEQA.

Relying on the conclusions set forth in the Initial Study³ prepared for the project and the City staff report, the Planning Commission determined the project was exempt from further CEQA review pursuant to section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning) and/or pursuant to section 15332 (Infill Development Projects) of the CEQA Guidelines.

¹ Appellants and members of Winters Community Planning Agency include: Sarah Brown, Shaunie Briggs, Kresta Daly, Eric Doud, William (Bill) Hailey, Don Hutchins, Janice Koch, Ana Kormos, Michael McCoy, David Springer, Jeffrey TenPas, Albert Vallecillo

² Cal. Code Regs., § 15000, et seq.

³ The ARCO/Burger King Initial Study is attached as Exhibit B to this letter.

1. The project's impacts peculiar to the project site and project and off-site and cumulative impacts not addressed in the 1992 general plan EIR are not exempt from CEQA.

As we will discuss in more detail in this letter, due to its location immediately adjacent to the southbound I-505 off-ramp and its use of the County Road 90/State Route 128 (Grant Avenue) intersection that is to be relocated according to the 1992 Circulation Master Plan, which was incorporated into the 1992 General Plan, the project will have potentially significant adverse traffic impacts "peculiar to" the project site and project that were not addressed in the 1992 General Plan EIR. Potentially significant adverse impacts peculiar to the project site or project that were not evaluated or that were treated as insignificant in the 1992 General Plan EIR cannot be excused from CEQA's environmental review requirements.⁴ Additionally, the project's potentially significant off-site traffic impacts on the southbound I-505 off-ramp and along State Route 128 (Grant Avenue) and the project's cumulative traffic impacts were not addressed in the 1992 General Plan EIR. Again, the project's potentially significant off-site and cumulative traffic impacts cannot be excused from CEQA's environmental review requirements.⁵ The Planning Commission was ill-advised by City staff and its decision to exempt the project from CEQA violates the law.

2. The Project Does Not Qualify for the Categorical Infill Development Exemption.

Because the project site is not surrounded by urban uses and there is a reasonable possibility that the project will have significant adverse traffic impacts, the project does not qualify for the categorical infill development exemption.

To qualify for the CEQA Guidelines' categorical exemption for an infill development the project must satisfy the following conditions:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.⁶

There are no urban uses surrounding the project site. Instead, the project site will be an island of highway commercial uses on the northwest corner of the I-505 interchange and State Route 128

⁴ Pub. Resources Code, § 21083.3, subd. (b); CEQA Guidelines, § 15183, subd.(b)(1)-(2).

⁵ Pub. Resources Code, § 21083.3, subd. (c); CEQA Guidelines, § 15183, subd. (j).

⁶ CEQA Guidelines, § 15332.

surrounded by vacant lots.⁷ As pointed out by the California Department of Transportation (“CalTrans”) in its January 7, 2010 letter, the project will have potentially significant adverse traffic impacts.⁸ CalTrans’ traffic concerns are corroborated by Steve Abrams of Abrams Associates a certified traffic consultant who has reviewed the traffic analysis utilized in the EIR prepared for the 1992 General Plan and has concluded that the project will have significant adverse traffic impacts.⁹ Therefore, because the project site is not surrounded by urban uses and will have significant adverse traffic impacts, the project does not qualify for the infill exemption described at section 15332 of the CEQA Guidelines.

B. The Initial Study Overlooked Impacts Peculiar to the Project Site and Project and Off-site and Cumulative Impacts Not Addressed in the 1992 General Plan EIR.

The Initial Study states:

This development could result in transportation and circulation impacts; however, this area has been planned for these land uses since at least 1992. The 1992 General Plan EIR analyzed the potential impacts of development of the entire City . . . and found traffic impacts to be less-than-significant.¹⁰

The legal issue is whether the project has “effects on the environment which are peculiar to the parcel or to the project and which were not addressed as significant effects in the prior environmental impact report” and any “potentially significant offsite impacts and cumulative impacts” not discussed in the prior 1992 General Plan EIR.¹¹ The Initial Study ignores this issue.

CalTrans’ January 7, 2010 letter to the City, which was included as Attachment C to the August 10, 2010 staff report to the Planning Commission states at page 2:

The City has previously recognized the need to realign County Road (CR) 90. The State Route (SR) 128/CR 90 intersection is less than 300 feet from the southbound I-505 off-ramp. The potential increase in traffic, due to the project, will trigger the need for improvements at the ramp intersection. The need to restrict movements at CR 90 will be necessary if CR 90 is not realigned further away from the I-505 off-ramp.¹²

The Initial Study acknowledges CalTrans’ letter and states:

Caltrans has requested a more detailed access analysis in order to ascertain the timing for various improvements already anticipated in the City's General Plan

⁷ Exhibit B, page 5.

⁸ CalTrans’ January 7, 2010 letter is attached as Exhibit C to this letter.

⁹ Steve Abrams’ letter is attached as Exhibit D to this letter.

¹⁰ Exhibit B, p. 38.

¹¹ Pub. Resources Code, § 21083.3, subd. (b)-(c).

¹² Exhibit C, p. 2.

Circulation Element. Specifically the access study will determine various levels of controlled access required at the intersection of CR 90 and SR 128, in order to preserve the operational efficiency of the I-505 interchange ramps near that location. The project has been conditioned to be consistent with and implement as appropriate the recommendations of that study, as may be required by Caltrans; however, it is relevant to note that Caltrans has separate authority in this regard through the encroachment permit requirement.¹³

While acknowledging CalTrans' concern, the Initial Study misses the point and misinterprets section 21083.3 of the Public Resources Code and overlooks other CEQA requirements. For purposes of this exemption, the issue before the City is whether the project has "effects on the environment which are peculiar to the parcel or to the project [that] were not addressed as significant effects in the prior environmental impact report," or has any "potentially significant offsite impacts and cumulative impacts" not discussed in the prior 1992 General Plan EIR.¹⁴

The Initial Study concedes that the 1992 General Plan EIR did not address the project's traffic effects. But rather than comply with CEQA's required environmental review prior to approving the project, the Initial Study states the project has been conditioned to carry out a future access study that will somehow address CalTran's concern about the traffic generated by the project and the proximity of the southbound I-505 off-ramp and the State Route 128 (Grant Avenue)/County Road 90 intersection. The Initial Study's rationale and the Planning Commission's subsequent decision in reliance on the Initial Study have turned CEQA on its head. This illegal deferral of mitigation until after project approval has been routinely overruled by the California courts.¹⁵

Furthermore, the City, acting as the lead agency in reviewing this project, cannot delegate its environmental review authority to the responsible agency, in this case CalTrans.¹⁶ It is the responsible agency that must rely on the lead agency's environmental review.¹⁷

If the project has "effects on the environment which are peculiar to the parcel or to the project [that] were not addressed as significant effects in the prior environmental impact report," or has any "potentially significant offsite impacts and cumulative impacts" not discussed in the prior

¹³ Exhibit B, pp. 38-39.

¹⁴ Pub. Resources Code, § 21083.3, subd. (b).

¹⁵ *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1397 (Any proposed mitigation for project impacts must be made available for public review and cannot be left to be formulated in the future.)

¹⁶ Pub. Resources Code, §§ 21067, 21100; CEQA Guidelines, §§ 15004, subd. (a), 15050, subds. (a)-(b); 15096, subd. (a); 15367, 15381; see *Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892, 903-908.

¹⁷ CEQA Guidelines, §§ 15050, subd. (b); 15096, subd. (f); see *RiverWatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186, 1201-1202.

1992 General Plan EIR, the City must comply with CEQA's mandatory environmental review before approving the project.¹⁸

C. 1992 General Plan EIR Did Not Address the Project's Traffic Impacts

1. 1992 General Plan EIR did not address project-specific impacts.

The 1992 General Plan EIR did not address the peculiar effects of the traffic generated by the project on the I-505 southbound off-ramp and the State Route 128 and County Road 90 intersection. The 1992 General Plan EIR was a "programmatic" environmental document that did not identify or evaluate the project-specific effects of any future projects forecast by the 1992 General Plan.¹⁹ As the 1992 General Plan Draft EIR stated:

The analysis is intended to be general in its indication of the nature and scale of potential impacts, and does not address possible impacts related to the layout and design of structures, infrastructure and other physical improvements, the details of which are as yet undetermined. The EIR serves as a program EIR for adoption of the City's 1991 General Plan program.

In accordance with CEQA Guidelines, an EIR on a program action, such as adoption and implementation of a local general plan, contains a less detailed assessment of impacts than would be provided by an EIR on a specific development project. CEQA Guidelines (Section 15146(b)) state that an EIR on the adoption or amendment of a general plan "should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow." This report is intended to provide the level of analysis necessary to comply with this provision of CEQA Guidelines. Discretionary approvals of individual projects, such as subdivision maps, rezonings or use permits, may rely on the EIR only to the extent that the EIR provides sufficient site-specific information. Each individual project may be subject to preparation of an Initial Study as defined by CEQA to verify that no different or additional significant impacts identified in this EIR would result from the individual project approval. Individual projects which may have significant environmental impacts may refer to this program EIR in individual project EIRs.²⁰

¹⁸ Pub. Resources Code, § 21083.3, subds. (b)(c); see also Pub. Resources Code, §§ 21002, 21061, 21064.5, 21080, subd. (c)(2), 21100; CEQA Guidelines, § 15074, subd. (b), 15092.

¹⁹ The 1992 General Plan EIR included the Draft EIR and the Final EIR, which included comments on the Draft EIR, City responses to those comments, and revisions to the Draft EIR.

²⁰ 1992 General Plan Draft EIR, Introduction, pp. 2-3.

Again, as stated in Part B of this letter above, the legal issue is whether the 1992 General Plan EIR addressed the project's project-specific impacts on the environment that are peculiar to the parcel or to the project or any potentially significant offsite impacts and cumulative impacts.²¹

2. The 1992 General Plan EIR analyzed the potential impacts of development of the entire City based on a future circulation network that has not been completed.

The citywide traffic impact analysis completed for the 1982 General Plan did not address the peculiar project-specific traffic impacts of the project. That is why CalTrans requested that the City undertake a Traffic Impact Study that must include an analysis of the project's impacts to the existing state highway system affected by the project.²² This analysis was not done in the 1992 General Plan EIR.

During the public review and comment on the 1992 General Plan Draft EIR, CalTrans commented that the intersection of County Road 90 and State Route 128 (Grant Avenue) needed to be moved to provide at least 800 feet of space between that intersection and the I-505 south bound off-ramp. In response to CalTrans' DEIR comment, the City stated:

The requirement by Caltrans for a minimum 800' spacing between County Road 90 and the I-505 southbound ramps is acknowledged. The Draft General Plan Land Use Diagram shows the proposed realignment of CR 90 and its intersection with Highway 128 will be approximately 950 feet distant from the southbound ramp of I-505.²³

The reference to Figure 18 of the DEIR is to the City's future circulation plan that shows a new road connecting to State Route 128 (Grant Avenue) from County Road 90 that moves this intersection further away (950 feet according to Response 4-12) from the I-505 southbound off-ramp. This new road extending from County Road 90 to State Route 128 (Grant Avenue) is also shown on Figure 5 of the Winters Circulation Master Plan.²⁴ As the City stated in the 1992 General Plan EIR, "[b]ecause the Circulation Master Plan was prepared as a means of implementing the Goals and Policies of the Draft General Plan, it is necessary for the Circulation Master Plan to conform to the Draft General Plan."²⁵

As summarized in the Initial Study, the City's traffic consultant for the 1992 General Plan evaluated the impacts of future development within the City of Winters on the City's streets

²¹ Pub. Resources Code, § 21083.3, subds. (b)-(c).

²² Exhibit C.

²³ An excerpt from the 1992 General Plan FEIR of the City's Response (4-12) is attached as Exhibit E to this letter.

²⁴ A copy of Figure 18 from the 1992 General Plan EIR and Figure 5 of the Winters Circulation Master Plan are attached as Exhibit F to this letter.

²⁵ An excerpt from the 1992 General Plan FEIR of the City's Response (4-9) is attached as Exhibit G to this letter.

using a computerized model of the City's street system as depicted on Figure 18 of the EIR and found traffic impacts to be less-than-significant.

Steve Abrams points out in his letter attached as Exhibit D to this letter that,

the General Plan EIR's traffic analysis was based on a regional travel demand model (MinUTP) which has since been abandoned in favor of other computer traffic models. The resulting forecasts from this areawide travel demand model (which was run almost 20 years ago) are not an appropriate substitute for the project specific traffic analysis that traffic analysts use today in the environmental review of a project's indirect, direct, and cumulative traffic impacts.²⁶

Nevertheless, even using the areawide travel demand model, the discussion in the Winters Circulation Master Plan points out that the City's current circulation network could not handle the volume of traffic forecast in 2010 by the General Plan.

The first model run tested the existing street network with no improvements, assuming a population of 12,500 persons. This test revealed that the existing street network would not be able to accommodate this future traffic without experiencing levels-of-services (LOS) D, E, and F at all major Grant Avenue [State Route 128] intersections.²⁷

If the computer analysis had been run on the City's *existing* circulation network, the EIR would have concluded that traffic impacts were significant. Instead, the traffic impact analysis for the 1992 General Plan evaluated the future circulation plan depicted on Figure 18, which included a 4-lane State Route 128 (Grant Avenue) and a new County Road 90/State Route 128 intersection 950 feet west of the intersection of the southbound I-505 off-ramp and State Route 128.²⁸ However, the existing conditions of State Route 128 (Grant Avenue) west of the I-505 interchange are not in compliance with future circulation plan depicted on Figure 18. State Route 128 (Grant Avenue) is not a four lane route. The County Road 90/State Route 128 (Grant Avenue) intersection has not been relocated 950 feet to the west of the I-505 southbound off-ramp intersection with State Route 128.

As Mr. Abrams points out, there is no substantial evidence to support the Planning Commission's determination that the project's offsite traffic impacts on the existing City streets and state highways were addressed in the prior 1992 General Plan EIR.²⁹ The evidence is to the contrary.

²⁶ Exhibit D, pp. 2-3.

²⁷ An excerpt from the Winters Circulation Master Plan describing the analysis of Future Traffic Conditions, which was also used by the same traffic consultant for the 1992 General Plan EIR's traffic analysis is attached as Exhibit H to this letter.

²⁸ An excerpt of the analysis of the traffic impacts from the 1992 General Plan DEIR is attached as Exhibit I to this letter.

²⁹ Exhibit D, pp. 1, 5.

3. Proposed conditions of approval acknowledge that project's effects were not evaluated against the existing transportation network.

If uniformly applied development policies or standards can be applied to the project to mitigate its effects on the environment then the project's effects upon the environment shall not be considered peculiar to the parcel or to the project.³⁰ Rather than address CalTrans' concerns about the project's traffic impacts on the state highway system with uniformly applied development policies or standards, the Planning Commission adopted the following project-specific conditions of approval that require future approvals of roadway improvements and a future traffic study to reduce or avoid the project's significant traffic impacts on State Route 128 (Grant Avenue).

5. The General Plan Circulation Element and Final EIR identify County Road (CR) 90 from north of the Property (at Road 33) to the intersection of SR 128 to be re-aligned to SR 128 to the west via future CR 33 and Timber Crest Road, with the existing CR 90/SR 128 intersection to be abandoned. The intersection at SR 128 and CR 90 is anticipated to be a right-in, right-out only intersection. While, at this time a four-way intersection at the existing CR 90/SR 128 intersection is not contemplated in the General Plan Circulation Element, in order to permanently maintain and provide full access at the existing intersection, it will require review and approval from Caltrans and the City. If Caltrans ultimately approves a four-way intersection at the existing CR 90/SR 128 location, it is anticipated that some type of traffic control improvement may be needed such as a traffic signal. The full access intersection at SR 128 and CR 90 shall be permitted on a temporary basis unless Caltrans requires other mitigation measures at this intersection. The Applicant shall be responsible for all costs to construct necessary improvements to allow for a permanent full access intersection if approved by Caltrans.

6. The Applicant shall implement all traffic conditions contained herein prior to issuance of any certificates of occupancy for buildings within the project area. The Applicant shall commission an appropriate traffic access study of SR 128 from the north bound off-ramps of I-505 to the intersection of East Main Street inclusive. This study shall recommend the timing for planned improvements, as well as appropriate and effective interim improvements, which will leave this stretch of roadway and all intersecting streets at LOS "C" or better, as required by the General Plan. Said study shall be completed and approved by the City Engineer and Caltrans prior to approval of public improvement plans. Traffic improvement costs shall be paid in an equitable manner by the end users of the project, as approved by the City.

7. As a minimum, the following traffic conditions shall be implemented on SR 128, unless otherwise modified, changed, or deleted by Caltrans:

³⁰ Pub. Resources Code, § 21083.3, subd. (d).

- a. Full access at this intersection shall be eliminated by the City by installing a continuous median island down the center of SR 128 in the event that any intersection between the northbound off-ramps to I-505 and East Main Street drops below level of service "D" in the future or as required by Caltrans due to impacts to I-505.
- b. On SR 128 median islands, if required by Caltrans, will be striped pursuant to City and Caltrans requirements, as part of the improvements. Applicant shall pay the cost of constructing, including landscaping and irrigation, for future median islands in SR 128 along the frontage of the property.
- c. The I-505 southbound off-ramp free right turn lane on to SR 128 shall be eliminated with this project. Applicant shall construct off-ramp improvements accessing SR 128 per Caltrans requirements. Applicant shall be responsible for all cost associated with these improvements.³¹

The future roadway improvements and future traffic study are not uniform policies or standards based on the prior-approved General Plan or EIR. Condition of approval number 5 places the burden on CalTrans to address the impacts of the non-realigned County Road 90/State Route 128 intersection. This condition illegally places the burden on CalTrans to mitigate the City's action approving the project. CEQA requires the City as the lead agency to consult with CalTrans prior to preparing its environmental document and well before project approval.³²

Mr. Abrams points out in his letter that these conditions of approval are unenforceable.

One of the Planning Commission's conditions of approval for the project states: *"The Applicant shall be responsible for all costs to construct necessary improvements to allow for a permanent full access intersection if approved by Caltrans."* This condition is unenforceable, because there is nothing to limit the scope of these improvements. The project applicant cannot guarantee that funding will be available if *"Caltrans requires other mitigation measures at this intersection."*³³

CEQA requires the traffic analysis of the project's potentially significant effect on the existing transportation network prior to project approval.³⁴ Instead of complying with CEQA and preparing the required environmental review prior to approving the project, the Planning Commission's condition of approval number 6 requires the applicant to prepare a *post hoc* transportation study. The study that condition of approval number 6 requires the applicant to

³¹ Conditions 5, 6, & 7 of the Conditions of Approval attached as Exhibit J to this letter.

³² Pub. Resources Code, § 21153, subd. (a); CEQA Guidelines, § 15082.

³³ Exhibit D, p. 3.

³⁴ Pub. Resources Code, § 21002.

undertake fails to comply with CEQA. This type of post-approval project mitigation has been rejected by the California courts.³⁵

As Abrams points out in his letter, the traffic improvements described in condition of approval number 7 were not addressed in the 1992 General Plan EIR, so the environmental consequences of these off-site traffic improvements associated with the project should have been evaluated by the City prior to approving the project.³⁶

4. The project's cumulative impacts were not addressed in the 1992 General Plan EIR.

Since there is no evidence that the project's cumulative impacts have been addressed in the prior 1992 General Plan EIR, CEQA requires the City to evaluate the project's cumulative traffic impacts prior to approving the project.³⁷

Regarding the project's cumulative impacts the Initial Study states:

The full range of impacts from this project were anticipated and examined in the 1992 General Plan EIR upon which this analysis relies, Impacts to biological resources, cumulative air quality, loss of agricultural land, and water quality were identified as significant and unavoidable and a Statement of Overriding Considerations was adopted by the City Council. There are no new impacts associated with the project that were not previously analyzed and mitigated. Impacts in these categories are therefore considered less-than-significant.³⁸

As discussed in Part C.2. of this letter above, the 1992 General Plan EIR analyzed the traffic impacts of development of the entire City based on a future circulation network as depicted on Figure 18 of the 1992 General Plan EIR.³⁹ The 1992 General Plan EIR said the following about the General Plan's cumulative traffic impacts:

Development in Winters could combine with regional growth to contribute to increased vehicular traffic on Interstates 505 and 80, Highway 128 and other roadways, with resulting significant congestion at peak-hours. This congestion could require major expansion of roadway facilities, or promotion of substitute means of transportation, including bicycling, car- and vanpools, bus and rail services, or other technologies. The Winters Draft General Plan includes provisions which would minimize the contribution of Winters to this potential

³⁵ *Laurel Heights Improvement Association v. Regents of the Univ. of California* (1988) 47 Cal.3d 376, 425 ("We will not accept *post hoc* rationalizations for actions already taken, particularly in light of the fact that those activities were begun in violation of CEQA, even if done so in good faith."); *Gentry, supra*, 36 Cal.App.4th at p. 1397.

³⁶ Exhibit D, p. 3. Pub. Resources Code, § 21083.3, subd. (c).

³⁷ Pub. Resources Code, §§ 21002, 21083.3, subd. (c).

³⁸ Exhibit B, p. 42.

³⁹ See Exhibits E, F, G, H, & I.

cumulative congestion, assuming the successful implementation of those provisions.⁴⁰

Again, the 1992 General Plan EIR considered cumulative impacts in a broad programmatic manner based on the future circulation plan depicted on Figure 18. There is no evidence that the 1992 General Plan looked at the cumulative traffic impacts of future highway commercial development on the existing I-505 interchange and State Route 128 (Grant Avenue).⁴¹

D. 1992 General Plan EIR Did Not Evaluate the Project's Cumulative Effect on Climate Change.

The 1992 General Plan EIR did not address the General Plan's effect on the issue of greenhouse gas emissions and climate change. The Initial Study concedes this point and states:

Cumulative greenhouse gas emissions and associated climate change impacts for the entire County were examined in the County's certified General Plan Final EIR (SCH# 2008102034 certified November 10, 2010) (pages 805-817, DEIR and pages 438-441, FEIR). Build-out of the Winters General Plan is clearly included in that cumulative analysis. To the extent necessary, pursuant to CEQA Guidelines 15152 (see also Section 15730(b)(1)(B)) this analysis tiers from the analysis of cumulative climate change impacts contained in the Yolo County Certified General Plan FEIR.⁴²

The Initial Study attempts to save the statutory exemption based upon an EIR prepared by Yolo County for the County's general plan update. The exemption in section 21083.3 of the Public Resources Code is limited to projects within a local agency's jurisdiction that are consistent with the local agency's general plan and the project's effects have been addressed in the EIR prepared and approved for the local agency's general plan.⁴³

The statute does not authorize the City to rely on another agency's general plan EIR. The exemption from environmental review for a project that is consistent with the general plan of a local agency assumes that the EIR prepared and certified for the local agency's general plan has addressed the project's effects on the environment.⁴⁴ The exemption is not authorized when the local agency's general plan EIR did not address the project's cumulative effects at all.⁴⁵

On the issue of the project's cumulative greenhouse gas emissions the recently revised CEQA Guidelines, which went into effect on March 18, 2010, require "a lead agency [to] make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or

⁴⁰ 1992 General Plan Draft EIR, pp. 225-226.

⁴¹ Exhibit D.

⁴² Exhibit B, p.42.

⁴³ Id. at subd. (b).

⁴⁴ Pub. Resources Code, § 21083.3, subd. (b)

⁴⁵ Id. at subd. (c).

estimate the amount of greenhouse gas emissions resulting from a project.”⁴⁶ The City’s Initial Study failed to make a good faith effort to describe, calculate, or estimate the amount of greenhouse gas emissions resulting from the project in order to assess the project’s cumulative effect.

