

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on July 28, 2020

Resolution No. \_\_\_ - \_\_\_ Resolution of the Board of Supervisors of the County of Humboldt DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPTING FINDINGS OF FACT, APPROVING THE APPEAL FOR RECORD NO. PLN-2020-16389 AND APPROVING ALLPOINTS OUTDOOR, INC. SPECIAL PERMIT, RECORD NO. PLN-2019-16029.

**WHEREAS**, an application for a Special Permit was submitted to the Humboldt County Planning and Building Department for reconstruction of a legal nonconforming billboard structure damaged during winter storms in late November 2019, located on APN's 305-031-007, 305-031-008, and 305-037-009; and

**WHEREAS**, the application and supporting materials were referred to reviewing agencies including Coastal Commission, Humboldt Bay Harbor District, Caltrans, 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 Bay Area Plan and Zoning Ordinance and formulated a recommendation supporting approval of the application; and

**WHEREAS**, on February 20, 2020 the Special Permit (PLN-2020-16029) was considered by the Planning Commission during which time substantial public comments were received both in support of and opposed to the proposed project, and the Commission chose to continue the matter to a subsequent meeting to allow staff sufficient time to follow up on questions poised during the meeting; and

**WHEREAS**, the project was set to be heard again by the Planning Commission on March 19, 2020 but was unable to be heard when the meeting was cancelled in response to direction from State and Local officials responding to public health risks related to the COVID-19 pandemic; 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**, on May 7, 2020 the Planning Commission resumed the public hearing at a noticed meeting held via Zoom, where they received additional public comment, and took the following actions:

- a) Determined they were unable to make all of the required findings for approval of discretionary permits found in Section 312-17 of the Humboldt County Code; and
- b) Denied the Special Permit by a vote of 4-2; and
- c) Found the denial action categorically exempt from CEQA pursuant to section 15270 of the CEQA Guidelines; and

**WHEREAS**, on May 20, 2020, the applicant, Allpoints Outdoor, Inc. (“Appellant”) filed an 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 a hearing within 30 days, but this may be waived by an applicant; and

**WHEREAS**, the Board of Supervisors held a duly-noticed public hearing, *de-novo*, on July 28, 2020, and reviewed, considered, and discussed the application and appeal for the Special Permit; and reviewed and considered all public testimony and evidence presented at the hearing; 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 Special Permits; and

**WHEREAS**, in addition to the required findings specified in section 312-17 of the Humboldt County Code, projects must comply with Supplemental Findings found in Sections 312-18 through 312-49, where applicable; and

**WHEREAS**, section 312-41 of the Humboldt County Code allows for exceptions to the required findings; and

**WHEREAS**, a Special Permit is sought pursuant to section 313-132.5.2 to permit reconstruction of a lawful non-conforming structure (billboard) that has been damaged by casualty; and

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

1. **FINDING:** The Special Permit is a discretionary project and subject to the California Environmental Quality Act (“CEQA”) but it has been determined that the application is exempt from further environmental review based on CEQA Guidelines Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction). Because the proposal involves both repair and

reconstruction activities, use of both the Class 1 and Class 2 exemptions is appropriate. Substantial evidence supports the conclusion that there will be no significant adverse effects on the environment.

- EVIDENCE**
- a) CEQA Guidelines Section 15301 exempts operation, repair, maintenance and minor alteration of existing public or private structures involving negligible or no expansion of existing or former use.
  - b) CEQA Guidelines Section 15302 applies to the replacement or reconstruction of existing structures and facilities where the new structure is located on the same site as the structure replaced and will have substantially the same purpose and capacity.
  - c) The reconstruction plan submitted by the applicant shows reconstruction occurring within the same footprint as the existing sign with between six (6) and nine (9) of the existing vertical uprights being repaired and reused.
  - d) Reconstruction will be performed using a crew of 3-5 persons, and it is expected to take 2-4 days to return the sign to an upright position. No heavy construction equipment is needed. Shovels and post-hole diggers are used, as well as battery powered hand tools, ladders, clamps, bolts and screws. No temporary structures or materials (such as scaffolding or temporary bracing) are required to enable reconstruction.
  - e) Where possible, the old post and concrete will be removed, and new post installed within the existing location. If a post cannot be removed, a new hole will be dug next to the old post. The project includes a Condition of Approval prohibiting the use of pressure-treated wood for replacement posts. No alterations to the design, size or surface area of the existing structure are proposed.

