

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT**

Resolution Number 23-103

**RUFFINO SUBDIVISION
PROJECT NUMBER PLN-2023-18066
ASSESSOR PARCEL NUMBER 508-091-039**

MAKING THE REQUIRED FINDINGS FOR CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND CONDITIONALLY APPROVING THE RUFFINO SUBDIVISION AND COASTAL DEVELOPMENT PERMIT

WHEREAS, the owners submitted an application and evidence in support of approving the Subdivision and Coastal Development permit; and

WHEREAS, the County Planning Division has reviewed the submitted application and evidence and has referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, the Planning Division, the Lead Department pursuant to Section 202 of Resolution No. 77-29 of the Humboldt County Board of Supervisors, has determined that impacts from projects of this sort were analyzed and addressed during preparation of Environmental Review for the McKinleyville Community Plan and the Environmental Impact Report for the 2017 Humboldt County General Plan (SCH#2007012089), in keeping with the criteria outlined within section 15183 of the Guidelines; and

WHEREAS, a public notice was sent via mail to all owners and occupants of property within 300 feet of the boundaries of the project; and

WHEREAS, on November 16, 2023, a public hearing was held before the Humboldt County Planning Commission during which the Planning Commission reviewed, considered, and discussed the application and reviewed and considered all evidence and testimony presented at the hearing; and

NOW, THEREFORE, be it resolved, determined, and ordered that the Planning Commission makes the following findings:

PROJECT DESCRIPTION

- 1. FINDING:** A Major Subdivision of an approximately 3.87-acre parcel into six (6) parcels ranging in size from approximately 18,123 square feet (net) to 35,737 square feet (net) in size. The parcel is located

in the Coastal Zone and a Coastal Development Permit (CDP) is being sought in connection with the proposed subdivision. The site is currently vacant and will be served with community water and sewer provided by the McKinleyville Community Service District.

EVIDENCE: a) Project File: PLN-2023-18066

CEQA

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been met. The Humboldt County Planning Commission has determined the project is not subject to further environmental review pursuant to Section 15183 (Projects Consistent with a Community Plan or Zoning) of Article 12 (Special Situations) of the CEQA Guidelines.

EVIDENCE: a) Section 15183 of the CEQA Guidelines acknowledges CEQA's mandate that projects not be subject to additional environmental review when consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified, noting that subsequent environmental review is only necessary where the Lead Agency determines any of the following circumstances apply:

project-specific environmental effects:

- are peculiar to the project or the parcel on which it is located
- are significant and were not analyzed as such in a prior EIR
- are off-site and/or cumulative and were not discussed in the prior EIR
- were identified in a prior EIR as significant but due to substantial new information (not known at the time the EIR was certified) are determined to have a more severe adverse impact than what was disclosed.

The residential density specified in the McKinleyville Area Plan was utilized for analysis conducted during development of the Environmental Impact Report prepared for the current Humboldt County General Plan, which includes all of the required elements specified in Section 65302 of the Government Code. The EIR for the General Plan was certified during adoption of the plan in 2017.

- b) There are no environmental effects that are peculiar to the project or the parcel on which the project is located. Neighboring development on adjacent parcels occurs at densities similar to or greater than the proposal. The property is not host to any sensitive habitat and is currently host to agricultural use. The development pattern and design included in the concept provided by the applicant has been found to be acceptable by the Land Use Division of Public Works and Planning Division.
- c) Potential Impacts such as those common to projects of this sort were analyzed and addressed during preparation of Environmental Impact Reports (EIR's) for the McKinleyville Community Plan (SCH# 1998082024) and 2017 Humboldt County General Plan (SCH#2007012089).
- d) There are no potentially significant environmental effects which were not analyzed in the above referenced EIR's. The proposed subdivision would enable future build-out to the currently planned density for the area, which was re-confirmed during adoption of the 2017 General Plan. The project is also consistent with the applicable policies and standards of the General Plan, which are further discussed below.
- e) There are no potentially significant off-site impacts and cumulative impacts which were not discussed in the above referenced EIR's (SCH# 1998082024 & SCH#2007012089). The proposed subdivision will facilitate build-out consistent with planned densities and applicable policies and standards found in the recently adopted General Plan.
- f) There is no substantial new information that would cause the project to result in a more severe adverse impact than what was known and disclosed at the time the General Plan EIR was certified.
- g) There is no substantial evidence, given the whole record before the agency, that the project may have a significant effect on the environment, as proposed.
- h) The project site is not located within a scenic vista area and will not impact visual resources within the County. The proposed minor subdivision will create a total of six (6) parcels that can accommodate future residential development consistent with the