Since the 1992 General Plan EIR did not address the project’s cumulative effect on greenhouse gas emissions, the City was required to undertake this environmental analysis prior to the Planning Commission’s approval of the project.⁴⁷

E. The Project Does Not Qualify for the Categorical Infill Development Exemption.

To qualify for the categorical exemption for an infill development (CEQA Guidelines, § 15332), the project must satisfy the following conditions:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

In determining whether a project satisfies the requirements of a categorical exemption, the California Court of Appeal has ruled:

In keeping with general principles of statutory construction, exemptions are construed narrowly and will not be unreasonably expanded beyond their terms. (citations omitted) Strict construction allows CEQA to be interpreted in a manner affording the fullest possible environmental protections within the reasonable scope of statutory language. (citations omitted) It also comports with the statutory directive that exemptions may be provided only for projects which have been determined not to have a significant environmental effect.⁴⁸

Because the project site is not surrounded by urban uses and there is a reasonable possibility that the project will have significant adverse traffic impacts, the project does not qualify for the categorical infill development exemption.

1. The project site is not surrounded by urban uses and does not qualify as an infill site.

The Initial Study acknowledges that there are no urban uses surrounding the project site.

⁴⁶ CEQA Guidelines, § 15064.4, subd. (a).

⁴⁷ Pub. Resources Code, §§ 21002, 21083.3, subd. (b)-(c).

⁴⁸ *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 966.

Surrounding Land Uses and Setting: Surrounding land uses are as follows:

North	CR 90 (frontage road); vacant Light Industrial property
East	Interstate 505
South	SR 128 (Grant Avenue) and undeveloped Highway Commercial property (Gateway Master Plan area)
West	Vacant Highway Commercial property and Chevron gas station/convenience store

Historically, until approximately the 1970s, the site was used for agriculture (almond orchard). It is currently vacant and undeveloped.⁴⁹

Preceding the initial study attached to the August 10, 2010 staff report for the Planning Commission City staff had prepared a Notice of Exemption.⁵⁰ In that draft Notice staff determined that the project site satisfied the term “surrounded by urban uses,” because

the site is adjoined by existing or planned urban uses including the frontage road (CR 90) and planned Light Industrial property to the north, Interstate 505 to the east, SR 128 (Grant Avenue) and planned Highway Commercial property (Gateway Master Plan area) to the south, and planned Highway Commercial property and Chevron gas station1 convenience store to the west.⁵¹

“Surrounded by urban uses” cannot include projects that will not normally satisfy the statutory requirements for a categorical exemption, even if the project site might otherwise come within the vague concept an infill development.⁵² The CEQA Guidelines did not use the term “planned urban uses.” The project site must be “surrounded by urban uses” – not vacant lots. If the project is going to be the initial development within an area, it cannot be considered “infill.”

Before the City considers approving the categorical infill development exemption, the City should look to the statute to see how the Legislature defines the term or related terms. In fact, CEQA defines “infill site” as follows:

“Infill site” means a site in an urbanized area that meets either of the following criteria:

(a) The site has not been previously developed for urban uses and both of the following apply:

⁴⁹ Exhibit B, page 5.

⁵⁰ The draft Notice of Exemption is attached as Exhibit K to this letter.

⁵¹ Exhibit K, p. 4.

⁵² Pub. Resources Code, § 21084, subd. (a); see *Azusa Land Reclamation Company v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1192-1193.

(1) The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses.

(2) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.

(b) The site has been previously developed for qualified urban uses.⁵³

CEQA defines a “qualified urban use” to mean “any residential, commercial, public institutional, transit or transportation passenger facility, or retail use or any combination of those uses.”⁵⁴

Although the project site is within the City of Winters and is less than five acres, the project site is not surrounded by urban uses. The project site would not satisfy either of the criteria for an “infill site” as defined in CEQA, because it is not surrounded by “parcels that are developed with qualified urban uses.” Instead, the project would be an island of highway commercial uses surrounded by vacant lots. Therefore, because the project site is not surrounded by urban uses, it does not satisfy the conditions necessary for the categorical infill development exemption.⁵⁵

2. There is a reasonable possibility that the project will have significant adverse traffic impacts.

The project’s potentially significant traffic impacts, which were not addressed in the 1992 General Plan EIR, preclude the project from qualifying for the categorical infill development exemption based on the language of the infill exemption regarding significant traffic impacts, and the general exception to a categorical exemption, which precludes its application when there is a reasonable possibility that the project will have a significant effect.⁵⁶

The CalTrans letter pointing out the unusual circumstances associated with the traffic generated by the project and the proximity of the County Road 90/State Route 128 (Grant Avenue) intersection to the southbound I-505 off-ramp and State Route 128 pose a reasonable possibility that the proposed project will have significant traffic impacts. In addition, when the City’s traffic consultant ran the computerized model based on the development authorized and population estimated for the 1992 General Plan in 2010 on the City’s existing transportation network, which included the present location of the County Road 90/State Route 128 intersection, all the intersections along State Route 128 (Grant Avenue) exceeded the levels of service authorized by the plan. Based on substantial evidence provided by the state’s

⁵³ Pub. Resources Code, § 21061.3.

⁵⁴ Pub. Resources Code, § 21072.

⁵⁵ See *County of Amador, supra*, 76 Cal.App.4th at p. 966; *Azusa Land Reclamation Company v. Main San Gabriel Basin Watermaster, supra*, 52 Cal.App.4th at pp. 1192-1193.

⁵⁶ CEQA Guidelines, §§ 15300, subd. (c)(2), 15332, subd. (d); *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 204-206.

transportation agency and Mr. Abrams professional opinion based on his review of the project's traffic counts, there is a reasonable possibility that the project will have significant traffic impacts.⁵⁷ Therefore, because of the project's traffic impacts, the project does not qualify for the categorical infill development exemption.⁵⁸

On behalf of the members of the Winters Community Planning Association, who have appealed the Planning Commission's approval, we urge the City Council to overturn the Planning Commission's ill-advised determination that the project is exempt from CEQA, set aside the project approvals, and remand the matter back to City staff to comply with CEQA before bringing the matter back to the Planning Commission for further action.

Sincerely,



Bill Yeates

Exhibits A through K

cc: Harriet Steiner, Esq.
John W. Donlevy, City Manager
Nanci Mills, City Clerk
Nelia C. Dyer, Community Development Director
Nick Ponticello, City Engineer
Heidi Tschudin, Contract Planner

⁵⁷ Exhibits C and D.

⁵⁸ CEQA Guidelines, § 15300.2, subd. (c); see also *County of Amador, supra*, 76 Cal.App.4th at p. 966; *Azusa Land Reclamation Company, supra*, 52 Cal.App.4th at pp. 1192-1193.

Exhibit A

NOTICE OF PUBLIC HEARING
ARCO/BURGER KING PROJECT APPEAL HEARING
NOTICE TO DISABILITY COMMUNITY (Gov. Code 65091(d))

NOTICE IS HEREBY GIVEN that the City Council of the City of Winters will conduct a public hearing on September 29, 2010, at 6:30 p.m. in the Council Chambers of City Hall, 318 First Street, Winters, California. Purpose of the public hearing is to conduct a hearing on an Appeal of the Planning Commission's decisions made after Public Hearing on August 10, 2010, (1) finding the project, consisting of a Burger King Drive Through Restaurant, Arco Gas Station, AM PM Convenience Mart, and Truck Fueling Facility to be exempt from further CEQA review; (2) approving a Conditional Use Permit for the operation of the Truck Fueling Facility; (3) approving the site plan/design review for the project; (4) approving the Sign Permit for the Freeway Information Sign; and (5) approving a variance from the City's Sign Ordinance. The real property location for the project is at the Northwest quadrant of Interstate 505 and State Route 128, Grant Avenue, in Winters, California, between the Chevron Station and I-505, Yolo County APN 038-050-063, totaling approximately 2.3 acres.

The hearing before the City Council is a "de novo" hearing under the City's Municipal Code, meaning that the City Council will independently base its decisions on the project based on the evidence introduced at the hearing. Copies of the original staff report for the August 10, 2010 meeting of the Winters Planning Commission and public hearing on the project, the minutes of the meeting, the appeal and the reasons listed therefor, and other planning documents relating to the appeal can be found on the City's website at cityofwinters.org, or can be obtained at the office of City Clerk, City Hall, 318 First Street, Winters, California at least 5 days before the hearing.

The purpose of the public hearing will be to give the applicants and citizens an opportunity to make their comments known on the project. If you are unable to attend the public hearing, you may direct written comments to the City of Winters, City Clerk, 318 First Street, Winters, CA 95694 or you may telephone (530) 795-4910, extension 101. Written comments should be provided before the hearing to the Winters City Clerk. In addition, a public information file is available for review at the above address between the hours of 8:00 a.m. and 5:00 p.m. on weekdays.

If you plan on attending the public hearing and need a special accommodation because of a sensory or mobility impairment/disability, please contact Dawn Van Dyke, (530) 795-4910, extension 108 to arrange for those accommodations to be made.

Dated: September 17, 2010

John C. Wallace, City Attorney,
City of Winters

Exhibit B

ENVIRONMENTAL CHECKLIST AND INITIAL STUDY

(City of Winters, 7-27-10)

Project Title: Burger King/AMPM Gas Station Minimart/Truck Fueling Facility CUP

Lead Agency: City of Winters
Community Development Department
318 First Street
Winters, CA 95694

Lead Agency Contact: Nelia Dyer, Community Development Director
(530) 795-4910 x114

Heidi Tschudin, Contract Planner
(916) 447-1809

Project Location: Northwest quadrant of Interstate 505 and State Route 128 (Grant Avenue) in Winters California, 95694 (see Exhibit 1, Vicinity Map). APN: 038-050-063 totaling 2.3 acres.

Project Applicant: Sunny Ghai
Singh's Foodservice Inc.
43678 Skye Road
Fremont, CA 94539
(530) 333-7502

Property Owner: Same as above

Land Use Designations: GENERAL PLAN -- The General Plan land use designation for the property is Highway Service Commercial (HSC) on the front approximately 1.4 acres and Light Industrial (LI) on the back approximately 0.9 acre (see Exhibit 2, General Plan Designations). Both designations are overlaid by the General Plan Flood Overlay Zone (FOZ).

HSC is described as follows in the General Plan (GP, page I-2):

Highway Service Commercial (HSC)

This designation provides for restaurants, service stations, hotels and motels, and retail and amusement uses, which are oriented principally to highway and through traffic, public and quasi-public uses, and similar and compatible uses. The FAR shall not exceed 0.40.

LI is described as follows in the General Plan (GP, page I-3):

Light Industrial (LI)

This designation provides for industrial parks, warehouses, light manufacturing, public and quasi-public uses, and similar and compatible uses. The FAR shall not exceed 0.40.

Non-residential land in the FOZ is subject to the following General Plan policies:

Policy I.A.9: No new development may occur within the flood-overlay area shown in Figure II-1 until a feasibility and design study for a comprehensive solution to the 100-year flooding problem has been completed and a fee schedule has been established or financing program adopted which includes all affected and contributing properties for financing the comprehensive flood control solution.

Policy I.A.12: At such time as the City Council determines that Policies I.A.9 and IV.D.4 have been satisfied, including approval of a fee schedule or financing program, the 964-acre FOZ area may only be developed as provided in Policies I.A.13 through I.A.15, and Policies IV.D.6 and IV.D.7.

Policy I.A.13: As a way to improve the citywide job/housing balance, new job-producing non-residential development may develop within the FOZ, consistent with General Plan and zoning land use designations.

Policy IV.D.4: The City, in cooperation with property owners, developers and the Yolo County Flood Control and Water Conservation District shall undertake a feasibility and design study for a comprehensive solution to the flooding problems associated with Chicahominy and Moody Sloughs. The comprehensive solution may include such features as diversion to Putah Creek, diversion under I-505, detention ponds, changes in land use designations, elevating building pads, and structural flood proofing as deemed effective and cost effective. As a condition to any development entitlement approval, all development affected by or contributing to the 100-year flooding problem shall be required to contribute to the financing of the comprehensive flood control solution in an amount that reflects that property's relative contribution to the flooding problem or benefit from the program adopted.

Policy IV.D.6: All development allowed to proceed within the General Plan flood overlay zone, in advance of implementation of storm drainage improvements specified in the updated Storm Drainage Master Plan, must address interim drainage and flooding requirements in a manner found acceptable by the City Engineer, and in a manner that furthers and is not inconsistent with the updated Storm Drainage Master Plan. To the extent feasible as determined by the City, interim improvements shall implement logical component parts of the storm drainage improvements identified in the updated Storm Drainage Master Plan.

Interim drainage/flooding solutions that do not implement logical components parts of the storm drainage improvements identified in the updated Storm Drainage Master Plan, or would be otherwise inconsistent with implementation of the update Storm Drainage Master Plan, can only be approved if consistent with the water quality treatment/design criteria and standards criteria of the updated Storm Drainage Master Plan and the City shall provide no reimbursement or credit for said work.

Policy IV.D.7: Notwithstanding any interim improvements constructed pursuant to Policy IV.D.6, all projects citywide and within the FOZ shall pay a Storm Drainage Master Plan Implementation Fee that represents a fair share towards implementation of the improvements specified in the updated Storm Drainage Master Plan. This fee shall be due prior to issuance of the building permit. To the extent that all or a component part of the Storm Drainage Master Plan is constructed by a project approved to move forward, credit toward the fee will be provided.

ZONING - The zoning for the property is Highway Service Commercial (C-H) on the front approximately 1.4 acres and Light Industrial (M-1) on the back approximately 0.9 acre (see Exhibit 3, Zoning Designations). The C-H zone designation is described as follows in the Zoning Code:

Section 8-1.5109 Highway Service Commercial (C-H) Zone

A. Purpose. The purpose of the Highway Service Commercial (C-H) Zone is to provide for commercial services and transient residential uses which are appropriate to highway locations and dependent

upon highway travel. Principal permitted uses include minor automobile repair, restaurants including drive-thrus, service station, and minor utility services.

The M-1 zone designation is described as follows in the Zoning Code:

Section 8-1.5112 Light Industrial (M-1) Zone

A. Purpose. The purpose of the Light Industrial (M-1) zone is to provide areas for light industrial development in a manner which will not result in public nuisances related to the operations. These are typically enclosed within a structure or involve minimal outdoor storage.

Description of Project: The application is for a proposed fast food restaurant (Burger King) with drive-through, gas station and convenience store (AM PM), and truck fueling station co-located on one site (Exhibit 4, Site Plan dated 6/29/10).

One 5,000 square foot one-story multi-tenant building is proposed. The building footprint is 150' by 33' 6". A parapet roof style is proposed. The mechanical equipment located on the roof will be shielded on all sides behind the proposed parapet. Building height is generally 23' (to top of parapet); however, the silo feature will be 33' in height.

The proposed architecture for the building has agriculturally-themed elements including metal roofing and a silo feature (see Exhibit 5, Building Elevations). Materials are metal panels, stucco, concrete siding, clear glass, and brick. The color palette is muted with off-whites, beiges, tans, and soft browns. An illuminated red band is proposed around the structure. Navy blue metal awnings are proposed over each window.

The project includes five fuel pumps serving ten cars, two fuel pumps serving four trucks, parking for 27 vehicles, two underground fuel tanks, and one above ground fuel tank. Both fueling areas would be covered by a proposed corporate canopy (see Exhibit 6, Canopy Elevations).

The proposed fueling station canopies would be 20' 6" in height. An illuminated blue band is proposed around the vehicle fueling canopy. An illuminated and yellow LED striped band is proposed around the truck fueling station canopy. The canopy columns would have a brick base. The brick matches the building.

The proposed above-ground fuel tank would have a capacity of 12,000 gallons and would be 8' 7" in height, 8' in width, and 32' 7' in length. It would be located at the northerly end of the property. It is proposed to be partially enclosed by a 8' high concrete brick (CMU) wall topped with 2' 4" black painted metal railing (see Exhibit 7, Tank Enclosure). The dimensions for the walled enclosure are 33' 4" by 48'.

The two proposed underground fueling tanks would have a capacity of 20,000 gallons and would be 10' in width, and 34' 5' in length. They would be located just west of the second entrance to the north.

Proposed landscaping consists of 15-gallon London plane and Chinese flame trees primarily along the project perimeter, with some also proposed in the interior where needed to meet shade requirements (see Exhibit 8, Conceptual Landscaping Plan). A variety of native shrubs and ground covers are proposed in the interior of the site. The drainage areas will be planted in native grasses.

A small detention pond (1,200 cubic feet (cf)) is proposed in the landscaped area at the corner of CR 90 and SR 128. A larger retention pond (9,400 cf) is proposed along CR 90 adjoining the proposed truck fuel pump area (see Exhibit 9, Drainage Plan).

A 12' by 24' 8" refuse/recycling enclosure is proposed to the north of the building. This enclosure would be comprised of a concrete brick (CMU) wall with metal gates (see Exhibit 10, Refuse and Recycling Enclosure).

A retaining wall is proposed for the entire length of the easterly border (adjoining the freeway off-ramp). This wall would be 5' high with a 3'6" railing, composed of the same brick and metal materials as the tank enclosure.

Based on the site plan, approximately 61,348 square feet (or 60 percent) of the 2.3 acres site (101,563 square feet) is proposed to be covered with impervious surface. This includes the building, parking lot, driveways, sidewalks, and other hardscape. The remaining 40,215 square feet or 40 percent of the site would be pervious and generally in landscaping.

Proposed lighting includes 27" high cutoff flood lights, recessed canopy lights, and perimeter cutoff wallpacks (see Exhibit 11, Photometric Study).

Two interior-lighted cabinet signs are proposed (see Exhibit 12, Signage). The project monument sign would be located near the proposed detention swale. It would have a brick base that matches the building. Dimensions are 9'3" tall and 8' 1" wide. The freeway monument sign would be located along the easterly boundary opposite the third proposed entrance. It would be located on twin aluminum poles with a brick base that matches the other brick features. Proposed height is 65' tall. Width at the ground would be 18' 11". Width at the elevated sign would be 23' 4". In addition, the project proposes signage on the building and canopies, and various directory signs for the drive-through.

Four driveways are proposed off CR 90: two that would be 30-feet wide to facilitate access to the vehicle fuel pumps, and two that would be 50-feet wide that would provide access to the truck fuel pumps.

Curb, gutter, and sidewalk (8') to City standards will be constructed along the project frontage of CR 90 where the applicant proposes to build the required half-street section of the frontage road. No street improvements are proposed along SR 128/Grant Avenue.

Project Approvals: The following specific entitlements are necessary for implementation of the project:

- Conditional Use Permit (CUP)
- Approval of Site Plan/Design Review
- Approval of Sign Permit
- Variance to Sign Ordinance
- CEQA Clearance

Surrounding Land Uses and Setting: Surrounding land uses are as follows:

North	CR 90 (frontage road); vacant Light Industrial property
East	Interstate 505
South	SR 128 (Grant Avenue) and undeveloped Highway Commercial property (Gateway Master Plan area)
West	Vacant Highway Commercial property and Chevron gas station/ convenience store

Historically, until approximately the 1970s, the site was used for agriculture (almond orchard). It is currently vacant and undeveloped. The site is located at an elevation of approximately 125 feet above mean sea level (MSL) and is generally flat. There is minimal vegetation on the site. There are several trees on the south end that are around 15-feet-tall. Most of these are black walnuts that appear to be from a former orchard. There is an ornamental tree (hackberry) near the edge of I-505. There are two rose shrubs further north, several small almond trees along the I-505 fence, and one larger almond tree on the north end. The remainder of the site is ruderal/grassland with star thistle and bull thistle.

Soils are Yolo-Brentwood Association which consists of silty loams to silty clay loams derived from alluvium from sedimentary rocks extending to a depth of more than 60 inches. Groundwater in the area lies between 34 and 38 feet below the surface with a southerly flow direction.

Background: The application was submitted November 20, 2009 and determined by the City to be incomplete on January 4, 2010. An informational presentation was given on the project at the January 26, 2010 Planning Commission. Concept plan were circulated to City Departments on June 19, 2010. No comments were received. A supplemental submittal was received by the applicant on June 28, 2010 and found to be complete on July 16, 2010.

Previous Relevant Environmental Analysis: The City's 1992 General Plan was the subject of a certified Environmental Impact Report (GP EIR) that examined the environmental impacts associated with adoption of the General Plan. On May 19, 1992 the City Council adopted Resolution No. 92-13 certifying the two-volume EIR (SCH#91073080) prepared for the City General Plan and adopting the City General Plan.

Based on the revised General Plan land use map (E&R-54, General Plan FEIR), the Planning Area Boundaries map (page 15, General Plan DEIR), and specified development assumptions (page E&R-55 and E&R-56, General Plan FEIR), the GP EIR examined the environmental impacts associated with approximately 9,200 square feet of HSC use per acre ($47,000 \div 5.1$) in this planning area. For the subject site this equates to about 12,900 square feet, sf ($9,200 \times 1.4$ ac) on the front portion of the property designated for these uses.

The GP EIR also examined the environmental impacts associated with approximately 9,270 square feet of LI use per acre (101,000 ÷ 10.9) in this planning area. For the subject site this equates to about 8,350 sf (9,270 x 0.9 ac) on the rear portion of the property designated for these uses.

Other public agencies whose approval may be required:

An Authority to Construct permit was issued December 16, 2009 by the Yolo-Solano Air Quality Management District for the fueling station and the proposed above-ground fuel storage tank.

The State Water Quality Control Board has jurisdiction over the proposed underground petroleum storage tanks. Also a discharge permits and/or various NPDES approvals may be needed.

Caltrans has jurisdiction over the state highway system. An encroachment permit is needed for any work within the I-505 or SR-128 right-of-way.

Other Project Assumptions: The Initial Study assumes compliance with all applicable State, federal, and local codes and regulations.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below potentially would be significantly affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | |
|------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Land Use and Planning |
| <input type="checkbox"/> Agricultural and Forest Resources | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Population and Housing |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Geology and Soils | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Transportation and Traffic |
| <input type="checkbox"/> Hazards and Hazardous Materials | <input type="checkbox"/> Utilities and Service Systems |
| <input type="checkbox"/> Hydrology and Water Quality | <input type="checkbox"/> Mandatory Findings of Significance |
| | <input checked="" type="checkbox"/> None Identified |

DETERMINATION:

On the basis of this initial evaluation:

- I find that the Proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the Proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because revisions

in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

- I find that the Proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the Proposed Project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect: 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards; and 2) has been addressed by mitigation measures based on the earlier analysis as described in the attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the Proposed Project could have a significant effect on the environment, because all potentially significant effects: (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards; and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the Proposed Project, nothing further is required.



Signature

Nelia Dyer, Director

Printed Name

7-30-10

Date

Winters Community Development Dept

Lead Agency

EVALUATION OF ENVIRONMENTAL IMPACTS:

Introduction

Following is the environmental checklist form (also known as an "Initial Study") presented in Appendix G of the State CEQA Guidelines. The checklist form is used to describe the impacts of the Proposed Project. A discussion follows each environmental issue identified in the checklist. Included in each discussion are project-specific mitigation measures recommended as appropriate as part of the Proposed Project.

For this checklist, the following designations are used:

Potentially Significant Impact: An impact that could be significant, and for which no mitigation has been identified. If any potentially significant impacts are identified, an EIR must be prepared.

Less Than Significant With Mitigation Incorporated: An impact that requires mitigation to reduce the impact to a less-than-significant level.

Less Than Significant Impact: Any impact that would not be considered significant under CEQA, relative to existing standards.

No Impact: The project would not have any impact.

Instructions

1. A brief evaluation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, potentially significant unless mitigation is incorporated, or less than significant. "Potentially significant impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact". The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less-than-significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).
5. Earlier analyses may be used where, pursuant to tiering, a program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration (Section 15063(c)(3)(D)). In this case, a brief discussion should identify the following:
 - a. Earlier Analysis Used – Identify and state where available for review.
 - b. Impacts Adequately Addressed – Identify which effects from the above checklist were within the scope of and adequately addressed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c. Mitigation Measures – For effects that are "Less Than Significant with Mitigation Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting Information Sources in the form of a source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
9. The explanation of each issue area should identify: a) the significance criteria or threshold, if any, used to evaluate each question; and b) the mitigation measure identified, if any, to reduce the impact to less than significant.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
1. AESTHETICS. <i>Would the project:</i>				
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The application is for a proposed fast food restaurant (Burger King) with drive-through, gas station and convenience store (AM PM), and truck refueling station, with associated parking, fuel storage, signage, and site improvements on a 2.3 acre site within the City. The Burger King and convenience store are proposed to be co-located in one 5,000 square foot, one-story multi-tenant building.

