

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on November 10, 2020

Resolution No. \_\_\_\_-\_\_\_\_

Resolution of the Board of Supervisors of the County of Humboldt CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPTING A MITIGATED NEGATIVE DECLARATION, ADOPTING FINDINGS OF FACT, DENYING THE APPEAL FOR RECORD NO. PLN-2020-16689, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM WITH SUBSTITUTE MITIGATION MEASURES AND APPROVING THE HUMBOLDT COUNTY FAIR ASSOCIATION CONDITIONAL USE PERMIT, RECORD NO. PLN-2019-15519.

**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 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) with those described in Attachment 1 and the revised conditions of approval for the project (Attachment 2); 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

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

**1. FINDING:** **CEQA.** The Conditional Use Permit request and related modifications to the lease agreement (between the County of the Humboldt and the Humboldt County Fair Association) are discretionary in nature and constitute a “project” subject to compliance with the California Environmental Quality Act (“CEQA”). Substantial evidence supports the conclusion that there will be no significant adverse effects on the environment, based upon the Board’s independent judgment and analysis. A Mitigated Negative Declaration has been prepared and processed in compliance with the requirements of CEQA.

**EVIDENCE**

- a) The project has the potential to result in significant environmental impacts unless provisions are made to reduce the impacts. Project refinements and Mitigation Measures have been identified which reduce the impacts to a less than significant level. A Mitigated Negative Declaration (MND) was prepared for the project.
- b) Pursuant to Section 21091(b) of the Public Resources Code, the mitigated negative declaration was released for a 30-day public review period (State Clearinghouse Number 2020070478) beginning on July 27, 2020 and ending August 27, 2020.
- c) Pursuant to Section 15072(b)(1) of the CEQA Guidelines, on Sunday July 26, 2020 a public notice appeared in the Times Standard, a newspaper of general circulation for the area affected by the proposed project. The published notice included a description of the project and notification that during their meeting of September 3, 2020, the Humboldt County Planning

Commission would consider adopting a Mitigated Negative Declaration prepared for the project. The published notice included a deadline to provide comments ending on August 27, 2020.

- d) Tribal Historic Preservation Officers from the Wiyot Tribe and Bear River Band of the Rohnerville Rancheria declined the opportunity to request consultation pursuant to AB 52 and maintain that the project site has a low potential for hosting tribal cultural resources. Standard conditions concerning inadvertent discovery have been included in the Conditions of Approval for the project.
- e) The MND includes mitigation measures for potential impacts relating to Aesthetics, Noise, and Air Quality in the project vicinity. A total of ten (10) mitigation measures are detailed within the Mitigation, Monitoring, and Reporting Program (MMRP) and include: installation of a dense straw bale sound wall and use of a sound engineer during all concerts, requiring motorcycle racers utilize specialized exhaust systems that reduce noise and submit to noise testing prior to being cleared to compete, use of dust suppressants during windy conditions, control and monitoring of event-related nighttime lighting to prevent light spillage on neighboring properties, establishing CNEL noise limits of 63 decibels for racing and 73 decibels for concerts, agreeing to monitor and record noise levels during events and report to County staff within 30 days of each event as well as annually for 5 years. The MMRP also includes provisions for adaptive management and refinement of standard operating procedures to ensure operation of events conforms with established conditions of the permit and lease agreement.

**2. FINDING:**

The environmental setting (baseline) evaluated in the Initial Study considered the use of the Fairgrounds facility in the context of its historical use as a fair and event center. The Fairgrounds has well-established tenure for hosting large gatherings of people and that the site is used throughout the year by a wide assortment of activities and events including the events requested in the Conditional Use Permit. The proposed uses represent a minor change from the current environmental baseline for the site, in

terms of the number of events held annually, timing of events, and types of events.

