

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on July 19, 2022

Resolution No 22-88

Resolution of the Board of Supervisors of the County of Humboldt ADOPTING FINDINGS OF FACT, FINDING THE PROJECT EXEMPT FROM CEQA, DENYING THE APPEAL FILED BY ARNE PETERSEN AND UPHOLDING THE APPEAL FILED BY FRIENDS OF FERNDALE FOR A LIVABLE COMMUNITY (RECORD NO. PLN- 2020-17791), AND APPROVING THE REQUESTED MODIFICATION OF THE HUMBOLDT COUNTY FAIR ASSOCIATION CONDITIONAL USE PERMIT, RECORD NO. PLN-2019- 17561.

WHEREAS, the Humboldt County Fair Association, sought to amend their lease with provisions for additional events at the Fairgrounds including concerts and motorsports events outside of the annual Humboldt County Fair.

WHEREAS, on April 8, 2019 an application for a Conditional Use Permit (PLN-2019-15519) was filed by the Humboldt County Fair Association (HCFA) with the Humboldt County Planning and Building Department, requesting authorization to hold ten (10) concerts and four (4) motorcycle racing events annually at the Humboldt County Fairgrounds; located on APN's 100-181-003, 030-071-001, 030-011-003, 030-021-003, 030-112-017, 030-112-020, 030-081-006; and

WHEREAS, it is customary that use of city and county-owned properties need not comply with local land use regulations, counties and cities are free to apply and enforce their own rules on these lands. A Conditional Use Permit was processed to provide a forum for public review and discussion of the new concert and motorsports activities proposed and apply local land use standards during consideration of the proposal; and

WHEREAS, the application and supporting materials were referred to reviewing agencies including the Coastal Commission, Public Works Land Use Division, Environmental Health, City of Ferndale, and others for site inspections, comments and recommendations; and

WHEREAS, the Planning and Building Department considered all the comments made by other departments and agencies and evaluated the application in light of the Humboldt County General Plan and Zoning Ordinance and formulated a recommendation supporting approval of the application; and

WHEREAS, on March 17, 2020 the Governor signed Executive Order N-29-20 waiving certain provisions of the Brown Act, and authorizing local legislative bodies to hold public meetings via teleconference or otherwise electronically; and

WHEREAS, the Conditional Use Permit (PLN-2019-15519) was scheduled to be considered by the Planning Commission on September 3, 2020 at a duly-noticed public hearing held online via Zoom; and

WHEREAS, in a letter dated September 1, 2020 signed by the President of the Humboldt County Fair Association, the project applicant amended the permit application to address concerns raised by members of the public, as follows:

- limiting motorsports events to motorcycle racing only
- a 50% reduction in the requested number of annual events
 - Five (5) concerts
 - Two (2) motorcycle racing events
- confining each event to a single day of activities
- committing to perform noise monitoring and reporting for five (5) years, agreeing to use a third-party for event-related noise monitoring and data collection and agreeing to submit all monitoring data to the County within 30 days of each event; and

WHEREAS, during the Planning Commission meeting of September 3, 2020, other items on the Agenda precluded consideration of the project (PLN-2019-15519) and the matter was continued to the meeting of September 17, 2020; and

WHEREAS, on September 17, 2020, a public hearing was held during which time public comments were received both in support of and opposed to the proposed project; and

WHEREAS, during the public hearing on September 17, 2020, the applicant committed to the revisions to the project scope and enhanced monitoring described in the letter dated September 1, 2020; and

WHEREAS, during their meeting on September 17, 2020, the Commission acknowledged and accepted the revisions to the project and commitments agreed to by the applicant and chose to approve the project as revised and adopt the Mitigated Negative Declaration by unanimous vote; and

WHEREAS, on September 30, 2020, the applicant, *Friends of Ferndale for a Livable Community* (“Appellant”) filed a timely appeal in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq.; and

WHEREAS, Humboldt County Code section 312-13.5 requires the first hearing on the appeal be held within 30 working days of the appeal filing; and

WHEREAS, the Board of Supervisors held a duly-noticed public hearing, *de-novo*, on November 10, 2020, and reviewed, considered, and discussed the application and appeal of the Conditional Use Permit; and received and considered all public testimony and evidence presented at the hearing; and

WHEREAS, during their hearing on November 10, 2020, the Board of Supervisors considered substituting mitigation measures incorporated in the draft mitigated negative declaration and Mitigation, Monitoring, and Reporting Program (MMRP) as well as revised conditions of approval for the project; and

WHEREAS, during their hearing on November 10, 2020, after consideration of all of the evidence and public testimony, the Board chose to deny the appeal and approve the project subject to the revised conditions of approval and substitute mitigation measures; and

WHEREAS, on November 18, 2020 a Notice of Determination (12-2020-259) was filed with the Clerk of Humboldt County and was posted for public inspection for at least 30 days; and

WHEREAS, as required under the terms of the permit, prior to February 14th of each year, the permittee has submitted a schedule of all events planned to occur during that year; and

WHEREAS, in the 18 months that have occurred since the permit was approved, no concerts or motorsports events have yet been held; and

WHEREAS, during significant portions of the last 18 months, concerts and other large public assembly events have been prohibited or heavily restricted under public health orders issued by state and local officials in response to the COVID-19 pandemic, and

WHEREAS, although the Humboldt County Fair Association have reached out and been contacted by a number of local and regional motorcycle racing promoters and organizers, all have lost interest after learning of the 90-decibel noise limit applied under the conditions of the permit; and

WHEREAS, Humboldt County Code section 312-11.2 describes the process by which any permittee may request a modification of an approved permit or variance, including the terms of the permit or the waiver or alteration of conditions imposed, and

WHEREAS, Humboldt County Code section 312-17 specifies the required findings which must be made during approval or conditional approval of all permits and variances, and these findings remain applicable to requests to modify a Use Permit such as is being proposed by the permittee; and

WHEREAS, on December 29, 2021, the Humboldt County Fair Association submitted an application and evidence in support of approving a modification to the approved Conditional Use Permit to allow changing the instantaneous motorcycle noise limit of the permit and raising it from 90 decibels to 99 decibels; 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 project is subject to environmental review pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the Humboldt County Planning Division, as Lead Agency under CEQA, prepared and circulated a Supplemental Mitigated Negative Declaration (SCH #2022040045) for public comment from April 1, 2022 to May 2, 2022; and

WHEREAS, the County Planning Division caused a public notice to be published in the Tuesday April 5th edition of the Times Standard Newspaper describing the proposed project, advising of the availability of the Draft Supplemental Mitigated Negative Declaration, department contact and window for written comments, as well as the forthcoming public hearing on the matter scheduled to occur before the Planning Commission at their meeting on May 5, 2022; and

WHEREAS, a similar public notice was sent via mail to all owners and occupants of property within 300 feet of the boundaries of the fairgrounds properties and notice was also sent electronically to all parties who had provided a valid email address; and

WHEREAS, though duly noticed and scheduled to appear before the Planning Commission during one of their regularly scheduled meetings held on May 5, 2022, at the request of the applicant the matter was continued to the meeting of May 19, 2022; and

WHEREAS, on May 19, 2022 a public hearing on the continued matter was held before the Humboldt County Planning Commission during which the Planning Commission reviewed, considered, and discussed the application for the Use Permit modification and reviewed and considered all evidence and testimony presented at the hearing.