This development would change the visual characteristics of the site; however, this site has been planned for these land uses for 18 years. For planning and environmental analysis purposes, the GP and GP EIR assumed about 21,250 square feet of development on the site, comprised of approximately 12,900 sf of highway commercial uses and about 8,350 sf of light industrial uses. The potential for aesthetic/visual impacts was found to be less than significant assuming compliance with the General Plan policies and applicable regulations.

The General Plan FEIR is hereby relied upon for this analysis.

- a. There are no General Plan designated scenic vistas that would be adversely affected by implementation of this project. The 1992 General Plan EIR discusses view corridors to the Vaca Mountains, and concludes that development consistent with the General Plan would have no unmitigated impacts. For these reasons, the proposed project would not substantially or adversely affect views of a scenic vista, and this impact would be less than significant.
- b. The City has not designated any scenic resources on the project site. There are no historic buildings or rock outcroppings on the site. There are several small trees on the site. These trees would be removed in order to develop the site. Removal of these trees triggers no special requirements under City ordinance. The trees have no biological or historic value, nor are they aesthetically significant. For these reasons, the potential for impact would be less than significant.

- c. The proposed project would not result in significant degradation of the visual surroundings of the site or surrounding area. The General Plan designates this area for future development and the General Plan EIR concluded that there would be no unmitigated aesthetic or visual impacts. In fact, sometime in the 1960s with the construction of I-505, a former gas station was located northeast of the site, between the existing southbound off-ramp and northbound loop off-ramp

Yolo County has designated Grant Avenue/Highway 128, between I-505 and Lake Berryessa, as a local "scenic highway corridor". City General Plan Policy VIII.A.7 requires the City to establish Design Guidelines for new development along Grant Avenue. This development would be subject to those requirements which are contained in the adopted Winters Design Guidelines (November 1999). These guidelines address the I-505 Corridor and the Grant Avenue Corridor, and the project will be analyzed for consistency with these City requirements. Therefore, this impact would be less-than-significant.

- d. The proposed project would result in no new sources of light and/or glare in the area beyond what was anticipated/analyzed in the General Plan EIR. City General Plan Policy VIII.D.7 requires controls on new lighting to minimize spill-over, glare, and impacts to the night sky. The proposed lighting and photometric plan will be analyzed for consistency with City requirements. Potential light and glare impacts are, therefore, considered less-than-significant.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
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2. AGRICULTURE AND FOREST RESOURCES.

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland.

In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

Would the project:

a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed project would change the existing land use on the site, however, this site has been planned for these land uses for 18 years. The 1992 General Plan EIR assumed conversion of the site to a mix of highway commercial uses in the front portion and light industrial uses in the back portion. The potential impacts of development of 21,250 square feet of highway commercial development on the subject property was assumed. The 1992 General Plan EIR found impacts to agriculture citywide to be significant and unavoidable due to loss of then active agricultural land in other areas of the City planned for later conversion to urban uses. The City Council adopted a Statement of Overriding Considerations accepting these unavoidable impacts (Resolution 92-13, Exhibit C, adopted May 19, 1992) which is hereby relied upon for

this analysis. It should be noted that at the time of the 1992 General Plan this property has been out of agricultural use since at least the 1970s, primarily as a result of the construction of the I-505 freeway. This site is an isolated remnant from the construction of I-505. Notwithstanding the fact that it has been removed from agricultural use since the 1970s and that it has been planned for urban uses since at least 1992, the size and location of this property, as well as surrounding uses, effectively prohibit any reasonable likelihood of agricultural use.

- a. The subject property is mapped as "Other Land" in the State Department of Conservation's Farmland Mapping and Monitoring Program and therefore no project-specific impacts to protected farmland would occur as a result of this project. As indicated above, impacts to agricultural land in general that could occur as a result of implementation of the City's General Plan have already been analyzed under the 1992 General Plan EIR and determined by the City Council to be unavoidable but acceptable. Implementation of the subject project will result in no new impacts not already analyzed in the prior EIR.
- b. None of the project acreage is under a Williamson Act contract or zoned by the City for agricultural uses.
- c,d. None of the project acreage contains forest resources.
- e. There is no aspect of the project that would result in other known impacts to agricultural or loss of agricultural land.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
3. AIR QUALITY. <i>Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:</i>				
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

Development on this property would release air emissions; however, this area has been planned for these land uses since at least 1992. The 1992 General Plan EIR analyzed the potential impacts of development of the entire City (see pages 193 through 205 of the Draft EIR and pages E&R 30 through 32 of the Final EIR) and found air quality impacts to be significant and unavoidable. The City Council adopted a Statement of Overriding Considerations accepting these unavoidable impacts (Resolution 92-13, Exhibit C, adopted May 19, 1992) which is hereby relied upon for this analysis.

- a. The proposed project would not conflict with or obstruct implementation of applicable air quality plans, because the development that would result from implementation of this project is consistent with land uses planned for the site in the City General Plan since at least 1992. Build-out of the City's 1992 General Plan is included in the air emissions inventory for the Sacramento region which is included in applicable air quality plans. These impacts have already been analyzed under the 1992 General Plan EIR and determined by the City Council to be unavoidable but acceptable. The prior adopted Statement of Overriding Consideration is relied upon in this determination. Implementation of the subject project will result in no new impacts not already analyzed in the prior EIR, and in fact the proposed development would result in less development intensity on the site than was assumed. The proposed 5,000 sf building with fast food, fueling stations, and convenience store tenants is less intense than the 21,250 sf of land uses (approximately 12,900 sf of highway commercial uses and about 8,350 sf of light industrial uses) assumed in the General Plan EIR. Therefore, the impact in this category is considered less-than-significant as allowed under CEQA including

Sections 15152(f)(1) and 15153(c) of the State CEQA Guidelines and other sections that may apply.

- b, c, d. Yolo County is designated as non-attainment for ozone under both State and federal standards and non-attainment for PM₁₀ under State standards (see table below).

POLLUTANT	ATTAINMENT FOR FEDERAL STANDARD	ATTAINMENT FOR STATE STANDARD
Ozone	No/Severe	No/Serious
NO _x	Yes	Yes
PM ₁₀	Yes	No
SO _x	Yes	Yes
CO	Yes	Yes

However, the potential for air quality impacts from the construction and development that may result from the proposed project is unchanged from the original analysis in the prior 1992 General Plan EIR. These impacts have already been analyzed under the 1992 General Plan EIR and determined by the City Council to be unavoidable but acceptable. The prior adopted Statement of Overriding Consideration is relied upon in this determination. Implementation of the subject project will result in no new impacts not already analyzed in the prior EIR and therefore, the impact in this category is considered less-than-significant as allowed under CEQA including Sections 15152(f)(1) and 15153(c) of the State CEQA Guidelines and other sections that may apply.

- e. The potential for impacts due to objectionable odors is unlikely to be significant at this specific location as no residential uses are proposed. Odors are typically an issue where agricultural and residential uses interface and where industrial and residential uses interface. This is typically addressed through reliance on buffers between uses or operational controls applied on a case-by-case basis through the design review process. There may be cases where the impact remains unavoidable, which is consistent with the determination reached in the 1992 General Plan EIR.

The prior adopted Statement of Overriding Consideration is relied upon in this determination regarding regional air quality emissions. Implementation of the subject project will result in no new impacts not already analyzed in the prior EIR and therefore, the impact in this category is considered less-than-significant as allowed under CEQA including Sections 15152(f)(1) and 15153(c) of the State CEQA Guidelines and other sections that may apply.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
4. BIOLOGICAL RESOURCES. <i>Would the project:</i>				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

This development would change the existing land use on the site; however, this site has been planned for these land uses for 18 years. The 1992 General Plan EIR assumed development of the site in highway commercial and industrial uses, including the potential impacts of development of approximately 12,900 sf of highway commercial uses and about 8,350 sf of light industrial uses. The project as proposed is less intense. The 1992 General Plan EIR found impacts to biological resources to be significant and unavoidable. The City Council adopted a Statement of Overriding Considerations accepting these unavoidable impacts (Resolution 92-13, Exhibit C, adopted May 19, 1992) which is hereby relied upon for this analysis.

a-d. The potential for impacts to biological resources on a regional or cumulative level as a result of implementation of the project is unchanged from the original analysis in the prior 1992 General Plan EIR. These impacts have already been analyzed under the 1992 General Plan EIR and determined by the City Council to be unavoidable but acceptable. The prior adopted Statement of Overriding Consideration is relied upon in this determination. Implementation of the subject project will result in no new impacts not already analyzed in the prior EIR. Additionally on a site-specific basis, the property has no significant biological value. Therefore, there is no impact identified in any of these categories.

- e. General Plan Policies VI.C.1 through VI.C.10, and VI.D.1 through VI.D.9, establish various requirements to protect and preserve the City's biological resources. Notwithstanding these policies, the City in 1992 concluded that impacts to biological resources resulting from implementation of the General Plan would be significant and unavoidable. The potential for impacts to biological resources on a regional or cumulative level as a result of implementation of the proposed project is unchanged from the original analysis in the prior 1992 General Plan EIR, which included the development the subject site. The prior adopted Statement of Overriding Consideration is relied upon in this determination. Implementation of the subject project will result in no new impacts not already analyzed in the prior EIR. Additionally on a site-specific basis, the property has no significant biological value. Therefore, there is no impact identified in this category.

- f. No Habitat Conservation Plan (HCP), Natural Community Conservation Plan (NCCP), or other approved regional or state habitat conservation plan has been adopted for the project site. The County and cities are in the process of developing a countywide HCP/NCCP plan, but it is not complete. The City of Winters has an adopted local Habitat Mitigation Program that provides the relevant legal/regulatory framework, policy framework, guiding values, mitigation strategy, and mitigation requirements for implementation of habitat mitigation requirements. However, the potential for impact in this category is less than significant because the project site does not contain any important or significant biological resources.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
5. CULTURAL RESOURCES.				
<i>Would the project:</i>				
a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

This development could adversely affect unknown cultural resources; however, the General Plan contains required measures to minimize the potential adverse effects of this impact. The 1992 General Plan EIR analyzed the potential impacts of development including 21,250 sf of highway commercial and industrial uses at this site and found impacts to cultural resources to be less-than-significant. The City Council adopted Findings of Fact documenting these conclusions (Resolution 92-13, adopted May 19, 1992) which are hereby relied upon for this analysis.

a-d. General Plan Policies V.F.1 and V.F.2 address archeological resources and require that construction stop and appropriate mitigation through the State Archaeological Inventory occur if potential sub-surface resources are uncovered. These have been added as conditions of approval for the project.

Section 7050.5 of the California Health and Safety Code states that, when human remains are discovered, no further site disturbance shall occur until the county coroner has determined that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, in the manner provided in Section 5097.98 of the Public Resources Code. If the coroner determines that the remains are not subject to his or her authority and the remains are recognized to be those of a Native American, the coroner shall contact the Native American Heritage Commission within 24 hours.

Compliance with these requirements will ensure that impacts on unknown cultural resources are less than significant.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
6. GEOLOGY AND SOILS.				
<i>Would the project:</i>				
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault as delineated on the most recent Alquist - Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Be located on expansive soils, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed development could result in impacts related to soils and geology; however, this area has been planned for these land uses since at least 1992. The 1992 General Plan EIR analyzed the potential impacts of development of the entire City (see pages 169 through 178 of the Draft EIR and page E&R 29 of the Final EIR) and found impacts to geological resources to be less-than-significant. The City Council adopted Findings of Fact documenting these conclusions (Resolution 92-13, adopted May 19, 1992) which are hereby relied upon for this analysis.

a-d. The Alquist-Priolo Special Studies Zones Act of 1972 regulates development near active faults to mitigate the hazard of surface fault rupture and prohibits the development of structures for human occupancy across the traces of active faults. There are no parts of the City located within an Alquist-Priolo Special Studies Zone.

According to the Seismic Risk Map of the United States, Winters is in Zone 3. Within Zone 3, the potential for earthquakes is low; however, there is the possibility for major damage (VIII to X on the Modified Mercalli Scale from a nearby earthquake). A rating of VIII to X on the Modified Mercalli Scale generally means the Richter scale magnitude would be between 6.0 to 7.9. Effects associated with this intensity range from difficulty standing to broken tree branches to damage to foundations and frame structures to destruction of most masonry and frame structures.

Any major earthquake damage within the City is likely to occur from ground shaking and seismically-related ground and structural failures. Local soil conditions, such as soil strength, thickness, density, water content, and firmness of underlying bedrock affect seismic response. Seismically-induced shaking and some damage should be expected to occur during an event, but damage should be no more severe in the project area than elsewhere in the region. Framed construction on proper foundations constructed in accordance with Uniform Building Code requirements is generally flexible enough to sustain only minor structural damage from ground shaking. Therefore, people and structures would not be exposed to potential substantial adverse effects involving strong seismic ground shaking, and this would be a less-than-significant impact.

General Plan Policies VII.A.1 through VII.A.3 address geological hazards and require compliance with applicable State codes and requirements.

The proposed project would not result in new geological impacts or exposure to new hazards beyond what was analyzed in the General Plan EIR. Impacts in these areas are considered less-than-significant.

- e. The City does not allow septic systems. All projects are required to connect to wastewater treatment facilities. Therefore, there is no potential for impact.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
7. GREENHOUSE GAS EMISSIONS. <i>Would the project:</i>				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

Assembly Bill 32 adopted in 2006 established the Global Warming Solutions Act of 2006 which requires the State to reduce greenhouse gases (GHGs) to 1990 levels by 2020. GHGs contribute to global warming/climate change and associated environmental impacts. The major GHGs that are released from human activity include carbon dioxide, methane, and nitrous oxide. The primary sources of GHGs are vehicles (including planes and trains), energy plants, and industrial and agricultural activities (such as dairies and hog farms). New development results in the direct and indirect release of GHGs.

"Climate change" as a specific or distinct topic was not mentioned in the 1992 General Plan; however, the related topics of pedestrian-friendly land use and design features, transportation and circulation, energy efficiency, air quality, and waste management were addressed and are prominent in the General Plan. The existing General Plan includes the following policies relevant to this topic:

- Urban limit line (Policy I.A.2)
- Jobs housing balance (Policy I.A.6, I.E.2)
- Pedestrian and bicycle orientation (I.A.8, III.G.1 – III.G.6, VIII.A.4, VIII.B.1 – VIII.B.3, VIII.C.3)
- Infill and reuse (Policy I.B.2, I.B.5, II.B.1 – II.B.6)
- Interconnected grid streets and alleys (Policy III.A.9, VIII.C.2)
- Transit (Policy III.B.1, III.B.2, III.B.3)
- Trip reduction (Policy III.C.1, III.C.2, III.C.3, III.C.4)
- Protection of habitat (Policy VI.C.1 – VI.C.10, VI.D.1 – VI-D.9)
- Protection of air quality (VI-E.1 – VI.E.11)
- Energy conservation (II.C.1, II.C.2, VI-F.2 – VI.F.5)

- Emergency response (VII.D.1 – VII.D.4)
- Open space (VIII.A.6)
- Tree canopy (VIII.D.1 – VIII.D.6)

These policies are effective in reducing GHGs and minimizing impacts from climate change. The subject project is consistent with the goals or land use designations of the General Plan and would result in no development beyond that already approved in 1992. Compliance with these policies will be effective in minimizing GHG emissions and climate change impacts from this already planned new development.

- a,b. Given the relevant policies already built into the General Plan (see discussion above), the small scale of the project (less than 3 acres), and the fact that it is consistent with (and less intense than) established zoning and General Plan land use, the proposed project would not result in a conflict with the State's AB 32 goals. This impact is considered less than significant.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
8. HAZARDS AND HAZARDOUS MATERIALS. <i>Would the project</i>				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

This development could result in impacts related to hazards and hazardous materials; however, this area has been planned for these land uses since at least 1992. The 1992 General Plan EIR analyzed the potential impacts of development of the site (see pages 117 through 122 of the Draft EIR and page E&R 21 of the Final EIR) and found impacts to emergency facilities and services to be less-than-significant. The City Council adopted Findings of Fact documenting these conclusions (Resolution 92-13, adopted May 19, 1992) which are hereby relied upon for this analysis.

A Phase I Environmental Site Assessment was prepared for this property (Geocon Consultants, Inc, September 2009). This report concluded that the site was not listed on any databases of facilities with known environmental conditions or impairment.

- a-c. The project includes two fueling facilities, one for passenger vehicles and one for multi-axle trucks. Two underground and one above ground fuel storage tanks are proposed to support these facilities. These facilities are subject to regulation by a number of federal and state agencies and regulations addressing water quality, safety, and air emissions. Based on compliance with these existing requirements, the potential for impact is considered less than significant.

During construction, oil, diesel fuel, gasoline, hydraulic fluid, and other liquid hazardous materials would be used. Similarly, paints, solvents, and various architectural finishes would also be used.

If spilled, these substances could pose a risk to the environment and to human health. In the event of a spill, the City of Winters Fire Department is responsible for responding to non-emergency hazardous materials reports. The use, handling, and storage of hazardous materials are highly regulated by both the Federal Occupational Safety and Health Administration (Fed/OSHA) and the California Occupational Safety and Health Administration (Cal/OSHA). Cal/OSHA is responsible for developing and enforcing workplace safety regulations. Both federal and State laws include special provisions/training for safe methods for handling any type of hazardous substance. The City currently complies with the City's Emergency Response Plan and the Yolo County Hazardous Waste Management Plan.

Because the routine transport, use, and disposal of hazardous materials is regulated by federal, State, and local regulations, this impact is considered less than significant.

- d. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would not create a significant hazard to the public or the environment. The proposed project would not result in new hazards or exposure to new hazards beyond what was analyzed in the General Plan EIR. Impacts in this area are considered less-than-significant.
- e,f. The City is not within two miles of any public or private airports or air strips, and is not within the runway clearance zones established to protect the adjoining land uses in the vicinity from noise and safety hazards associated with aviation accidents. Therefore, there would be no impact.
- g. The proposed project would have no known effect on adopted emergency response plans or emergency evacuation plans. This would be considered less-than-significant under CEQA.
- h. The project area does not qualify as "wildlands" where wildland fires are a risk; therefore, no adverse impact would occur in this category.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
9. HYDROLOGY AND WATER QUALITY				
<i>Would the project:</i>				
a. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Place within a 100-year floodplain structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The 1992 General Plan EIR analyzed the potential impacts of development of the entire City (see pages 169 through 178 of the Draft EIR and page E&R 29 of the Final EIR; see also pages 105 through 113 of the Draft EIR and pages E&R 19 through 21) and found hydrology impacts to be less-than-significant, with the exception of water quality impacts from increased runoff into Putah Creek and Dry Creek which were found to be significant and unavoidable. The City Council adopted Findings of Fact documenting these conclusions (Resolution 92-13, adopted May 19, 1992) which are hereby relied upon for this analysis. Included in those Findings was a Statement of Overriding Considerations accepting the unavoidable water quality impacts (Resolution 92-13, Exhibit C, adopted May 19, 1992) which is hereby relied upon for this analysis.

- a.f. Surface water quality can be adversely affected by erosion during project construction, or after the project is completed, if urban contaminants in stormwater runoff are allowed to reach a receiving water (e.g. Putah Creek and/or Dry Creek). Construction activities disturbing one or more acres are required by the Central Valley Regional Water Quality Control Board (CVRWQCB) to obtain a General Construction Activity Stormwater Permit and a National Discharge Elimination System (NPDES) permit. These permits are required to control both construction and operation activities that could adversely affect water quality. Permit applicants are required to prepare and retain at the construction site a Stormwater Pollution Prevention Plan (SWPPP) that describes the site, erosion and sediment controls, means of waste disposal, implementation of approved local plans, control of post-construction sediment and erosion control measures and maintenance responsibilities, and non-stormwater management controls. Dischargers are also required to inspect construction sites before and after storms to identify stormwater discharge from construction activity, and to identify and implement controls where necessary.

Compliance with these required permits would ensure that runoff during construction and occupation of the project site would ensure that runoff does not substantially degrade water quality. Therefore, this is a less-than-significant impact.

- b. There are no facilities specifically proposed for recharge as a part of the project. The site is not identified for recharge and has been planned for development since at least 1992. While both a retention and detention facility are planned to address drainage from the site, these would be designed to ensure acceptable water quality by implementing storm water quality post-construction best management practices (BMPS). Therefore, it can be concluded that development of the project site would not substantially affect the aquifer.

The project would receive potable water from the City's municipal well system. As discussed in more detail in Item 17(d), while the proposed project would contribute to an increase in municipal groundwater use, service to the site is assumed as a part of the City's water system. Furthermore, the project as proposed is less intense than what was assumed for the subject location under the General Plan FEIR. Therefore, impacts on groundwater would be less than significant.

- c,d. Drainage improvements proposed as a part of the proposed project would change absorption rates, drainage patterns, and the rate and amount of surface runoff, but would not alter the course of a river or stream. As indicated, drainage and run-off is proposed to be addressed on site through the proposed retention and detention facility which will, at a minimum, maintain run-off flows at pre-development levels. Drainage could also be addressed through connections to the City's storm drainage system. Run-off from development of the site is already planned for within the City's drainage system. Therefore any increase in runoff is considered less than significant.

- e. Drainage and run-off from the proposed project is required to be addressed in a manner consistent with the City's recently updated Storm Drainage Master Plan (2008). General Plan Policy IV.D.6 allows projects to construct and utilize interim drainage improvements so long as they implement logical component parts of the storm drainage improvements identified in the updated Storm Drainage Master Plan. Interim drainage/flooding solutions that do not implement logical components parts of the storm drainage improvements or that would be otherwise inconsistent with implementation of the Plan, can only be approved if they are found to be consistent with the water quality treatment/design criteria and standards criteria of the updated Storm Drainage Master Plan. The policy specifies that under that circumstance, the City provides no reimbursement or credit. The proposed conditions of approval for the project address this issue.

The General Plan includes a designated Flood Overlay Zone (FOZ) totaling approximately 964 acres that includes ±614 acres within the City's boundaries. The FOZ is defined as the area affected by or contributing to the City's flood problem. The subject project site falls within the FOZ. The purpose of identifying the FOZ was to ensure the inclusion of those properties in the funding mechanism for improvements to reduce or eliminate the 100-year flood hazard. On September 2, 2008 the City adopted the 2008 Winters City Storm Drainage Master Plan (City Council Resolution 2008-38) which provided a comprehensive solution for storm drainage. However to date the fee program/financing mechanism for the adopted drainage improvements has not yet been adopted.

General Plan Policy I.A.9 precludes all development in the FOZ until "a fee schedule has been established or financing program adopted which includes all affected and contributing properties for financing the comprehensive flood control solution". The staff has proposed a condition of approval that would preclude issuance of a building permit or any other development permit for the project until the fee program is adopted. Additionally General Plan Policy IV.D.7 requires that the fees be paid prior to issuance of a building permit. The proposed condition of approval addresses this requirement as well. The proposed condition would also satisfy General Plan Policy IV.D.4 requiring all affected properties to contribute to the financing. Assuming adoption of the proposed condition, the project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems, and the potential for impact in this category would be less than significant.

- g. There is no housing proposed as a part of the project.
- h. The site is located within a federally designated Special Flood Hazard Area (Flood Insurance Rate Map Community-Panels 06113C0562G and 06113C0564G, Revised June 18, 2010) that would be inundated should a "100-year" flood occur. Specifically it is designated Zone AO (Depth 2) which is defined as areas having flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); with average depth at 2 feet. As such, the proposed commercial building will be required to comply with flood elevation requirements applicable in the AO zone. All new construction or substantial improvement must have the lowest floor (including basement) elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM.

Consistency with the applicable flood hazard requirements related to the federal floodplain designation will ensure that impacts in this category are less than significant.