assortment of uses and structures on surrounding parcels. The project will result in a less than significant impact to aesthetics.

- i) A cultural resources Investigation of the property was performed by “Archaeological Research and Supply Company”. A confidential report summarizing the results and recommendations from the investigation is on file with the Planning & Building Department. The project was referred to Tribal Historic Preservation Officers from the Wiyot Tribe, Blue Lake Rancheria, and Bear River Band of the Rohnerville Rancheria. The THPO’s were also engaged during preparation for the cultural resources survey and a tribal monitor participated in the survey of the property. Potential impacts to cultural resources have been avoided through adjustments to the lot configuration and inclusion of a restriction on ground disturbance within portions of Parcels 3 and 4 which were determined to be sensitive for cultural resources. Conditions of Approval have been included requiring that the property owner file a Development Plan with the Planning & Building Department. The Development Plan will include notations concerning protections for cultural resources and restrictions on ground disturbance within the defined area. The Conditions of Approval also require that the owner execute a Notice of Development Plan and allow the Department to file this document with the County Recorder. A conceptual grading plan prepared for the project shows that future residential development on parcels 3 and 4 can be accommodated outside of the proposed cultural resources buffer. The Tribal Historic Preservation Officers support the project moving forward with this approach to avoiding and controlling future ground disturbance, which is consistent with policies for cultural resources found in the General Plan.
- j) The project site is not included on a list of hazardous material sites, nor does the proposed project involve routine transport, use or disposal of hazardous materials. The project site is not located in an Airport Review Area. The closest airport is located approximately 2.72 miles northeast of the project site.
- k) According to the Humboldt County Fire Hazard Severity map, the parcel is located adjacent at the westernmost boundary of a moderate fire hazard severity area. The site is within the Arcata Protection District. Future development of the site will require compliance with the Uniform Fire Code and Uniform Building

Code. The Department finds no evidence that the project will create, or expose people or property to, hazardous materials, or impair implementation of or physically interfere with, an adopted emergency response plan.

- l) The project will not violate any water quality standards or waste discharge requirements or substantially degrade surface or groundwater quality or degrade groundwater supplies. Future residential development of the parcels being created will receive water and sewer service provided by the McKinleyville Community Services District. A detention basin will be created to handle the increase in stormwater runoff that will result from the introduction of new impervious surfaces.
- m) A Drainage Report and access road improvement plans are required to be prepared by a Civil Engineer registered within the State of California. This report will be submitted to Public Works for review and approval prior to commencement of the project. This is included in the recommended Conditions from the Land Use Division of Public Works memo and included in their memo detailing these requirements.
- n) The project will not conflict with any adopted program, ordinance, or policy addressing transportation systems within the County or result in inadequate emergency access. There is no evidence that the proposed subdivision and future residential development will result in significant changes in vehicle miles traveled not already contemplated in the EIR prepared during adoption of the 2017 General Plan. The proposed project will not result in a change in air traffic patterns, will not result in vehicle miles traveled beyond that anticipated during the analysis conducted during preparation of the EIR prepared for the 2017 General Plan. The proposed design has adequate on-site circulation and parking capacity to accommodate the degree of development proposed.