WHEREAS, on May 19, 2022, a public hearing was held during which time public comments were received both in support of and opposed to the proposed project and the Planning Commission voted unanimously to approve the requested modifications to the permit and adopt the Supplemental Mitigated Negative Declaration, acknowledging and accepting the revisions to the project and commitments agreed to by the applicant; and

WHEREAS, on June 2, 2022, the applicant, Arne Petersen (“Appellant #1”) filed a timely appeal OF THE Planning Commission’s action in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq.; and

WHEREAS, on June 3, 2022, the applicant, Friends of Ferndale for a Livable Community (“Appellant #2”) filed a timely appeal of the Planning Commission’s action in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq.; and

WHEREAS, Humboldt County Code section 312-13.5 requires the first hearing on the appeal be held within 30 working days of the appeal filing; and

WHEREAS, the Board of Supervisors held a duly-noticed public hearing, de-novo, on July 19, 2022, and reviewed, considered, and discussed the application and appeals of the Conditional Use Permit modification; and received and considered all public testimony and evidence presented at the hearing; and

WHEREAS, during their hearing on July 19, 2022, the Board of Supervisors considered incorporating substitute mitigation measures in the draft supplemental mitigated negative declaration and Mitigation, Monitoring, and Reporting Program (MMRP) and revised conditions of approval for the project with those described further below in Attachment 1; and

WHEREAS, Humboldt County Code section 312-17 specifies the required findings which must be made during approval or conditional approval of all permits and variances, including Use Permits and permit modifications; and

THEREFORE, BE IT RESOLVED, that the Board of Supervisors makes all the following findings:

1. FINDING:

Project Description: Humboldt County Fair Association (HCFA) is seeking to modify a Conditional Use Permit which authorizes five (5) concerts and two (2) motorcycle racing events to be held each year at the Humboldt County Fairgrounds. The approved permit places limitations on event-related noise levels, including a 63-decibel limit on composite noise measured by averaging noise readings collected during a 24-hour period surrounding each event, as well as a 90-decibel instantaneous noise limit applied to all motorcycles participating in racing events. In their modification request, HCFA is seeking authorization to raise the 90-decibel motorcycle noise limit to 99 decibels to be consistent with common national testing standards for competition established by the American Motorcyclist Association (AMA). In a recent compromise reached with Friends of Ferndale for a Livable Community, HCFA has agreed to pursue further modifying the approved permit to limit motorcycle racing to a one-time pilot/trial event and forgo holding additional events until such time as a subsequent permit modification and additional environmental review is performed. The pilot event could include one day of racing featuring conventional gas-powered motorcycles as well as an additional day of racing if exclusively featuring motorcycles with electric engines. The purpose of the pilot event is to help better understand and disclose event-related noise levels experienced by nearby receptors, by allowing monitoring of motorcycle noise during actual event conditions. The applicant has agreed to hire an independent acoustical engineer to perform 24-hour noise monitoring and collection of data during each day that racing occurs. Results will be shared with County staff, HCFA, and Friends of Ferndale, and discussed at a Community Meeting held no later than 3 months after the event. To help reduce event-related noise, HCFA proposes: 1. creation of two (2) sound barriers during racing events, fashioned by temporarily placing tractor trailers or strawbales (or some combination thereof) adjacent to motorcycle acceleration zones; and 2. acoustic treatment of the internal wall of the grandstands using special materials designed to decrease reverberation.

- EVIDENCE:** a) Project File: PLN-2022-17561
- b) Planning staff met with authorized representatives from the applicant on July 5th, 2022 and the appellant #2 (Friends of Ferndale) on July 11th, 2022. During these meetings a compromise was reached. The applicant has expressed they are willing to agree to modify the permit to limit motorcycle racing to a one-time pilot/trial event. The modification would also include raising the tailpipe noise limit from 90 to 99 decibels. One (1) additional day of racing could occur if exclusively featuring motorcycles with electric engines. The applicant is willing to forgo holding additional events until such time as a subsequent permit modification and additional environmental review is performed. 24-hour noise monitoring will be performed by an independent acoustical engineer during the one-time event. Results will be shared with County staff, HCFA, and Friends of Ferndale, and discussed at a Community Meeting held no later than 3 months after the event. Support for this approach is described in the July 11th letter from Appellant #2 found in Attachment 5.

2. **FINDING:** **CEQA.** The project is exempt from environmental review under section 15304(e) of the CEQA Guideline as a project which is temporary in nature and will not have any permanent effects on the environment.

- EVIDENCE:** a) The project site is an existing dirt track with grandstands, and the race will occur on the existing track and not result in a permanent change any natural resource or facility.
- b) The approval is for a single race event which is temporary.

FINDINGS FOR THE USE PERMIT MODIFICATION

3. **FINDING:** **Jurisdictional Immunity.** The County is not required to comply with city land use regulations.

- EVIDENCE:** a) Government Code sections 53090 and 53091 exclude cities and counties from requirements to comply with other cities' and counties' building and zoning ordinances. The Third District Court of Appeal held in *Lawler v. City of Redding*, 7 Cal. App. 4th 778 (1992) that cities and counties enjoy intergovernmental immunity with respect to building and zoning regulations, including their respective general plans.

- b) In 1985, the Attorney General clarified that intergovernmental immunity may be conferred to a lessee if the lessee's endeavors further the powers and duties of government entity. (68 Cal. Op. Att'y Gen. 114).
- c) Humboldt County may confer its immunity from City zoning regulations via a lease to the Humboldt County Fair Association, 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, when the Humboldt County Fair Association is conducting activities related to the purpose of holding a county fair, which is within the powers and duties of Humboldt County.

The project includes events conducted on the county fairgrounds to enable the Humboldt County Fair Association to fulfill its enumerated 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 by generating revenue dedicated to putting on the fair.

- d) As described in the Operations Plan provided by the applicant, the site is already host to a diverse assortment of uses and each of these uses are consistent with the ultimate public-serving purpose of the facility. It is inappropriate to single out the proposed concert and motorsports uses as somehow unique from the diverse assemblage of other public-serving uses that already occur at the site. Events of this sort are targeted to a broad segment of the local public and are therefore indistinguishable from other public events conducted at the site.
- e) The existing City of Ferndale General Plan Noise Element is included with the Public Safety and Scenic Highway Elements from 1975. Analysis of project-related noise utilizes standards from the Noise Element found in Chapter 13 of the General Plan. The General Plan explicitly recognizes that it is appropriate to allow exceptions to the short-term noise levels under certain circumstances, including scenarios involving the permitting of temporary events with a Conditional Use Permit.