- i. The City is located approximately 10 miles east of the Monticello Dam on Lake Berryessa. Failure or overtopping of the dam could result in severe flooding of the Winters' area and loss of life. However, this occurrence, which is addressed in the Yolo County Emergency Plan, is not considered a likely or substantial risk. Therefore, the proposed project would not expose individuals to a substantial risk from flooding as a result of the failure, and the impact would be less than significant.
- j. The project area is not located near any bodies of water that would pose a seiche or tsunami hazard. In addition, there are no physical or geologic features that would produce a mudflow hazard. Therefore, no impact would occur.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
10. LAND USE AND PLANNING. <i>Would the project:</i>				
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with any applicable land use plan, policy, or regulations of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating on environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

The application is for a proposed fast food restaurant (Burger King) with drive-through, gas station and convenience store (AM PM), and truck refueling station, with associated parking, fuel storage, signage, and site improvements on a 2.3 acre site within the City. The Burger King and convenience store are proposed to be co-located in one 5,000 square foot, one-story multi-tenant building.

This site has been planned for these land uses since at least 1992. For planning and environmental analysis purposes, the GP and GP EIR assumed about 21,250 square feet of development on the site, comprised of approximately 12,900 sf of highway commercial uses and about 8,350 sf of light industrial uses. The General Plan EIR analyzed the potential impacts of development of site and found land use impacts to be less-than-significant. The City Council adopted Findings of Fact documenting these conclusions (Resolution 92-13, adopted May 19, 1992) which are hereby relied upon for this analysis.

- a. Construction of the project is consistent with the 1992 General Plan and would not divide an established community. Therefore, no impact would occur.
- b. The General Plan and zoning ordinance both designate the front 1.4 acres of the project site for highway commercial use and the back 0.9 acres for light industrial use. The proposed drive-through fast-food restaurant and service station on the front acreage are consistent with the highway service commercial designation and both uses are identified in Section 17.52.020 Land Use/Zone Matrix of the Zoning Code as principally permitted uses meaning they are allowed “by-right” in the zone.

The proposed truck fueling facility and above-ground fuel storage tank are not specifically listed as contemplated uses in the LI zone. However, pursuant to Section 17.52.010(E) of the City Zoning Ordinance, the Community Development Director may find uses not specifically listed but similar in nature (based on activity characteristics) to a listed activity, to be a consistent use in the zone.

The activity characteristics of the proposed uses on the rear of the parcel include the following: large service/commercial trucks accessing and leaving the site for short durations throughout the hours of operation of the facility. These characteristics are similar in nature to other uses allowed in the light industrial zone such as recycling collection center and minor utility services which are permitted uses, and less intense than Automobile Repair which is conditionally allowed. The application includes a request for a Conditional Use permit.

The proposed uses are similar in nature to a "service station" which would also be considered allowable in the adjoining HSC zone which is predominant on the site. Typically less intense uses are allowed in more intense zones unless compatibility conflicts would occur. Compatibility conflicts are not anticipated to result from the subject project as the site is proposed to be organized complementary to the spilt zoning, by directing the more intense truck fueling activities to the rear light industrial acreage and the less intense vehicle fueling activities to the front HSC acreage. Furthermore, the proposed uses are consistent with the intent and purpose of the LI zone and will serve the trucks that deliver goods and services to the existing industrial uses further north on CR 90.

As conditioned, the project would be consistent with the land uses and applicable policies of General Plan, and the land uses and applicable development regulations of the zoning ordinance. Therefore the potential for impact in this category is less-than-significant.

- c. See response to Item 4(f).

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
11. MINERAL RESOURCES. <i>Would the project:</i>				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?	<input type="checkbox"/>	<input type="checkbox"/>	■	<input type="checkbox"/>
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	■	<input type="checkbox"/>

Discussion

a,b. The project site is not designated as a mineral resource zone or locally important mineral resource recovery site. Implementation of the project, and resultant development that may occur would not result in the loss of any known mineral resources. Impacts would be less-than-significant.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
12. NOISE. <i>Would the project result in:</i>				
a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

This development will add noise during construction and will permanently add to ambient noise levels during operation; however, this area has been planned for these land uses since at least 1992. The 1992 General Plan EIR analyzed the potential impacts of development of the entire City (see pages 179 through 192 of the Draft EIR and pages E&R 29 through 31 of the Final EIR) and found noise impacts to be less-than-significant. The City Council adopted Findings of Fact documenting these conclusions (Resolution 92-13, adopted May 19, 1992) which are hereby relied upon for this analysis.

a-d. The Noise Element of the City of Winters General Plan establishes standards for the evaluation of noise compatibility (including land use compatibility standards, exterior noise levels limits, and interior noise level limits) and requirements for noise studies. The City has both a Noise Ordinance and Standard Specifications that regulate construction noise. These regulations restrict construction activities to 7:00am to 7:00 pm Monday through Friday only (holidays excluded). Implementation of the project would be subject to these policies and regulations.

The General Plan EIR examined the potential for impact from full development of the General Plan and determined that this impact was less-than-significant. There are no new noise impacts that would result from the proposed project. Impacts in these categories remain less-than-significant. The project site is

located at the northwest quadrant of I-505 and SR 128. Traffic noise from these two highways is dominant at this location and it is unlikely that temporary noise from project construction or permanent noise from the future planned land uses would be noticeable against the future expected ambient condition.

- e. The nearest public airport is over two miles from the City and no part of the City falls within an airport land use plan. There is no potential for exposure to excessive air traffic noise, so no impact would occur.
- f. The project area is not located near a private airstrip and would not be exposed to noise from the private airstrip, so no impact would occur.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
13. POPULATION AND HOUSING. <i>Would the project:</i>				
a. Induce substantial growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	■	☐
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	■	☐
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	■

Discussion

The 1992 General Plan EIR analyzed the potential impacts of build-out of the General Plan (see pages 43 through 70 of the Draft EIR and pages E&R 9 through 14 of the Final EIR) and found housing and population impacts to be less-than-significant. The City Council adopted Findings of Fact documenting these conclusions (Resolution 92-13, adopted May 19, 1992) which are hereby relied upon for this analysis.

- a. This development could not result in additional dwelling units or population. It would result in the development of commercial/industrial uses that would produce jobs and revenue generating opportunities for the City. Infrastructure, services, and utilities proposed to serve this project are master planned to accommodate the proposed level of growth. Because all aspects of the project are consistent with the planning assumptions of the General Plan, the project would not be considered growth inducing. This impact is less-than-significant.
- b,c. The project involves no displacement of housing or people. There would be no impacts in these categories.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
14. PUBLIC SERVICES. <i>Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:</i>				
a. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

The proposed project could result in impacts to public services; however, this area has been planned for these land uses since at least 1992. The 1992 General Plan EIR analyzed the potential impacts of development of the entire City (see pages 117 through 134 of the Draft EIR and pages E&R 21 through 24 of the Final EIR) and found public services to be less-than-significant. The City Council adopted Findings of Fact documenting these conclusions (Resolution 92-13, adopted May 19, 1992) which are hereby relied upon for this analysis.

- a,b. The City of Winters Fire Department provides fire protection services to the City. The City of Winters Police Department provides police protection services. The proposed project could increase demand for these fire and police protection services by increasing the amount of development, and number of employees and visitors within the City's service areas. This increase in development is consistent with the General Plan and therefore, would result in no new impacts beyond those examined in the 1992 General Plan EIR.
- c. The City is served by the Winters Joint Unified School District, which serves the City of Winters and surrounding unincorporated areas of Yolo and Solano Counties. The District is comprised of the John Clayton Kinder School, Waggoner Elementary School (grades 1-3), Shirley Rominger Intermediate School (grades 4-5), Winters Middle School (grades 6-8), Winters High School (grades 9-12) and Wolfskill Continuation High School.

Funding for schools and impacts for school facilities impacts is preempted by State law. Policies I.F.2, I.F.3, IV.H.5, and IV.H.6 of the General Plan related to funding and timing of school facilities have been superseded by State law (Proposition 1A/SB 50, 1998, Government Code Section 65996) which governs

the amount of fees that can be levied against new development. Payment of fees authorized by the statute is deemed "full and complete mitigation." These fees are used to construct new schools.

The proposed project includes no residential uses and therefore would not directly result in the generation of students. Nevertheless, under State law, the development will be required to pay applicable school fees. Because the amount of these fees is pre-empted by the State, the potential for impacts to schools is considered by law to be a less-than-significant impact.

- d. The City requires the development of parkland in conjunction with subdivision development at a ratio of 7 acres per 1,000 persons (General Plan Policy V.A. 1). However, there is no residential development proposed as apart of this project. Therefore, impacts in this category would be less-than-significant.
- e. Development that could result from the proposed project would create incremental increases in demand for other services and facilities in the City of Winters. However, because this growth would be consistent with the General Plan, there would be no new impacts beyond what was already analyzed in the General Plan EIR. This impact is less-than-significant.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
15. RECREATION.				
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The 1992 General Plan EIR analyzed the potential impacts of development of the entire City (see pages 123 through 126 of the Draft EIR and pages E&R 21 through 23 of the Final EIR) and found recreation impacts to be less-than-significant. The City Council adopted Findings of Fact documenting these conclusions (Resolution 92-13, adopted May 19, 1992) which are hereby relied upon for this analysis.

a,b. The project includes no residential uses or facilities. Therefore, there would be no impact in this category.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
16. TRANSPORTATION/CIRCULATION.				
<i>Would the project:</i>				
a. Conflict with as applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Conflict with an applicable congestion management program, including but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

This development could result in transportation and circulation impacts; however, this area has been planned for these land uses since at least 1992. The 1992 General Plan EIR analyzed the potential impacts of development of the entire City (see pages 71 through 96 of the Draft EIR and pages E&R 15 through 17 of the Final EIR) and found traffic impacts to be less-than-significant. The City Council adopted Findings of Fact documenting these conclusions (Resolution 92-13, adopted May 19, 1992) which are hereby relied upon for this analysis.

The site is located at the northwest corner of two Caltrans highways (I-505 and SR 128). A Caltrans encroachment permit would be required for any work within the Caltrans controlled right-of-way.

Caltrans has requested a more detailed access analysis in order to ascertain the timing for various improvements already anticipated in the City's General Plan Circulation Element. Specifically the access study will determine various levels of controlled access required at the intersection of CR 90 and SR 128, in order to preserve the operational efficiency of the I-505 interchange ramps near that location. The project

has been conditioned to be consistent with and implement as appropriate the recommendations of that study, as may be required by Caltrans; however, it is relevant to note that Caltrans has separate authority in this regard through the encroachment permit requirement.

- a,b. The General Plan Transportation and Circulation Element contains policies that address circulation using various modes, and parking. The project is required to be consistent with these requirements as well as with all other applicable development requirements of the City including street improvements, driveway specifications, and on-site circulation. Therefore the proposed project would not result in new traffic impacts beyond what was analyzed in the General Plan EIR. Impacts in these areas are considered less-than-significant.
- c. The project area is not located near an airport and it does not include any improvements to airports or change in air traffic patterns. No impact would occur.
- d,e. All new roadway construction would be built according to adopted City standards and specifications and would satisfy requirements for emergency access. For this reason, the potential for design hazards would be less-than-significant.
- f. Development that results from the proposed project would be required to satisfy policies, plans, and programs supporting alternative transportation, including appropriate pedestrian and bicycle route connections. Therefore, this impact would be less than significant.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
17. UTILITIES AND SERVICE SYSTEMS. <i>Would the project:</i>				
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

This development could result in impacts to utility and service systems; however, this area has been planned for these land uses since at least 1992. The 1992 General Plan EIR analyzed the potential impacts of development of the entire City (see pages 97 through 116, and 133 through 134 of the Draft EIR and pages E&R 17 through 21, and 24 of the Final EIR) and found utility and service impacts to be less-than-significant. The City Council adopted Findings of Fact documenting these conclusions (Resolution 92-13, adopted May 19, 1992) which are hereby relied upon for this analysis.

- a. The proposed project would be required to connect to the City's sewage treatment plant for wastewater treatment. The City's plant is permitted by the State and must meet applicable water quality standards. Land uses allowed on the site were analyzed in the previous General Plan EIR and not anticipated to generate wastewater that contains unusual types or levels of contaminants. Therefore, the project is not expected to inhibit the ability of the Winters Wastewater Treatment Plant (WWTP) to meet State water quality standards. For these reasons, this would be a less-than-significant impact.
- b,e. All development within the City would receive sewer and water service from the City of Winters. The City of Winters Wastewater Treatment Plant (WWTP) currently has a capacity of 0.92 million gallons per day (mgd). The estimated

number of new dwelling unit equivalents (DUEs) that could be served under current capacity is approximately 700 to 800 DUEs. Service to development on the front parcels of this site is assumed within that remaining capacity. Under City code, no project is allowed to build without available sewer and water service. Therefore, these impacts are considered less-than-significant.

- c. Please refer to the discussion of Items 9.c,d, and e. The City's recently updated Storm Drainage Master Plan and accompanying CEQA clearance address this issue. This is a less-than-significant impact.
- d. Development resulting from the proposed project would be served by the City's municipal water supply. This development would result in no new impacts to water supply and availability beyond those already anticipated under the General Plan and therefore there are no new impacts in this category. As development occurs, the City's water system is regularly re-examined to determine what, if any, new facilities are needed for adequate service. Pursuant to City code, no project is allowed to build without available water service. This is a less-than-significant impact.
- f, g. Solid waste from the project site will be collected by the City of Winters and disposed of at the Yolo County Central Landfill, a 722-acre facility. The landfill has a capacity of 11 million tons with capacity for planned growth through 2025. The City's General Plan build-out is part of the planned growth for which the landfill has been sized and therefore solid waste generated as a result of this project would not have unanticipated impacts on the life of the landfill. This impact is considered less than significant.

Issues	Potentially Significant Impact	Less Than Significant w/Mitigation Incorporated	Less Than Significant Impact	No Impact
18. MANDATORY FINDINGS OF SIGNIFICANCE.				
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

a-c. The full range of impacts from this project were anticipated and examined in the 1992 General Plan EIR upon which this analysis relies. Impacts to biological resources, cumulative air quality, loss of agricultural land, and water quality were identified as significant and unavoidable and a Statement of Overriding Considerations was adopted by the City Council. There are no new impacts associated with the project that were not previously analyzed and mitigated. Impacts in these categories are therefore considered less-than-significant.

Cumulative greenhouse gas emissions and associated climate change impacts for the entire County were examined in the County's certified General Plan Final EIR (SCH# 2008102034 certified November 10, 2010) (pages 805-817, DEIR and pages 438-441, FEIR). Build-out of the Winters General Plan is clearly included in that cumulative analysis. To the extent necessary, pursuant to CEQA Guidelines 15152 (see also Section 15130(b)(1)(B)) this analysis tiers from the analysis of cumulative climate change impacts contained in the Yolo County Certified General Plan FEIR. This document can be viewed online at:

<http://www.yolocounty.org/Index.aspx?page=1683>

ATTACHMENTS:

- Exhibit 1, Vicinity Map
- Exhibit 2, General Plan Designations
- Exhibit 3, Zoning Designations
- Exhibit 4, Site Plan (June 29, 2010)

Exhibit C

DEPARTMENT OF TRANSPORTATION

DISTRICT 3 -- Sacramento Area Office
2800 GATEWAY OAKS DRIVE, MS 19
SACRAMENTO, CA 95833
PHONE (916) 274-0635
FAX (916) 263-1796
TTY (530) 741-4501



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Be energy efficient!*

January 7, 2010

09YOL0030
03-YOL-505 PM 9.718
Burger King/Union 76 Station
Application

Ms. Nelia Dyer, AICP
City of Winters
318 Winters Street
Winters, CA 95694

Dear Ms. Dyer:

Thank you for the opportunity to review and comment on the Burger King/Union 76 Station. The proposed project consists of a co-brand fuel station (convenience store and fast food restaurant) inside a 5,000 square foot building, five (5) gas pumps to serve 10 vehicles, a carwash, and parking to serve up to 39 automobiles and 4 recreational vehicles. The project is located near Interstate 505 (I-505) and immediately north of State Route (SR) 128 (aka Grant Avenue). Our comments are as follows:

- A Traffic Impact Study (TIS) should be completed and include an analysis of impacts to the State Highway System (SHS). The TIS should include I-505, and SR 128 at a minimum. The TIS should consider all possible traffic impacts to all ramps, ramp intersections, and mainline segments. The "Guide for Preparation of Traffic Impact Studies" can be found on our website at: <http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/>. The TIS should use a Select Zone Analysis to identify trip distribution of the proposed project on the SHS. We would appreciate the opportunity to review and comment on the scope of the TIS before the Study begins.
- If the TIS identifies impacts, mitigation should be provided. Potential mitigation measures could include fair share funding for previously identified SR 128 improvements, and off-highway projects that reduce the impact to less-than-significant.

Ms. Nelia Dyer
January 7, 2010
Page 2

- The City has previously recognized the need to realign County Road (CR) 90. The State Route (SR) 128/CR 90 intersection is less than 300 feet from the southbound I-505 off-ramp. The potential increase in traffic, due to the project, will trigger the need for improvements at the ramp intersection. The need to restrict movements at CR 90 will be necessary if CR 90 is not realigned further away from the I-505 off-ramp.
- An Encroachment Permit will be required for any work conducted in the State's right of way such as sign placement, traffic control, light installation, culvert maintenance, drainage pattern changes, or sidewalk installation. For more information on Encroachment Permit requirements or to secure an application contact the Encroachment Permits Central Office at (530) 741-4403.

Please provide our office with copies of any further actions regarding this development. If you have any questions regarding these comments, contact Arthur Murray at (916) 274-0616.

Sincerely,



ALYSSA BEGLEY, Chief
Office of Transportation Planning – South

Exhibit D



September 22, 2010

Bill Yeates
Kenyon Yeates, LLP
2001 N Street, Suite 100
Sacramento, CA 95811

**Re: Appeal to Winters City Council Regarding Planning Commission
Approval of a Burger King, Arco Gas Station, and an AM/PM Mini
Mart**

Dear Mr. Yeates,

In response to your request we have been reviewing the potentially significant traffic issues related to the Burger King Drive-through Restaurant, Arco Gas Station, AM PM Convenience Mart, and Truck Fueling Facility ("the project") recently approved by the City of Winters Planning Commission Approval that individual members of the Winters Community Planning Association appealed to the Winters City Council. Based upon the traffic safety concerns raised by the California Department of Transportation (Caltrans) in its January 7, 2010 letter to the City about the relationship of the interchange at I-505 and the County Road 90 (CR90)/State Route 128 (SR128) intersection immediately adjacent to the project, we reviewed the prior traffic analysis that the City did in the early '90's for its general plan update and compared it to the existing circulation network and current traffic information. You also asked us to determine whether the prior traffic analysis addressed the traffic concerns raised by CalTrans and your clients about the recently approved project.

Conclusion

We have identified a number of concerns about this approval related to traffic operations and safety on SR 128 in the vicinity of the project. It is our conclusion that the prior traffic impact analysis did not address the project's peculiar traffic impacts. Based on our review of the present situation there is sufficient evidence to indicate that the project would have significant adverse impacts on traffic operations and safety in the area of the I-505 interchange and SR 128. A focused traffic analysis, as compared to the City-wide traffic analysis done in the early '90's, must be prepared to define the traffic improvements for SR 128 that will be required to ensure adequate safety and traffic circulation in the area. This project-specific traffic analysis should have been completed prior to project approval in compliance with the California Environmental Quality Act (CEQA).

Overview of Prior Traffic Analysis and Project's Traffic Impacts

In our professional opinion, it is unacceptable to rely on traffic studies almost 20 years old, especially when you consider that those previous studies were based on roadway network assumptions that have clearly changed. An updated traffic analysis must be prepared given all the legitimate concerns about safety and traffic operations that have been raised by Caltrans and others. Whether or not the applicant bears the cost of the studies or any resulting improvements is irrelevant at this stage. The City Council must be presented with an adequate analysis to support the required traffic improvements for the "*near-term plus project*" and the "*cumulative plus project*" scenarios before the City can make any informed decisions on how to reduce or avoid the significant adverse traffic impacts of this project and any other foreseeable highway commercial projects adjacent to the I-505 interchange and along SR 128.

Specific Comments

1) We concur with the comments forwarded by Caltrans in a letter from Alyssa Begley dated January 7, 2010. Based on our analysis of the project's trip generation there is no question it would exceed 100 peak hour trips which would require a traffic impact study be prepared according to Caltrans' guidelines. In fact, this level of traffic generation would typically require a full traffic study in most jurisdictions unless there are existing studies that are less than two years old.

The most important comment from Caltrans relates to the realignment of CR90. There are significant safety and operational considerations associated with having a busy intersection located less than 300 feet from a freeway off-ramp intersection. According to Caltrans, the potential increase in traffic "*will trigger the need for improvements at the ramp intersection.*" More importantly, the letter states that the "*need to restrict movements at CR 90 will be necessary if CR 90 is not realigned further away from the I-505 ramp.*" We agree with these conclusions and would add that further analysis of any shifts in traffic resulting from turn restrictions at CR 90 should also be required.

Traffic patterns in the vicinity of the project will change significantly. Safety problems associated with left-turns will develop as a result of the project (in part because the issue of the CR 90 realignment has not been addressed). For example, if left turns end up being restricted at CR 90 and SR 128 (because safety problems are created by project traffic turning left from CR 90) then there would be a substantial increase in U-turns at the adjacent intersections on SR 128. It is our conclusion that the effects of CR 90 turn restrictions (and/or realignment) on traffic operations and safety at nearby intersections on SR 128 must be analyzed with and without the traffic from the proposed project. Otherwise, it is impossible to make any defensible conclusions about how to mitigate the traffic impacts of the project.

2) The 1992 General Plan EIR is wholly inadequate to serve as a basis for conclusions about this project's traffic impacts. It should be noted that the General Plan EIR's traffic analysis was based on a regional travel demand model (MinUTP) which has since been

abandoned in favor of other computer traffic models. The resulting forecasts from this area wide travel demand model (which was run almost 20 years ago) are not an appropriate substitute for the project specific traffic analysis that traffic analysts use today in the environmental review of a project's indirect, direct, and cumulative traffic impacts.

Travel demand models (like MinUTP) are much better suited to modeling land use and population changes such as those found in general plan housing elements or other policy plans which have a dispersed effect over a large area. Individual projects which have a concentrated effect on local streets, such as the proposed Burger King/Arco Project, should be studied using conventional traffic engineering procedures.

The 1992 General Plan EIR did not adequately study the traffic conditions with the CR 90/SR 128 intersection in its current configuration. This not only invalidates the analysis of CR 90 and SR 128, it also indicates the analysis of alternate routes for CR 90 traffic is no longer valid and needs to be updated, as Caltrans requests. It is clear to us the timing for various traffic improvements on SR 128 cannot be based on the 1992 General Plan EIR since it used a discontinued travel demand model with outdated assumptions for the City's roadway network.

Furthermore, the use of outdated forecasts from a discontinued travel demand model effectively prevents verification of the conclusions about the traffic impacts. Normally a travel demand model is only appropriate for determining baseline (no project) conditions and it should not be expected to take the place of results from an ITE trip generation analysis. Travel demand models are simply not accurate enough to make determinations about a project's traffic impacts on local streets (particularly at the project access intersections).

3) One of the Planning Commission's conditions of approval for the project states: "*The Applicant shall be responsible for all costs to construct necessary improvements to allow for a permanent full access intersection if approved by Caltrans.*" This condition is unenforceable, because there is nothing to limit the scope of these improvements. The project applicant cannot guarantee that funding will be available if "*Caltrans requires other mitigation measures at this intersection.*"

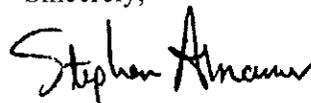
It is entirely possible Caltrans could determine that the required improvements at CR 90 require turn restrictions or intersection realignment which would change the circulation patterns in the area. It is also possible that Caltrans could ultimately require improvements that involve associated reconstruction at the I-505 freeway interchange. Because there has been no project-specific traffic analysis completed prior to project approval, it is impossible to determine whether or not the development of the property in question might encompass some of the right-of way that will be required for future improvements identified by Caltrans. This could easily result in improvements that the project sponsor will be unable to complete as a result of unexpectedly high costs or required right-of-way that is unavailable. Therefore, the conditions of approval cannot presume that the applicant will be "*responsible for all costs to construct the necessary*

improvements” since the required improvements have not yet been defined. Until the actual costs and right of way requirements for the CR 90 improvements are determined, it is impossible to know whether or not the applicant can fulfill this condition.