2. **FINDING:** None of the exceptions to the use of categorical exemptions in CEQA Guidelines Section 15300.2 apply to this project.

- EVIDENCE**
- a) The location exception does not apply to Class 1 and 2 exceptions. The project seeks to repair and reconstruct a sign which is part of the environmental baseline, having existed in this location for over 60 years.

- b) Potential for cumulative impacts is unlikely as historical aerial photos reveal that there has been a nearly 80% reduction in similar highway signage in this area when compared to historic levels. This application allows retention of an existing sign no new impacts will result from reconstruction of the sign. A review of a historical aerial photo from 1957 reveals signage at nine distinct locations (including the project location) along a 0.6 mile stretch of highway immediately north of Spruce Point. At nearly all of these locations were double-sided signs. Today only three signs remain. All signs are located east of Highway 101 at two locations and are single-sided, facing northbound traffic.
- c) Significant impacts are not expected to result since minimal new ground disturbance is expected and evidence suggests that signage of this sort can co-exist within wetland environments. There is no evidence to suggest that the proposed repair and reconstruction activities would result in a significant effect on the environment due to unusual circumstances. The work to be performed will require minimal ground disturbance and heavy equipment need not be utilized.
- d) The project lies adjacent to a state highway (101) which is not currently designated as a Scenic Highway. The project will not result in damage to scenic resources, including trees, historic buildings, rock outcroppings, or similar resources.
- e) The sign is not located on a property host to a hazardous waste site found on the Cortese list found in section 35962.5 of the Government Code.
- f) There are no designated historical resources at the site. Though the sign structure is over 45 years of age, it is unlikely to possess potential historical significance as it has been subject to alterations since it was constructed, including removal of a corresponding double-facing element. The measures being taken to repair the structure with wooden materials of a similar type and design are in keeping with the Secretary of the Interiors Standards for the treatment of historical structures which are cited as Best Practices under 15064.5 of the CEQA Guidelines.

3. **FINDING:** The proposed development is not subject to the County General Plan, Open Space Plan, and the Open Space Action Program.

- EVIDENCE**
- a) The County General Plan does not apply to this area within the Coastal Zone as the Coastal Version of the General Plan has not been adopted by the Board of Supervisors or certified by the California Coastal Commission.
  - b) The General Plan includes a number of policies designed to restrict the term and placement of billboards, prohibit their construction within Sensitive Habitat Areas, compel their removal or relocation on public lands and railroad rights of way, and prompt the removal of illegal billboards. These policies are not applicable to this application.

4. **FINDING:** Reconstruction of the existing sign is consistent with the provisions of the Humboldt Bay Area Plan.

- EVIDENCE**
- a) The placement of new off-site signs is highly restricted under the scenic resources provisions of the HBAP. This is not a new sign and is not subject to the restrictions imposed on a new sign.
  - b) The existing billboard site is outside of the coastal view area mapped within the HBAP.
  - c) The HBAP calls for preparation of a Scenic Route Study for portions of Highway 101, including the segment adjacent to the project location. Described as a joint-effort between CalTrans and the County Planning Department and subject to Coastal Commission approval, the special emphasis of the study is to investigate opportunities for Cal-Trans, the County, and the Harbor District to eliminate billboards between Eureka and Arcata and to identify suitable areas for clustered signing, and new off-site signs. The scenic route study has not yet been completed, thus there is not policy direction on how to address an existing legal non-conforming sign which needs to be repaired. There is no policy guidance requiring removal of this sign as opposed to allowing it to be reconstructed.

5. **FINDING:** The existing sign qualifies as a Legal Non-conforming structure and use of the land pursuant to the provisions section 313-149 of the Zoning Ordinance. The Zoning Ordinance allows reconstruction of the sign subject to approval of a Special Permit.