4. **FINDING:** The proposed permit modification remains in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

Land Use

- EVIDENCE:**
- a) General Plan and Zoning maps for the City of Ferndale show that the county-owned lands of the fairgrounds complex are all planned and zoned “Public Facilities”. The Public Facility designation is intended to be applied to lands owned by public agencies or to lands upon which such agencies operate public facilities.
 - b) Primary and Compatible for this land use designation reference those listed in the corresponding “PF” zoning district which lists “public fairgrounds and related uses” as a principally permitted use, likely in recognition of the long history and use of the site for this purpose.
 - c) A “Public Facility” land use designation can be found within the Humboldt County General Plan, and is intended to be applied in instances where land is appropriate for use by a governmental agency or public agency serving the public health, safety, convenience, or welfare.

Chpt 13 - Noise

- EVIDENCE:**
- d) The Noise Element includes an inventory of prominent noise sources and identifies the County Fairgrounds as a stationary noise source for the Ferndale Community. The Noise Element contains compatibility standards for both long-term and short-term noise sources. The short-term noise standards establish a series of limits for daytime and nighttime noise based on zoning, with exceptions provided for certain land use scenarios where noise limit exceedances are expectable. Excepted activities include “*temporary events in conformance with an approved Conditional Use Permit*”. Given the temporary and periodic nature of the events proposed, use of the exception is appropriate. The exception language is similar to provisions for short-term noise found in the 2016 Final Draft of the City of Ferndale Noise Element. Given the limited number of motorsports events and particular venue characteristics that are needed to host events of this sort, the project is a good candidate for granting an exception to the general plan short term noise standards.

- e) The Conditions of Approval include a number of mitigation measures designed to minimize impacts from event-related noise experienced on neighboring properties in the vicinity. The Noise Impact Study prepared by Whitchurch Engineering provides calculations and analysis of potential event-related noise levels as well as the benefit of implementing various noise mitigation measures. With the incorporation of mitigation selected, CNEL noise estimates for motorcycle racing events fall below the 65-decibel short-term noise threshold and CNEL noise estimates for concert events are 73 decibels. Feasible mitigation measures have been incorporated which will significantly reduce event-related noise levels in accordance with local objectives in the General Plan.

Chpt 7 - Circulation

- EVIDENCE:**
- f) HCFA has a proven track record of successfully managing large traffic flows at the site and it is highly unlikely that traffic volumes from concert and motorsports events will exceed concentrations historically encountered during peak periods of the annual County Fair.
 - g) One of the most popular attractions during the fair is the live horse racing. Racing events are time-sensitive, as 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. Neither motorcycle racing nor concert events will include attendance greater than 5,000 persons. Therefore, it is unlikely that traffic volumes will exceed peak levels already encountered during annual operation of the Humboldt County Fair.

Chpt 10 – Conservation & Open Space – Cultural Resources

- EVIDENCE:**
- h) Referrals and offers to consult were circulated to Tribal Historic Preservation Officers of both the Wiyot tribe and the Bear River Band of the Rohnerville Rancheria. A referral was also sent to the Northwest Information Center. Neither Tribe has expressed any cultural resource concerns or requested an opportunity to further consult pursuant to AB52.

Chpt 11 – Water Resources – Stormwater Drainage

- EVIDENCE:**
- i) The project involves use of an existing public facility for additional public events. No new facilities need be developed, or significant

ground disturbance undertaken. Grading associated with preparation of the racetrack should not exceed amounts needed during preparation and maintenance of the track during horseracing. Impacts on stormwater are therefore unlikely.

Chpt 14 – Safety Element – Geologic & Seismic

- EVIDENCE:** j) The racetrack and grandstands have a long history of use during the annual county fair and have weathered several large seismic events during their tenure. These include large events in 1955 as well as the more recent 1992 earthquake which wrought havoc on many buildings in the greater Ferndale area.

Chpt 14 – Safety Element – Flooding

- EVIDENCE:** k) The racetrack and grandstands are both located outside of any of the mapped flood zones in the vicinity.

Chpt 14 – Safety Element – Fire Hazards

- EVIDENCE:** l) The Fairgrounds is located within the City limits of the City of Ferndale and over ½ a mile from the nearest State Responsibility Area for Fire Protection.

Chpt 15 – Air Quality

- EVIDENCE:** m) To control the potential creation of fugitive dust, Condition of Approval # 2 requires water or chemical dust suppressants be used during windy conditions.

- 5. FINDING:** The proposed permit modification remains consistent with the purposes of the existing zone in which the site is located.

- EVIDENCE:** a) The Humboldt County Fairgrounds is primarily located on lands within the City of Ferndale, which are zoned Public Facility (PF). The Public Facility “PF” zoning district lists “public fairgrounds and related uses” as a principally permitted use, likely in recognition of the long history and use of the site for this purpose.

Pasture used for overflow parking in association with fairgrounds use on APN 100-181-003 is Zoned Agricultural Exclusive with Flood Hazard and Stream and Riparian Protection Combining Zones (AE-60/F,R). The use of the adjacent pasture for temporary overflow

parking in association with Fairgrounds use is an existing legal non-conforming use.

6. **FINDING:** The proposed permit modification remains in conformance with all applicable standards and requirements of the County Zoning Regulations.

314-109 - Off-street parking requirements

EVIDENCE: a) The Humboldt County Zoning Regulations include prescriptive requirements for the number, size and location of off-street parking spaces which are based upon building site footage and/or occupation/land use activity.

- b) Parking for the event attendees will be accommodated with the paved parking lot at the grounds entrance which has 126 parking spaces; the adjacent fields to the west (APN: 030-011-003 and 030-021-003)) which holds 984 vehicles can be filled from north to south. If additional parking is required, an additional 1,172 spaces are available in the next lot over to the west (APN: 030-011-002) bringing the total parking to 2,282 vehicles. With a maximum attendance of 5,000 persons at the largest events, there is sufficient spaces to accommodate nearly 1 vehicle for every two attendees. Additionally, the field immediately north of the fairgrounds (100-181-003) has been historically used for overflow parking in conjunction with fairgrounds use. This field could provide parking for 1,370 vehicles.

7. **FINDING:** The proposed permit modification and conditions under which operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE: a) All reviewing referral agencies have approved or conditionally approved the proposed project design.

- b) The project involves a request to modify a permit which authorizes use of a public facility (the Humboldt County Fairgrounds) for land uses that are ultimately consistent with the original purpose of the site. Concerts and Motorsports events at the Fairgrounds are not without historic precedent –live outdoor concert events have occurred on at least nine (9) separate occasions during the last twenty-five (25) years. Given the nature of the facility, it is likely that use of the Fairgrounds for live concerts has occurred further back in time, especially during operation

of the annual Humboldt County Fair each August. Newspaper information from both the Ferndale Enterprise and Humboldt Standard reveals the racetrack at the County Fairgrounds was used for automotive racing events as far back as 1947 and 1954. Nevertheless, the proposed uses do represent a modest change in the current environmental baseline for the site, both in terms of number of events held annually, timing of events, and types of events.