In our opinion the 1992 General Plan EIR and Winters Circulation Plan never addressed the project-specific, which CEQA calls the “peculiar,” traffic impacts of the project. The after-the-fact traffic study and recommended traffic improvements required by the conditions of approval may never be completed or may never be approved by the City and Caltrans and, therefore, like the circulation plan forecast in the Winters Circulation Plan, may never be implemented. The City of Winters will have to live with the consequences of unacceptable levels of service and safety problems along SR 128 if the City fails to properly address the project’s traffic impacts at the critical CR90/SR128 intersection.

Please don’t hesitate to contact me if you have any questions.

Sincerely,



Stephen C. Abrams
President, Abrams Associates
T.E. License No. 1852



STEPHEN C. ABRAMS, PRESIDENT

Stephen Abrams has over 18 years experience in the fields of traffic engineering and transportation planning. He joined the firm in 1995, expanding their capabilities in the areas of computer applications and environmental review. During his career, Mr. Abrams has successfully managed a broad range of traffic engineering and transportation planning projects and has developed a strong reputation for resolving complex issues on both large and controversial projects.

He has proven himself to be one of the most capable in the industry, at handling sensitive political situations and is highly respected for his presentation skills, and his work as an expert witness on transportation planning issues. By successfully representing both private and public sector clients, on the most challenging traffic engineering and environmental review issues, Mr. Abrams has repeatedly proven his abilities and integrity.

SELECTED PROJECT EXPERIENCE

Traffic Impact Studies

Mr. Abrams specializes in the preparation of traffic impact studies (TIS) for both large and small projects and began his career preparing environmental impact reports. Since then he has become a specialist on the review of CEQA and NEPA legal issues as they relate to traffic and transportation. In addition, Mr. Abrams has an excellent understanding of the entire range of environmental review subject areas and how these relate to decisions about transportation. The following are some examples of the hundreds of traffic impact studies that he has prepared: *San Francisco Central Freeway Areawide TIS, Concord Lowe ' s TIS, Streets of Brentwood TIS, Orinda Gateway Valley TIS, Antioch City Gate Project TIS, Stonecreek Los Banos TIS, Modesto Target Expansion TIS.*

Transportation Planning

Mr. Abrams has extensive transportation and master planning experience. He prefers working on projects from the beginning design stages, so decisions on transportation facilities and improvements can be made up front, instead of becoming mitigations. Selected examples of his many traffic planning studies include: *Bayshore Corridor Transit System Planning Study, SF Comprehensive Bicycle Plan, Gavilan Community College Master Plan, Lower Fillmore Revitalization Project Traffic and Parking Plan, Union City General Plan/Redevelopment Plan Update*

Additional Areas of Specialized Experience

Mr. Abrams has a broad range of traffic engineering experience that includes many complex studies of public transportation, parking issues, construction traffic control, pedestrian and bicycle analyses, accident analyses, and development of transportation systems management (TSM) programs.

Professional Experience

- Abrams Associates, 1995 to Present
- Wilbur Smith Associates, 1993 to 1995
- Environmental Science Associates, Inc., 1989 to 1993

Education and Professional Registration

- San Francisco State University, B.S. in Civil Engineering, 1992
- Registered Professional Traffic Engineer in the State of California. License No. TR1852

Affiliations

- American Society of Civil Engineers
- Institute of Transportation Engineers

Exhibit E

Comment CALTRANS-2: DEIR, Pages 81-94

"In addition to analyzing the future signalized intersections shown in Figure 18, the intersections of Morgan, Dutton, and Hemenway Street, and Valley Oak Drive, with Highway 128 should be addressed. Caltrans would like to review the back-up analysis sheets and assumed intersection geometrics for all Highway 128 intersections. We support the eliminations of the Walnut Lane connection to Grant Street. The realignment of County Road 90, as indicated in Figure 18, should provide at least 800' of spacing from the southbound ramp intersection."

Response 4-12

Comment acknowledged. The additional intersections suggested by this comment were not among the key streets included in the scope of work for the original traffic studies performed as part of this process. Addressing the future LOS at these intersections would require additional work, including the collection of new traffic count data.

As noted in Response 4-11, above, LOS calculation sheets, including documentation of assumed geometrics, can be provided by the City if specifically requested.

The requirement by Caltrans for a minimum 800' spacing between County Road 90 and the I-505 southbound ramps is acknowledged. The Draft General Plan Land Use Diagram shows the proposed realignment of CR 90 and its intersection with Highway 128 will be approximately 950 feet distant from the southbound ramp of I-505.

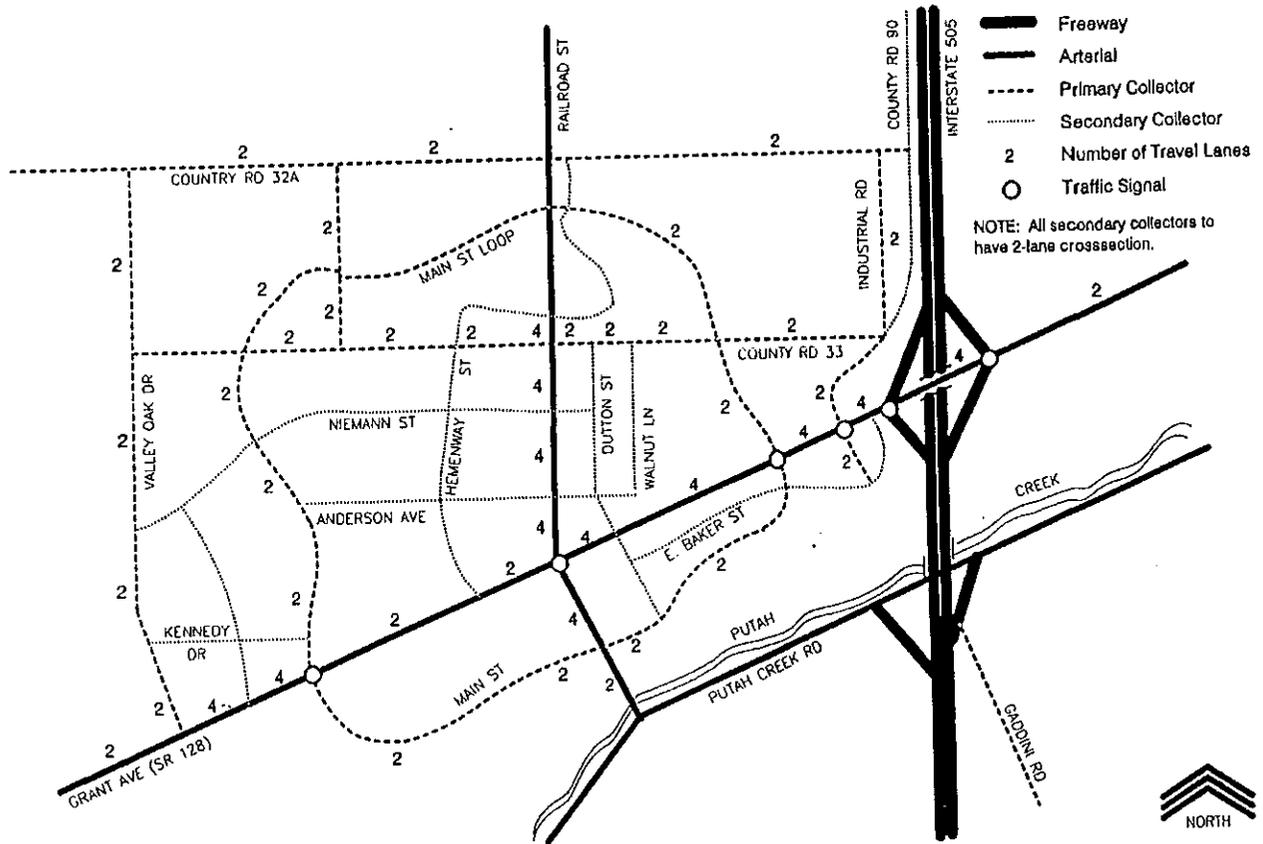
Comment CALTRANS-3: DEIR, Pages 81-94

"If four through lanes are not planned for Highway 128 from Railroad Street west to the Main Street intersection, it does not appear necessary to provide four through lanes west of this segment. The need for this westerly four lane portion should be explained in the FEIR."

Response 4-13

Comment acknowledged. A two-lane cross-section would suffice for Highway 128 west of Main Street (west loop), provided that left-turn lanes are provided at intersections. This configuration would provide for better continuity with the segment east of Main Street than would a full four-lane cross-section.

Exhibit F





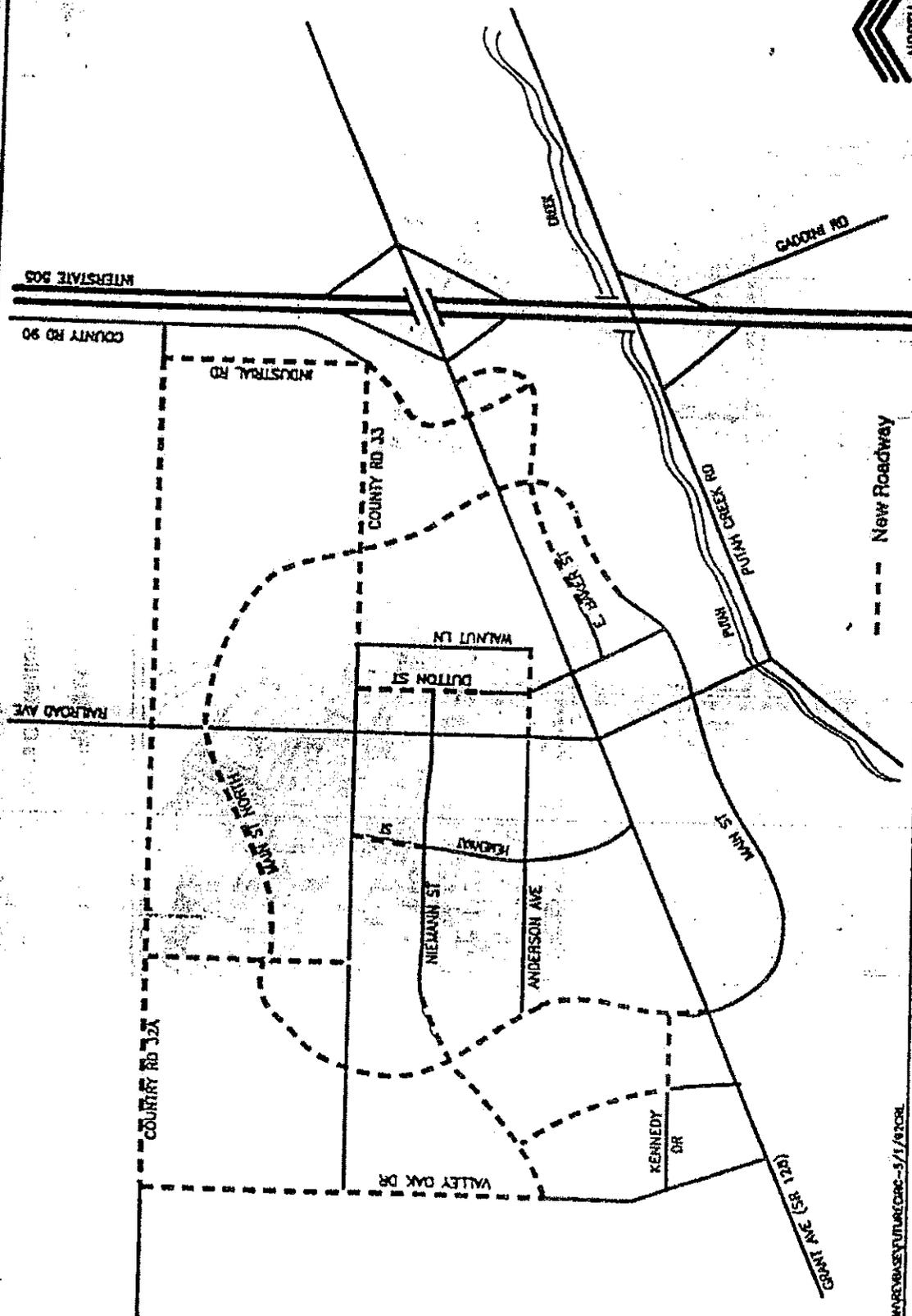
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FUTURE CIRCULATION PLAN
Winters Circulation Master Plan



CEMP PLAN WINTERS WASH STATE FUTURE CIRC - 5/1/97 ORL

--- New Roadway



INTERSTATE 505

COUNTY RD 90

INDUSTRIAL RD

COUNTY RD 33

CREEK

OR ROAD RD

PUNCH CREEK RD

RAILROAD AVE

WALNUT LN

DUTTON ST

HIWAY 15

NIEMANN ST

ANDERSON AVE

COUNTRY RD 32A

VALLEY OAK DR

KENNEDY DR

GOVT AN ST 1000 (201 BS)

Exhibit G

IV. TRANSPORTATION AND CIRCULATION: RESPONSES

Comment WEIRW-23: DEIR, Pages 81-94

"The Draft EIR contains no discussion of alternative street designs. The Draft EIR presumes that the Circulation Master Plan satisfies the policies. The Draft EIR contains no discussion of the impact of increased traffic on existing local streets."

Response 4-9

Comment acknowledged. See Response 4-5 above. As a "first-tier" EIR on the Draft General Plan, the Draft EIR is more general than a Project EIR and as a result does not address alternative street designs, or effects on existing local streets as critical environmental considerations. Because the Circulation Master Plan was prepared as a means of implementing the Goals and Policies of the Draft General Plan, it is necessary for the Circulation Master Plan to conform to the Draft General Plan. The comment does not identify specific instances of where the Circulation Master Plan is perceived to fail to serve the policies of the Draft General Plan.

The DGP has been modified as the FGP to provide new cross-sections for streets and roads, as well as guidance on the use of local streets (Part I of the FGP). The Circulation Master Plan defines a program of new and modified streets which is intended to minimize the increase of traffic on local neighborhood streets, while optimizing the use of existing collectors and arterials.

Comment JOHNSON-1: DEIR, Pages 81-94

"In both the General Plan Policy Document and the General Plan EIR, Anderson Ave. is viewed as a secondary collector street and is furthermore shown as extending to the east through existing industrial buildings and residential apartments to extend to Walnut Lane. The Policy Document goes on to state that secondary collectors shall have a right of way width of 74 ft. Here lies a problem.

"The existing Anderson Ave. right of way is 48 ft. wide, 65% of the safe width recommended (sic) for a collector street. To widen Anderson Ave. is impractical due to the existing houses built to existing setbacks. The existing paved surface is 2 ft. less than the recommended paving and leaves only 4 ft. for sidewalk on each side as opposed to the 8 ft. wide meandering ped/bike path within a 16 ft. wide easement as shown in Fig. I-2 of the Policy Document.

"This lack of width of Anderson Ave. is very important in considering the specific use of this street. Anderson Ave. is, and will be, the primary pedestrian and bike thoroughfare for the students of the middle school every morning and afternoon. The projected traffic

Exhibit H

IV - FUTURE TRAFFIC CONDITIONS

Once the changes to the future roadway network, future land uses and external travel assumptions were coded into the MINUTP model, the model was rerun to project future average daily traffic for each of the alternative scenarios. Plotter outputs were also prepared and furnished to the City of Winters as separate products. The first model run tested the existing street network with no improvements, assuming a future population of 12,500 persons. This test revealed that the existing street network would not be able to accommodate this future traffic without experiencing levels-of-services (LOS) D, E, and F at all major Grant Avenue intersections. Figures 6 through 10 depict model-projected traffic on key links for each of the five alternatives listed below, respectively:

- o 12,500 Population (Final General Plan);
- o 12,500 Population with added Johnson Road bridge (while retaining the Railroad Avenue Bridge);
- o 12,500 Population with Johnson Road Bridge only (with the Railroad Avenue Bridge used only for pedestrian Traffic);
- o 14,000 Population; and
- o 14,000 Population with density shift north of Niemann Street.

For the 12,500 population alternative (Figure 6), Grant Avenue is projected to carry as many as 25,100 vehicles daily east of East Main Street, compared with a current ADT of approximately 7,500. Immediately west and east of Railroad Avenue, Grant Avenue is projected to carry 16,500 and 15,600 vehicles, respectively, compared with 6,900 and 8,000 today. Traffic on the Putah Creek bridge is projected to reach 7,900 (currently 4,700 ADT). Elsewhere on Railroad Avenue, daily volumes are projected to reach 5,500 north of Grant Avenue and 6,500 south of Grant Avenue, compared with existing volumes of 4,200 and 5,900.

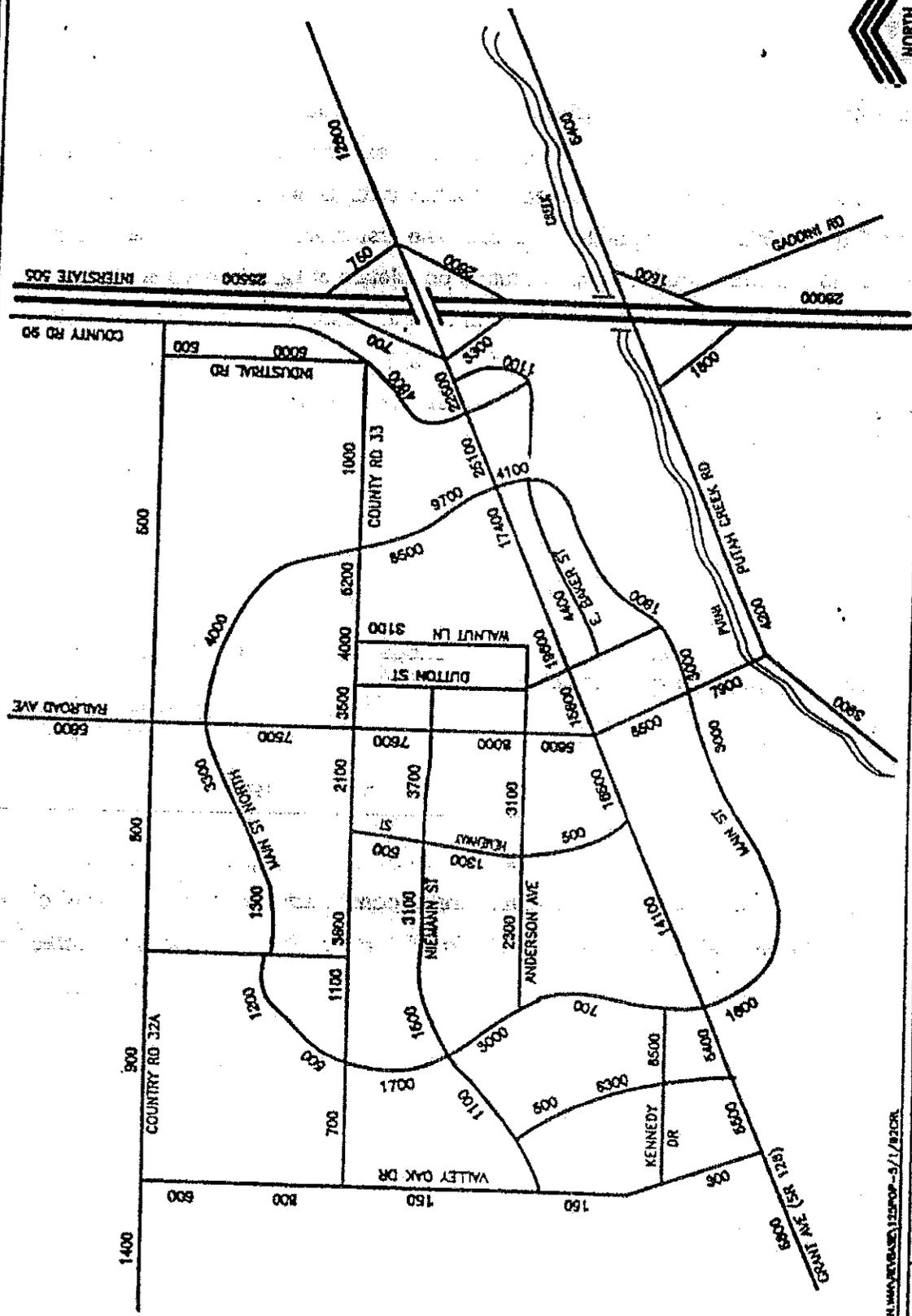
Of the proposed new roadways, significant volumes are projected for future conditions with the 12,500 population alternative on the Main Street Loop Road (8,500 - 9,700 daily vehicles between County Road 33 and Grant Avenue), County Road 33 (5,200 west of the Loop Road)



FORECAST DAILY TRAFFIC 12,500 POPULATION
Winters Circulation Master Plan



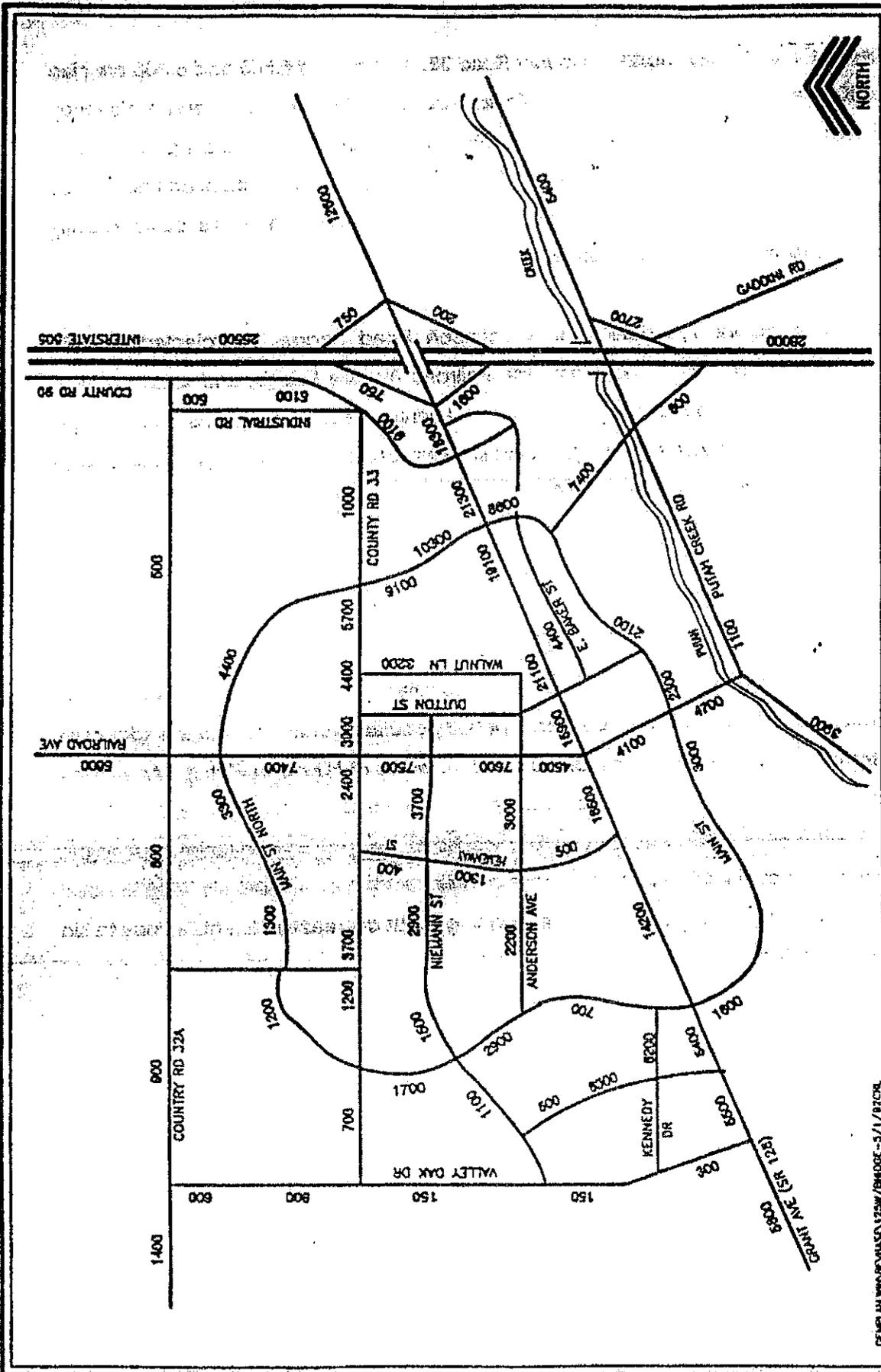
CENTRAL WAREHOUSE 12500P-5/1/82CR



and on the new Industrial Road north of County Road 33. Volumes of 6,500 and 6,300 are also shown for the Kennedy Drive extension east of Taylor Street, and Taylor Street north of Kennedy Drive, respectively; these volumes, however are probably exaggerated by oversimplifications in the model with respect to location of centroid connectors. Proper internal circulation and access design for new developments in this area would probably lead to much of this traffic actually using the Loop Road to reach Grant Avenue.

