



# COUNTY OF HUMBOLDT

For the meeting of: 11/10/2020

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File #: 20-1484

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**To:** The Humboldt County Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Public Hearing

**SUBJECT:**

*Friends of Ferndale for a Livable Community's* Appeal of a Conditional Use Permit approved by the Planning Commission on September 17, 2020, authorizing five (5) concerts and two (2) motorcycle racing events annually at the Humboldt County Fairgrounds by the Humboldt County Fair Association.

**RECOMMENDATION:**

That the Board of Supervisors:

1. Open the public hearing on the appeal and receive the staff report, testimony by the appellant and applicant, and public;
2. Close the public testimony portion of the hearing;
3. Deliberate on the Appeal of the Use Permit, Mitigated Negative Declaration, Substitute Mitigation Measures, and Mitigation Monitoring Program (Attachment 5);
4. Close the public hearing;
5. Adopt the resolution (Resolution 20-\_\_ ) (Attachment 1) which does the following:
  - a. Adopts the proposed Mitigated Negative Declaration in Attachment 5 as required by Section 15074(b) of the CEQA Guidelines, and finds that there is no substantial evidence that the proposed project will have a significant effect on the environment;
  - b. Approves the Mitigation Monitoring and Reporting Program
  - c. Makes the findings to deny the Appeal and approve the Conditional Use Permit; and
  - d. Denies the Appeal submitted by Friends of Ferndale for a Livable Community; and
  - e. Approves the Conditional Use Permit authorizing five (5) concerts and two (2) motorcycle racing events to be held annually at the Humboldt County Fairgrounds; and
  - f. Directs the Planning and Department to file a Notice of Determination for the project in accordance with the CEQA Guidelines.

**SOURCE OF FUNDING:**

The Appellant has paid an appeal fee for filing and processing of this appeal.

**DISCUSSION:**

**Executive Summary**

This is an appeal of the Humboldt County Planning Commission's September 17, 2020 approval of a Conditional Use Permit being sought by the Humboldt County Fair Association (HCFA) to authorize annual use of the racetrack and grandstands at the county fairgrounds for five (5) concerts and two (2) motorcycle racing events.

A timely appeal was filed on September 30, 2020, by a nonprofit organization "Friends of Ferndale for a Livable Community". Composed of a number of local residents and hereafter referred to as the "appellant" they are represented by the Los Angeles firm RWG Law (Richards Watson Gershon), hereafter referred to as "RWG". On behalf of the appellant, RWG submitted written comments on August 25, 2020 in response to circulation of the Initial Study and Mitigated Negative Declaration, and also on September 30, accompanying the appeal filing. These letters are included as Attachment 3 and Attachment 4 of the Board Report. The Initial Study and Mitigated Negative Declaration (MND) prepared for the project are included as Attachment 5.

In their appeal of the Planning Commission's decision to approve the Use Permit, the appellant primarily challenges the adequacy of the environmental review performed for the project, maintaining that an Environmental Impact Report is needed because the project could potentially result in significant unmitigated impacts. In their correspondence on behalf of the appellant, RWG raised objections to the analysis and mitigation of potential project impacts evaluated in the MND. The appellant maintains that the findings for approval of the project and adoption of the MND are not supported by substantial evidence.

Response to these objections is found within the written findings and cited evidence provided within Attachment 1 of this report, which includes the draft Resolution, Findings, Substitute Mitigation Measures, and Recommended Conditions of Approval prepared for the project. Substitute Mitigation Measures and modest revisions to the Conditions of Approval are provided to address minor technical issues raised by the appellant concerning the enforceability and oversight of several permit requirements. The revisions are also designed to confirm refinements in project scale and scope (reduction in the annual number of events and elimination of motorsports events other than motorcycle races) requested by the applicant and approved by the Planning Commission. Summary discussion of certain core concerns is provided below.