- EVIDENCE**
- a) Historical aerial photographs demonstrate that the damaged billboard has been at this location since at least 1955, thereby predating the adoption of the Zoning Regulations, Building Codes, as well as establishment of the Coastal Zone and adoption of the Humboldt Bay Area Plan (HBAP), the local coastal plan covering the Spruce Point area. The billboard structure therefore qualifies for consideration as a lawful “nonconforming” structure and use.
  - b) Evidence exists demonstrating that the billboard is a lawful non-conforming structure, as a historical aerial photo from 1957 reveals signage at nine distinct locations along a 0.6 mile stretch of highway immediately north of Spruce Point, including the damaged billboard.
  - c) Nonconforming uses and structures are a unique category of development granted special considerations under sections 313-131 and 313-132 of the code. Section 132.5.2 states: *The Director may approve a Special Permit for the reconstruction of a nonconforming structure that is damaged by any casualty if application is made within two (2) years after such destruction or damage and if the Director makes all of the required findings in Chapter 2 of this Code.*
  - d) Section 312-1.3 states: *In addition to the required findings for all permits and variances, the Hearing Officer may approve or conditionally approve an application for a Special Permit, Use Permit, Coastal Development Permit, or Planned Unit Development Permit only if the supplemental findings, as applicable, are made.* (See Sections 312-18 through 312-49).
  - e) Within the Supplemental Findings of Chapter 2 is section 312-41 which states: *The Hearing Officer may grant exceptions, as authorized by this Chapter, if all of the following findings are made.* (These finding have been made under findings 9-12 for an exception below.)
  - f) By definition Nonconforming Uses and Structures fail to conform with one or more specific regulations applicable to the zone in which they are located.
  - g) When considering permits requesting repair or reconstruction of Nonconforming Structures or resumption of Nonconforming Uses, it is naturally to be expected that one or more of the

standard findings found in section 312-17, and/or Supplemental Findings found in Sections 312-18 through 312-49 cannot be made.

- h) In the case of the Special Permit being requested, the project clearly conflicts with certain provisions of the Coastal Zoning Regulations which would ordinarily be applicable to projects involving new off-site/non-appurtenant signage (i.e. “billboards”), including:
  - 1. Billboards are not explicitly authorized within any of the Zoning Districts applicable to the property in which it is located.
  - 2. Evidence suggests that the billboard is located within a wetland, and subject to compliance with Coastal Wetland Areas Combining Zone provisions found in section 313-38.1. Signs are not a form of development which may occur within these areas.
  - 3. Billboards are considered structures subject to compliance with applicable setbacks and the existing billboard structure is located within the 20-foot front yard setback
  
- i) In the case of the Special Permit being requested, the project also conflicts with certain provisions of the Humboldt Bay Area Plan (HBAP), which would ordinarily be applicable to projects involving new off-site/non-appurtenant signage (i.e. “billboards”), including:
  - 1. Billboards are not explicitly authorized within any of the Land Use Designations applicable to the property.
  - 2. The billboard lies within a strip of land adjacent to the western bank of the Elk River. The project area is characterized by plants and hydrology common to riparian areas and wetlands. Aquatic features such as rivers, wetlands, estuaries and related critical habitat for rare and endangered species are all recognized and protected as Environmentally Sensitive Habitat Areas (ESHA) pursuant to 30240 of the Coastal Act and 3.30 of the HBAP. Billboards are not a form of development which may occur within ESHA.
  
- j) Humboldt County Code section 312-41 lists Supplemental Coastal Findings for Granting an Exception, and it is appropriate that these findings be used in consideration of the Special Permit being requested, as nonconforming uses and structures are

afforded protection and certain exceptions from strict adherence to the Coastal Zoning Regulations. Further this avoids an absurd result, promotes internal consistency within the Humboldt County Code, and gives meaning to the code sections governing nonconforming uses and structures.

6. **FINDING:** The proposed development is consistent with the purposes of the existing zone in which the site is located.