As shown in Figure 7, addition of a Johnson Road Bridge is projected to shift approximately 3,200 vehicles daily away from the Railroad Avenue Bridge, and approximately 4,000 from the I-505 southbound ramps and Grant Avenue west of the I-505 interchange. Abandonment of the Railroad Avenue Bridge would increase traffic on the Johnson Road Bridge to nearly 12,000, as can be seen from Figure 8.

For comparative purposes, model runs were also undertaken for a land use alternative representing a population of 14,000 persons. Two such model runs were prepared, both utilizing the basic future network (no Johnson Road Bridge). Figure 9 depicts a 14,000 population alternative with the additional 1,500 persons distributed among all areas designated for new residential development, while Figure 10 depicts a 14,000 population scenario with the additional 1,500 increment of population growth assumed to occur north of Niemann Street. As can be seen from Figure 9, the increase in population density is projected to add approximately 2,000 daily vehicles to the eastern portion of the new Loop Road, and to Grant Avenue east of the Loop Road. With the density shift north of Niemann street, a modest increase is seen in Loop Road traffic east of Railroad Avenue and a corresponding slight decrease in Grant Avenue traffic immediately east of Railroad Avenue.

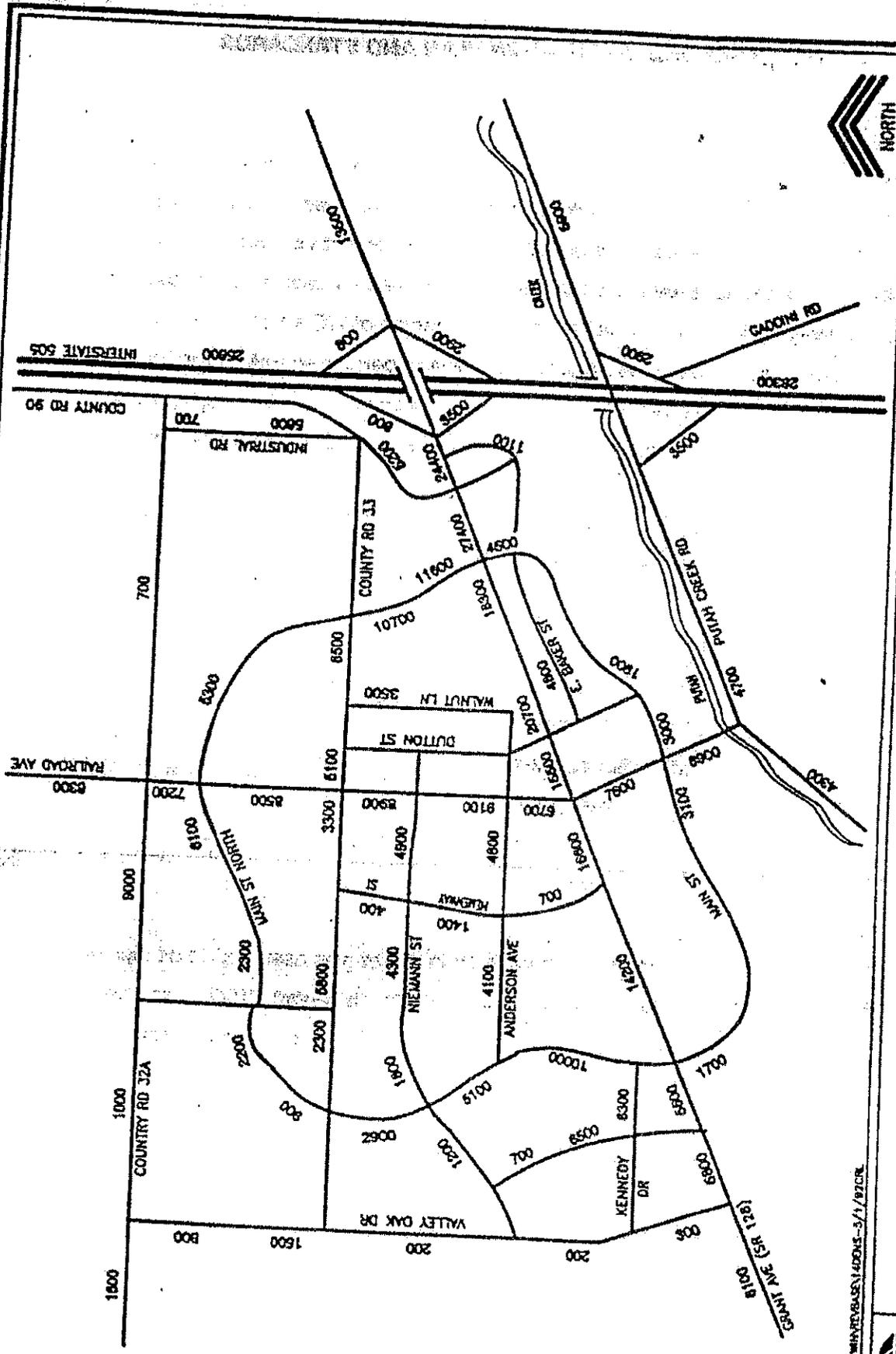


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FORECAST DAILY TRAFFIC
 12,500 POPULATION WITH ADDED JOHNSON ROAD BRIDGE
 Winters Circulation Master Plan

CE:\PLANS\REV\BASE\125W\B4402E-3\1\B7CNR





**FORECAST DAILY TRAFFIC 14,000 POPULATION
WITH DENSITY SHIFT NORTH OF NIEMANN STREET**
Winters Circulation Master Plan



COMPLAN WINTERSBASE\42015-5/1/87CPL

V - RECOMMENDED CIRCULATION PLAN AND STANDARDS

In order to evaluate the performance of the network assumed for the Draft General Plan Alternative future scenario model run, an analysis of levels of service was undertaken for roadway segments as well as for key intersections under future development conditions. For roadway segments, MINUTP's capabilities were used to perform volume-to-capacity (V/C) calculations for all links in the roadway system, and produce a summary report of V/C's for the network. It was found that the network assumed for the basic future scenario performed well under future traffic conditions. At the segment level, no links in the system displayed V/C ratios higher than 0.75, indicating that no significant congestion is anticipated with the assumed cross-sections.

At key intersections, future PM peak hour levels of service were estimated using projected future volumes at key intersections along Grant Avenue and Railroad Avenue, including:

- o Grant Avenue at Railroad Avenue;
- o Grant Avenue at SB I-505 ramps;
- o Grant Avenue at NB I-505 ramps;
- o Grant Avenue at Main Street (East);
- o Grant Avenue at Main Street (West);
- o Grant Avenue at new Industrial Road Extension; and
- o Railroad Avenue at Main Street.

Each intersection except Railroad Avenue at Main Street was assumed to be signalized. The Railroad/Main intersection was assumed to continue as a 4-way STOP sign controlled intersection. All intersections were evaluated using the 1985 *Highway Capacity Manual* (1985 HCM) planning level methods.

Table 7 depicts the results of the Level of Service analysis. All intersections are projected to operate at LOS C or better, with the three Grant Avenue intersections east of the Main Street Loop operating at LOS A. This portion of Grant Avenue was assumed to have been widened to four lanes. It should be noted that the methodology used for evaluating the Railroad/Main

intersection (a four-way STOP sign controlled intersection) only provides a comparison of actual volumes with threshold levels for LOS C and for Capacity conditions; a LOS of B was inferred from the analysis and presented as such for consistency with the other intersections results.

Table 7 FUTURE PM PEAK HOUR LEVELS OF SERVICE Winters Revised General Plan Traffic Analysis	
Intersection	Level-of-Service
Grant Avenue at Railroad Avenue	C
Grant Avenue at SB I-505 Ramps	A
Grant Avenue at NB I-505 Ramps	A
Grant Avenue at East Main Street Loop Road	C
Grant Avenue at West Main Street Loop Road	C
Grant Avenue at Industrial Road Extension	A
Railroad Avenue at Main Street	B
Source: Wilbur Smith Associates; June 1991.	

Recommended Circulation Plan

Because the network which has evolved in the course of current planning has been shown to function well under future conditions based on the modeling efforts and subsequent analysis undertaken in this study, it is recommended that this basic network be adopted for the General Plan. Key features of this network are described in Chapter II of this report, and are illustrated in Figure 11, along with the potential locations for traffic signals. Signals would not be needed at all locations. Table 8 lists major improvements to the network which will be required, along with order-of-magnitude costs.

For each improvement an allocation of cost responsibility was estimated assuming these types of improvements.

Table 8

REQUIRED ROADWAY IMPROVEMENTS
Winters Revised General Plan Traffic Analysis

Improvements	Order of Magnitude Cost	Allocation/Source of Cost Responsibility		
		Existing Problem	New Development	Shared
Main Street Extensions (North & South)	\$6,075,000	0.0%	85.0%	15.0%
Road 32A Extension (Road 88 to Road 90)	\$3,850,000	0.0%	70.0%	30.0%
Road 33 Extension (Road 88 to Road 90)	\$3,675,000	0.0%	85.0%	15.0%
Valley Oak Drive Extension	\$2,145,000	0.0%	100.0%	0.0%
Repair Putah Creek Bridge	\$100,000 ⁽¹⁾	100.0%	0.0%	0.0%
Rebuild/Widen Grant Avenue Dry Creek Bridge	\$1,700,000	32.5%	0.0%	62.5%
Widen Railroad Avenue North of Grant Avenue	\$1,010,000	---	0.0%	100.0%
Rebuild Taylor Street	\$ 260,000	100.0%	0.0%	0.0%
Widen East Street	\$ 230,000	---	---	100.0%
Widen Grant Avenue	\$2,600,000	0.0%	0.0%	100.0%
Widen Grant Avenue/I-505 Overcrossing	\$3,000,000	0.0%	0.0%	100.0%
New Traffic Signals (6 at \$125,000 each)	\$ 750,000	0.0%	0.0%	100.0%

(1) Subject to further structure studies in 1993.

Wilbur Smith Associates; May 1992.

1. Improvements which correct an existing problem.
2. Improvements which provide direct access along the private frontage of new development.
3. Improvements which provide access through existing developed areas, open space or other public lands, but are needed to support new development. This other shared frontage would be funded by development fees.

Recommended roadway classifications and street standards for the General Plan are described below.

Interchange Improvements -- As shown in Figure 11, signals are recommended at the intersections of both the northbound and southbound I-505 ramps with Grant Avenue to improve capacity.

Test runs of the model were also undertaken for two alternative interchange configurations. The first would include moving the terminus of the southbound off-ramp from its present Grant Avenue location to County Road 33, with a new connector roadway extending from County Road 33 at the southbound off-ramp to Grant Avenue at the existing southbound on-ramp. The second alternative modeled consisted of removing the existing southbound on-ramp and replacing it with a new southbound on-ramp extending from the intersection of the Baker Street Extension with the new industrial road extension to the I-505 mainline in the vicinity of Putah Creek.

The first of these two alternatives, relocation of the southbound off-ramp, was shown to have little impact on traffic circulation, largely because of the relatively small number of trips between Winters and points north on I-505. The second alternative, envisioned as a possible alternative to a Johnson Road Bridge, was shown to lessen traffic on Grant Avenue by approximately 2,000 daily trips between Baker Street and I-505; overall, it would have less impact than a Johnson Road Bridge, since a Johnson Road Bridge was shown to attract a substantial number of non-freeway trips.

Exhibit I

IV. TRANSPORTATION AND CIRCULATION

Figure 16 shows the results of the survey. Hourly vehicle counts were recorded between 10:00 AM and 3:00 PM for all available public parking in the area of Railroad, First and Second Streets along Main Street. Under existing conditions, the downtown parking supply is adequate. There is an average midday utilization rate of about 40 percent with the peak midday demand for parking occurring between noon and 1:00 PM.

B. IMPACTS

Analysis Assumptions

To project the impacts of future development within Winters on the City's streets, a computerized model of Winters' street system was developed utilizing MINUTP modeling software. Traffic forecasting with MINUTP requires three types of input data:

- ◆ Street network data (both existing and proposed);
- ◆ Quantities and types of land uses; and
- ◆ Behavioral data on travelers to, from, and within Winters.

Street network data describes the street system for which traffic will be forecast. The network ties together a system of traffic analysis zones (TAZ's). A TAZ system of 61 zones was used for this analysis. The TAZ boundaries defined for the model are depicted in Figure 17.

Future Roadway Network

The basic future roadway network assumed in the MINUTP model was provided to WSA by the City of Winters in the form of a base map with an overlay depicting the basic function of key roadways. Minor modifications were made to this street system following discussions with the City. Alternative Putah Creek bridge crossing options were also identified for testing purposes, as discussed below. Figure 18 depicts the basic future network defined by the Draft Circulation Master Plan, and which was utilized for model runs in this study. Key modifications to this network included:

- ◆ New Main Street Loop Road north of Grant Avenue;
- ◆ Road 32A Extension from County Road 88 to County Road 90;
- ◆ Road 33 Extension from County Road 88 to County Road 90;
- ◆ Valley Oak Drive Extension to Road 32A;
- ◆ Hemenway St. Extension to Road 32A East of Railroad Ave;
- ◆ East Baker Street Extension to Grant Avenue opposite existing Road 90; and
- ◆ New connection from Road 33/Industrial Road to Grant Avenue west of the Baker St. terminus.

Figure 16

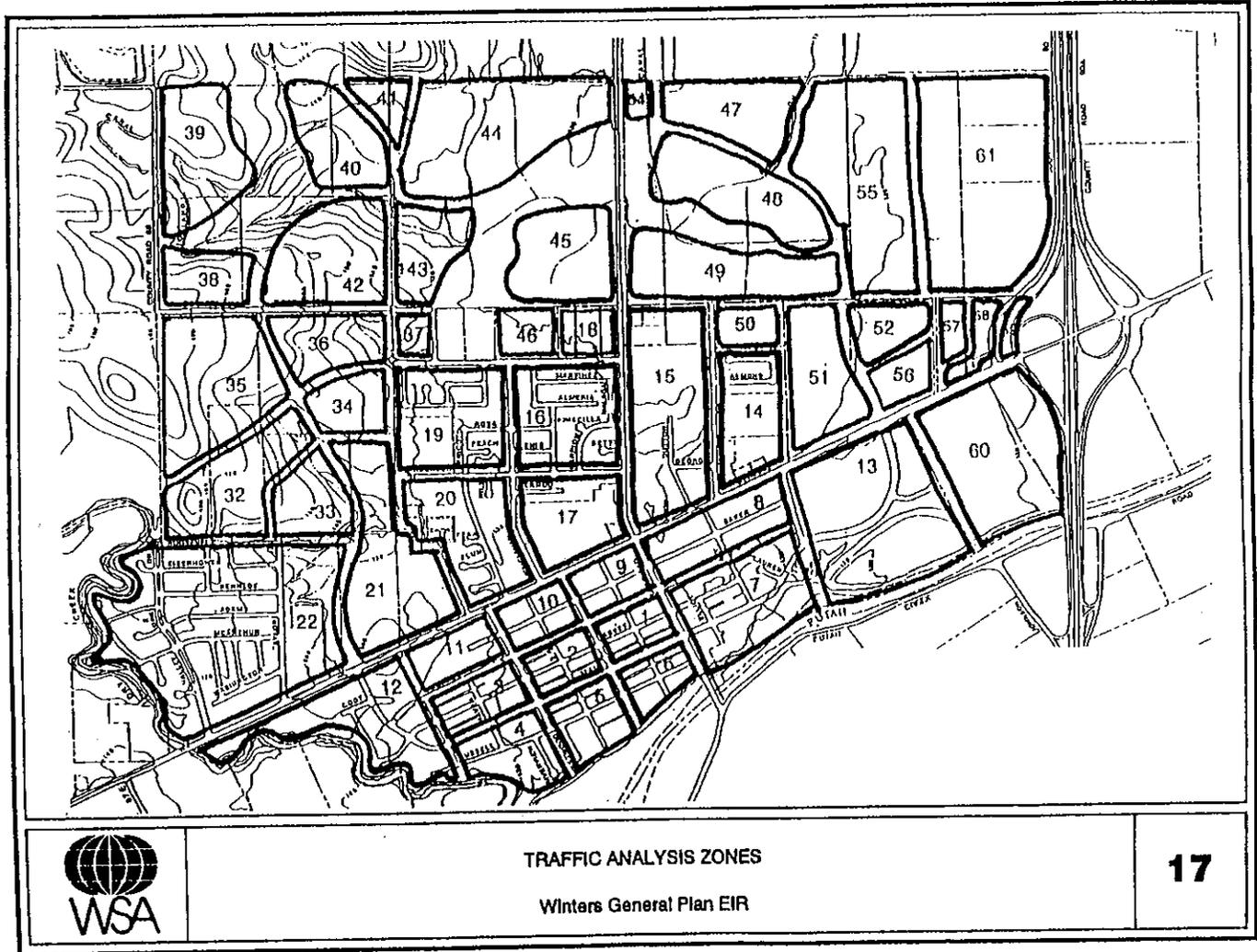
WINTERS CBD MIDDAY PARKING OCCUPANCY

	Public Parking Lot ¹		On-Street Parking ²				Total	%*
	Community Center Lot	Caltrans Park-and-Ride Lot	Railroad/1st North Block Face	1st/2nd North Block Face	Railroad/1st South Block Face	1st/2nd South Block Face		
Total Space Available	60	50	34	20	29	27	220	100%
10 AM	12	14	21	9	17	6	79	36%
11 AM	16	21	24	8	25	10	104	47%
12 PM	18	23	25	10	20	8	106	48%
1 PM	18	13	22	6	18	9	86	39%
2 PM	16	12	22	5	18	8	82	37%
3 PM	14	11	23	16	8	8	78	35%

¹ 48 hour unmetered parking.
² 2 hour unmetered parking (9:00 AM - 6:00 PM).
 * Average occupancy 40 percent.

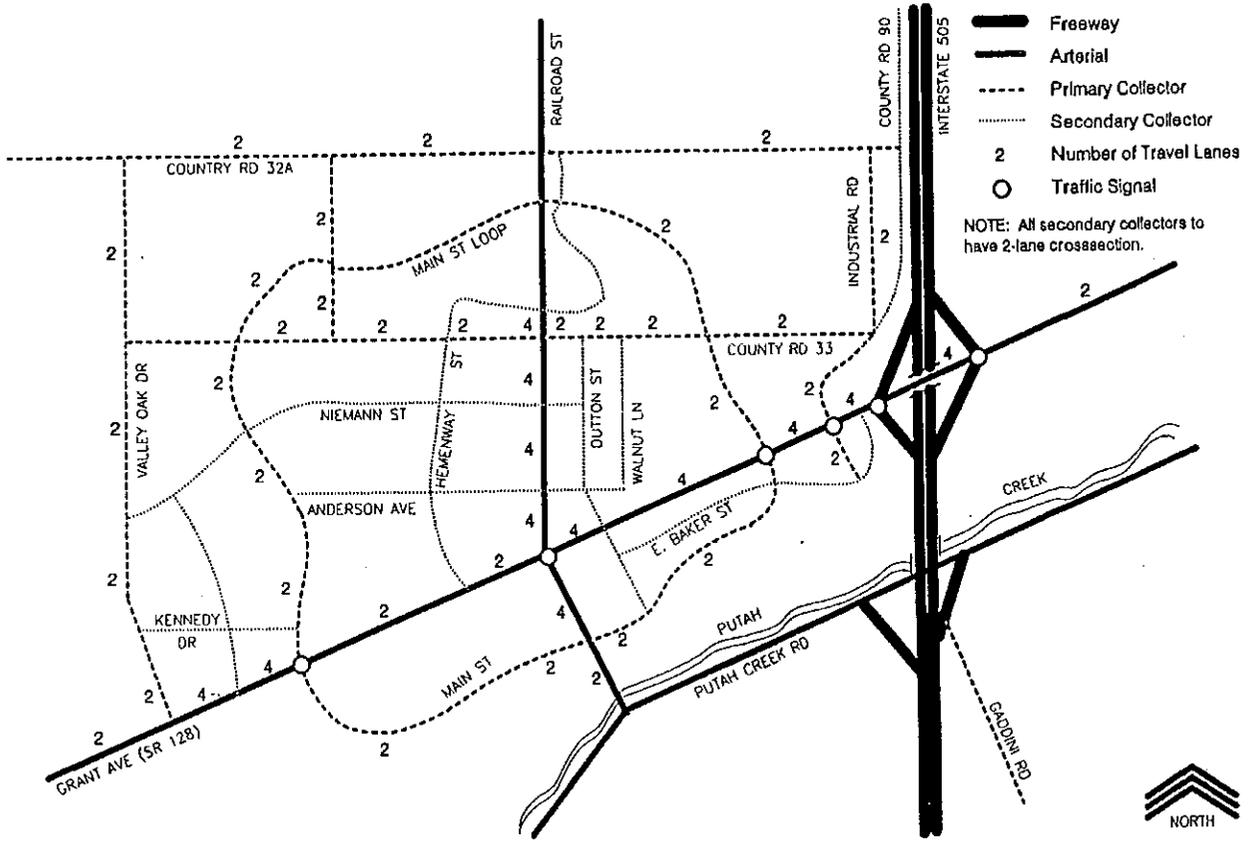
Source: Wilbur Smith Associates; June 1990.

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TRAFFIC ANALYSIS ZONES

Winters General Plan EIR



IV. TRANSPORTATION AND CIRCULATION

A new Johnson Road extension and bridge over Putah Creek were also assumed in some modeling alternatives.

Future Land Use

Future land uses were provided to WSA in the form of base maps and spreadsheets prepared by City staff and the General Plan Consultant, J. Laurence Mintier & Associates. Land uses were provided for the Draft General Plan featuring a total population of 12,500 persons (Alternative I), and for a total population of 14,000 persons (Alternative II: the Modified Draft General Plan). The alternatives featured the same total acreages, with the differing population densities accomplished by reclassifying parcels to higher housing unit densities (from medium density residential to medium high density residential, for example). Projections of commercial land uses were also provided. These were converted to employment using standard employee density factors listed in **Figure 19**.

Figure 20 summarizes the various land use plans and their gross effect on traffic generation in Winters. As can be seen, the 12,500 population plan represents an increase of 185 percent in resident population and nearly 600 percent in jobs within Winters. Overall, these land use changes are projected to increase total trip-making by approximately 225 percent, from an estimated 25,800 daily trips originating or terminating within Winters to 83,700. Increasing the population to 14,000 is projected to add approximately 9,400 more trips than the trips associated with the Alternative I, 12,500 population level.

External Travel

Another key input to the model is the assumption regarding travel external to Winters. According to the January 1989 Central Business District Consumer Survey, approximately 54 percent of employed Winters residents currently commute to jobs outside the City. For modeling purposes, it was agreed that this percentage would be assumed to remain constant.

Draft General Plan Impacts

As shown in **Figure 21** for the Draft General Plan (12,500 population), Grant Avenue is projected to carry as many as 24,800 vehicles daily east of East Main Street, compared with a current ADT of approximately 7,500. Immediately west and east of Railroad Street, Grant Avenue is projected to carry 16,400 and 15,400 vehicles, respectively, compared with 6,900 and 8,000 today. Traffic on the Putah Creek bridge is projected to reach 7,900 (currently 4,700 ADT). Elsewhere on Railroad Street, daily volumes are projected to reach 5,500 north of Grant Avenue and 6,500 south of Grant Avenue, compared with existing volumes of 4,200 and 5,900.