- c) Noise from the types of events proposed is the principal component of the project that could be viewed as a potential nuisance to neighboring land uses. The Fairgrounds is bordered by residential single-family homes to the south along Arlington Avenue and to the east along Highway 211 (Main Street). For this reason, the project has been conditioned to require an assortment of mitigation measures designed to address the potential for nuisance. Short-term noise from temporary uses is naturally given consideration under the County General Plan and Draft Noise Element revisions to the City of Ferndale General Plan, which provide permitting pathways for temporary land uses exceeding thresholds for short-term noise. Mitigation measures have been applied through operational restrictions and requirements included with the Recommended Conditions of Approval for the project. Requirements for adaptive management and reporting are also included and allow for monitoring of mitigation performance and collection of community feedback.
- d) Considering the balance of the proposed activities, historical use of the site, local noise thresholds, mitigation measures included, and project monitoring requirements, findings can be made that the project can be implemented without creating a potential long-term nuisance to surrounding land uses of the environmental setting.
- e) In an effort to respond to public concerns about noise from motorcycle racing, the applicant has agreed to modify the permit to allow only one motorcycle racing event as a pilot/trial. The purpose of the pilot event is to allow for monitoring of motorcycle noise during actual event conditions to enable more accurate understanding and disclosure of event-related noise levels experienced by nearby receptors. Additional motorcycle racing events may not occur without a modification of the permit and further environmental review. Given that the permit would be restricted to a single one-time pilot event under the requested modification, there is very limited potential to create a threat to the

public welfare. Monitoring data collected during the trial event will provide key insight into how noise during motorcycle racing events compares to the local thresholds. This will be valuable during subsequent permitting and environmental review.

8. FINDING: The proposed permit modification would 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 property was not included in the 2019 Housing Inventory and is not in a Housing Opportunity Zone. The parcel has a history of use as a public facility and is not targeted for future residential development. The project is in conformance with the standards in the Housing Element.

FINDINGS FOR APPEAL #1 (ARNE PETERSEN)

9. FINDING: The appellant's assertion that the original MND/Permit is invalid per §21080(g) of the CEQA Statute as a result of the proposed change in conditions of approval is incorrect.

EVIDENCE a) The request to change to the instantaneous noise limit from 90 to 99 decibels is being performed to correct a technical error made by the lead agency, during interpretation and extrapolation of the noise study provided by the applicant. The proposed change does not "set aside" the condition but instead constitutes an adjustment to the noise limit which better reflects the actual noise levels that will occur during a racing event. This is in keeping with the goal for accurate public disclosure of project effects which lies at the heart of CEQA. Information provided by the engineering firm that prepared the noise study confirms that raising of the tailpipe noise limit will have no effect on the 24-hour Community Noise Equivalent Level (CNEL) projected to result during racing events. Additionally, since the applicant is agreeing to scale back their request and limit motorcycle racing to a single one-time only pilot/trial event, the consequence of this increase in tailpipe noise level will have an extremely temporary effect on noise levels experienced by neighboring land uses. Noise from racing is expected to occur for a maximum of 8 hours during the day of the event. This amount of time represents a fraction of 1 tenth of one percent of all hours and days in the year. This is comparable to the amounts of time where noise from lawn mowers, chainsaws, or

similar gas-powered equipment periodically occur. Exceedances associated with these type of noise sources are explicitly excepted from compliance with the Short-term Noise Limits found in the Humboldt County General Plan. In addition to the actual noise level experienced at a neighboring receptor, the frequency of occurrence, and duration of a noise source play a large role in determining whether a noise source has the possibility to exceed a local threshold of significance.

10. FINDING

The appellant's assertion that 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 is incorrect. Similarly, the assertion that the Project is contrary to the public health, morals, or welfare standards is not supported by the evidence.

- EVIDENCE** a) The appellant has provided no evidence to support this claim. The Draft Supplemental Mitigation Negative Declaration that has been prepared provides additional analysis of the effects of the requested change in tailpipe noise levels. Additionally, since the applicant is agreeing to scale back their request and limit motorcycle racing to a single one-time only pilot/trial event, the consequence of this increase in tailpipe noise level will have an extremely temporary effect on noise levels experienced by neighboring land uses.

11. FINDING

The appellants argument that in addition to the Counties Permit a Permit from the City of Ferndale is also required.

- EVIDENCE** a) Government Code sections 53090 and 53091 exclude cities and counties from requirements to comply with other cities' and counties' building and zoning ordinances. The Third District Court of Appeal held in *Lawler v. City of Redding*, 7 Cal. App. 4th 778 (1992), found that cities and counties enjoy intergovernmental immunity with respect to building and zoning regulations, including their respective general plans. Further discussion of this can be found in Finding #7.

12. FINDING

The appellant's assertion that the modification to increase a noise limit is not minor as the supplemental MND suggests because decibel is a logarithmic scale is not supported by the evidence.

- EVIDENCE** a) Although the increase from 90 to 99 decibels does represent a considerable increase in noise level, it is needed to correct an incorrect assumption made by the lead agency during. Raising the

instantaneous noise limit by 9 decibels will help ensure consistency with the noise levels calculated by the engineering firm who prepared the noise study, and better reflects the noise levels that are likely to occur during racing events. Increasing the noise limit for the tailpipe testing will not change the resulting 24-hour CNEL that is projected to occur during the day of a motorcycle event. According to the noise study, noise levels experienced at the closest receptors would be 73.4 and 73.7. Additionally, since the applicant is agreeing to scale back their request and limit motorcycle racing to a single one-time only pilot/trial event, the consequence of this increase in tailpipe noise level will have an extremely temporary effect on noise levels experienced by neighboring land uses.

13. FINDING

The appellant's claim that the noise produced is a violation of my Civil Rights under California and Federal laws is not supported by the evidence.

- EVIDENCE** a) As is described in the Humboldt County General Plan, "*The perception of nuisance will vary based upon sound level, frequency, and fluctuation. It also depends upon the character of the sound, number of noise events, familiarity and predictability, and the attitude of the listener.*" As was noted by several Planning Commissioners during approval of the original permit and recent modification request, part of living in a community means learning to tolerate and accept other nearby land uses. Additionally, since the applicant is agreeing to scale back their request and limit motorcycle racing to a single one-time only pilot/trial event, the consequence of this increase in tailpipe noise levels will have an extremely temporary effect on noise levels experienced by neighboring land uses.

14. FINDING

The appellant's assertion that the mitigation methods described in the MND document are insufficient in reducing the environmental impact to a less than significant level is not supported by the evidence.