**EVIDENCE** a) The project site is located between US 101 and the Elk River, south of the City of Eureka, on the east side of Highway 101 and is zoned AE, F, W. The scale of the zoning and land use maps from the Humboldt Bay Area Plan do not show private land between the Highway 101 right-of-way and Elk River channel, making it difficult to discern that the appropriate land use and zoning where the billboard is located. In examining the site and land use and zoning, the following facts result in this conclusion. Along this stretch of Highway 101, the area to the eastern edge of the Highway 101 right of way is given a land use and zoning designation of Public Facilities (PF) and the river channel is zoned Natural Resources (NR). Agriculture Exclusive (AE) zoning is applied both to the north and south of this location. The scale of the map does not show area between the PF and NR but this parcel exists in this area. In the County GIS the subject parcel is clearly shown and given a land use designation of PF. The GIS map incorrectly shows this parcel as being in the City of Eureka but the parcel data layer shows the zoning as AE with a wetland and floodplain overlay.

b) The AE zone does not explicitly authorize off-site/non-appurtenant advertising or signs (i.e. billboards).

c) The sign has existed at this location and has not interfered with the primary use of the property which is open space but could also be used for grazing. The continued existence of the sign will not have an adverse effect on the intended primary use of the property.

7. **FINDING:** The proposed development and conditions under which it may be 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) Both locally and nationally, billboards continue to be a source of vigorous debate. During review and consideration of the Special Permit request, the Planning Commission and Board of Supervisors received numerous written and public comments both in support of and against the project.
  - b) The proposed reconstruction has been designed by an engineer and the project includes conditions of approval requiring that the repaired billboard must meet all currently applicable structural, electrical, plumbing and mechanical codes. The billboard site is located over a quarter of a mile from the nearest private improvements and historical aerial photographs demonstrate that the site has hosted similar structures for over 70 years. The structure does not directly conflict with or impair grazing or other agricultural uses authorized to occur in the Agriculture Exclusive zone.

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

- EVIDENCE**
- a) This project will not affect any housing units and will not reduce the number of housing units identified in the Housing Element.

9. **FINDING:** There are special circumstances or conditions associated with the proposed development, use, or project site that support granting the exception.

- EVIDENCE**
- a) The repair and reconstruction of a lawful nonconforming structure, without expansion of the structure is a special circumstance. The billboard has existed at the site for over 60 years, predating the creation of countywide zoning regulations, adoption of the general plan, and establishment of the local coastal program. It was lawfully erected, established, and maintained and qualifies for recognition as a legal nonconforming structure and use, since it does not conform with

the Zoning Regulations. The billboard was blown down on November 26, 2019, due to high winds produced during a winter storm event.

- b) Section §313-132.5.1 of the Humboldt County Zoning regulations includes provisions for “one-for-one” structural alterations to maintain a nonconforming structure in the same location without requiring a variance or other discretionary permit. Section §313-132.5.2 includes additional provisions for reconstruction of a nonconforming structure damaged by casualty, if application is made within two (2) years after the destruction or damage. The applicant has continued to maintain this sign at this location and in this configuration and has made application to reconstruct the sign in a timely manner.

The proposed repair and reconstruction of the sign are proposed in a manner consistent with the provisions of Sections 313-132.5.1 and 2. The repair work will involve either retention of existing structural elements, or one for one replacement of structural elements (piers, posts, cross-bracing), piers will either be retained and the structure reattached, or new vertical supports will be installed in the same location or immediately next to the existing pier. Reconstruction activities will primarily involve establishment of up to six (6) new vertical supports for the billboard.

10. **FINDING:** The granting of the exception will not be detrimental to the public welfare.

- EVIDENCE**
- a) Protection of the Public Welfare is the basis of all land use regulation. The concept of the Public Welfare is broad and inclusive, it represents the community’s values including but not limited to physical, aesthetic, environmental and economic. In the case of a billboard, there are those who find billboards unsightly and oppose them, while others find billboards helpful in learning about products and services
  - b) This is not a new sign, but a request for reconstruction of an existing nonconforming sign which is given special consideration in the Zoning Ordinance.

- c) In acting on this request the Board of Supervisors has considered the County regulations to not allow new signs on property designated AE and new development within ESHA with the value the existing sign brings as an informational tool to the traveling public and the economic benefits that it provides.
- d) The project site is located adjacent to an access-controlled segment of US 101. There is not public access or pedestrian right of way in close proximity to the proposed project. The structure is outside of the coastal view area identified within the local coastal plan. Conditions of approval require that a building permit be secured for the repair of the structure. Engineered plans have been prepared for the proposed reconstruction and should increase the stability and safety of the structure once implemented. The structure is located within the 100-year Flood zone. Repair and reconstruction will therefore be subject to compliance with the Flood Damage Prevention Ordinance. During its 70+ year history, major floods occurred countywide in both 1955 and 1964. Historical photos from 1957 and 1968 reveal that signage at the project location persisted in the years immediately following these historic flood events. There is no evidence which suggests the potential for the proposed reconstruction to become detrimental to public welfare.