Figure 19

EMPLOYMENT DENSITY AND TRIP GENERATION FACTORS

Land Use Type	Employees per Acre	Trips per Employee
CC (Central Commercial)	44	15.7
NC (Neighborhood Commercial)	44	15.7
LC (Local Commercial)	44	15.7
HSC (Highway Service Commercial)	14	15.7
HIC (Highway High-Intensity Commercial)	14	15.7
LI (Light Industrial)	18	4.2
PI (Planned Industrial)	18	4.2
HI (Heavy Industrial)	18	4.2
AI (Agricultural Industrial)	6	4.2

Source: Wilbur Smith Associates; August 1990.

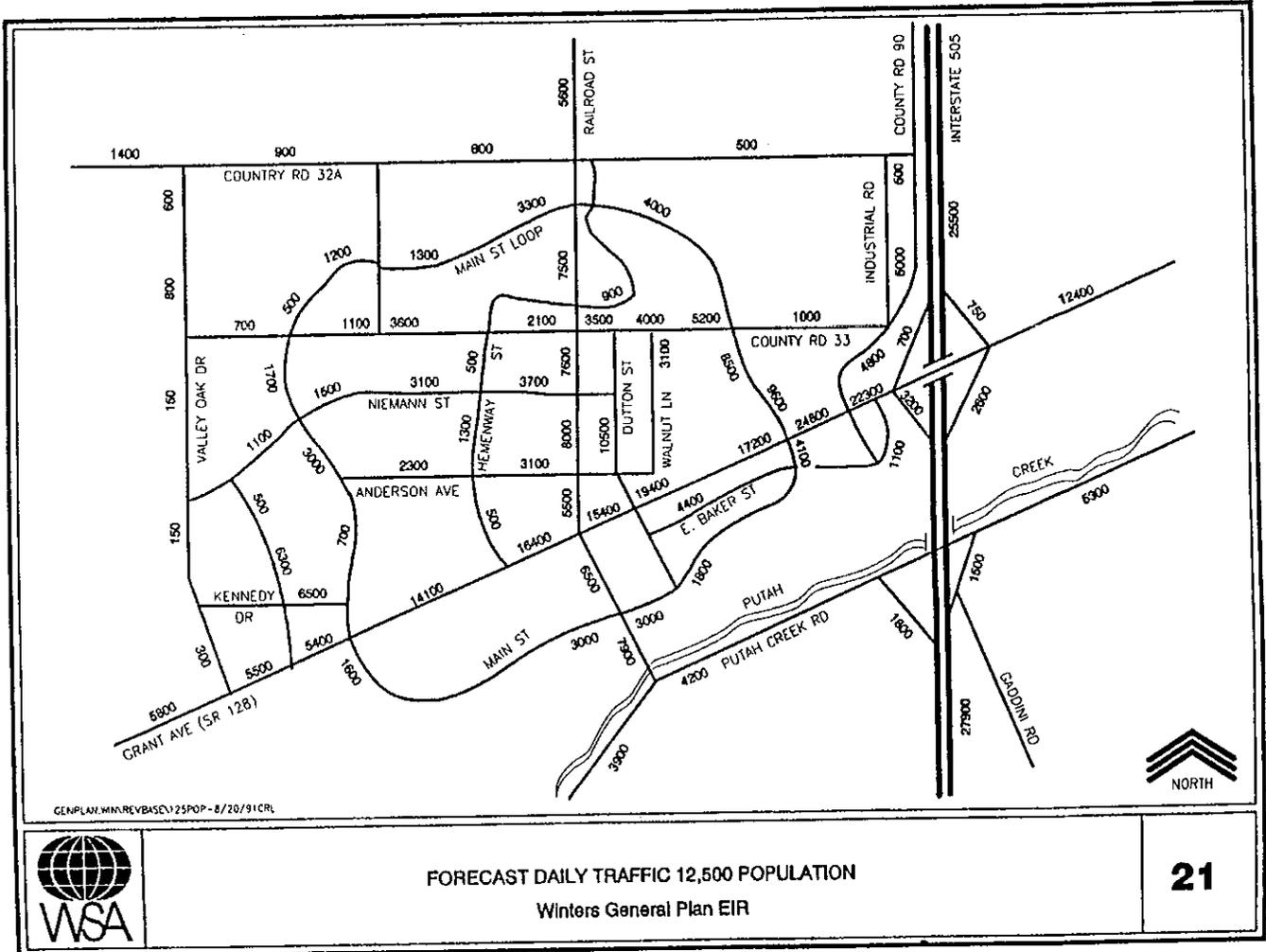
Figure 20

COMPARISON OF LAND USES AND TRIP GENERATION

	DU*	%*	Jobs	%*	TP*	%*
Existing Conditions	1,630	--	940	--	25,800	--
Future 12,500 Population	4,650	185%	6,420	583%	83,700	224%
Future 14,000 Population	5,450	234%	6,420	583%	93,100	261%

DU = Dwelling Units;
% = Percent Increase;
TP = Trips Produced.

Source: Wilbur Smith Associates; June 1991.



IV. TRANSPORTATION AND CIRCULATION

Of the proposed new roadways, substantial volumes are projected for future conditions with the 12,500 population alternative on the Main Street Loop Road (8,500-9,600 daily vehicles between County Road 33 and Grant Avenue), County Road 33 (5,200 west of the Loop Road) and on the new Industrial Road (5,000 north of County Road 33).

In order to evaluate the performance of the network assumed for Alternative I: the Draft General Plan, an analysis of levels of service was undertaken for roadway segments as well as for key intersections under future development conditions. For roadway segments, MINUTP's capabilities were used to perform volume-to-capacity (V/C) calculations for all links in the roadway system, and produce a summary report of V/Cs for the network. It was found that the network assumed for the basic future scenario performed well under future traffic conditions. At the segment level, no links in the system displayed V/C ratios higher than 0.75, indicating that no significant congestion is anticipated with the assumed cross-sections.

At key intersections, future PM peak hour levels of service were estimated using projected future volumes at key intersections along Grant Avenue and Railroad Street, including:

- ◆ Grant Avenue at Railroad Avenue;
- ◆ Grant Avenue at SB I-505 ramps;
- ◆ Grant Avenue at NB I-505 ramps;
- ◆ Grant Avenue at Main Street (East);
- ◆ Grant Avenue at Main Street (West);
- ◆ Grant Avenue at new Industrial Road Extension; and
- ◆ Railroad Street at Main Street.

Each intersection except Railroad Avenue at Main Street was assumed to be signalized. The Railroad/Main intersection was assumed to continue as a four-way STOP sign controlled intersection. All intersections were evaluated using the 1985 Highway Capacity Manual (1985 HCM) planning level methods.

Figure 22 depicts the results of the Level of Service analysis. All intersections are projected to operate at LOS C or better, with the three Grant Avenue intersections east of the Main Street Loop operating at LOS A. This portion of Grant Avenue was assumed to have been widened to four lanes. It should be noted that the methodology used for evaluating the Railroad/Main intersection (a four-way STOP sign controlled intersection) only provides a comparison of actual volumes with threshold levels for LOS C and for Capacity conditions; a LOS B was inferred from the analysis and presented as such for consistency with the other intersections results.

**Figure 22
FORECAST PM PEAK HOUR LEVELS OF SERVICE
Winters General Plan EIR**

Intersection	Level-of-Service
Grant Avenue at Railroad Street	C
Grant Avenue at SB I-505 Ramps	A
Grant Avenue at NB I-505 Ramps	A
Grant Avenue at East Main Street Loop Road	C
Grant Avenue at West Main Street Loop Road	C
Grant Avenue at Industrial Road Extension	A
Rairoad Avenue at Main Street	B
Source: Wilbur Smith Associates; June 1991.	

IV. TRANSPORTATION AND CIRCULATION

Modified Draft General Plan (Alternative II) Impacts

Model runs were also undertaken for a land use alternative representing a population of 14,000 persons (Alternative II: the Modified Draft General Plan). Two such model runs were prepared, both utilizing the basic future network (no Johnson Road Bridge). **Figure 23** depicts the 14,000 population Modified Draft General Plan. The increase in population density is projected to add approximately 2,000 daily vehicles to the eastern portion of the new Loop Road, and to Grant Avenue east of the Loop Road.

Future levels of service for the Modified Draft General Plan would not be substantially different than those for the Draft General Plan, with the exception that the Grant Avenue intersections with Railroad Street and East Main would be LOS D instead of LOS C in the PM peak hour.

Figure 24 depicts the improvements required to the street network to accommodate the future traffic volumes associated with the Draft General Plan (Alternative I). The same improvements would be sufficient to accommodate the traffic associated with the Modified Draft General Plan (Alternative II). The improvements are listed in **Figure 25**. Each of these improvements has been incorporated into the Circulation Master Plan.

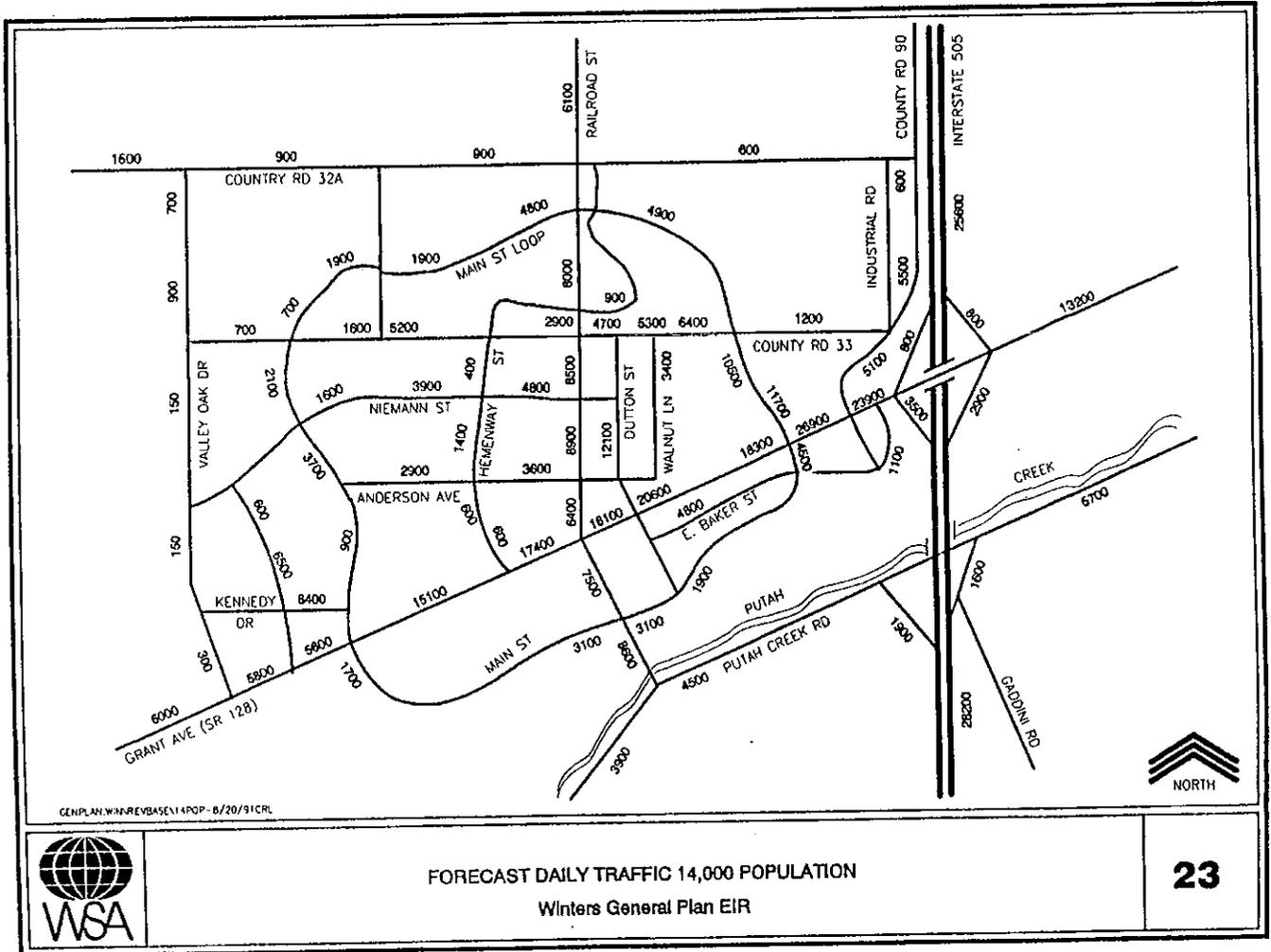
The DGP and Circulation Master Plan provide the basis for roadway improvements which will accommodate the Draft General Plan's designated land uses. The Circulation Master Plan is to be adopted and periodically updated, to reflect development patterns and densities (Implementation Program III.2).

The Circulation Master Plan incorporated into the Draft General Plan program (Alternatives I and II) provides The potential impact of unacceptable congestion would be avoided.

Congestion Management Plan Impacts

Traffic conditions on both Grant Avenue and Railroad Street would not deteriorate to worse than LOS D under either the Draft General Plan or the Modified Draft General Plan. As a result, the City would conform to the Level-of-Service requirements of the Yolo County Congestion Management Plan. The potential impact would be avoided.

The DGP directs the City to adopt measures to comply with the Yolo County CMP, such as a monitoring program, a land use impact analysis plan and a trip reduction ordinance.



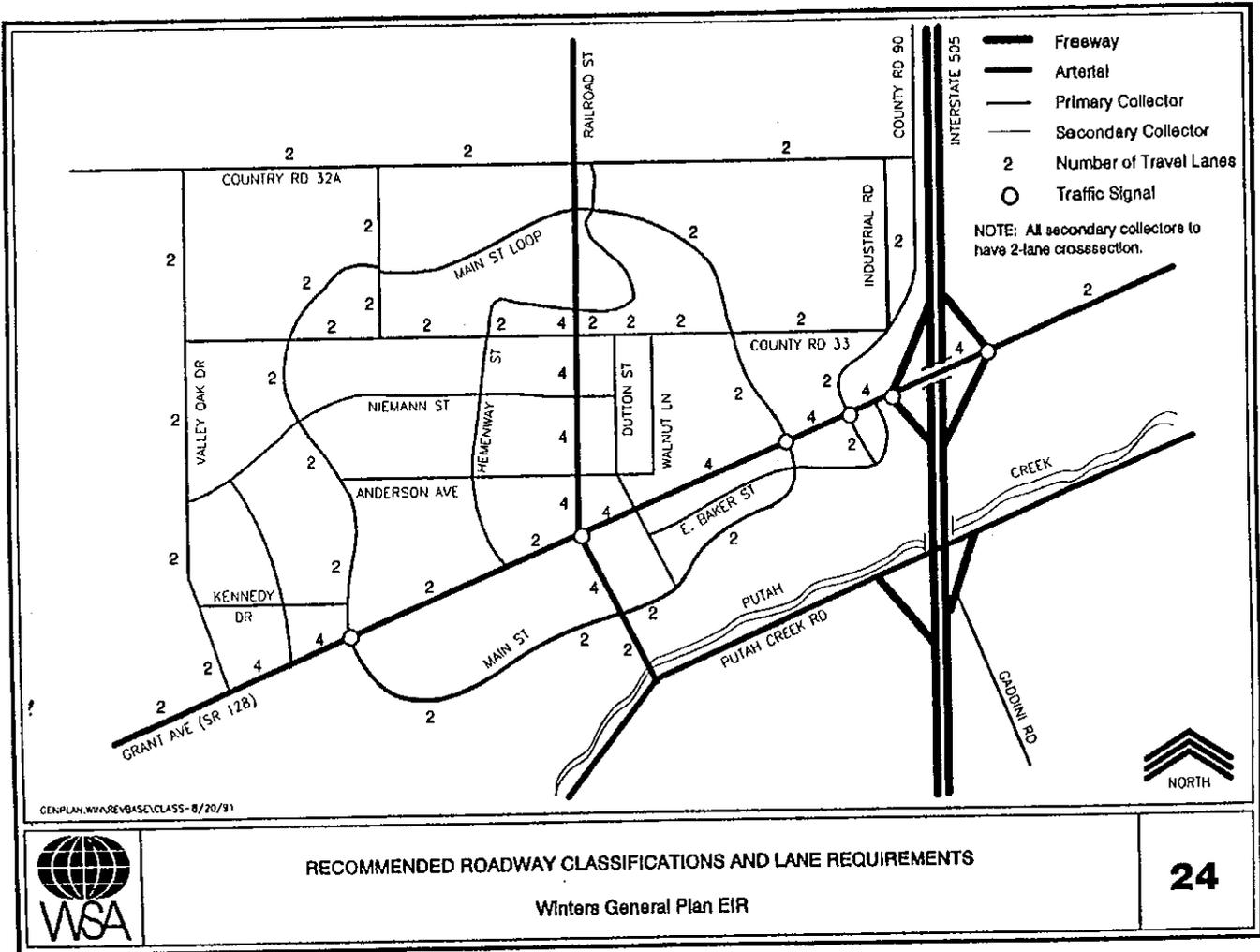


Figure 25

REQUIRED ROADWAY IMPROVEMENTS

Improvements	Order of Magnitude Cost
Main Street Loop Road	(1)
Road 32A (Road 88 to Road 90)	(1)
Hemenway Street Extension	(1)
Road 33 Extension (to Road 90)	(1)
Valley Oak Drive Extension	(1)
Rebuild Putah Creek Bridge	\$1,000,000
Rebuild Anderson Road	(1)
Rebuild Grant Avenue Dry Creek Bridge	1,700,000
Rebuild Railroad Avenue/Putah Creek	(1)
Rebuild Taylor Street	\$260,000
Widen East Street	\$230,000
Widen Grant Avenue	\$2,600,000
Widen Grant Avenue/I-505 Overcrossing	\$3,000,000
Widen Road 33 West of Railroad	(1)
Construct New Putah Creek Bridge	\$3,500,000 ⁽²⁾
New Traffic Signals (6 at \$125,000)	\$750,000

(1) On-site development improvements.

(2) Not currently in plan

Source: Wilbur Smith Associates; August 1991.

IV. TRANSPORTATION AND CIRCULATION

C. MITIGATIONS

No mitigation measures are necessary.

Exhibit J

Burger King Restaurant/Arco Gas Station/AM PM Convenience Store/
Truck Fueling Facility Conditional Use Permit

CONDITIONS OF APPROVAL

Dated August 5, 2010

1. In the event any claim, action or proceeding is commenced naming the City or its agents, officers, and employees as defendant, respondent or cross defendant arising or alleged to arise from the City's approval of this project, the project applicant shall defend, indemnify, and hold harmless the City or its agents, officers, and employees, from liability, damages, penalties, costs, or expenses in any such claim, action, or proceeding to attach, set aside, void, or annul an approval of the City of Winters, the Winters Planning Commission, any advisory agency to the City and local district, or the Winters City Council. Project applicant shall defend such action at applicant's sole cost and expense, which include court costs and attorney fees. The City shall promptly notify the applicant of any such claim, action, or proceeding and shall cooperate fully in the defense. Nothing in this condition shall be construed to prohibit the City of Winters from participating in the defense of any claim, action, or proceeding, if City bears its own attorney fees and cost, and defends the action in good faith. Applicant shall not be required to pay or perform any settlement unless the applicant in good faith approves the settlement, and the settlement imposes not direct or indirect cost on the City of Winters, or its agents, officers, and employees, the Winters Planning Commission, any advisory agency to the City, local district, and the City Council.
2. The applicant shall submit a current title report to the City prior to approval of public improvement plans.
3. The City of Winters Plan Review Fee applies and is due upon submittal of plans for review.
4. All street and other required public improvements shall be constructed concurrently, in a single phase operation.
5. The General Plan Circulation Element and Final EIR identify County Road (CR) 90 from north of the Property (at Road 33) to the intersection of SR 128 to be re-aligned to SR 128 to the west via future CR 33 and Timber Crest Road, with the existing CR 90/SR 128 intersection to be abandoned. The intersection at SR 128 and CR 90 is anticipated to be a right-in, right-out only intersection. While, at this time a four-way intersection at the existing CR 90/SR 128 intersection is not contemplated in the General Plan Circulation Element, in order to permanently maintain and provide full access at the existing intersection, it will require review and approval from Caltrans and the City. If Caltrans ultimately approves a four-way intersection at the existing CR 90/SR 128 location, it is anticipated that some type of traffic control improvement may be needed such as a traffic signal. The full access intersection at SR 128 and CR 90 shall be permitted on a temporary basis unless Caltrans requires other mitigation measures at this intersection. The Applicant shall be responsible

for all costs to construct necessary improvements to allow for a permanent full access intersection if approved by Caltrans.

6. The Applicant shall implement all traffic conditions contained herein prior to issuance of any certificates of occupancy for buildings within the project area. The Applicant shall commission an appropriate traffic access study of SR 128 from the north bound off-ramps of I-505 to the intersection of East Main Street inclusive. This study shall recommend the timing for planned improvements, as well as appropriate and effective interim improvements, which will leave this stretch of roadway and all intersecting streets at LOS "C" or better, as required by the General Plan. Said study shall be completed and approved by the City Engineer and Caltrans prior to approval of public improvement plans. Traffic improvement costs shall be paid in an equitable manner by the end users of the project, as approved by the City.
7. As a minimum, the following traffic conditions shall be implemented on SR 128, unless otherwise modified, changed, or deleted by Caltrans:
 - a. Full access at this intersection shall be eliminated by the City by installing a continuous median island down the center of SR 128 in the event that any intersection between the northbound off-ramps to I-505 and East Main Street drops below level of service "D" in the future or as required by Caltrans due impacts to I-505.
 - b. On SR 128 median islands, if required by Caltrans, will be striped pursuant to City and Caltrans requirements, as part of the improvements. Applicant shall pay the cost of constructing, including landscaping and irrigation, for future median islands in SR 128 along the frontage of the property.
 - c. The I-505 southbound off-ramp free right turn lane on to SR 128 shall be eliminated with this project. Applicant shall construct off-ramp improvements accessing SR 128 per Caltrans requirements. Applicant shall be responsible for all cost associated with these improvements.
8. Applicant shall construct public roadway frontage improvements along CR 90, fronting the property to include curb, gutter, and separated sidewalk per the City of Winters Public Improvements Standards and Construction Standards.
9. Applicant shall install landscape frontage improvements along SR 128/Grant Avenue to include constructing the ADA ramps at the intersection and sidewalk extension to the west side of CR 90 connecting to the existing sidewalk at the Chevron Station.
10. A drainage plan shall be prepared by a registered civil engineer for project watershed(s), including the plan area. The plan shall identify specific storm drainage design features to control increased runoff from the project site. The drainage plan shall demonstrate the effectiveness of the proposed storm drainage system to prevent negative impacts to SR 128 and existing downstream facilities and to prevent additional flooding at off-site downstream

locations. All necessary calculations and assumptions and design details shall be submitted to the City Engineer for review and approval. The design features proposed by the applicant shall be consistent with the most recent version of the City's Storm Drainage Master Plan criteria and Public Improvement Standards. The plan shall incorporate secondary flood routing analysis and shall include final sizing and location of on-site and off-site storm conduit channels, structures and detention and retention basins. The Storm Drainage Plan shall be submitted for approval prior to submittal of the construction drawings for checking. The applicant shall pay the cost associated with all improvements required by the plan.