**EVIDENCE**

- a) Section 15125(a)(1) of the CEQA Guidelines states: *“Where existing conditions change or fluctuate over time, and where necessary to provide the most accurate picture practically possible of the project’s impacts, a lead agency may define existing conditions by referencing historic conditions, or conditions expected when the project becomes operational, or both, that are supported with substantial evidence.”*
- b) A book titled “A History of the Humboldt County Fair – An Exhibition For All Times” includes detailed information about the county fair and fairgrounds history, compiled from transcriptions of local newspaper articles covering the fairgrounds site since its earliest days. Information in the book reveals that the first “fair” held in Ferndale occurred on October 11, 1870. The Ferndale Fairgrounds has hosted the Humboldt County Fair since 1896 and exclusively since 1922. Closer review of historical records reveals that the annual County Fair has been held across a wide assortment of dates, ranging from late July (1954, 1971) through the last week of September (1897, 1898, 1925), and most dates in between. Concerts and Motorsports events at the Fairgrounds have historic precedent –live outdoor concert events have occurred on at least nine (9) separate occasions during the last twenty-five (25) years. Newspaper information from both the Ferndale Enterprise and Humboldt Standard reveals the racetrack at the County Fairgrounds has been used for automotive racing events as far back as 1947.
- c) The Operations Plan provided by the applicant details that the facility operates year-round and hosts events that can range in duration from a few hours such as dinners and school events to multiple day events like the Humboldt County Fair, Dog Show, and Holiday Craft Events. Some of the other types of events include Fourth of July Fireworks displays, Circuses, Carnivals, Rodeos, Equestrian Events, Graduation, Concert/Dance Events, Cycling Events, Bingo, Weddings, Expos, Auctions, Logging Conferences, and Theatrical performances. The fairgrounds also have a history of use as a staging area, shelter, and headquarters for emergency services during flood and fire events such as the 1964 flood and recent wildfires.

- d) The MND includes a description and information of historical prior use of the fairgrounds for concerts and motorsports events. Inclusion of this information is necessary to provide the most accurate picture practicably possible of the project's impacts. This history also demonstrates that conditions at the site do change and fluctuate over time and that there are events which attract large numbers of people and generate significant noise for a limited time.

**3. FINDING:** The project description is accurate, stable, and finite

**EVIDENCE**

- a) In a letter dated September 1, 2020 signed by President of the Humboldt County Fair Association, the project applicant refined the project description by:
- limiting motorsports events to motorcycle racing only
  - reducing by 50% the maximum number of annual events
    - Up to five (5) concerts
    - Up to two (2) motorcycle racing events
  - clarifying each event would be 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.
- b) During the public hearing held on September 17, 2020, the President of HCFA confirmed HCFA had committed to the refinements to the project and enhanced monitoring described in the letter dated September 1, 2020.
- c) During their meeting on September 17, 2020, the Planning Commission voted unanimously in support of approving the Use Permit and adopting the Mitigated Negative Declaration, acknowledging and accepting the reduction in project scope and commitments agreed to by the applicant.

**4. FINDING:** The project description is stable and allowed the Planning Commission, the Board of Supervisors and the public understand the potential environmental effects and determine whether the mitigation measures proposed are adequate. Refinements have

been made to the project description reducing the number and types of events following preparation of and public review of the Mitigated Negative Declaration (MND) and these refinements do not require recirculation or revision of the MND.

- EVIDENCE**
- a) Refinements to the project description were approved by the Planning Commission on September 17, 2020 as described in the letter from the HCFA President (dated September 1, 2020), include reducing the number of concerts from up to ten to no more than five, and reducing the number of motorsport events from up to four events across various motorsports to up to two motorcycle races, thereby lessening the potential for environmental impacts. The impacts as described within the Mitigated Negative Declaration are thus more severe than the refined project would cause.
  - b) The refined project description does not create potential impacts not yet analyzed, require different analysis of project impacts, or change the conclusions reached in the MND.

- 5. FINDING:**
- The Initial Study/Mitigated Negative Declaration found that there would be No Impact to Biological Resources, cultural resources, energy, geology and soils, hydrology and water quality, land use and planning, mineral resources, population and housing, public services, recreation, and utilities, service systems, and wildfire.

- EVIDENCE**
- a) There are no biological resources that would be impacted on the site.
  - b) The proposed scope of the proposed project does not include any permanent physical changes to the site including the alteration of any existing buildings, earth disturbing construction, or any other activities that would have the potential to alter or damage any cultural resources.
  - c) The project involves increased use of an existing public facility designed with capacity to accommodate large-scale events there would not be potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation or Conflict with or obstruct a state or local plan for renewable energy or energy efficiency
  - d) The scope of this project does not include any grading or other earth disturbing activities that could result in an increase in soil

erosion or loss of topsoil, installation, or construction of any structures or other project elements that could be impacted or impact other sites as a result of geologic events/properties.

