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6-3-22

PLN-2022-17791



**PLANNING APPLICATION FORM**  
**Humboldt County Planning Department**  
Current Planning Division 3015 H Street Eureka, CA 95501-4484  
Phone (707) 445-7541 Fax (707) 268-3792



**INSTRUCTIONS:**

1. Applicant/Agent complete Sections I, II and III below.
2. It is recommended that the Applicant/Agent schedule an Application Assistance meeting with the Assigned Planner. Meeting with the Assigned Planner will answer questions regarding application submittal requirements and help avoid processing delays. A small fee is required for this meeting.
3. Applicant/Agent needs to submit all items marked on the reverse side of this form.

**SECTION I**

**APPLICANT** (Project will be processed under Business name, if applicable.)

**AGENT** (Communications from Department will be directed to agent)

Business Name: \_\_\_\_\_  
 Contact Person: Arne R.W. Petersen  
 Mailing Address: P.O. Box 931  
 City, St, Zip: Ferndale, CA, 95536  
 Telephone: 9168127031 Alt. Tel: \_\_\_\_\_  
 Email: Arwpetersen@gmail.com

Business Name: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 City, St, Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Alt. Tel: \_\_\_\_\_  
 Email: \_\_\_\_\_

**OWNER(S) OF RECORD** (If different from applicant)

Owner's Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 City, St, Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Alt. Tel: \_\_\_\_\_

Owner's Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 City, St, Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Alt. Tel: \_\_\_\_\_

**LOCATION OF PROJECT**

Site Address: \_\_\_\_\_  
 Community Area: Ferndale

Assessor's Parcel No(s): \_\_\_\_\_  
 Parcel Size (acres or sq. ft.): \_\_\_\_\_

Is the proposed building or structure designed to be used for designing, producing, launching, maintaining, or storing nuclear weapons or the components of nuclear weapons?  YES  NO

**SECTION II**

**PROJECT DESCRIPTION**

Describe the proposed project (attach additional sheets as necessary):

See attached

Appeal of planning commission approval of PLN-2022-17561 Modification of Humboldt County Fair Boards Motorsport Conditional use permit.

**SECTION III**

**OWNER'S AUTHORIZATION & ACKNOWLEDGEMENT**

I hereby authorize the County of Humboldt to process this application for a development permit and further authorize the County of Humboldt and employees of the California Department of Fish and Wildlife to enter upon the property described above as reasonably necessary to evaluate the project. I also acknowledge that processing of applications that are not complete or do not contain truthful and accurate information will be delayed and may result in denial or revocation of approvals.

Applicant Signature

6/2/22  
 Date

**If the applicant is not the owner of record:** I authorize the applicant/agent to file this application for a development permit and to represent me in all matters concerning the application.

\_\_\_\_\_  
Owner of Record Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner of Record Signature