### *Noise*

The principle environmental impacts from the project surround the potential noise generated during the proposed temporary events. The Noise Element of the Humboldt County General Plan has been utilized for evaluating potential noise impacts from the project. The County Fairgrounds is identified in the plan as a stationary noise source for the Ferndale Community. The Noise Element contains compatibility standards for both long-term and short-term noise sources and includes exceptions for certain land uses where exceedances are temporary and periodic in nature, "*including temporary events in conformance with a Conditional Use Permit*". Given the limited number of events proposed and particular venue characteristics that are needed to host events of this sort, the project is a good candidate for use of the exception to the general plan short term noise standards. Additionally, the recommended Conditions of Approval include a number of mitigation measures designed to minimize

impacts from event-related noise experienced on neighboring properties in the vicinity. These include: installation of a dense straw bale sound wall and use of a sound engineer during all concerts, requiring motorcycle racers utilize specialized exhaust systems that reduce noise and submit to noise testing prior to being cleared to compete, establishing noise limits for racing and concert events, and agreeing to monitor and record noise levels during events and report to County staff within 30 days of each event as well as annually for 5 years.

### *Traffic/Public Services*

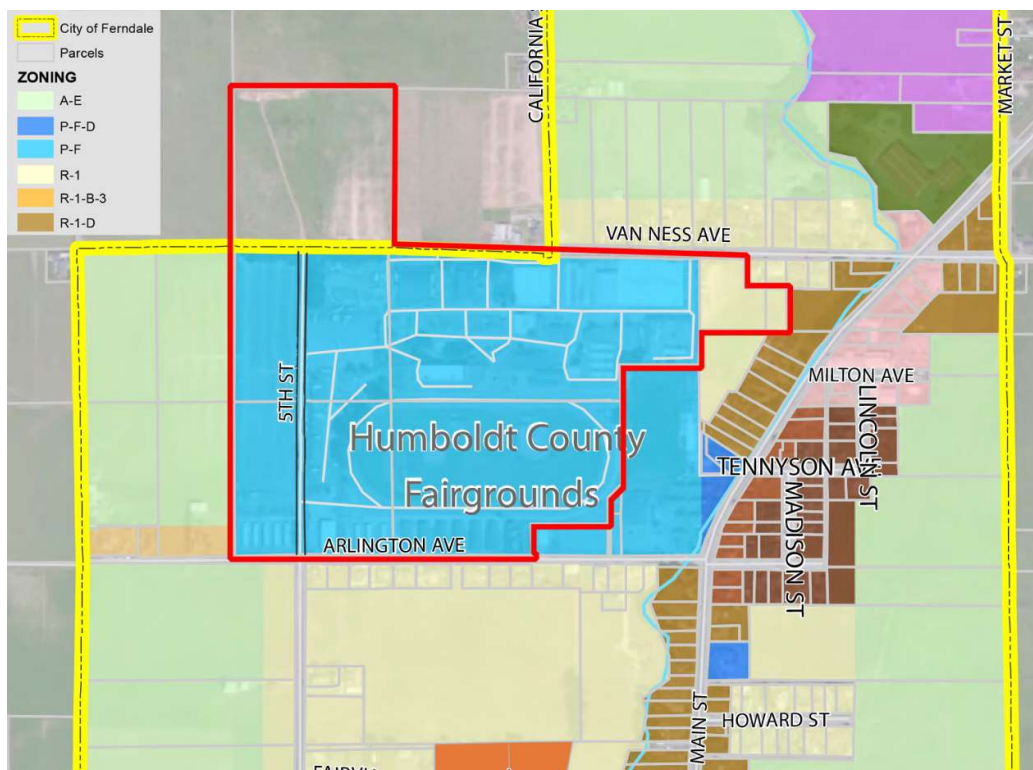
HCFA is seeking permission to hold events with a maximum of 5,000 persons in attendance. The organization has a proven track record of successfully managing events at the site with large traffic flows and need for public services. The county fairgrounds receive public water and sewer service throughout the year provided by the City of Ferndale Public Works and Del Oro Water Company and services are paid for by HCFA on a monthly basis. Both providers were contacted regarding the proposed project and their respective capacity to provide services for such events, and both providers expressed no concerns with the number and type of events proposed. Traffic volumes from concert and racing events are unlikely to exceed concentrations historically encountered during peak periods of the annual County Fair, such as when live horse racing occurs. The comparison is appropriate as horse racing events are time-sensitive, all races are pre-scheduled, and each day begins at a set time. On popular weekend days, horseracing attendance often exceeds 5,000 people, occurring simultaneously with other fair activities and attractions. As HCFA is seeking permission to hold events with a maximum of 5,000 persons in attendance, it is unlikely that traffic volumes and demand for public services will exceed peak levels already encountered during annual operation of the Humboldt County Fair. The project includes a condition requiring that a traffic management plan be submitted for review and approval prior to conducting any of the events proposed. The plan will likely incorporate traffic and parking protocols already implemented during operation of the County Fair.