11. A topographic survey of the entire site and a comprehensive grading and drainage plan prepared by a registered civil engineer, shall be required for the development. The plan shall include topographic information on adjacent parcels. In addition to grading information, the grading plan shall indicate all existing trees, and trees to be removed as a result of the proposed development, if any. A statement shall appear on the site grading and drainage plan, which shall be signed by a registered civil engineer or land surveyor and shall read, "I hereby state that all improvements have been substantially constructed as presented on these plans". Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.
12. Construction materials for storm drainpipes within the water table shall be pre-cast rubber-gasket reinforced concrete pipe (RGRCP).
13. Applicant shall meet all FEMA requirements and be required to coordinate with FEMA through the City's Floodplain Administrator to determine if a CLOMR or LOMR is needed for the project as a result of possible impacts to Dry Putah Creek Flood Plain. Applicant shall obtain all necessary permits and CLOMRs/LOMRs as required prior to improvement plan approval.
14. The differential in elevation between rear and side abutting lot lines shall not exceed twelve inches (12") without construction of concrete or masonry block retaining walls.
15. All projects shall include implementation of post-construction best management practices (BMPs). Post construction BMPs shall be identified on improvement plans and approved by the City Engineer. Construction of projects disturbing more than one acre of soil shall require a National Pollution Discharge Elimination System (NPDES) construction permit.
16. Landscaped slopes along streets shall not exceed 5:1; exceptions shall require approval of the City Engineer. Level areas having a minimum width of two (2) feet shall be required at the toe and top of said slopes.
17. The property shall be connected to the City of Winters sewer system, with a separate sewer lateral required for each parcel, in accordance with City of Winters Public Improvement Standards and Construction Standards.

18. A Sewer Collection System Plan shall be submitted for approval by the City Engineer as part of the submittal of the construction drawings for checking. A registered civil engineer for project shall prepare the sewer collection system plan. The plan shall include final sizing and location of conveyance facilities, structures, and engineering calculations. The applicant shall pay the cost associated with all improvements required by the plan. Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.
19. The Applicant shall make all required sewer connections to the City's existing sewer collection system on the south side of SR 128 at CR 90 at the Applicant's sole expense.
20. Applicant shall be required to make all necessary PG&E power connections to provide power to sewer pump station located on the south side of SR 128, approximately 500 feet south along the future extension of Gateway Drive on the Jordan property, unless otherwise installed by others prior to issuance of a certificate of occupancy for project. If applicant installs power to the pump station, applicant shall receive credit against his/her fair share cost for the benefiting use of the existing sewer collection system, pump station, and water system existing on the Jordan and McClish properties that was advance funded and constructed by City.
21. A Water System Plan shall be submitted for approval by the City Engineer as part of the submittal of the construction drawings for checking. A registered civil engineer for project shall prepare the water system plan. The plan shall include final sizing and location of conveyance facilities, structures, and engineering calculations. The applicant shall pay the costs associated with all improvements required by the plan. Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.
22. All materials and installation of the water system shall be at the applicant's expense per City of Winters Public Improvement Standards and Construction Standards.
23. The Applicant shall be required to make all required water connections to the City's existing water system on the south side of SR 128 at CR 90.
24. At the time the Building Permit is issued, the applicant will be required to pay the appropriate City connection fees. All domestic water services will be metered. Water meters shall be installed on all water services to the satisfaction of the City Engineer.
25. Per City of Winters Cross Connection Control Program, all types of commercial buildings and landscape irrigation services are required to maintain an approved backflow prevention assembly, at the applicant's expense. Service size and flow-rate for the backflow prevention assembly must be submitted. Location of the backflow prevention assembly shall be per the City of Winters Public Improvements Standards and Construction Standards. Prior to the

installation of any backflow prevention assembly between the public water system and the owner's facility, the owner or contractor shall make application and receive approval from the City Engineer or his designated agent.

26. Per the City of Winters Cross Connection Control Program, fire protection systems are required to maintain approved backflow prevention, at the applicant's expense. Required location, service size and flow-rate for the fire protection system must be submitted. Actual location is subject to the review and approval of the Public Works Department, Fire Department, and Community Development Department.
27. FINAL PLANS, PERIODIC TESTS FOR FIRE HYDRANTS: All final plans for fire hydrant systems and private water mains supplying a fire hydrant system shall be submitted to the City of Winters Fire Department for approval prior to construction of the system. All fire protection systems and appurtenances thereto shall be subject to such periodic tests as required by the City of Winters Fire Department.
28. WATER PRESSURE: All water lines and fire hydrant systems must be approved by the Fire Chief and operating prior to any construction taking place on the site. Prior to issuance of building permits, water flow must be measured and certified for adequacy by the Winters Fire District.
29. REFLECTORS FOR FIRE HYDRANTS: Any fire hydrant installed will require, in addition to the blue reflector noted in Standard Drawings, an additional blue reflector and glue kit that is to be supplied to the City of Woodland Fire Department for replacement purposes.
30. All construction, new or remodeling, shall conform to the most current Uniform Fire Codes, the Winters Fire Prevention Code, and section of the National Fire Codes that the Winters Fire Chief or his/her agent may find necessary to apply.
31. Forty-eight hours notice shall be given to the Winters Fire District prior to any site inspections.
32. A hydrant use permit shall be obtained from the Public Works Department, for water used in the course of construction.
33. The Applicant shall contact the Winters Fire District Chief or his/or agent prior to construction for a pre-construction meeting.
34. All required fire accesses that are to be locked shall be locked with a system that is approved by the Fire Chief or his/her agent.
35. Submit three sets of plans for each fire suppression sprinkler system to the Fire Department for review and approval prior to the issuance of each building permit.

36. Fire suppression sprinkler systems shall meet or exceed NFPA 13-D. Water laterals shall be appropriately sized to accommodate sufficient water flows for fire suppression sprinkler systems.
37. Closure calculations shall be provided at the time of initial map check submittal. All calculated points within the map shall be based upon one common set of coordinates. All information shown on the map shall be directly verifiable by information shown on the closure calculation print out. The point(s) of beginning shall be clearly defined and all lot acreage shall be shown and verifiable from information shown on the closure calculation print out. Additionally, the square footage of each lot shall be shown on the subdivision map. Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.
38. Landscaping and irrigation plans shall be prepared by a registered landscape architect, and included as part of the improvement plans and/or site plans. These plans shall be per City Standards and the Water Conservation in Landscaping Act of 2006 (AB 1881) and shall be subject to review and approval by the City. The improvement plans shall include landscaping and automatic irrigation for the public right-of-way of SR 128 and CR 90. Drought tolerant native plant species shall be incorporated into landscaping plans to the maximum extent possible and drip irrigation systems shall be used in the landscaping of new public and private open space areas. No substantial change to an approved landscaping or irrigation plan may be made without written approval by the original approving person or body.
39. All public landscape areas shall include water laterals with meters and PG&E power service points for automatic controllers.
40. Joint trench/utility/composite plans shall be submitted to the City Engineer for review, prior to approval of improvement plans.
41. All existing and proposed utilities (electric, phone/data, and cable) within 100 feet of the project boundary shall be installed underground per the subdivision ordinance and shall meet the policies, ordinances, and programs of the City of Winters and the utility providers.
42. Street lighting location plan shall be submitted and approved by the City Engineer prior to approval of improvement plans.
43. Occupancy shall not occur until on-site and off-site improvements have been accepted by the City Council and the City has approved as-built drawings. Applicants, and/or owners shall be responsible to so inform prospective buyers, lessees, or renters of this condition.

44. If relocation of existing infrastructure is deemed necessary, the applicant shall perform the relocation, at the applicant's expense unless otherwise provided for through a reimbursement agreement. All public utility standards for public easements shall apply.
45. A Public Improvement Agreement shall be entered into and recorded prior to construction of improvements and/or issuance of any building permits.
46. Appropriate easements shall be required for City maintained facilities located outside of City owned property or the public right-of-way.
47. The applicant shall facilitate, with City cooperation, the abandonment of all City easements and dedications currently held but no longer necessary as determined by the Public Works Department.
48. A ten (10) foot public utility easement back of sidewalk, adjacent to all public streets within the development shall be dedicated to the City and may be required elsewhere as requested by the utility companies and approved by the City.
49. Project proponents shall enter into the Citywide Landscape and Lighting Maintenance District, in order to maintain and provide for the future needs of parks, open space, street lighting, landscaping, sound walls, and other related aspects of development. The project proponent is responsible for all costs associated with this condition. The project proponent shall fulfill this condition prior to issuance of a building permit.
50. Applicant shall provide refuse enclosure detail showing bin locations and recycling facilities to the approval of the Public Works Department and the Community Development Department.
51. Prepare improvement plans for any work within the public right-of-way and submit them to the City Engineer for review and approval. The improvement plan sheets shall include the title block as outlined in the City of Winters Public Improvements Standards and Construction Standards. This submittal is separate from the building permit submittal. The Applicant shall provide, to the City Engineer, one Mylar original and four sets of the improvement plans and electronic media (AutoCAD .DWG or DXF on Zip Disk or Compact Disk), for approval of plans by the City Engineer.
52. Conform to County Health regulations and requirements for the abandonment of any septic tanks and water wells.
53. Existing public and private facilities damaged during the course of construction shall be repaired by the Applicant at his/her sole expense, to the satisfaction of the City Engineer.
54. Encroachment permits if necessary from will be acquired from, Caltrans and PG&E.

55. All utility poles that are to be relocated in conjunction with this project shall be identified on the improvement plans, with existing and proposed locations indicated.
56. If improvements are constructed and/or installed by a party or parties other than the Applicant, which improvements benefit Applicant's property, prior to issuance of a building permit on Applicant's property, Applicant shall pay a proportionate share of the costs of said improvements, including interest, prior to the issuance of building permit(s) to Applicant. Applicant shall pay fair share costs for the benefiting use of the existing sewer collection system, pump station, and water system existing on the Jordan and McClish properties that was advance funded and constructed by City.
57. All conditions identified herein shall be fully satisfied prior to occupancy, unless otherwise stated.
58. The project is as described in the July 27, 2010 Initial Study, except as modified by these conditions of approval. Substantive modifications require new analysis, verification of CEQA compliance, public hearing, and Council action.
59. The project shall operate within all applicable requirements of the City Code at all times
60. Pursuant to General Plan Policy I.A.9, no new development may occur within the General Plan Flood Overlay Zone area until a fee schedule has been established or financing program adopted which includes all affected and contributing properties for financing the comprehensive flood control solution.
61. Pursuant to General Plan Policy II.C.1 and VI.F.2, energy efficient design shall be used. Energy efficient design shall include but not limited to automated control system for heating and air conditioning system and energy efficiency beyond Title 24 requirements, lighting controls and energy efficient lighting in buildings, and increased insulation beyond Title 24 requirements.
62. Pursuant to General Plan Policy II.D.4 and IV.A.1 necessary public facilities and services shall be available prior to occupancy of each phase of the project.
63. Pursuant to General Plan Policy III.A.1 CR 90 and Grant Avenue frontage shall be dedicated and improved consistent with the General Plan Circulation Element, to the satisfaction of the City Engineer.
64. Pursuant to General Plan Policy III.G.6, the applicant shall be required to provide bicycle parking facilities. As per Winters Municipal Code Section 17.72.080 (B), the applicant shall be required to install one bicycle parking space for every ten automobile parking spaces required for the project.

65. Pursuant to General Plan Policy IV.D.4, as a condition to any development entitlement approval, all development affected by or contributing to the 100-year flooding problem shall be required to contribute to the financing of the comprehensive flood control solution in an amount that reflects that property's relative contribution to the flooding problem or benefit from the program adopted.
66. Pursuant to General Plan Policy IV.D.6, all development allowed to proceed within the General Plan flood overlay zone, in advance of implementation of storm drainage improvements specified in the updated Storm Drainage Master Plan, must address interim drainage and flooding requirements in a manner found acceptable by the City Engineer, and in a manner that furthers and is not inconsistent with the updated Storm Drainage Master Plan. To the extent feasible as determined by the City, interim improvements shall implement logical component parts of the storm drainage improvements identified in the updated Storm Drainage Master Plan.

Interim drainage/flooding solutions that do not implement logical components parts of the storm drainage improvements identified in the updated Storm Drainage Master Plan, or would be otherwise inconsistent with implementation of the update Storm Drainage Master Plan, can only be approved if consistent with the water quality treatment/design criteria and standards criteria of the updated Storm Drainage Master Plan and the City shall provide no reimbursement or credit for said work.

67. Pursuant to General Plan Policy IV.D.7, all projects citywide and within the FOZ shall pay a Storm Drainage Master Plan Implementation Fee that represents a fair share towards implementation of the improvements specified in the updated Storm Drainage Master Plan. This fee shall be due prior to issuance of the building permit. To the extent that all or a component part of the Storm Drainage Master Plan is constructed by a project approved to move forward, credit toward the fee will be provided.
68. Pursuant to General Plan Policies V.F.1 and V.F.2, if cultural resources (historic, archeological, paleontological, and/or human remains) are encountered during construction, workers shall not alter the materials or their context until an appropriately trained cultural resource consultant has evaluated the situation. Project personnel shall not collect cultural resources. Prehistoric resources include chert or obsidian flakes, projectile points, mortars, pestles, dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits often in old wells and privies.
69. Pursuant to General Plan Policy VIII.D.7 and Winters Municipal Code Section 17.72.050(F), parking lot pole lights shall be a maximum of 16 feet in height (including base pedestal) with full cutoff box fixtures. In addition, lighting under the gas canopies shall be fully recessed metal halide fixtures so there is no light spillage or glare. Wall pack lighting shall be fully shielded and directed downward.

70. The proposed enclosure for the above-ground fuel tank shall be increased in height sufficient to fully screen the tank facility from sight. Modifications to proposed design shall require review and approval of the Community Development Director.
71. Pursuant to Winters Municipal Code Section 17.80.030(R)(2), the sign plan shall be modified to provide sign area for additional businesses on the freeway identification sign, to the satisfaction of the Community Development Director. The total sign area of the freeway identification sign shall not exceed 240 square feet (or 60 square feet per individual business).
72. The sign plan shall be modified to remove the City of Winters' logo from the freeway identification sign, to the satisfaction of the Community Development Director.
73. Pursuant to Winters Municipal Code Section 17.80.080, the applicant shall apply for a sign permit with the Community Development Department prior to installation of the wall signs and the project monument sign. Building permits shall be obtained as necessary for installation.
74. Pursuant to Winters Municipal Code Section 17.80.040, the building elevations showing the wall signs shall be modified to show wall signs on the north and east elevations only and limited to a maximum total sign area of 100 square feet, to the satisfaction of the Community Development Director.
75. Pursuant to the parking requirements listed in Table 6 of Winters Municipal Code Section 17.72.020, the site plan shall be modified to increase the total number of parking spaces from 27 spaces to 29 spaces, to the satisfaction of the Community Development Director.
76. A steel trellis with attractive climbing vegetation to screen and adorn the middle siding panel on both ends of the proposed building shall be added on the north and south elevations, to the satisfaction of the Community Development Director.
77. The site plan and landscaping plans shall be modified to increase proposed landscaping, provide pedestrian improvements, and incorporate outdoor seating area (including a possible water feature within a courtyard or plaza design) along Grant Avenue.
78. The landscape plan shall be modified to increase tree screening of the proposed drive-through lane from I-505 freeway and Grant Avenue, to the satisfaction of the Community Development Director.
79. Roof mounted mechanical equipment must shielded on all sides behind the proposed roof parapet and shall not be visible from the ground level. All ground equipment shall be fully screened by enclosures and/or landscaping.

80. Required planting areas must be permanently maintained. "Maintained" includes watering, weeding, pruning, insect control, and replacement of plant materials and irrigation equipment as needed to preserve the health and appearance of plant materials for a period at least five years from installation.
81. Landscape material may not be located such that, at maturity it interferes with safe distances for vehicular, bicycle or pedestrian traffic; conflicts with overhead utility lines, overhead lights, or walkway light; or blocks pedestrian or bicycle ways.
82. Applicant shall be responsible for regular trash pick-up on- and off-site as related to customers littering packaging associated with purchases from the fast food and convenience store.
83. Truck parking shall be prohibited and posted on County Road 90 along the project frontage.
84. The entire site shall be brought into compliance with the 1990 American Disabilities Act requirements for site access to and from the buildings from the public right of way, to the satisfaction of the Building Official.

Exhibit K

CITY OF WINTERS
CEQA COMPLIANCE AND EXEMPTION DETERMINATION
Burger King/AMPM Gas Station Minimart/Truck Fueling Facility CUP

PROJECT INFORMATION

Project Title: Burger King/AMPM Gas Station Minimart/Truck Fueling Facility CUP

Lead Agency Name and Address:

City of Winters
Community Development Department
318 First Street
Winters, CA 95694

Contact Person and Phone Number:

Nelia Dyer, Director
Community Development Department
(530) 795-4910 x114

Heidi Tschudin, Contract Planner
Community Development Department
(916) 447-1809

Project Location: Northwest quadrant of Interstate 505 and State Route 128 (Grant Avenue) in Winters California, 95694. APN: 038-050-063 totaling 2.3 acres.

Project Applicant: Sunny Ghai
Singh's Foodservice Inc.
43678 Skye Road
Fremont, CA 94539
(530) 333-7502

Property Owner: Same as above

Project Approvals: The following specific entitlements are necessary for implementation of the project:

- Conditional Use Permit (CUP)
- Approval of Site Plan/Design Review
- Approval of Sign Permit
- Variance to Sign Ordinance
- CEQA Clearance

CEQA COMPLIANCE

Because this project requires discretionary action on the part of the City in the form of granting the above noted approvals or entitlements for use, the City has determined this falls under the definition of a project subject to CEQA (CEQA Guidelines Section 15378). Once a lead agency has made such a determination, it must then determine whether the project is exempt from CEQA. A project may be statutorily exempt, categorically exempt, or exempt under the "general rule" that CEQA applies only to projects which have the potential for causing a significant effect on the environment (Section 15061).

The City has reviewed the available exemptions, and concluded that the Statutory Exemption provided in Section 15183 and the Categorical Exemption provided in Section 15332 of the CEQA Guidelines are both applicable to the subject project. As documented herein, the City has concluded that the project qualifies for either or both of these exemptions and directs that a Notice of Exemption be filed.

EXEMPTION VERIFICATION

The City of Winters has concluded that the project qualifies for the Statutory Exemption provided in Section 15183 of the CEQA Guidelines based on the analysis and conclusions provided below.

Statutory Exemption 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning): Section 15183(a) establishes that projects that are consistent with the development density established by existing zoning, a community plan, or general plan for which an EIR was certified, do not trigger additional environmental review except to examine whether there are project-specific significant effects peculiar to the project or site.

The City's 1992 General Plan was the subject of a certified Environmental Impact Report (GP EIR) that examined the environmental impacts associated with adoption of the General Plan. On May 19, 1992 the City Council adopted Resolution No. 92-13 certifying the two-volume EIR (SCH#91073080) prepared for the City General Plan and adopting the City General Plan.

Based on the revised General Plan land use map (E&R-54, General Plan FEIR), the Planning Area Boundaries map (page 15, General Plan DEIR), and specified development assumptions (page E&R-55 and E&R-56, General Plan FEIR), the GP EIR examined the environmental impacts associated with about 21,250 square feet of development on the site, comprised of approximately 12,900 sf of highway commercial uses and about 8,350 sf of light industrial uses.

The application is for a proposed fast food restaurant (Burger King) with drive-through, gas station and convenience store (AM PM), and truck refueling station, co-located in one 5,000 square foot one-story multi-tenant building with associated parking, fuel storage, signage, and site improvements. As documented in the Initial Study prepared

for the project, the proposed uses fall well within the development (density/intensity) assumptions for the site that are made in the General Plan and General Plan EIR.

Section 15183(b) establishes the limits for subsequent environmental analysis if required. These include examination of: impacts peculiar to the project or parcel; impacts not analyzed as significant effects in the prior EIR; potential off-site and/or cumulative impacts not analyzed in the prior EIR; or significant impacts which are determined based on substantial new information to be more adverse than previously discussed. The Initial Study prepared for the project examined whether any of these thresholds are met. The conclusion of the Initial Study was that no new potentially significant impacts were identified that had not been previously and adequately addressed.

Section 15183(c) establishes that additional EIR analysis is not required if an impact in not peculiar to the parcel or project, has been previously addressed, or can be substantially mitigated by uniformly applied development policies or standards. Since no new potentially significant impacts were identified in the Initial Study, no additional EIR analysis is required.

Section 15183(d)(1) establishes that Section 15183 only applies to projects that are consistent with: a community plan adopted as part of a General Plan, a zoning action designating the parcel for a particular development density, or a general plan. The subject project is consistent with both the zoning and General Plan.

Section 15183(d)(2) establishes that the General Plan or zoning must have been accompanied by a certified EIR. The GP EIR was certified in 1992.

Section 15183(e) establishes limits for the analysis of impacts. However, since no new potentially significant impacts were identified in the Initial Study, these limits are not applicable.

Section 15183(f) establishes parameters for determining if an impact should be considered peculiar to the project or parcel. Since no new potentially significant impacts were identified in the Initial Study, these parameters are not applicable.

Section 15183(g) provides examples of uniformly applied development policies and standards. Based on the conclusions above, this subsection is not applicable.

Section 15183(h) establishes that lack of an applicable uniformly applied development policy or standard can not be used in and of itself to determine that an impact is peculiar to the project or parcel. Since no new potentially significant impacts were identified in the Initial Study, these parameters are not applicable.

Section 15183(i) applies to projects that include a rezone. The subject project does not include a rezone.

Section 15183(i)(1) defines "community plan". This subsection is not applicable.

Section 15183(i)(2) defines the requirement for consistency with the development density as being the same or less than the standard expressed for the parcel in the general plan or zoning. As explained above this is the threshold that was applied in the Initial Study analysis.

Section 15183(j) reiterates that adequately analyzed off-site or cumulative impacts need not be further analyzed.

Categorical Exemption 15332 (In-Fill Development Projects): Section 15332(a) specifies that in order to qualify for this exemption, the project must be consistent with the applicable general plan designation and policies, and consistent with the applicable zoning designation and regulations.

The application is for a proposed fast food restaurant (Burger King) with drive-through, gas station and convenience store (AM PM), and truck refueling station, co-located in one 5,000 square foot one-story multi-tenant building with associated parking, fuel storage, signage, and site improvements. The proposed uses fall well within the development (density/intensity) assumptions for the site that are made in the General Plan and General Plan EIR. For planning and environmental analysis purposes, the GP and GP EIR assumed about 21,250 square feet of development on the site, comprised of approximately 12,900 sf of highway commercial uses and about 8,350 sf of light industrial uses.

The General Plan and zoning ordinance both designate the front 1.4 acres of the project site for highway commercial use and the back 0.9 acres for light industrial use. As conditioned, the project would be consistent with the land uses and applicable policies of General Plan, and the land uses and applicable development regulations of the zoning ordinance.

Section 15332(b) specifies that in order to qualify for this exemption, the proposed development must occur within the city limits, on a site of no more than five acres, substantially surrounded by urban uses. The project site lies within the incorporated City limits and is 2.3 acres in size. In all directions, the site is adjoined by existing or planned urban uses including the frontage road (CR 90) and planned Light Industrial property to the north, Interstate 505 to the east, SR 128 (Grant Avenue) and planned Highway Commercial property (Gateway Master Plan area) to the south, and planned Highway Commercial property and Chevron gas station/ convenience store to the west.

Section 15332(c) specifies that in order to qualify for this exemption, the site must have no value as habitat for endangered, rare, or threatened species. The property satisfies these criteria. The site has been fallow since the 1970s. There is minimal vegetation on the site. There are several trees on the south end that are around 15-feet-tall. Most of these are black walnuts that appear to be from a former orchard. There is an ornamental tree (hackberry) near the edge of I-505. There are two rose shrubs further north, several small almond trees along the I-505 fence, and one larger almond tree on the north end. The remainder of the site is ruderal/grassland with star thistle and bull thistle.

Section 15332(d) specifies that approval of the project may no result in any significant effects relating to traffic, noise, air quality, or water quality. As demonstrated in the Initial Study, there would be no new significant impacts associated with development as proposed.

Section 15332(e) requires that the site be adequately served by all required utilities and public services. As demonstrated in the Initial Study, all utilities and public services are planned to accommodate the project and available to the site.

CEQA DETERMINATION

Based on an examination of the project, supporting information, and the analysis contained herein, the project is found to be exempt from further CEQA review pursuant to Section 15183 (**Projects Consistent with a Community Plan, General Plan, or Zoning**) and/or pursuant to Section 15332 (**In-Fill Development Projects**) of the CEQA Guidelines.

Signature: Nelia Dyer, Community Development Director

Date

Source Document: Environmental Checklist and Initial Study, July 27, 2010