\_\_\_\_\_  
Date

**This side completed by Planning Staff**

Checklist Completed by: Steven Lazar Date: 05/24/2022

**THE FOLLOWING ITEMS MUST BE SUBMITTED WITH THIS APPLICATION**

Item	Received	Item	Received
<input checked="" type="checkbox"/> Filing Fee of \$ <u>1,639.00</u>	<input type="checkbox"/>	<input type="checkbox"/> Architectural Elevations	<input type="checkbox"/>
<input checked="" type="checkbox"/> Fee Schedule (see attached, please return completed fee schedule with application)	<input type="checkbox"/>	<input type="checkbox"/> Design Review Committee Approval	<input type="checkbox"/>
<input type="checkbox"/> Plot Plan 12 copies (folded if > 8½" x 14")	<input type="checkbox"/>	<input type="checkbox"/> CEQA Initial Study	<input type="checkbox"/>
<input type="checkbox"/> Tentative Map 12 folded copies (Minor Subd)	<input type="checkbox"/>	<input type="checkbox"/> Exception Request Justification	<input type="checkbox"/>
<input type="checkbox"/> Tentative Map 18 folded copies (Major Subd) [Note: Additional plot plans/maps may be required]	<input type="checkbox"/>	<input type="checkbox"/> Joint Timber Management Plan	<input type="checkbox"/>
<input type="checkbox"/> Tentative Map/Plot Plan Checklist (complete & return with application)	<input type="checkbox"/>	<input type="checkbox"/> Lot Size Modification Request Justification	<input type="checkbox"/>
<input type="checkbox"/> Floor Plan	<input type="checkbox"/>	<input type="checkbox"/> Military Training Route (see County GIS)	<input type="checkbox"/>
<input type="checkbox"/> Division of Environmental Health Questionnaire	<input type="checkbox"/>	<input type="checkbox"/> Parking Plan	<input type="checkbox"/>
<input type="checkbox"/> On-site sewage testing (if applicable)	<input type="checkbox"/>	<input type="checkbox"/> Plan of Operation	<input type="checkbox"/>
<input type="checkbox"/> On-site water information (if applicable)	<input type="checkbox"/>	<input type="checkbox"/> Preliminary Hydraulic & Drainage Plan	<input type="checkbox"/>
<input type="checkbox"/> Solar design information	<input type="checkbox"/>	<input type="checkbox"/> R1 / R2 Report (Geologic/Soils Report, 3 copies with original signatures)	<input type="checkbox"/>
<input type="checkbox"/> Chain of Title	<input type="checkbox"/>	<input type="checkbox"/> Reclamation Plan, including engineered cost estimate for completing reclamation	<input type="checkbox"/>
<input type="checkbox"/> Grant Deed <input type="checkbox"/> Current <input type="checkbox"/> Creation	<input type="checkbox"/>	<input type="checkbox"/> Accessory Dwelling Unit Fact Sheet	<input type="checkbox"/>
<input type="checkbox"/> Preliminary Title Report (two copies, prepared within the last six months prior to application)	<input type="checkbox"/>	<input type="checkbox"/> Variance Request Justification	<input type="checkbox"/>
		<input type="checkbox"/> Vested Right Documentation/Evidence	<input type="checkbox"/>
		<input checked="" type="checkbox"/> Other <u>Exhibit describing basis for appeal / addressing findings in section 312.13.2 found in Chapter 2 of the Zoning Regulations, include any supporting evidence.</u>	<input type="checkbox"/>
		<input type="checkbox"/> Other _____	<input type="checkbox"/>
		<input type="checkbox"/> Other _____	<input type="checkbox"/>

**FOR INTERNAL USE**

<input type="checkbox"/> Ag. Preserve Contract	<input type="checkbox"/> General Plan Amendment	<input type="checkbox"/> Reclamation Plan
<input type="checkbox"/> Certificate of Compliance	<input type="checkbox"/> General Plan Petition	<input type="checkbox"/> Surface Mining Permit
<input type="checkbox"/> Coastal Development Permit <input type="checkbox"/> Administrative <input type="checkbox"/> Planning Commission	<input type="checkbox"/> Information Request	<input type="checkbox"/> Surface Mining Vested Right Determination
<input type="checkbox"/> Design Review <input type="checkbox"/> Inland <input type="checkbox"/> Coastal	<input type="checkbox"/> Modification to _____	<input type="checkbox"/> Timber Harvest Plan Information Request
<input type="checkbox"/> Determination of Legal Status	<input type="checkbox"/> Lot Line Adjustment	<input type="checkbox"/> Use Permit H.C.C. § _____
<input type="checkbox"/> Determination of Substantial Conformance	<input type="checkbox"/> Preliminary Project Review	<input type="checkbox"/> Variance H.C.C. § _____
<input type="checkbox"/> Extension of _____	<input type="checkbox"/> Special Permit <input type="checkbox"/> Administrative <input type="checkbox"/> Planning Commission H.C.C. § _____	<input type="checkbox"/> Zone Reclassification
<input type="checkbox"/> Fire Safe Exception Request	<input type="checkbox"/> Subdivision <input type="checkbox"/> Parcel Map <input type="checkbox"/> Final Map	<input checked="" type="checkbox"/> Other <u>Appeal of PLN-2021-17581</u>
	<input type="checkbox"/> Exception to the Subdivision Requirements	<input type="checkbox"/> Other _____

Application Received By: \_\_\_\_\_ Date: \_\_\_\_\_ Receipt Number: \_\_\_\_\_

General Plan Designation: \_\_\_\_\_

Plan Document: \_\_\_\_\_

Land Use Density: \_\_\_\_\_

Zone Designation: \_\_\_\_\_

Coastal Jurisdiction Appeal Status:     Appealable     Not Appealable

Preliminary CEQA Status:

Environmental Review Required

Categorically Exempt From Environmental Review:    Class \_\_\_\_\_    Section \_\_\_\_\_

Statutory Exemption:    Class \_\_\_\_\_    Section \_\_\_\_\_

Not a Project

Other

Arne R.W. Petersen, M.B.A.