- e) There is no new development associated with this project that would affect water quality or hydrology.
- f) The project site is intended for these types of uses and would not divide an established community or conflict with any land use plan.
- g) The project would not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state or result in the loss of availability of a locally important mineral resource recover site delineated on a local general plan, specific plan, or other land use plan
- h) The project would allow several temporary events at a facility designed and intended to accommodate events and will not result in population growth or place added demands on housing supply.
- i) The proposed project in and of itself would not impact public services. The project site has a long record of being used for public gatherings and large events.
- j) The proposed project would not involve population growth or other such activities that would put significant additional pressures on area parks or recreational facilities.
- k) The Fairgrounds already receives water and sewer service through the City of Ferndale. The complex also is developed with storm water drainage, electricity, natural gas, and telephone communications facilities. These events would not require an expansion in capacity for any utility.
- 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.

**6. FINDING:**

The Initial Study/Mitigated Negative Declaration found that there would be a Less than Significant Impact to agriculture and forestry, greenhouse gas emissions, hazards and hazardous materials, transportation and traffic, tribal cultural resources, and mandatory

findings of significance.

**EVIDENCE**

- a) The IS/MND identified that parking would occur on land currently used for agricultural production and that it is not foreseen that any ag land will be converted to nonagricultural uses.
- b) The limited number of events associated with this project, will not have a significant increase in vehicles that would come to the existing fairgrounds, and the GHG emissions resulting from the project will not conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.
- c) The events proposed by this project would not result in any significant change in traffic, pedestrian thoroughfare, or other such activities in relation to the events that already occur at the Fairgrounds. As such, the project would not interfere with an adopted emergency response plan or emergency evacuation plan.
- d) At this time local guidance for evaluating VMT impacts is still in draft form and no localized thresholds of significance exist. The fairgrounds is located within 35 miles of the major population centers of the county (Blue Lake, McKinleyville, Arcata-Eureka, Fortuna and Rio Dell –with Eureka and Fortuna being much closer). It is also more conveniently situated to residents in the southern and eastern portions of the county. Trips to the County Fairgrounds from these communities range from 11 miles shorter to over 20 miles shorter than trips to the next closest venue of similar size (the Redwood Acres facility in Eureka). Whereas, to attendees from communities north of Ferndale, the difference in trip length between Redwood Acres in Eureka and the Ferndale Fairgrounds is typically 17 miles. The benefit in reduced miles traveled by attendees from communities in southern and eastern portions of the county combined with increased potential for carpooling by residents from more densely populated communities to the north is in keeping with general principles for VMT reduction, whereby facilities are located in close proximity to the populations they serve.
- e) It is not expected that any impact on tribal cultural resources will occur due to the lack of grading or improvements associated with the project.
- f) As documented in the Initial Study, the project would not

substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; reduce the number or restrict the range of an endangered, rare, or threatened species; or eliminate important examples of the major periods of California history or prehistory

- 7. FINDING:** The Initial Study/Mitigated Negative Declaration found that there would be a Less than Significant Impact with the incorporation of mitigation to aesthetics, air quality, noise
- EVIDENCE**
- a) The potential use of lighting associated with events could create a new substantial source of light adversely impacting the surrounding area. Mitigation was incorporated to require that the temporary stage lighting be directed towards the ground and north of the stage at intensities low enough to prevent light spillage. This mitigation reduced the potential impact to a less than significant level.
  - b) Under dry and windy conditions, potential exists for creation and transport of fugitive dust. To combat this, a mitigation measure is included requiring the operator to periodically apply water or other dust suppressants to minimize the potential for dust to escape during flat track racing consistent.
  - c) Flat track racing and concerts have the potential to produce a significant volume of noise. Consistent with General Plan Standard N-S2 a noise study was prepared which identified that the noise produced by the event would fall into the unacceptable range without mitigation. Operational and physical improvements were identified as mitigation to reduce the impact to a less than significant level. In addition, the Humboldt County General Plan allows exceedances to noise standards for temporary events subject to approval of a Conditional Use Permit. The very temporary nature of these events being approved under this Conditional Use permit currently limited to 7 days per year further ensures that the level of impact is less than significant.
- 8. FINDING:** During the public review process, and in response to the appeal mitigation measures have been modified to address specific

questions. The Substitute mitigation measures are more effective than the mitigation measures contained in the Initial Study/Mitigated Negative Declaration circulated for public review and these substitute mitigation measures will not in themselves cause any potentially significant effect on the environment.