11. **FINDING:** The applicant has proposed alternative standards which conform with the established standard(s) as closely as feasible.

**EVIDENCE** a) Conditions of Approval have been included restricting the sign from employing motion, sound, mechanical devices, blinkers, flashing lights, animation, red, green or amber lights or unusual lighting. The applicant is proposing replacing the structure like for like, and does not include any red, green, or amber lights, motion, sound, mechanical devices, blinkers, flashing lights, animation or lighting of any kind.

12. **FINDING:** In the Coastal Zone, the granting of the exception will not have a significant adverse effect on environmentally sensitive habitats.

**EVIDENCE** a) The existing billboard is outside the Elk river Slough but in a location characterized by plants and hydrology common to

Environmentally Sensitive Habitat Areas (ESHA). The structure has been present at the site for over 60 years and the condition of the ESHA under and around the sign indicates that it is not negatively affecting the ESHA. No heavy machinery will be used, and the applicant will reuse as much of the existing structure, foundation and posts as is safely feasible. Reconstruction will be performed in 2-4 days using a crew consisting of 3-5 persons. No heavy construction equipment is needed. Shovels and post-hole diggers will be used, as well as battery powered hand tools, ladders, and clamps, bolts and screws. No temporary structures or materials (such as scaffolding or temporary bracing are required) to enable reconstruction. No alterations to the design, size or surface area of the existing structure are proposed. For these reasons, repair and reconstruction of this lawful nonconforming sign is unlikely to result in adverse effects to sensitive habitats.

**13. FINDING:**

The project does not threaten any public trust uses that may occur in the location where the billboard is sited.

**EVIDENCE**

As the site is adjacent to the highway on private land, navigation and recreation are not permitted on the site. As a legal nonconforming structure, the billboard has existed in its current location for at least sixty years with no detriment to the public trust resources, and as explained above, the method of reconstruction is not anticipated to damage public trust resources or impact any fisheries.

**14. FINDING:**

The Board of Supervisors finds there is merit in the appeal that the Planning Commission based its action on findings that either (1) are inapplicable, have not been adopted, do not carry the force of law, or were not presented in the staff report or public comment; or (2) are inconsistent with current zoning regulations in effect. The grounds for appeal are adequate to warrant granting the appeal.

**EVIDENCE**

- a) In Finding 2 of Resolution No. 20-27, the Commission found, "The project is not consistent with current guidance from the American Planning Association concerning non-conforming signage." Current APA guidance does not carry the force of law

as it is not referenced or utilized within any of the applicable state or local laws governing consideration of the project.

- b) In Finding 4 of Resolution No. 20-27, the Commission found that, “Although an updated General Plan has not yet been adopted for the Coastal Zone (nor certified by the Coastal Commission), the Commission cannot make the finding that authorization of sign reconstruction is not detrimental to public welfare, given the public comments received at hearings during the General Plan Update process.” This finding refers back to comments made during hearings on the General Plan that are reflected within the Scenic Resources provisions found in section 10.7 of the Plan. The sentiment here is that based on the number of people who oppose billboards, allowing an existing billboard to be reconstructed would be detrimental to the public welfare. As the appeal hearing before the Board occurs “de novo”, it is not appropriate to use prior public comment on a separate matter as the basis for a decision on the current project. During the hearing a number of Commissioners expressed interest in holding hearings in the future to review possible changes to existing policies and regulations governing billboards. The assertion that the rules and regulations have not been adopted and do not carry the force of law is correct, as an updated General Plan has not yet been adopted for the Coastal Zone and the 2017 General Plan now in effect does not govern activities in the Coastal Zone. The issue of whether reconstruction of the sign can be found to be within the interest of the public welfare is addressed above. As discussed above, a determination of what is best for protection of the public welfare is a balance of concerns including physical, aesthetic, environmental and economic. Public sentiment may not always be the best indicator what is best for maintaining the public welfare.