The project is consistent with the development density of 0-2 units per acre of the Residential Estates (RE) land use designation applied during the adoption of the McKinleyville Area Plan (MCAP) in and reaffirmed during adoption of the current General Plan in 2017. The creation and development of six (6) additional parcels is consistent with mitigations for induced population growth as described in Impact 3.1.3.4. of the 2017 Environmental

Impact Report (EIR) to reasonably obtain the projected goals of the Regional Housing Needs Allocation (RHNA) through the use of alternative subdivision standards and the facilitation of opportunities for second residential units.

The growth impacts of this project are not anticipated to create peculiar, specific, or more severe effects which the GPU EIR failed to evaluate or analyze as significant effects.

- o) The parcel has been planned and zoned for residential development for over thirty years. The property's zoning designation of Residential Single-Family (RS) allows single-family dwellings and Accessory Dwelling Units as principally permitted uses.

312-1.1.2 Legal Lot Requirement

- 3. FINDING:** The lot that was created in compliance with all applicable state and local subdivision regulations.

EVIDENCE: A review of past and current Assessor Parcel Mapping reveals that the parcel being divided was lawfully created and was involved in a prior lot line adjustment approved by the Department that resulted in the current parcel configuration.

SUBDIVISION FINDINGS - Section 66474 of the State Subdivision Map Act and Title III Division 2 of the Humboldt County Code

- 4. FINDING:** All lots shall be suitable for their intended uses.

EVIDENCE: a) The project will result in a total of six (6) parcels ranging in size from approximately 18,123 square feet (net) to 35,737 square feet (net). With the exception of Parcel 2, all of the lots meet or exceed the 20,000 square foot requirement of the RS-20 zone. The zoning and subdivision regulations permit deviation from minimum parcel size under the provisions for lot size modification, which permit reducing the lot size down to as low as 50% of the minimum lot size or 5,000 square feet (whichever is greater). All proposed parcels meet the minimum 75-foot width requirement of the RS-20 zone. The property is of sufficient size (3.87 acres) to accommodate the number of parcels being requested.

5. **FINDING:** Improvements shall be required for the safe and orderly movement of people and vehicles.

EVIDENCE: a) Access to the subdivision will be provided by Anderson Avenue and a future private road proposed to be developed along the northern boundary of the proposed parcels. The proposed new road would be developed within a 40.5-foot right-of-way that will include a two-lane road terminating in a cul de sac serving parcels 3 through 6. The right-of-way improvements will include sidewalks separated from the access road and parking areas by a landscape strip buffer.

6. **FINDING:** Flood control and drainage facilities affording positive storm water disposal shall be designed and provided by the subdivider.

EVIDENCE: a) A preliminary drainage study was prepared for the project. A detention basin is planned to be constructed along the northern boundary of Parcel 6. In addition, Low Impact Development (LID) techniques will be utilized to convey and improve stormwater quality before reaching the detention area. The Department of Public Works is requiring that a complete hydraulic report and drainage plan be prepared by a Civil Engineer for the proposed detention basin and other drainage improvements. Additionally, the project will be required to detain stormwater such that no additional water will leave the site at a rate greater than the pre-development 2-year (Q2) storm flows. Lastly, because the site is located in an urban MS4 stormwater area, future development will be required to incorporate measures to further enhance and detain stormwater runoff.

7. **FINDING:** Sewer and water systems shall be constructed to appropriate standards.

EVIDENCE: a) The project was referred to the McKinleyville Community Services District (MCSD). The District did not raise any objections to the proposal. Residential development located on neighboring parcels in the vicinity already receive water and sewer service through MCSD.

8. **FINDING:** The size and shape of lots shall be such as is proper for the locality in which the subdivision is situated, and in conformance

with the requirements of the current zoning regulations and the Humboldt County General Plan.