### *History of Use - Environmental Baseline*

The proposed uses represent a modest change from the current environmental baseline for the site, both in terms of the number of events held annually, timing of events, and types of events. The Ferndale Fairgrounds has hosted the Humboldt County Fair since 1896 and exclusively since 1922. The annual County Fair has been held across a wide assortment of dates, ranging from late July through the last week of September, and most days in between. Concerts and Motorsports events at the Fairgrounds are not without historic precedent -live outdoor concert events have occurred on at least nine separate occasions during the last twenty-five years. The racetrack at the County Fairgrounds has been used for automotive racing events as far back as 1947 and 1954. In the early 1960's go-kart racing was being operated from the paved parking area. The facility operates year-round and hosts events that can range in duration from a few hours such as dinners and school events to multiple day events like the Humboldt County Fair, Dog Show, and Holiday Craft Events. Some of the other types of events include Fourth of July Fireworks displays, Circuses, Carnivals, Rodeos, Equestrian Events, Graduation, Concert/Dance Events, Cycling Events, Bingo, Weddings, Expos, Auctions, Logging Conferences, and Theatrical performances. The fairgrounds also serve as a staging area, shelter, and headquarters for emergency services during flood and fire events such as the 1964 flood and recent wildfires.

### Permitting Framework

Though owned by the County, the fairgrounds complex is primarily located with the limits of the City of Ferndale. State law excludes cities and counties from needing to comply with other cities' and counties' building and zoning regulations. However, cities and counties are free to apply and enforce their own rules to these lands. Though not required, a Use Permit is being processed to help provide a forum for conducting public review and consideration of the proposal, as well as collecting feedback on the environmental impact analysis conducted in the MND.



The appellant states HCFA, a non-profit public benefit corporation organized for the specific purposes of conducting the Humboldt County Fair and making use of the fairground facilities in the best interests of the residents of Humboldt County and the State of California, and which manages year-round operation of the Fairgrounds under lease with the County, must demonstrate why it may share the County's immunity from local land use requirements. In its correspondence the appellant maintains that *only* the "county fair and related activities" enjoy immunity from City zoning regulations and that the events proposed (concerts and motorcycle racing) should be considered "purely private uses merely serving to generate revenue for HCFA and/or the promoter."

### Findings

To approve the Use Permit for the project a number of findings must be made, including that the proposal will not be detrimental to the public health, safety, or welfare; or materially injurious to property or improvements in the vicinity. A considerable number of local residents provided oral or written comments in support of the project during the Planning Commissions' consideration of the Conditional Use Permit, including property owners immediately neighboring the Fairgrounds. During the hearing a number of Commissioners acknowledged the clear public benefit derived from holding

additional special events at the site. One also mentioned they live nearby the Redwood Acres Fairgrounds in Eureka (which hosts similar events) noting that tolerance of periodic noise and other disruptions is customary when living in close proximity to a facility used for public events.