- EVIDENCE** a) The additional mitigation measures that have been incorporated into the project design are good faith attempts to address event-related noise using common techniques that have proven to be effective in similar settings. For instance, sound walls are commonly employed along freeway corridors throughout the state to great effect. Similarly, approximately 2 years ago, acoustical treatment of the Redwood Acres grandstands was performed using the same special material the applicant intends to use on the fairgrounds grandstands. According to

Mic Moulton, the current Redwood Acres CEO and racing event manager, installation of the acoustical material had a dramatic effect on noise levels experienced both at the facility as well as at neighboring properties, and noise complaints stopped being received in the years since installation was completed. Redwood Acres raceway restricts automotive engine noise to 95 decibels, and is measured 100 feet away from the vehicle. Given the similarities between the venues, racing activities, and relative noise levels experienced, it is reasonable to expect that the proposed treatment will have a similarly beneficial effect on noise levels experienced at neighboring properties. Lastly, specialized exhaust systems and high- performance mufflers are commonly utilized in sanctioned racing events. They are widely available and are produced by a variety of manufacturers.

15. FINDING

The appellant's assertion that the Humboldt County Fair Association (HCFA) has established grounds for revocation of the permit and not modification due to the outright fraud concerning the referenced "Magic Mufflers" is incorrect.

- EVIDENCE** a) specialized exhaust systems and high-performance mufflers are commonly utilized in sanctioned racing events. They are widely available and are produced by a variety of manufacturers. Information provided by the engineering firm that prepared the noise study confirms that raising of the tailpipe noise limit will have no effect on the 24-hour Community Noise Equivalent Level (CNEL) projected to result during racing events.

16. FINDING

The appellant's assertion that the permit was obtained by material omissions and gross misrepresentations of the facts is inaccurate and not supported by the facts.

- EVIDENCE** a) The appellant argues that The HCFA now recognizes the mufflers required to reduce the CNEL to 63db do not exist however as has already been mentioned, specialized exhaust systems and high-performance mufflers are commonly utilized in sanctioned racing events. They are widely available and are produced by a variety of manufacturers. Information provided by the engineering firm that prepared the noise study confirms that raising of the tailpipe noise limit will have no effect on the 24-hour Community Noise Equivalent Level (CNEL) projected to result during racing events.

17. FINDING The appellant's assertion that the requested permit modification is in clear violation of Ferndale's noise ordinance is not relevant.

EVIDENCE a) California Government Code sections 53090 and 53091 exclude cities and counties from requirements to comply with other cities' and counties' building and zoning ordinances. The Third District Court of Appeal held in *Lawler v. City of Redding*, 7 Cal. App. 4th 778 (1992), found that cities and counties enjoy intergovernmental immunity with respect to building and zoning regulations, including their respective general plans. Further discussion of this can be found in Finding #11.

18. FINDING The appellant's claim that the use for which the permit was granted is so conducted as to be a nuisance from noise and dust is not supported by the facts.

EVIDENCE a) The permit is being modified correct a technical error resulting from an incorrect assumption made by staff. By raising the tailpipe test noise limit, anticipate effects of the project are more accurately disclosed and reflect the noise levels that will likely be experienced during actual racing conditions. Information provided by the engineering firm that prepared the noise study confirms that raising of the tailpipe noise limit will have no effect on the 24-hour Community Noise Equivalent Level (CNEL) projected to result during racing events. Also, since the applicant is agreeing to scale back their request and limit motorcycle racing to a single one-time only pilot/trial event, the duration and frequency during which elevated noise level exceedance conditions could be experienced by neighboring land uses will be highly temporary and therefore dramatically lessened, making the consequence of this increase extremely negligible.

19. FINDING The appellant's claim that the use for which such permit was granted has ceased to exist or has been suspended for one (1) year or more and that it is therefore subject to revocation is incorrect.

EVIDENCE a) While the permit specifies the number and types of temporary events that may occur on an annual basis, it does not include a mandate that they must occur. Compliance with pre-requisite conditions of approval must always first be completed before exercising any discretionary permit. Within months of the Board of Supervisor's denial of the appeal and approval of the original Use Permit request (at their meeting on November 6, 2020), the applicant notified

Planning Division staff to advise that they were having trouble finding racing promoters interested or able to hold events in compliance with the 90dB tailpipe noise limit. Following the onset of the Coronavirus pandemic in March 2020, for many months large public assembly events were prohibited under state and local health orders. When the County Fair occurred in August 2021, it was the first event of that size to occur since the advent of the COVID-19 pandemic. A letter from their engineer (dated July 13, 2021) with back calculations was received in July and revealed that tailpipe noise levels were considerably higher during testing conditions. Shortly after this, it was decided that modification of the permit would be necessary to adjust this noise limit. The permit modification request was submitted in December of 2021. The applicant acted in good faith and in compliance with the permit conditions of approval and submitted a timely modification request to address the issue with the 90dB instantaneous noise limit applied under the permit. There is no evidence to support a determination that a use has ceased to exist or been suspended. The applicant has worked diligently to comply with the permit conditions and submitted a timely modification request to enable adjustment of this permit condition.

20. FINDING

The appellant's assertion that the only standards to consider are those in the Ferndale General plan based on the Noise Control Act of 1972 is incorrect.

- EVIDENCE** a) As has already been discussed, the Humboldt County General Plan is the standard by which the proposed land use activities (concerts and racing) must be evaluated.

21. FINDING

The appellant's claim that if motorcycle racing is the only way to generate revenue and preserve the fair, then, the doors need to (be) closed is irrelevant to the permit request.

- EVIDENCE** a) Revenue from events did not serve as the basis for approving the permit or the requested modification.

22. FINDING

The appellant's argument that there is no relevant history of motorsports in Ferndale is both inaccurate and not relevant to the requested permit application.

- EVIDENCE** The proposal has been fully reviewed and analyzed by the County as a new entitlement.

23. FINDING The appellant's argument that the annual reporting is intended to allow the HCFA to exceed the noise limits is incorrect.

EVIDENCE a) The applicant has agreed to modify the permit to only permit motorcycle racing as a one-time pilot/trial to gather appropriate noise data. Additional motorcycle racing events may not occur without a modification of the permit and further environmental review.

24. FINDING The appellant's argument that the claim of a significant reduction in noise due to the requirement of special exhaust systems is unproven and that Whitchurch's CNEL calculations have been shown to be incorrect is false.

EVIDENCE a) As has been already stated, specialized exhaust systems and high-performance mufflers are commonly utilized in sanctioned racing events. They are widely available and are produced by a variety of manufacturers. The applicant has agreed to modify the permit to only permit motorcycle racing as a one-time pilot/trial. Additional motorcycle racing events may not occur without a modification of the permit and further environmental review. Monitoring data collected during the trial event will provide key insight into how noise during motorcycle racing events compares to the local thresholds, which will be valuable during subsequent permitting and environmental review.

25. FINDING The appellant's argument that the HCFA has shown little to no concern for the Health, Safety and Welfare of the community and that the County is, at a minimum, abandoning its duty to the public they have sworn to protect and serve is incorrect.

EVIDENCE a) In agreeing to limit racing to a single pilot/trial event, both the County and HCFA are demonstrating an ongoing interest in working to address community concerns. Monitoring data collected during the trial event will provide key insight into how noise during motorcycle racing events compares to the local thresholds, which will be valuable during subsequent permitting and environmental review.