June 2, 2022

**Humboldt County Planning Commission**  
825 5th Street  
Eureka, CA 95501

**RE: Basis for an appeal of the modification to the Motorsports at the Humboldt County Fairgrounds Use Permit**

Dear Commissioners and Supervisors:

In reference to the Humboldt County Fair Association seeking a modification to their Conditional Use Permit. The application ID is PLN-2022-17561. It is obvious the Mitigated Negative Declaration (MND) and supplemental MND are intended to circumvent the California Environmental Quality Act (CEQA) and not comply with its regulatory provisions. The MND is grossly insufficient, and the mitigation methods are increasingly absurd to any rational person. I have compiled a litany of the reasons the modification cannot and should not be made. If the modifications are made and my appeal denied in light of the following facts a judicial remedy may be the only recourse to alter this abusive action.

Exhibits:

**1. The original MND/Permit is invalid.** The suggestion of raising the sound level limit makes the MND little more than a declaration of obvious noncompliance. The following text is an excerpt from the 2022 CEQA Statutes.

Chapter 2.6: General

§ 21080. DIVISION APPLICATION TO DISCRETIONARY PROJECTS;  
NONAPPLICATION.

NEGATIVE DECLARATIONS; ENVIRONMENTAL IMPACT REPORT PREPARATION.

(g) Nothing in this section shall preclude a project applicant or any other person from challenging, in an administrative or judicial proceeding, the legality of a condition of project approval imposed by the lead agency. If, however, any condition of project approval set aside by either an administrative body or court was necessary to avoid or lessen the likelihood of the occurrence of a significant effect on the environment, the lead agency's approval of the negative declaration and project shall be *invalid* (emphasis added) and a new environmental review process shall be conducted before the project can be reapproved, unless the lead agency substitutes a new condition that the lead agency finds, after holding a public hearing on the matter, is equivalent to, or more effective in, lessening or avoiding significant effects on the environment and that does not cause any potentially significant effect on the environment.

The original MND/ permit should have never been approved as it directly conflicts with the General Welfare, Nuisance, General Plan Consistency, and Zoning Consistency Standards. The Project is contrary to the public health, morals, or welfare standards. The fairgrounds are zoned City of Ferndale-Public Facility and in addition to the Counties Permit a Permit from the City of Ferndale is also be required. The MND states the county property is not subject to Ferndale's noise ordinance claiming exemption under the superiority clause. (2. Lawyer vs. the City of Redding) They also claim exemption from the state coastal regulations because the property is located within Ferndale City Limits. Consultation with the Coastal Commission office revealed "the reason Ferndale is outside the Coastal Commission

jurisdiction is that when the Commission was formed the City asserted that “the City does not need help protecting its resources and its General plan was deemed sufficient in doing so”. Logically, based on these two claims, the Humboldt County Fair Grounds is subject to Ferndale’s General Plan and thus clearly in Ferndale’s Jurisdiction. Simply put: The Fairgrounds are not immune to the laws of the State of California or the City of Ferndale. **Despite the clear and irrefutable jurisdiction of the City of Ferndale, the city refuses to take action to protect the community.** What we are witnessing is the City of Ferndale’s way of allowing their associates to approve environmentally unfriendly events rather than regulating them and protecting the community as it is required by its own ordinances.

The following is from the “California-The Conditional Use Permit: Planners Training Series Handbook”.

“It is often the case that local agencies follow a general set of standards in considering a conditional use permit. These standards are generally acceptable since it is a near impossibility to devise standards to cover all possible situations in which a use permit can be issued (Tustin Heights Association v. Board of Supervisors (1959) 170 Cal.App.2d 619). There are several cases in which these standards have been up-held.”