- EVIDENCE**
- a) Aesthetics mitigation measure AES-1 prohibiting light spillage onto adjacent parcels was revised to include specific monitoring steps to be taken including preparation of a lighting plan to be approved prior to each event, inspection of the lighting and an after event report to demonstrate the lighting plan was complied with.
  - b) Noise mitigation measure NOI-6 limiting the number of events was revised to lower the maximum number of motorcycle events from 5 to 2 and to specify that an event constitutes a single day.
  - c) Noise mitigation measure NOI-8 was revised to clarify the follow up reporting requirements.

- 9. FINDING:** The appellant's claim that the Initial Study/Mitigated Negative Declaration inadequately addresses impacts is specious and the Board finds that the Mitigated Negative Declaration does adequately address the potential environmental impacts of adding up to seven special events per year to the activities at the existing fairgrounds.

- EVIDENCE**
- a) Aesthetics. The appellant argues that the Aesthetic mitigation measure does not have an enforcement mechanism. The enforcement mechanism is the Conditional Use Permit which can be revoked if violations occur and are not corrected. In order to ensure that there is no light spill over onto adjacent properties the mitigation measure has been modified to include monitoring provisions to require prior approval of a lighting plan, monitoring and follow up reporting.
  - b) Air Quality. The appellant argues that the analysis of air quality does not address vehicular emissions on sensitive receptors or generation of PM10. There is no evidence to suggest that vehicle exhaust and dust from motorsports events will generate significant levels of air quality pollutants. With only two motorsports events occurring annually, occurring on two days it is highly unlikely that resulting emissions would exceed a local air quality threshold.

Through use of water and similar dust suppressants, Mitigation Measure AQ-1 is intended to help reduce the potential for creating fugitive dust where motorcycle racing events occur during windy conditions. Motorcycle events have the potential to generate dust and thus PM10, just as vehicular operation on an unpaved road or during construction activities. Putting water or other dust suppressants on unpaved road, or exposed soil surfaces during construction is a best management practice for controlling dust.

- c) Energy. The appellant argues that the motorcycle events would consume a substantial amount of fuel during motorcycle events. The initial study considered a limited number of events, which was further reduced in the action by the Planning Commission. Two events totaling two days per year at a small venue in a rural County will not attract enough participants to consume a substantial amount of fuel.
- d) Greenhouse Gas Emissions. The appellant argues the IS/MND's analysis of greenhouse gas (GHG) emissions underestimates the range of sources of potential GHG emissions created by the project as it does not quantify GHG production from motorcycles, delivery trucks, band transportation, traffic, and generators operating during events. The site has an established record of hosting events and is well equipped to do so. The project would allow 7 additional events per year which is a very small incremental increase in activity at the site. The maximum number of people at an event would be 5,000 people, but the typical event is not expected to be this large.
- e) Hazards and Hazardous Substances. The appellant argues the IS/MND summarily concludes that the Project does not involve the emission or handling of hazardous materials and substances within one-quarter mile of an existing school, even though the Fairgrounds are located adjacent to Ferndale High School. The dirt racetrack has a history of prior use for motorsports events, and continues to host tractors, trucks, and other vehicles during horseracing events at the County Fair. Like many other aspects of racing, refueling of motorcycles is tightly regulated and is only permitted in specific designated "pit" areas. Spill prevention and cleanup is regulated by the Humboldt Certified Unified Program Agency (CUPA). While petroleum and oil products, including fuel, solvents, transmission fluids, two-stroke oil, and motor oil can be expected to be present during racing events, all of these materials can already be found

within ¼-mile of the project site (within the parking lot of Ferndale High School and neighboring areas) and are therefore not unique to the project. The use and handling of these materials does not pose a hazard to the school or residents in the area.

- f) Land Use and Zoning. The appellant argues that the IS/MND does not adequately address land use and zoning because the use does not comply with the Ferndale Zoning Ordinance or comply with County General Plan Standards. As discussed within the IS/MND and these findings, the project complies with applicable policy and regulations found in the relevant provisions of the Humboldt County General Plan and is consistent with the public use of this facility. The appellant cites noise policies from the General plan, including: N-G1, N-P1, N-P2, N-P4, and N-S3. These policies all relate to establishment of land use compatibility and do not address the circumstance of using a fairground facility to host short duration events that are of interest to the public. The findings for noise above discussing the mitigation correctly identify the appropriate General Plan Policies.