26. FINDING The appellant's statement that Humboldt County has failed to adequately correspond with appropriate reviewing agencies because the Air Resource board was not consulted is false.

EVIDENCE a) The project was referred to multiple agencies including the North Coast Unified Air Quality Management District during initial consideration and approval of the permit. The Supplemental

Mitigated Negative Declaration was circulated to the California Air Resources Board through the State Clearinghouse. The project includes mitigation measures designed to control the potential for mobilization of fugitive dust during racing. The proposed modifications to the permit would not affect the amount of dust generated during an event.

27. FINDING

The appellant's argument that 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 is incorrect.

EVIDENCE

- a) In agreeing to limit racing to a single pilot/trial event, both the County and HCFA are demonstrating an ongoing interest in working to address community concerns. Monitoring data collected during the trial event will provide key insight into how noise during motorcycle racing events compares to the local thresholds, which will be valuable during subsequent permitting and environmental review.

FINDINGS FOR APPEAL #2 (FRIENDS OF FERNDALE FOR A LIVABLE COMMUNITY)

28. FINDING:

The appellant's argument that approval of the modified CUP and adoption of the supplemental MND violated CEQA because a fair argument can be made that the project will cause a significant environmental impact, particularly relating to noise is no longer relevant to the proposed project.

EVIDENCE:

- a) The applicant has agreed to modify the permit to only permit motorcycle racing as a one-time pilot/trial. Additional motorcycle racing events may not occur without a modification of the permit and further environmental review. Monitoring data collected during the trial event will provide key insight into how noise during motorcycle racing events compares to the local thresholds, which will be valuable during subsequent permitting and environmental review. The decision of whether or not preparation of an EIR is necessary should occur after this scoping exercise and impact investigation has been completed.

29. FINDING

The appellant's argument that the Planning Commission's findings were not supported by substantial evidence and that the decision was made in error and constituted an abuse of discretion is justification to grant the appeal.

- a) Appellant #2 continues to maintain that the noise study performed by Whitchurch Engineering is based on flawed data, incorrect assumptions, and theoretical calculations that cause it to be inadequate for anticipating and disclosing potential impacts and the analyzing the adequacy of the mitigation measures proposed. Appellant #2 have provided peer-review of the Whitchurch Noise study on multiple occasions. The most recent peer-review was performed by the Acoustical Consulting Firm Illingworth & Rodkin Inc. and is found in a letter dated July 1, 2022. The firm performed ambient noise measurements between June 10th and June 14th, 2022 which differ from the measurements collected by Whitchurch Engineering in June 2018. In their letter the, the firm takes issue with methodology and conclusions found in the Noise Study prepared for the project by Whitchurch Engineering. The letter recommends that additional and more detailed noise studies be performed that: 1. Adequately quantity ambient noise measurements using a larger sample size and study area, 2. Revise the interior noise calculations to correctly account for windows and doors, and 3. Rely less on mathematical adjustments and modeling and more on monitoring noise during conditions that are representative and feature a “similar level of racing”.

Staff, the applicant, and appellant #2 all agree that it is advantageous to rely less on modeling and more on actual data during actual event conditions. This is reflected in the applicant’s decision to amend their modification request to the permit and agreement to restrict motorcycle racing to a single pilot/trial event. For this reason, it is appropriate to uphold the appeal by Friends of Ferndale and incorporate the requested amendments to the modification request, conditions of approval, and mitigation measures included herein.

NOW, THEREFORE, be it resolved that the Board of Supervisors hereby:

1. Adopts the findings contained herein; and
2. Finds the requested modification exempt from further environmental review pursuant to the Class 4 exemption found in §15304 of the CEQA Guidelines; and
3. Denies the Appeal submitted by Arne Petersen; and
4. Upholds the Appeal submitted by Friends of Ferndale for a Livable Community; and
5. Approves the Use Permit subject to the recommended conditions of approval contained in Attachment 2 of this Resolution; and
6. Authorizes and directs Planning Department staff to file and process a Notice of Exemption for the project in accordance with CEQA and the CEQA Guidelines, and the findings set forth in this Resolution.


The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on July 19, 2022, by the following vote:

Adopted on motion by Supervisor Wilson, seconded by Supervisor and the Madrone following vote:

AYES: Supervisors: Wilson, Madrone, Bass, Bushnell, Bohn

NOES: Supervisors:

ABSENT: Supervisors:



Virginia Bass, Chair
Humboldt County Board of Supervisors

STATE OF CALIFORNIA)) SS. County of Humboldt

I, Kathy Hayes, Clerk of the Board of Supervisors of the County of Humboldt, State of California do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-titled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

KATHY HAYES Clerk of the Board of Supervisors of the County of Humboldt, State of California

By: KATHY HAYES

Date: July 19, 2022

By 

Nikki Turner, Deputy Clerk of the Board

Attachment 1 - Conditions of Approval

Approval of the Conditional Use Permit Modification is conditioned on the following terms and requirements which must be satisfied before the uses may be initiated, or during ongoing operation of the use.

Conditions of Approval:

1. All temporary nighttime event lighting shall be directed towards the ground and shielded to ensure no light spillage onto adjacent parcels. This restriction applies to both stage lighting used during concerts or track lighting used during motorcycle racing. To achieve compliance with this requirement, prior to installation of any temporary lighting, a lighting plan shall be reviewed and approved by the Planning & Building Department. Failure to receive approval of a lighting plan or adhere to the plan is a violation of this permit. HCFA shall notify all event promoters ahead of each event and HCFA shall inspect all temporary lighting during setup as well as monitor compliance during operation of each event. During event season, HCFA shall document all lighting locations used and provide a report to the County Planning & Building Department detailing compliance with the lighting restrictions within 30 days of each event. The report shall include photographs of all lighting locations utilized and shall include any complaints received or feedback from neighboring property owners.

Timing for Implementation/Compliance: prior to and during each event
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: To be confirmed during review of annual report submitted to HCP&BD.
Evidence of Compliance: Documentation, evidence, and discussion of Lighting will be included as part of Monitoring Reports required to be provided within 30 days of each event as well as annually as described under Condition of Approval #10.

2. Where a racing event occurs during a period with dry and windy conditions, the operator will periodically apply water or other dust suppressants to minimize the potential for dust to escape from the racetrack and fairgrounds properties.

Timing for Implementation/Compliance: on-going
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Each motorsports event
Evidence of Compliance: Documentation, evidence, and discussion of Dust Control will be included as part of the Monitoring Report required under Condition of Approval #10.

3. Concerts shall end no later than 10pm. During motorcycle events, all racing activity shall cease by 7pm.

Timing for Implementation/Compliance: on-going
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Each event
Evidence of Compliance: Documentation, evidence, and discussion of Event Cutoff will be included as part of the Monitoring Report required under Condition of Approval #10.