**General Welfare Standard:**

"The establishment, maintenance or conducting of the use for which a use permit is sought will not, under the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood" (Hawkins v. County of Marin (1976) 54 Cal.App.3d 586).

**Nuisance Standard:**

"Any use found to be objectionable or incompatible with the character of the city and its environs due to noise, dust, odors or other undesirable characteristics may be prohibited" (Snow v. City of Garden Grove) (1961) Cal.App.2d 496).

**General Plan Consistency Standard:**

"Although use permits are not explicitly made subject to a general plan meeting, the requirement of state law, that condition is necessarily to be implied from the hierarchical relationship of land-use laws."

Thus, use permits are struck from the mold of the zoning law, the zone law must comply with the adopted general plan, and the adopted general plan must conform with state law; the validity of the permit process derives from compliance with this hierarchy of planning laws (Neighborhood Action Group v. County of Calaveras (1984) 156 Cal.App.3d 1176).

**Zoning Consistency Standard:**

"To obtain a use permit, the applicant must generally show that the contemplated use is compatible with the policies in terms of the zoning ordinances, and that such use would be essential or desirable to the public convenience or welfare, and will not impair the integrity character of the zoned district or be or be detrimental to the public health, safety, morals or welfare" (O'Hagen v. Board of Zoning Adjustment (1971) 19 Cal.App.3d 151)

3. This modification to increase a noise limit is not minor as this supplemental MND suggests. Decibel is a logarithmic scale. Without this understanding one might assume an increase from 90-99dB is a 10% increase. It is in fact almost 100% Louder. 99dB sound levels have been shown to cause permanent hearing damage to anyone in the proximity of the motorcycle.

4. Like many of my neighbors and citizens of Ferndale, I live in close proximity to the racetrack (next door) and because of a congenital condition the noise produced causes physical harm and is a violation of

my Civil Rights. I have an auditory processing condition that meets the standard of the 2010 Americans with Disabilities Act. By exceeding the ambient noise levels in my neighborhood, the Motorsport events are in direct violation of my rights under California and Federal laws. (*Disability rights aspects of ambient noise for people with auditory disorders under the Americans with Disabilities Act, Daniel Fink, 174<sup>th</sup> Meeting of the Acoustical Society of America, Proceeding on Meetings on Acoustics, December 2017.*)

5. The mitigation methods described in the MND document are insufficient in reducing the environmental impact to a less than significant level. There is a noticeable deficit of valid specifications for any of the mitigation methods proposed. Simply describing hay bale walls, noise monitoring, and special exhaust systems is not only beyond vague, the special equipment proposed are not available from any manufacturer. Due to the sheer deception of the proposed mitigation this modification cannot be considered or implemented.

6. The Humboldt County Fair Association (HCFA) has established grounds for revocation of the permit and not modification as described in the general plan. County code outlines the grounds for revocation. First among these is the outright fraud concerning the above referenced "Magic Mufflers." (They do not exist)

**14.1.1** The permit or variance was obtained or extended by material omissions and gross misrepresentations of the facts. (**Former Section INL#317-42(a); CZ#A315-25(A)(1)**)

The following excerpt is from an email sent to me by Councilman Stephen Avis in early November of 2020. I received this after meeting with Board President Andy Titus which, inevitably, led to them sabotaging the Friends of Ferndale's effort to stop motorcycle racing from happening in our community.

*"Andy Titus is asking the HCFA Board to approve seeking a continuation of our appeal, giving us time to work out details. He agrees that qualified sound engineers are necessary for accuracy.*

*The County, Friends of Ferndale and the HCFA will discuss a way forward and seek approval from each group's membership on the details of how to proceed including the need for an EIR instead of a mitigated negative declaration or significantly improved mitigation measures that prove effective.*

**NOTE:** Motorcycles in the 2017 races had no mufflers of any sort. It will be very interesting to actually hear how much noise reduction is possible with the proposed mitigation and with additional measures as appropriate. "

The HCFA now recognizes the mufflers required to reduce the CNEL (???) to 63db do not exist. The emphasis and effort devoted to misleading our local representatives constitutes outright fraud and is sufficient grounds for revocation.