- EVIDENCE:** a) The size and configuration of the proposed parcels complies with width, depth, requirements of the RS-20 zone. While one of the proposed parcels sizes are less than the 20,000 square foot minimum size ordinarily required in the zone, reduction of up to 50% is permissible under the lto size modification provisions of the zoning & subdivision regulations.

Govt. Code §66474.02 Structural Fire Protection

- 9. FINDING:** Where approving subdivision of land (not for open space purposes) within a State Responsibility Area (SRA) or Very High Fire Hazard Severity Zone, the project must be consistent with state or local Fire Safe Regulations and be located within an area where structural fire protection and suppression services will be available from a qualified entity (County, City, Special District, or other political subdivision or entity) that is monitored and funded by a County or other public entity, and organized solely to provide fire protection services, or through contract with the Department of Forestry and Fire Protection pursuant to Section 4133, 4142, or 4144 of the Public Resources Code.

- EVIDENCE:** a) The property is not located in a State Responsibility Area for Fire Protection and is located outside of any mapped Fire Hazard areas. The property lies within the boundaries of the Arcata Fire Protection District, who provide structural fire protection. The project was referred to the district for review and did not result in any comments or issues being raised with the proposal.

FINDINGS APPLICABLE TO ALL PERMITS

- 10. FINDING:** The proposed development is in conformance with the County General Plan.

- EVIDENCE:** a) The proposed development is consistent with the Residential Estates (RE) land use designation. The project will allow for the creation of a total of 6 parcels and single-family residential development. The RM designation (MCAP Chapter 5.20 Land Use Designations) allows residential of areas within Urban Limits where community objectives, including resource production, limit density of potential development, but where

urban services are required. The Density Range is 0-2 units per acre. At buildout, cumulative density would be approximately 1.5 to 3 units per acre, depending on whether Accessory Dwelling Units (ADU's) are constructed on the resulting parcels. Current state and local housing law waives density for ADU's. Therefore, the project is in conformance with the County General Plan (Chapter 4, Land Use Element).

Community Plan Findings – McKinleyville Area Plan (MCAP)

- 11. FINDING** *Section 3.28 Hazards*
- The proposed development is consistent with the provisions of the McKinleyville Area Plan (MCAP) governing Geologic, Fire, and Flood Hazards, and Tsunami Hazards.
- EVIDENCE**
- a) The area of the proposed building site is within Geologic Hazard Rating 0 - "Relatively Stable" and is located approximately 600 feet southwest of the nearest Alquist-Priolo Fault Hazard Area. Given that no proposed development is within the Special Studies Zone, a Fault Evaluation Report was not required.
 - b) The proposed subdivision site is in an area of moderate fire hazard. The project was referred to the Arcata Fire Department for review. No issues or concerns were identified by this agency.
 - c) The proposed subdivision site is not located within a mapped Flood Zone. The western edge of the parcel being divided lies approximately 1000 feet northeast of the closest mapped flood zone. The parcel lies within an area/neighborhood characterized by a coastal terrace landform 50 feet higher than the nearby bottom lands, which are vulnerable to flooding and tsunami run-up.
 - b) With regards to the potential for tsunami run-up risk, the western edge of the parcel being divided lies approximately 1000 feet northeast of the closest mapped area affected by tsunami runup. The parcel lies within an area/neighborhood characterized by a coastal terrace landform 50 feet higher than the nearby bottom lands, which are vulnerable to flooding and tsunami run-up.

Section 3.29 Archaeological and Paleontological Resources

12. FINDING

The proposed development is consistent with the provisions of the McKinleyville Area Plan (MCAP) governing protection of Archaeological and Paleontological Resources.