### *Staff Recommendation*

Staff recommends denying the appeal and granting the Conditional Use Permit. The grounds for appeal aren't adequate to warrant granting the appeal and the required findings for project approval can be made. The draft resolution (Attachment 1) includes written findings and evidence describing the reason for why rejection of the appeal and approval of the permit is appropriate.

### *Continuance Request*

Dialogue has begun in recent weeks between representatives of the applicant and the appellant. On 10/29/20 a meeting was held at the Planning Department with representatives of HCFA and the appellant. During the meeting options for reaching a compromise were discussed. There was general agreement among those participating that further discussion was worthwhile and representatives agreed to approach their respective groups and conduct a discussion and vote on whether to request that the Board of Supervisors delay action on the appeal at the November 10<sup>th</sup> meeting and instead grant a continuance to make possible time for further discussions and brokering of a possible agreement between HCFA and the appellant. During an emergency board meeting held by HCFA on Friday 10/30, the group voted to request a continuance and a 3-person ad hoc committee was formed and authorized to handle further discussions and negotiation with the appellant. On Tuesday November 3, a follow up meeting between the appellant and HCFA representatives was tentatively scheduled for Friday November 5<sup>th</sup>. On November 3 and November 4<sup>th</sup> emails requesting a continuance were furnished by representatives of the appellant and HCFA. However, in a subsequent meeting of the appellant's Board of Directors, a majority of the Board members did not support requesting the continuance and the earlier request was withdrawn. At this point it does not appear possible to engage in meaningful dialogue between the applicant and appellant to reach an agreeable solution.

### FINANCIAL IMPACT:

There will be no additional effect on the General Fund. The appellant has paid in full the appeal fee associated with this appeal.

### STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by facilitating the establishment of local revenue sources to address local needs.

### OTHER AGENCY INVOLVEMENT:

City of Ferndale

### ALTERNATIVES TO STAFF RECOMMENDATION:

The Board of Supervisors has a range of alternatives to the staff recommendation to approve the appeal and uphold the approval of the project, as summarized below:

1. Approve the appeal and deny the project. In the event the Board of Supervisors finds evidence in public testimony or from other sources compelling to deny the application, the Board should state the basis for that conclusion and continue the item to December 1, 2020, so that a resolution can be prepared expressing those findings, approving the appeal and denying the application.
2. Deny the appeal and approve the project subject to additional restrictions. The Board may wish to deny the appeal and still choose to place further limitations on the permit scale and scope or operation of events, in consideration of public comments and concerns received. Under this scenario, any motion to approve the project should include language outlining the terms of any additional restrictions or requirements being incorporated into the conditional approval of the permit request.
3. Continue the appeal hearing to December 8, 2020, and request that the applicant and appellant engage in further discussion in pursuit of reaching agreement on a possible compromise and potential revisions to the permit request, requirements, and mitigations.

ATTACHMENTS:

NOTE: The attachments supporting this report have been provided to the Board of Supervisors; copies are available for review in the Clerk of the Board's Office.

1. Draft Board Resolution, Findings, Substitute Mitigation Measures, Recommended Conditions of Approval
2. Maps, Site Plan
3. MND comments from RWG Law (dated August 25, 2020) prepared on behalf of Appellant
4. Appeal Letter from RWG Law (dated September 30, 2020) prepared on behalf of Appellant
5. Draft Mitigated Negative Declaration, incorporating Substitute Mitigation Measures
6. Planning Commission Staff Report from meeting of September 17, 2020
7. Correspondence concerning request for continuance
8. Letter re: Andy Titus

PREVIOUS ACTION/REFERRAL:

Board Order No.: [Click or tap here to enter text.](#)

Meeting of: [Click or tap here to enter text.](#)

File No.: [Click or tap here to enter text.](#)