4. During flat track racing events, racers may only use motorcycles which produce no more than 99 decibels of noise when measured 20 inches from the end of the exhaust pipe. To accomplish this, motorcycles shall be equipped with exhaust systems featuring sound reduction components, including resonators/mufflers, fiberglass insulation, and baffles.

Timing for Implementation/Compliance: prior to start of race/on-going
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Each event
Evidence of Compliance: Documentation, evidence, and discussion of Exhaust Noise Reduction will be included as part of the Monitoring Report required under Condition of Approval #10.

5. **Pre-Race Track Testing** During flat track racing events, noise from all participating motorcycles will be tested and measured prior to allowing riders to use the track. Noise shall be measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287. Noise from each participating motorcycle must be at or below 99 decibels. To best ensure all riders are able to comply with this requirement to compete, event promoters and participants shall be notified of the noise standard as early as possible in advance of the event.

Timing for Implementation/Compliance: prior to each event
Person/Agency Responsible for Monitoring: Applicant & all flat track event operators
Monitoring Frequency: Each event.
Evidence of Compliance: Documentation, evidence, and discussion of Pre-event Noise Testing will be included as part of the Monitoring Report required under Condition of Approval #10.

6. During all concert events, a dense strawbale sound wall will be installed near the rear of the stage between the concert and Arlington Avenue. The sound wall shall be of sufficient thickness and height to insure it provides at least 20 decibels of noise attenuation.

Timing for Implementation/Compliance: prior to each event
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Each event.
Evidence of Compliance: Documentation, evidence, and discussion of Sound wall Noise Attenuation will be included as part of the Monitoring Report required under Condition of Approval #10.

7. A sound engineer will be used during all concert events. The engineer will work with event staff to ensure that amplified music does exceed CNEL values and associated maximum noise levels identified as follows:

EVENT TYPE	TIME WHEN MEASUREMENT IS TAKEN	MAX. CNEL VALUE (DB)	MEASUREMENT LOCATION
Concerts	during main performance (headlining act)	73	Arlington Ave.
			FHS admin lot

Timing for Implementation/Compliance: prior to each event/on-going
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Annually
Evidence of Compliance: Documentation, evidence, and discussion of Concert Noise Reduction will be included as part of the Monitoring Report required under Condition of Approval #10.

8. One (1) motorcycle racing event is permitted as a pilot/trial. The "event" shall occur within the course of a single day. An additional day of racing can be allowed if all the racing on that day is by electrical motorcycles. Other types of motorsports events are prohibited, including (but not limited to): Tractor Pulls, 4x4 Trucks, Go Carts, and Monster Trucks. The purpose of the pilot event is to allow for monitoring of motorcycle noise during actual event conditions to enable more accurate understanding and disclosure of event-related noise levels experienced by nearby receptors. Additional motorcycle racing events may not occur without a modification of the permit and further environmental review. *Future modification of the permit shall exclusively be decided by the Humboldt County Board of Supervisors. (*added by the BOS on 7/19/22)

Timing for Implementation/Compliance: prior to each event/on-going
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Each event.
Evidence of Compliance: Documentation, evidence, and discussion of Event Type Limitations will be included as part of the Monitoring Report required under Condition of Approval #10.

9. Composite Noise Limit: The calculated CNEL noise value shall not exceed 63 decibels during flat track motorcycle racing events. During concerts, the calculated CNEL noise value shall not exceed 73 decibels. HCFA will monitor noise levels during concerts and racing events to ensure that event-related noise levels remain at or below these limits. Noise will be measured from the locations used in the Noise Impact Study prepared by Whitchurch Engineering (shown below).

EVENT TYPE	TIME WHEN MEASUREMENT IS TAKEN	MAX. CNEL VALUE (DB)	MEASUREMENT LOCATION
Motorcycle Racing	during largest race group / heat of the day	63	Arlington Ave.
			FHS admin lot
Concerts	during main performance (headlining act)	73	Arlington Ave.
			FHS admin lot

Timing for Implementation/Compliance: during events/on-going
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Each event.
Evidence of Compliance: Documentation, evidence, and discussion of Compliance with Max CNEL will be included as part of the Monitoring Report required under Condition of Approval 10.

10. By December 31st of each year, the Humboldt County Fair Association (HCFA) shall prepare and submit an annual report to the Director of the Planning & Building Department. The report shall detail all Concert and Motorsports events held during that year and include the following information:

- *Listing and summary of all concerts and motorsports events held.* Including the scheduled date of each event, beginning and ending times for each event, number of tickets sold and number of attendees/spectators, parking areas utilized, and event- specific noise measurements.
- *Noise measurements.* Noise levels shall be measured during all concerts and motorsports events, and readings shall be taken from the Arlington Avenue and "City of Ferndale" locations used in the Noise Impact Study prepared by Whitchurch Engineering. A noise meter similar to the type used in the Noise Study (PCE Instruments PCE-322A) shall be used. If measurements reveal noise levels exceeding the following thresholds, HCFA staff shall document the exceedance and coordinate with event staff to implement measures which consistently reduce event-related noise to levels at or below the limits in the following table:

EVENT TYPE	TIME WHEN MEASUREMENT IS TAKEN	MAX. CNEL VALUE (DB)	MEASUREMENT LOCATION
Motorcycle Racing	during largest race group / heat of the day	63	Arlington Ave.
			FHS admin lot
Concerts	during main performance (headlining act)	73	Arlington Ave.
			FHS admin lot

- *Adaptive management.* The report shall document wherever refinement or addition of a mitigation measure or operational restriction was needed to ensure events are held in conformance with the established conditions of the permit and lease agreement. These changes shall be memorialized in standard operating procedures and thereby remain a requirement of the Conditional Use Permit.
- *Lighting.* Photographs shall be taken showing the stage and track configuration used during each event. Photographs shall be provided for events which occurred in the evening, documenting compliance with the restrictions on temporary stage lighting to prevent light spillage onto neighboring residential properties.

The report may also include correspondence from agencies affected by the events (i.e., Humboldt County Public Works, Division of Environmental Health, Sheriff's Office, California Highway Patrol, City of Ferndale Police Department, California Department of Transportation).

Note: HCFA shall submit documentation showing that events have been successfully operated in conformance with all mitigation measures, operational restrictions, and conditions of project approval for five (5) years.

The Director of Planning & Building Department may request further documentation where HCFA has not sufficiently demonstrated conformance with the terms of the permit and required mitigation measures. The Director may waive the need for submittal of future reports during subsequent years if review of the information submitted reveals strong compliance with the terms of the permit and mitigation measures.

Timing for Implementation/Compliance: prior to December 31 st of each year events are held.
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Annually for five (5) years or until waived by the Director of Planning & Building.
Evidence of Compliance: To be confirmed during review of the report submitted to Planning & Building Department.

11. The Humboldt County Fair Association shall execute a revised lease agreement with the County of Humboldt amended to reflect and authorize future motorsports and concert uses operated consistent with all terms of this permit. Terms include all conditions of approval and mitigation measures applied or committed to during project approval.