EVIDENCE

- a) A cultural resources Investigation of the 3.87-acre property was performed by “Archaeological Research and Supply Company”. A confidential report summarizing the results and recommendations from the investigation is on file with the Planning & Building Department. The project was referred to Tribal Historic Preservation Officers from the Wiyot Tribe, Blue Lake Rancheria, and Bear River Band of the Rohnerville Rancheria. The THPO’s were also engaged during preparation for the cultural resources survey and a tribal monitor participated in the survey of the property. A portion of the property was determined to be sensitive for cultural resources during the survey, resulting in revisions to the project design. Potential impacts to cultural resources have been avoided through adjustments to the lot configuration and development of a restriction on ground disturbance within portions of Parcels 3 and 4. Conditions of Approval have been included requiring that the property owner file a Development Plan with the Planning & Building Department. The Development Plan will include notations concerning protections for cultural resources and restrictions on ground disturbance within a defined area. The Conditions of Approval also require that the owner execute a Notice of Development Plan and allow the Department to file this document with the County Recorder. A conceptual grading plan prepared for the project shows that future residential development on parcels 3 and 4 can be accommodated outside of the proposed cultural resources buffer. The Tribal Historic Preservation Officers support the project moving forward with this approach to controlling future ground disturbance. The Notice of Development Plan will be discoverable during future title searches and the Development Plan itself will include notations prohibiting new ground disturbance within the buffer area without prior authorization by county staff following consultation with representatives from the Wiyot Tribe, Blue Lake Rancheria, and Bear River Band of the Rohnerville Rancheria. The notations will include an advisory that during consultation, tribal representatives may request to conduct a site visit and/or that additional survey for cultural resources be performed by a qualified consultant.

- 13. FINDING** *Section 3.25 Housing*
The proposed development is consistent with the provisions of the McKinleyville Area Plan (MCAP) concerning Housing.
- EVIDENCE** a) The proposed project would result in the creation of six parcels eligible for development with single-family residences as well as the potential for accessory dwelling unit uses, result in the possibility of at least 12 new homes on a parcel that is currently vacant. This is consistent with section 30213 of the Coastal Act and section 3.16 of the Area Plan which encourage development of housing opportunities for persons of low and moderate income.
- 14. FINDING** *Section 3.40 Natural Resources Protection Policies and Standards*
The proposed development is consistent with the policies and standards of the McKinleyville Area Plan (MCAP) protecting Natural Resources.
- EVIDENCE** a) A Botanical Survey of the property was conducted in August of 2022 and did not result in the discovery of any sensitive species or sensitive habitats. A Condition of Approval has been included requiring survey for nesting birds if removal of certain vegetation is proposed to occur during the nesting season. This was included at the request of the California Department of Fish & Wildlife (CDFW) who visited the project site in on February 20, 2023. CDFW had no further concerns regarding development planned for the project site.
- 15. FINDING** *Section 3.42 Visual Resource Protection Policies and Standards*
The proposed development is consistent with the policies and standards of the McKinleyville Area Plan (MCAP) protecting Visual Resources.
- EVIDENCE** a) The parcel lies within an area primarily characterized by single-family residential development at densities similar to the project proposal. Development of additional residential units will be subject to first securing a Coastal Development Permit.
- 16. FINDING** *Section 3.50 Access Policies and Standards*
The proposed development is consistent with the access policies and standards of the McKinleyville Area Plan (MCAP).

EVIDENCE a) Nearby Fischer Avenue connects with the Hammond Trail and is located approximately 2000 feet north and west of the property being divided. This trail network connects with vertical access points to the coast at Hiller Park and Murray Road. Additionally, a recent Caltrout project on MCSD property resulted in the development of a trail accessing the Mad River from the end of School Road. The proposed subdivision would not interfere with ongoing use of these nearby coastal access points.

Section 3.24 Parkland

17. FINDING The proposed development is consistent with the parkland dedication policies of the McKinleyville Area Plan (MCAP).