The appellant then cites Economic Development Goal ED-G4, and Conservation and Open Space goals and policies CO-G6, CO-P6, CO-P8 that relate to the county collaborating with the cities to enhance common assets and resolve common obstacle and providing open space and recreational opportunities. These goals and policies are not applicable to this project and an analysis of this is unwarranted.

- g) Noise. The appellant argues the IS/MND's noise studies do not fully account for the full range of noise generated by the events and, furthermore, the mitigation measures are inadequate to reduce noise levels below the applicable thresholds of significance. As discussed above, with mitigation incorporated, the proposed project will have a less than significance impact on Noise. The following factors are important to understand the noise impact conclusions:
- i) The Noise Element includes an inventory of prominent noise sources and identifies the County Fairgrounds as a stationary noise source for the Ferndale Community.
  - ii) The Noise Element contains compatibility standards for both long-term and short-term noise sources. Given the temporary and periodic nature of the events proposed, use of the performance standards for short-term noise is appropriate.

- iii) Given the limited number of motorsports events and venue characteristics that are needed to host events of this sort, the project is a good candidate for considering an exception to the general plan short term noise standards.
  - iv) The IS/MND includes several mitigation measures designed to minimize impacts from event-related noise on neighboring properties.
  - v) 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.
  - vi) 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.
  - vii) There are a total of 7 events being added to a facility that is designed and used for major events of this magnitude.
- h) Public Services. The Friends of Ferndale believe that the Project will very likely result in an increased demand for fire and police services. The IS/MND identified the project would have no impact on public services. When the project was circulated for public review, no comments were received from police or fire agencies indicating the project would have an adverse effect on police or fire services. If police and fire agencies do not comment, it is because they do not have a concern. The Operations Plan provided by the applicant includes a coordination protocol that is used for events at the site which will continue to be used which allows the public safety agencies to identify concerns and work with event staff to address any event specific concerns.
- i) Transportation/Traffic. The appellant takes issue with the Vehicles Miles Traveled (VMT) analysis provided in the IS/MND. CEQA Guidelines section 15064.3(b(3)) allows a Qualitative Analysis of VMT if existing models or methods are not available. This is the current situation in Humboldt County. The Qualitative Analysis may evaluate factors including proximity to other destinations. This is the approach taken in the IS/MND identifying that the fairgrounds are centrally located within the county. The fairgrounds have been in their current location since the early 1900's and thus are located to reduce the number of miles that people had to travel prior to the automobile being a universal mode of transportation.

- j) MANDATORY FINDINGS OF SIGNIFICANCE The appellant argues, the Project may have impacts that are individually limited but cumulatively considerable, meaning that incremental effects of the Project are considerable when viewed in connection with the effects of past projects, other current projects, and probable future projects and as a result the IS/MND must consider the impacts of the additional music and motorsports events held at the Fairgrounds in conjunction with the other events historically held at the Fairgrounds (including sporting events and practices on the infield track) throughout the year and the annual County Fair in August and September.. The appellant is confusing cumulative impacts with baseline. The project includes operation of events at a facility already used year-round for this purpose. The Fairgrounds is the largest event venue in the Humboldt County, and has a record of hosting many similar Motorsports and Concert events during its 100+ year history. It is both capable and customary for the venue to host events of this sort. The new events anticipated will not occur during the annual fair. Similar events would be allowed and considered part of the fair if conducted as part of the annual fair. Use of the baseball fields (located inside the perimeter of the racetrack) for sporting events or practices is unlikely to occur simultaneously during concert or motorsports events.

**10. FINDING:** The IS/MND does not require recirculation.

- EVIDENCE**
- a) The MND has not required substantial revision. CEQA Guidelines section 15073.5 define “substantial revision” as (1) A new, avoidable significant effect identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required. No new impacts have been identified that require mitigation and the mitigation measures as modified are sufficient to reduce potential impacts to a less than significant level.
- b) CEQA Guidelines section 15073.5 states: Recirculation is not required when: (1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1. (2) New project revisions are added in response to written or verbal comments on the project’s effects identified in the proposed

negative declaration which are not new avoidable significant effects. (3) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect. (4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration. Mitigation measures have been supplemented to clarify their implementation, but do not address new impacts or result in new impacts.