Timing for Implementation/Compliance: prior to holding or scheduling any events.
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Lease should be provided periodically to the Humboldt County Planning Building Department, as amended.
Evidence of Compliance: receipt of executed lease agreement

12. All motorsports and concert events shall be conducted in accordance with the *Plan of Operations* submitted by the applicant, received May 15, 2019.
13. By no later than February 14th of each year, the Humboldt County Fair Association shall provide the Humboldt County Planning & Building Department a schedule of all events planned to occur that year.

Timing for Implementation/Compliance: prior to February 14 th of each year.
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Annually
Evidence of Compliance: receipt of events schedule

14. **Within five (5) days of the effective date of the approval of this permit,** the applicant shall submit a check to the Planning Division payable to the Humboldt County Recorder in the amount of \$2,456.75. Pursuant to Section 711.4 of the Fish and Game Code, the amount includes the Department of Fish and Wildlife (DFW) fee plus a \$50 document handling fee. This fee is effective through December 31, 2020 at such time the fee will be adjusted pursuant to Section 713 of the Fish and Game Code. Alternatively, the applicant may contact DFW by phone at (916)651-0603 or through the DFW website at www.wildlife.ca.gov for a determination stating the project will have *no effect* on fish and wildlife. If DFW concurs, a form will be provided exempting the project from the \$2,406.75 fee payment requirement. In this instance, only a copy of the DFW form and the \$50.00 handling fee is required.

Note: If a required filing fee is not paid for the project, the project will not be operative, vested or final and any local permits issued for the project will be invalid (Section 711.4(c)(3) of the State Fish and Game Code).

15. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant upon

file close out after the Planning Commission decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 H Street, Eureka.

16. A comprehensive Traffic Management Plan shall be submitted to the Land Use Division of Public Works for review and approval by the Department. The applicant shall coordinate with the Department, the City of Ferndale, and CalTrans to develop the comprehensive Traffic Management Plan. The comprehensive Traffic Management Plan shall consist of multiple event-specific plans that are included as chapters. The event specific plans are to address the various sized events that the applicant intends to hold. It is intended that the event specific plans are living documents that are to be updated and refined over time based upon lessons learned from hosting events as well as in response to changed conditions. Updates to the event specific plans shall be coordinate with the City of Ferndale, Caltrans and the Land Use Division of Public Works. Any traffic control operations that will occur on a County maintained road shall be done under a Special Event Permit issued through the Land Use Division of Public Works. The Department may issue an Annual Special Event Permit to allow the applicant to conduct traffic control operations on a county-maintained road without the need for obtaining a separate permit for each event.

Timing for Implementation/Compliance: prior to holding or scheduling any events. Approval of a Comprehensive Traffic Management Plan (CTMP) required.
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Public Works Land Use Division (DPW) / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: annually or whenever CTMP subject to change or reapproval.
Evidence of Compliance: submittal of CTMP approved by the Public Works Land Use Division

17. Two (2) sound barriers will be created during all motorcycle racing events, fashioned by temporarily placing tractor trailers or strawbales (or some combination thereof) adjacent to motorcycle acceleration zones.

Timing for Implementation/Compliance: prior to each event.
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: each event
Evidence of Compliance: Documentation, evidence, and discussion will be included as part of the Monitoring Report required under Mitigation Measure 10.

18. Acoustic treatment of the internal wall of the grandstands shall be performed using Acoustiblok viscoelastic polymer sound mitigation material or similar materials designed to decrease reverberation and noise.

Timing for Implementation/Compliance: prior to holding the first motorcycle racing event.
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Annually for first 5 years during review of Annual Report or during event inspections.
Evidence of Compliance: Documentation, evidence, and discussion will be included as part of the Monitoring Report required under Mitigation Measure 10.

19. **Noise Monitoring during Pilot/Trial Motorcycle Event:** The permit authorizes only one (1) motorcycle racing event to be conducted on a pilot/trial basis. During this pilot event, noise monitoring shall be performed by an independent third party, such as a professional noise engineer or similarly qualified professional. Any consultant chosen must also be approved by the Director of Planning & Building, or their authorized designee. The Director reserves the right to disqualify a party due to inadequate qualifications, equipment, or experience. A designated representative from Friends of Ferndale for a Livable Community shall also be given a chance to review and approve the consultant selected. Monitoring and testing will be conducted using best professional practices, to determine the noise levels experienced in the vicinity of the nearby homes and other sensitive receptors. Monitoring of both ambient noise and event-related noise will occur during the entire 24-hour period of the day in which the event occurs. At a minimum, 24-hour monitoring shall simultaneously occur from the two locations where long-term ambient noise measurements were collected by Illingworth & Rodkin between June 10th and June 14th, 2022. These locations are cited in the document entitled, "Peer Review of the Noise Analysis" performed by Illingworth & Rodkin, Inc., dated July 1, 2022. One is located in the front yard of a residence at 400 Arlington Avenue (LT-1) and the other occurs from a utility pole on the campus of Ferndale High School (LT-2), near the administrative parking lot. The results of the third-party noise monitoring will be presented at a Community meeting held by HCFA within 3 months of the inaugural motorcycle racing event.

Timing for Implementation/Compliance: To occur during Pilot/Trial Motorcycle Event.
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Once during Pilot/Trial event.
Evidence of Compliance: Information will be presented at the post-event Community Meeting as well as during review of the annual report submitted to Planning & Building Department, in compliance with Mitigation Measure #10.

20. **Community Meeting:** A Community Meeting shall be held by the Humboldt County Fair Association at the County Fairgrounds or a similar location, within 3 months of the one-time motorcycle pilot event. Appropriate representatives from the Humboldt County Fair Association and the event promoter/operator shall be in attendance. Notice of the meeting must be delivered to all neighboring property owners along Arlington Avenue and Van Ness Avenue (between 5th Street and Main Street) as well as owners of properties along Main Street (between Howard Street and Market Street), at least 2 weeks prior to the meeting. Notices shall at minimum include information about the date, time, and purpose of the meeting. Notice must also be provided to the Planning & Building Department 2 weeks prior to the meeting, and also be advertised in two different editions of the weekly Ferndale Enterprise prior to the meeting date. The purpose of the meeting is to provide a forum for sharing the results of the noise monitoring exercise, solicit contemporaneous community feedback on event-related noise, and collect suggestions on ways to further improve and address event-related noise.

Timing for Implementation/Compliance: To occur within 3 months of Pilot/Trial Motorcycle Event.
Person/Agency Responsible for Monitoring: Applicant / Humboldt County Planning & Building Department (HCP&BD)
Monitoring Frequency: Once following Pilot/Trial event.
Evidence of Compliance: Planning & Building staff will be present at the Community Meeting. Information about the meeting must also be presented in the the annual report for that year submitted to Planning & Building Department, in compliance with Mitigation Measure #10.

Informational Notes:

1. Applicant is responsible for receiving all necessary permits and/or approvals from other state and local agencies.
2. If cultural 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 is ultimately responsible for ensuring compliance with this condition.

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 applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.