EVIDENCE a) *Parkland Dedication Fee Calculations*

	130.00	McKinleyville Community Plan requires 130 square feet of parkland dedication per person for new subdivisions
X	2.578	Persons per average McKinleyville household (Source: 2020 U.S. Census)
	335.14	Parkland dedication per average household in square feet
/	43,560	Square feet per acre
	0.00769	Parkland dedication per average household in acres
X	12	Number of potential new units being created by the subdivision,
X	100% (1.0)	Percentage of these parcels within the McKinleyville Community Planning Area

	0.47701	Acres of parkland for subdivision
X	\$160,000	Value of one acre of land in the vicinity of the subdivision project
	\$14,772.01	Parkland Dedication In-lieu Fee for the Ruffino Subdivision

ZONE PURPOSE

18. FINDING: The proposed development is consistent with the purposes of the existing Residential Single-Family (RS) zone in which the site is located, and meets all of the applicable development standards.

EVIDENCE: a) The purpose of the RS zone is intended to allow the development of homeowner residential uses of urban land where adequate

services are available. The proposed subdivision would result in the creation of six (6) new parcels developable for residential use.

PUBLIC HEALTH, SAFETY & WELFARE

- 19. FINDING:** The proposed subdivision will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE: a) The proposed subdivision and planned development will divide a 3.87-acre parcel into six (6) parcels and build out with a maximum total of 12 units. The proposed parcel sizes meet or exceed the minimum requirements of the zone or are permitted under the provisions providing for exceptions to the development standards, and the resulting density is consistent with that planned for the area and permissible under state housing law.

HCD MINIMUM DENSITY

- 20. FINDING:** The proposed subdivision with possible future development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE: a) The parcel's General Plan land use designation (RE) and zoning (RS-20) allow single-family residential development. The project will positively impact compliance with Housing Element law. The project will increase the available separately owned housing in the McKinleyville Community Plan area and will comply with the density range of the RE land use designation, which includes a maximum density of 0-2 units per acre. The proposed development is consistent with the Humboldt County General Plan and the Local Coastal Plan (MCAP Chapter 5.20 Land Use Designations). The parcel is included within the latest (2019) Housing Element inventory and listed with a realistic capacity of 1 unit, so the proposal would exceed the expected density target required established for the property in consultation with the Department of Housing & Community Development (HCD).

CONDITIONS OF APPROVAL

APPROVAL OF THE FINAL MAP SUBDIVISION AND COASTAL DEVELOPMENT PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE TRACT MAP MAY BE FILED WITH THE COUNTY RECORDER:

Conditions of Approval:

1. All taxes to which the property is subject shall be paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office, and all special assessments on the property must be paid or reapportioned to the satisfaction of the affected assessment district. Please contact the Tax Collector's Office approximately three to four weeks prior to filing the parcel or final map to satisfy this condition. This requirement will be administered by the Department of Public Works.
2. Unless otherwise modified by the Planning Commission, all of the conditions on the enclosed Department of Public Works referral dated **November 8, 2023**, shall be completed or secured to the satisfaction of that department. Prior to performing any work on the improvements, contact the Land Use Division of the Department of Public Works.
3. The Planning Division requires that two (2) copies of the Final Map be submitted for review and approval, said map to identify net and gross acreage for each parcel.
4. Prior to the filing of the Final Map, the applicant shall submit a letter from the McKinleyville Community Services District stating that the project meets their requirements. This condition shall be administered by the Department of Public Works.
5. Prior to the filing of the Final Map, the applicant shall submit a letter from the Arcata Fire Protection District stating that the project meets their requirements. This condition shall be administered by the Department of Public Works.
6. Prior to the filing of the Final Map, the applicant shall submit a letter from Pacific Gas and Electric Company stating that the project meets their requirements. This requirement shall be administered by the Department of Public Works.
7. Prior to the filing of the Final Map, the applicant shall submit a letter from Caltrans stating that the plan and design for stormwater detention meets their requirements. This requirement shall be administered by the Department of Public Works.
8. Prior to the filing of the Final Map, the Applicant shall make payment for all outstanding Humboldt County Planning Department fees. A Cost report will be made available at the Humboldt County Planning Department.