**11. FINDING:**

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. 4<sup>th</sup> 778 (1992), found 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).
- b) 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.

- c) As is demonstrated 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 contemplated 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.

**12. FINDING:** The proposed development is in conformance with the County General Plan, Open Space Plan, and Open Space Action Program.

**EVIDENCE** a) This is land owned by the County and has been used as the fairgrounds and for other events for over 100 years. The proposed uses are consistent with the purpose of this facility and reflected by the General Plan and Zoning maps for the City of Ferndale that designate the county-owned lands of the fairgrounds complex planned and zoned “Public Facilities” (P-F). 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. Primary and compatible uses include “Auditoriums” and “Public Fairgrounds *and related uses*”. Use of the fairgrounds for motorsports and concert events may be considered “*related uses*” since each are not without precedent at the site and at similar facilities regionally and locally, including the Redwood Acres Facility in Eureka and Del Norte County Fairgrounds.

**13. FINDING:** The proposed development conforms with all applicable standards and requirements of the County Zoning ordinance.

**EVIDENCE** a) 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.

14. **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 property or improvements in the vicinity.

- EVIDENCE**
- a) The project involves a request to authorize use of a public facility (the Humboldt County Fairgrounds) for land uses that are consistent with the original purpose of the site. Concerts and Motorsports events at the Fairgrounds are not without historic precedent.
  - b) Noise from the 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, collection of community feedback, and adjustment as needed.
  - c) Considering the balance of the temporary and periodic nature of the proposed activities, historical use of the site, local noise thresholds, mitigation measures included, and project monitoring requirements, it is clear that the project can be implemented without creating a potential long-term nuisance to surrounding land uses of the environmental setting.

**15. 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.

**16. FINDING:** The Board of Supervisors finds there is no merit in the appeal of the Planning Commission's approval of the project, as the decision was made in accordance with the standards and regulations of the zoning ordinances and was not made in error or through an abuse of discretion. As discussed in the findings above and evidence below, the grounds for the appeal are not adequate to warrant granting the appeal.

**EVIDENCE** a) During consideration of the Conditional Use Permit, of the Planning Commission considered the concerns expressed by the public relative to noise and determined that noise from temporary events should be expected at a facility used for public events.

b) The appellants have failed to provide evidence demonstrating that the Planning Commission's decision to approve the project was made in error or through an abuse of discretion.

c) The Appellants claim the project improperly relies on a mitigated negative declaration when there is a fair argument that the project will result in significant environmental impacts related to Aesthetics, Air Quality, GHG, Hazards and Hazardous Substances, Land Use and Planning, Noise, Public Services, and Transportation/Traffic.

Because the project is determined to be a project under CEQA the "fair argument" legal standard does apply. Appellants point to the comments provided by the appellant to assert that the project would create significant adverse impacts requiring preparation of an Environmental Impact Report. As stated in the findings above the impacts being identified are not have been adequately addressed have been addressed and the impacts are less than significant.

Public opposition to a project is not an environmental impact. As

stated in CEQA section 21082.2(b): *The existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment.* Section 15064(f)(5) of the CEQA Guidelines further states that “*Argument, speculation, unsubstantiated opinion or narrative... shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions based upon facts, and expert opinion supported by facts.*” The appellant has not provided substantial evidence that the project may result in a significant adverse impact that would rise to the level of a fair argument.

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

1. Adopts the findings contained herein; and
2. Adopts the Mitigated Negative Declaration,
3. Approves the mitigation monitoring and reporting program contained in Attachment 1 of this Resolution; and
4. Denies the Appeal submitted by Friends of Ferndale for a Livable Community; and
5. Approves the Use Permit subject to the 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 Determination 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 November 10, 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

SUBSTITUTE MITIGATION MEASURES

#	ORIGINAL MITIGATION MEASURE	SUBSTITUTE MITIGATION MEASURE
MITIGATION MEASURE #1	AES-1: Temporary stage lighting used during events will be directed towards the ground and north of the stage at intensities low enough to prevent light spillage (illumination of adjacent parcels). To insure that all lighting conforms to this standard, Humboldt County Fair Association staff shall reviewing the temporary lighting design for each music event.	AES-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.
MITIGATION MEASURE #8	NOI-6: A maximum of four (4) motorsports events will be held each year. Only one (1) motorsport event will occur featuring Monster Trucks.	NOI-6: A maximum of two (2) motorcycle racing events may be held each year. Each "event" shall occur within the course of a single day.