- EVIDENCE** c) In Finding 5 and 6 of Resolution No. 20-27, the Commission found that “The General Plan includes a number of policies designed to restrict the term and placement of billboards, prohibit their construction within Sensitive Habitat Areas, compel their removal or relocation on public lands and railroad rights of way, and prompt removal of illegal billboards. However, the new General Plan has not yet been certified by the Coastal Commission and therefore does not apply to the permitting of the subject property.” As is noted in Finding 6 of the Planning Commission’s Resolution, an updated General plan for the

Coastal Zone has yet to be adopted by the Board of Supervisors and certified by the California Coastal Commission. The appropriate policy document for this area is the Humboldt Bay Area Plan which calls for preparation of a Scenic Route Study. As the Scenic Route Study contemplated in the Humboldt Bay Area Plan and Finding 7 has not been initiated at this time, it is inappropriate to speculate upon potential outcomes or use it as a basis to deny the current permit request for reconstruction of a lawful nonconforming structure damaged by casualty. The policy does not carry a prohibition of the reconstruction of signs at this location as it does with respect to the corridor between Eureka and Arcata. The assertion that the finding is based on rules and regulations have not been adopted and do not carry the force of law is correct. Findings 5, 6 and 7, while having been discussed by the Planning Commission do not support denial of the request to reconstruct the non-conforming sign.

- EVIDENCE** d) In Finding 8 of Resolution No. 20-27, it was found that, “The Commission cannot make the finding that the project does not have significant effects on environmentally sensitive habitats as it is located within a wetland and would require some new development through the replacement or addition of posts.” Through review of historical aerial photographs, it has been documented that the damaged billboard is a lawful non-conforming use and structure. Nonconforming uses and structures are a unique category of development granted special considerations under sections 313-131 and 313-132 of the HCC. The structure has been present at the site for over 60 years and the condition and integrity of the underlying Environmentally Sensitive Habitats (ESHA) indicates that co-existence with the sign footings is possible. No heavy machinery will be used during repair of the sign, and the applicant will reuse as much of the existing structure, foundation and posts as is safely feasible. For these reasons, repair and reconstruction of this lawful nonconforming sign is unlikely to result in adverse effects to neighboring sensitive habitats beyond the environmental baseline of the site. Minimizing the number of new footings and associated ground disturbance while avoiding the use of heavy equipment are measures that help avoid potential short-term impacts within sensitive habitats. Concern was expressed that the use of treated wood may have the potential to release chemicals into the environment, but the applicant’s proposal precludes the use of treated wood. To date there have been no comments made

or substantial evidence presented demonstrating that the proposed repair of the sign would result in significant effects on ESHA.

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

1. Adopts the findings contained herein; and
2. Determines that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to sections 15301 (Existing Facilities) and 15302 (Replacement or Reconstruction) as described above; and
3. 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; and
4. Approves the Appeal submitted by Allpoints Outdoor, Inc.; and
5. Approves the Special Permit subject to the conditions of approval contained in Attachment 1 of this Resolution.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on July 28, 2020, by the following vote:

Adopted on motion by Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_ and the following vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

\_\_\_\_\_, 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: \_\_\_\_\_, 2020

By \_\_\_\_\_ Deputy



## ATTACHMENT 1

### CONDITIONS OF APPROVAL

#### **APPROVAL OF THE SPECIAL PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE RELEASE OF THE BUILDING PERMIT AND INITIATION OF OPERATIONS.**