9. A map revision fee as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$129.00 per parcel) as required by the County Assessor's Office shall be paid to the County Planning Division, 3015 H Street, Eureka. The check shall be made payable to the "Humboldt County Planning Division". The fee is required to cover the Assessor's cost in updating the parcel boundaries.
11. A Condition & Mitigation Monitoring deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750.00) shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka. This fee is a deposit, and if actual review costs exceed this amount, additional fees will be billed at the County's current burdened hourly rate. Please see Informational Note #1 below for suggestions to reduce the cost for this review.
12. Parkland dedication fees of \$14,772.01 shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka. Parkland fees to be paid were based on the number of new units that could be developed on each parcel; with a total of 12 new residential units spread across 6 parcels. Parkland dedication in-lieu fees were calculated by the Assessor's Office to be \$160,000/acre. The dedication fee calculation per Section 314-110 of the Humboldt County Code is as follows: $12(130 \times 2.578/43,560) \times \$160,000 = \$14,772.01$
13. The property currently includes several dense thickets of blackberry, as well as a few small orchard trees and some ornamental cherries, all of which could serve as nesting habitat for migratory birds. Vegetation removal shall be done outside of the nesting bird season (generally March 15 – August 15). Vegetation removal may only occur during the nesting bird season if a qualified biologist has surveyed for active bird nests no more than seven days prior to the start of any project-related activities with the potential to impact nesting birds. If an active nest is found, the permittee must consult with the California Department of Fish & Wildlife (CDFW) regarding appropriate site-specific avoidance measures and buffer distances. Additionally, if during the nesting season there is a lapse in project-related activities of seven days or more, a biologist must re-survey the area before work may potentially resume.
14. The applicant shall submit at least three (3) copies of a Development Plan to the Planning Division for review and approval. The map shall be drawn to scale and give detailed specifications as to the development and improvement of the site, and shall include the following site development details:

A. Mapping

- (1) Topography of the land in 1-foot contours.
- (2) Proposed access, parking lanes and pedestrian ways, easements

- (3) Two (2) off-street parking spaces on both lots consistent with Section 314-109.1 Humboldt County Code.
- (4) Parcels 3 and 4 shall show areas where construction and ground disturbance may occur without restriction, as well as the perimeter of the area that is sensitive for potential discovery and disturbance of tribal cultural resources and where ground disturbance is prohibited without prior consultation and approval from the County Planning & Building Department and local tribal representatives.

B. Notes to be Placed on the Development Plan:

Prohibition on New Ground Disturbance

- (1) “Portions of Parcels 3 and 4 are sensitive for discovery of tribal cultural resources. Prior to conducting any new ground disturbance in the identified buffer area, the owner must first contact the Humboldt County Planning & Building Department. An authorized representative from the Department will then engage in consultation with representatives from the Wiyot Tribe, Blue Lake Rancheria, and Bear River Band of the Rohnerville Rancheria. During consultation, tribal representatives may request to conduct a site visit and/or that further survey for cultural resources be performed by a qualified consultant. Other mitigation may include use of a tribal cultural monitor during future ground disturbing activities and avoidance of specific areas refined during re-survey.

These provisions are binding on the property owner(s) and tenant(s), as well as their successors and assigns. The property owner is responsible for providing payment to cover county staff time accrued during consultation and facilitation with the local tribes.”

Inadvertent Discovery Protocol

- (2) “Should the parcel(s) be cleared for ground disturbance without requiring use of a cultural monitor, there always exists the possibility that undiscovered cultural resources may be encountered during construction activities. The following mitigation measures are required under state and federal law:
If archaeological resources are encountered during construction activities, the contractor on site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist as well as the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

The Native American Heritage Commission (NAHC) can provide information regarding the appropriate Tribal point(s) of contact for a specific area; the

NAHC can be reached at 916-653-4082. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the NAHC will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to PRC 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.