<p>MITIGATION MEASURE #10</p>	<p>NOI-8: Annual Reporting Requirement/Adaptive Management Program.</p> <p><i>Note: HCFA need only submit documentation showing that events have been successfully operated in conformance with all mitigation measures, operational restrictions, and conditions of project approval during two (2) successive instances for each of the following event types:</i></p> <ul style="list-style-type: none"> <li>• <i>Concerts</i></li> <li>• <i>Motorcycle Racing</i></li> <li>• <i>Monster Trucks/Tractor Pulling</i></li> </ul> <p><i>The Director of Planning &amp; 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.</i></p>	<p>NOI-8: Annual Reporting Requirement/Adaptive Management Program.</p> <p><i>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.</i></p> <p><i>The Director of Planning &amp; 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.</i></p>
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## Attachment 2

### Conditions of Approval

Approval of the Conditional Use Permit 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.

<b>Timing for Implementation/Compliance:</b> prior to and during each event
<b>Person/Agency Responsible for Monitoring:</b> Applicant / Humboldt County Planning & Building Department (HCP&BD)
<b>Monitoring Frequency:</b> To be confirmed during review of annual report submitted to HCP&BD.
<b>Evidence of Compliance:</b> 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.

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

3. Concerts and Motorsports events shall end no later than 10pm.

<b>Timing for Implementation/Compliance:</b> on-going
<b>Person/Agency Responsible for Monitoring:</b> Applicant / Humboldt County Planning & Building Department (HCP&BD)
<b>Monitoring Frequency:</b> Each event
<b>Evidence of Compliance:</b> 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 90 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.

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

5. 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 using the current testing procedure found in the 2020 American Flat Track Association Rulebook (Appendix D). Noise from each motorcycle must be at or below 90 decibels. To best insure 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.

<b>Timing for Implementation/Compliance:</b> prior to each event
<b>Person/Agency Responsible for Monitoring:</b> Applicant & all flat track event operators
<b>Monitoring Frequency:</b> Each event.
<b>Evidence of Compliance:</b> 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.

<b>Timing for Implementation/Compliance:</b> prior to each event
<b>Person/Agency Responsible for Monitoring:</b> Applicant / Humboldt County Planning & Building Department (HCP&BD)
<b>Monitoring Frequency:</b> Each event.
<b>Evidence of Compliance:</b> 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 not 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

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

8. A maximum of five (5) concerts and two (2) motorcycle racing events may be held each year. Each "event" shall occur within the course of a single day. Other types of motorsports events are prohibited, including (but not limited to): Tractor Pulls, 4x4 Trucks, Go Carts, and Monster Trucks.

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

9. 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

<b>Timing for Implementation/Compliance:</b> during events/on-going
<b>Person/Agency Responsible for Monitoring:</b> Applicant / Humboldt County Planning & Building Department (HCP&BD)
<b>Monitoring Frequency:</b> 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.

<b>Timing for Implementation/Compliance:</b> prior to December 31 <sup>st</sup> of each year events are held.
<b>Person/Agency Responsible for Monitoring:</b> Applicant / Humboldt County Planning & Building Department (HCP&BD)
<b>Monitoring Frequency:</b> Annually for five (5) years or until waived by the Director of Planning & Building.
<b>Evidence of Compliance:</b> 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 the all terms of this permit. Terms include all conditions of approval and mitigation measures applied or committed to during project approval.

<b>Timing for Implementation/Compliance:</b> prior to holding or scheduling any events.
<b>Person/Agency Responsible for Monitoring:</b> Applicant / Humboldt County Planning & Building Department (HCP&BD)
<b>Monitoring Frequency:</b> Lease should be provided periodically to the Humboldt County Planning Building Department, as amended.
<b>Evidence of Compliance:</b> 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 14<sup>th</sup> 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.

<b>Timing for Implementation/Compliance:</b> prior to February 14 <sup>th</sup> of each year.
<b>Person/Agency Responsible for Monitoring:</b> Applicant / Humboldt County Planning & Building Department (HCP&BD)
<b>Monitoring Frequency:</b> Annually
<b>Evidence of Compliance:</b> 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](http://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.

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

**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.