**14.1.2** *The variance granted is being exercised contrary to the terms or conditions of such approval, or in violation of any statute, code section, law or regulations . (Former Section INL#317-42(c); CZ#A315-25(A)(2); Amended by Ord. 2214, 6/6/00*

It is in clear violation of Ferndale's noise ordinance. The permit has been modified to change a critical condition of approval.

**14.1.3** The use for which the permit or variance was granted is so conducted as to be a nuisance. (Former Section INL#317-42(d); CZ#A315-25(A)(3); Ord. 894, Sec. 6, 12/19/72; Amended by Ord. 1726, Sec. 5, 3/4/86

The noise and dust produced by motorsports are an obvious nuisance.

*14.1.4 The use for which such permit or variance was granted has ceased to exist or has been suspended for one (1) year or more. (Former Section INL#317-42(b); Amended by Ord. 2214, 6/6/00)*

Events have been delayed for well over a year and while the HCFA might suggest the pandemic was the reason discussed in their board meetings, holding the fair despite the pandemic, and the suggestion of the delay being due to event organizers concerns over noise limits prove the delay was unrelated to the pandemic. This, alone, is grounds for revocation.

**8.** Changing a condition of approval, raising the limit, because they are unable to comply is not logical. The American Motorcycle Association does not set standards limiting noise in residential areas. The only standards to consider are those in the Ferndale General plan based on the **Noise Control Act of 1972**. The fact that they are unable to attract event organizers who can comply with the current noise limit is immaterial.

**9.** The HCFA has continually argued the need for additional revenue as justification to permit motorsports events. Considering recent endowments, the HCFA does not need additional money. After being gifted large sums of pandemic related funds the HCFA has close to \$1 million in reserve. Regardless, if motorcycle racing is the only way to preserve the fair, then, perhaps the doors need to be closed. Furthermore, due to the emphasis on revenue being the motivating factor the aforementioned superiority clause is inapplicable cannot be applied.

**10.** The motorsport community needs to realize they are not losing a track; they are just not gaining one. The argument has been made that the precedent of a "three year relevant history" applies. There is no relevant history of motorsports in Ferndale. Under CEQA, the "relevant history" provision covers the last three years. The fact that there were a few auto races in the 1950's hardly rises to the "three year" test.

**11.** The HCFA and associates have demonstrated a desperate attempt to say and do whatever they can to have this event approved. Once approved, they only need to monitor and annually report the results. This reporting is not intended to limit the noise produced but to allow the HCFA to exceed limits and take a nonexistent continuous improvement approach.

**12.** In the original MND it was argued that modern advanced mufflers would reduce the exhaust noise of the average motorcycle by 20dB. These systems, they claimed, will further reduce the CNEL (????) to 63dB. Thus, the impact on the local environment due to noise was deemed, at some future date, to be less than significant. It has been discovered "*that no such exhaust system exist.*" Furthermore, the motorcycles used in testing to establish the CNEL (???) baseline had modern efficient mufflers. This claim of a significant reduction in noise due to the requirement of special exhaust systems is unproven. Whitchurch's CNEL calculations have been shown to be incorrect. It has been suggested, in a desperate attempt, to hold races earlier in the day to avoid the more restrictive limits applied in the evening hours. The calculations were still based on a 24-hour period. Their calculations are in error, irrelevant and must be ignored.

The HCFA has shown little to no concern for the Health, Safety and Welfare of our community. The County's support of the HCFA (and the association's gross misrepresentations) demonstrates the county is, at a minimum, abandoning its duty to the public they have sworn to protect and serve.

13. Humboldt County has failed to adequately correspond with appropriate reviewing agencies. The major issues are noise and dust but the Air Resource board was not consulted.

14. Conditional use permits stem from police power. They are based on reducing the negative impact on the surrounding community. The County of Humboldt uses MND's and conditional use permits as a means of side-stepping noise pollution regulations and codes and not complying with them.

The County should not even consider a permit for a project that so severely violates the California Environmental Quality Act. If the permit modification is approved and the County Supervisors continue to ignore their responsibility to protect the community's residents, it should not surprise anyone that legal action would be forthcoming from concerned citizens.



Arne R.W. Petersen M.B.A.  
Engineering Consultant