The applicant and successors are ultimately responsible for ensuring compliance with this condition.”

- (3) “The project is located in a designated non-attainment area for the state’s health-based particulate matter (PM10) air quality standard. As such, additional emission from the project (construction potential single family residences) could exacerbate air quality problems, including non-attainment of ambient air quality standards. In order to address potential effects to air quality the District recommends:
 - Prohibition of open fireplaces.
 - Heating should be provided using clean fuels (electricity or natural gas), when feasible.
 - If wood heating must be used, only US Environmental Protection Agency (EPA) certified heating appliances should be permitted in new construction.”
- (4) “Construction activities shall be restricted to hours between 7:00 a.m. and 6:00 p.m. Monday through Friday. All proposed uses must comply with the noise standards identified in Figure 3-2 of the General Plan.”
- (5) “The parcel is located within the Coastal Zone. Development of residential units is subject to first securing a Coastal Development Permit.”
- (6) “Please note that the information and requirements described and/or depicted on this Development Plan are current at the time of preparation but may be superseded or modified by changes to the laws and regulations governing development activities. Before commencing a development project, please contact the Planning Division to verify if any standards or requirements have changed.”

15. The applicant shall cause to be recorded a "Notice of Development Plan" on forms provided by the Humboldt County Community Development Services—Planning Division. Document review fees as set forth in the schedule of fees and charges as

adopted by ordinance of the Humboldt County Board of Supervisors (currently \$445.00 plus applicable recordation fees) will be required. The Development Plan shall also be noticed on the Final Map.

16. A review fee for Conformance with Conditions as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors shall be paid to the Humboldt County Community Development Services—Planning Division, 3015 "H" Street, Eureka. This fee is a deposit, and if actual review costs exceed this amount, additional fees will be billed at the County's current burdened hourly rate. Please see Informational Note 1 below for suggestions to minimize the cost for this review.
17. The applicant shall reimburse the Planning Division for any processing costs that exceed the application deposit.

Informational Notes:

1. If archaeological resources are encountered during construction activities, the contractor or operator on-site shall cease all work in the immediate area within a 50-foot buffer of the discovery location. A qualified archaeologist as well as the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

The Native American Heritage Commission (NAHC) can provide information regarding the appropriate Tribal point(s) of contact for a specific area; the NAHC can be reached at (916)653-4082. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at (707)445-7242. If the Coroner determines the remains to be Native American, the NAHC will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to PRC 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99

The applicant and successors are ultimately responsible for ensuring compliance with this condition.

2. To minimize costs the applicant is encouraged to bring in written evidence* of compliance with all of the items listed as conditions of approval in this Exhibit that are administered by the Planning Division. The applicant should submit the listed item(s) for review as a package as early as possible before the desired date for final map checking and recordation. Post application assistance by the Assigned Planner, with

prior appointment, will be subject to a Special Services Fee for planning services billed at the County's current burdened hourly rate. Copies of all required forms and written instructions are included in the final approval packet.

- Each item evidencing compliance except legal documents to be recorded should note in the upper right-hand corner:

Assessor's Parcel No. _____, *Condition* _____.
(Specify) *(Specify)*

3. Under state planning and zoning law (CGC §66000 *et seq.*), a development project applicant who believes that a fee or other exaction imposed as a condition of project approval is excessive or inappropriately assessed may, within 90 days of the applicable date of the project's approval, file a written statement with the local agency stating the factual basis of their payment dispute. The applicant may then, within 180 days of the effective date of the fee's imposition, file an action against the local agency to set aside or adjust the challenged fee or exaction.
4. The Final Map Subdivision and Coastal Development Permit shall expire and become null and void at the expiration of two (2) years after all appeal periods have lapsed (see Effective Date). This approval may be extended in accordance with the Humboldt County Code.