##### **Conditions of Approval:**

1. Prior to issuance of the building permit, the applicant shall provide the Planning Division with a copy of an Outdoor Advertising Permit issued by CalTrans for the reconstructed billboard.
2. The project is located adjacent to an access-controlled segment of US 101. If proposing to utilize Highway 101 to access the sign site during reconstruction and/or subsequent maintenance activities, permission shall first be secured from CalTrans through an encroachment permit or similar means.
3. Building permits are required for all improvements. All work done shall meet all currently applicable structural, electrical, plumbing and mechanical codes. Issuance of a building permit for the necessary improvements, or written documentation from the Building Department that no building permits are required shall satisfy this condition.
4. The applicant shall secure authorization from the California Coastal Commission prior to initiating any development activities, including ground disturbance, construction, or repairs/maintenance.
5. The project shall comply with the Flood Damage Prevention Ordinance (HCC 335-1), as necessary.
6. Prior to commencing any work, the applicant shall submit a Best Management Practices Plan for the review and approval by the Planning Director. The plan shall detail all anticipated construction activities and incorporate useful measures to minimize any potential adverse environmental effects. At minimum the plan shall include:
  - a. Details for the temporary storage and disposal of construction-related debris.
  - b. Methods for erosion and sediment control in areas where ground disturbance will occur.
  - c. Provisions for spill prevention and cleanup (if any gas-powered equipment will be utilized during construction activities at the site).
7. Prior to commencing any work, the applicant shall submit a Reconstruction Plan for review and approval by the Planning Director. Reconstruction must be performed on a like-for-like basis. The plan shall focus on re-use of as many of the original ground-based supporting members (posts and footings) from the existing structure as is safely

possible. Any footings not re-used must be safely decommissioned or removed, whichever is the least environmentally impactful option. Any new ground disturbing activities, posts, or structural components shall be within as close proximity to the existing structure's footings and footprint as is safely possible. The reconstruction plan shall include measures for avoiding any potential adverse environmental effects through minimization of all ground disturbance. At a minimum the plan shall include:

- Repair and reuse of existing footings and support posts wherever possible
  - Removal of posts where repair or reuse of footings or supports is not possible. Posts shall be removed only to the extent that potential adverse environmental effects are minimized to the greatest extent feasible.
  - Revegetation of areas where existing footings have been retired or removed. Revegetation shall occur using spoils from areas where excavation of new holes is required.
  - Sistering of new vertical support posts (or a similar method) where the existing footings retain integrity and damaged posts are broken off well above ground.
8. To the satisfaction of both CalTrans and the Planning & Building Department, evidence shall be provided verifying the location of the sign with respect to the eastern boundary of the nearby highway right-of-way. A survey may be required if determined necessary by either agency.
9. If the permit is denied or approved under a limited term requiring the eventual removal of the structure, the applicant shall submit a decommissioning plan for the review and approval of the Planning Director, within 90 days of the denial or permit expiration. Additional permits may be required through other agencies.

**Operational Restrictions:**

10. The sign shall be operated at all times in conformance with Section 314-87.3.3.1 of the Zoning Regulations. Sign copy shall be restricted and limited to avoid any movement that could distract motorists. No electronic or projection screens shall be permitted. No decals that shimmer, rotate, revolve, twirl, or move in the wind or by electronic means shall be permitted.
11. The sign shall be operated at all times in conformance with Section 314-87.3.3.2 of the Zoning Regulations. The sign shall not obstruct free and clear vision of motor vehicle operators, or obstruct the vision of, or be confused with any authorized traffic sign, signal or device, or which makes use of the words "stop," "danger," or any other word, phrase, symbol, or character in such manner as to interfere with, mislead or confuse motor vehicle operators.
12. The sign shall be operated at all times in conformance with Section 314-87.3.3.3 of the Zoning Regulations. No red, green or amber lights or illuminated signs shall be placed in such a position that they could be confused with any authorized traffic sign, signal or device.
13. No sign lighting is authorized.

**On-Going Requirements/Development Restrictions Which Must Continue to be Satisfied for the Life of the Project:**

14. The project shall be conducted consistent with the Project Description and Site Plan and other terms of this permit. Changes other than Minor Deviations authorized pursuant to Section 312-11.1 of the Humboldt County Code shall require modification of this permit.
15. During repair and reconstruction activities, new materials shall exclusively feature resistant lumber that has been structurally graded, such as Cedar, Redwood or similar woods that are naturally durable. Metal supports may be substituted where featuring similar durability. Use of pressure-treated wood is prohibited.

**Informational Notes:**

1. 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/permittee is ultimately responsible for ensuring compliance with this condition.**

2. Applicant is responsible for receiving all necessary permits and/or approvals from other state and local agencies.
3. This permit shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"); except where construction or use in reliance on this permit has commenced in compliance with these conditions and with authorization from the California Department of Housing and Community Development prior to such anniversary date. The period within which construction or use must be commenced may be extended as provided by Section 312-11.3 of the Humboldt County Code.