



STAFF REPORT	
SUBJECT: Appeal (APCC 2023-01) – KOI Nation of Northern California is appealing the Planning Commission’s decision of April 25 th , 2023 for the approval of the Burns Valley Development Project.	MEETING DATE: June 7th, 2023
SUBMITTED BY: Community Development Department – Planning	
PURPOSE OF REPORT: <input type="checkbox"/> Information only <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Action Item	

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The appellant, KOI Nation of Northern California is appealing the Planning Commission’s decision of April 25th, 2023, for the approval of the Environmental Analysis (CEQA IS 2022-05) in accordance with the California Environmental Quality Act and Conditional Use Permit (CUP 2022-16) for the Burns Valley Development Project located at 14885 Burns Valley Road, Clearlake, CA 95422 further described as Assessor’s Parcel Number 010-026-40.

BACKGROUND/DISCUSSION

The project parcel is approximately 25.46 acres in size and located in the Burns Valley Area, north of Olympic Drive and South of Burns Valley Drive, behind the Safeway Shopping Center. The Burns Valley Development Project includes but is not limited:

One full size baseball field	Multi-Sport Field (i.e., Soccer, etc.)	ADA Accessible Playground
One little league baseball field	Dugouts, Batting/Pitching area	Four Permeable Walkable Areas
One T-Ball Field	Fitness Equipment Area	Native Plant Demonstration Area
One Softball Field	Central Gathering/Picnic Areas	Recreation Facility

Recreation Facility: The project would involve the development of a 15,000 to 20,000 square foot recreation center building to be used for public events and activities. This building would contain sports features, such as basketball and volleyball courts.

Access/Parking: The project would be accessible from Olympic Drive and Burns Valley Road. There would be approximately 334 parking spaces throughout the development. Additional improvements would include sidewalks, fencing, lighting features, sport field protective netting and restroom facilities. All sport fields will include lighting to allow for night operations.

ENVIRONMENTAL DETERMINATION:

Pursuant to California Environmental Quality Act (CEQA) Guidelines, staff prepared an Initial Study (*Mitigated Negative Declaration based on Initial Study, IS 2022-05*) to assess the potential adverse environmental effects of the proposed Project. The study concludes that any potentially significant adverse environmental impacts from the project would be reduced to a level of non-significance with the incorporated Mitigation Measures and Conditions of Approval.

Additional mitigation measures have been added to reconfirm the protocols for avoidance and capping of the sensitive sites. These mitigation measures do not create new significant environmental effects and are not

necessary to mitigate an avoidable significant effect. Thus, pursuant to CEQA Guidelines Section 15073.5, of CEQA Guidelines, recirculation of the MND is not required.

The Mitigated Negative Declaration based on Initial Study, IS 2022-05, were noticed and circulated in accordance with California Environmental Quality Act (CEQA), and in compliance with Section 15070-15075 of the CEQA State Guidelines, by:

- ❖ *Circulation of the Notice of Intent (NOI) for the environmental analysis/proposed Mitigated Negative Declaration (CEQA Initial Study, IS 2022-05) was published in the Lake County Record Bee and sent to the State Clearinghouse; Various Federal, State, and local agencies/organizations for the minimum of a 30-day commenting period from July 19th, 2022, through August 19th, 2022. The document was also uploaded onto the City's Website and made available upon request. The following agencies commented on the project during the appropriate review period.*
 - *Lake County Fire Protection District dated July 20th, 2022.*
 - *Lake County Environmental Health Department dated July 22nd, 2022.*
 - *California Department of Transportation dated August 2nd, 2022.*
 - *Requested a copy of the Traffic Analysis on August 2, 2022, and on August 4, 2022, a copy was emailed to Caltrans for their review. No further comments were received from Caltrans.*
 - *Lake County Special Districts dated August 9th, 2022.*
 - *Central Valley Regional Water Quality Control Board dated August 19th, 2022.*
 - *Koi Nation of Northern California dated September 2nd, 2022.*
- ❖ *A Notice of Intent (NOI) was mailed (via USPS) to the surrounding parcels owners within 300 feet of the subject property informing them of the City's decision to adopt a Mitigated Negative Declaration for the proposed use and that there is a 30-day commenting period on the environmental document from July 19th, 2022, through August 19th, 2022.*
 - *The city did not receive any comments from the public.*

TRIBAL CONSULTATION SUMMARY:

In receipt of the Koi Nation of Northern California comments dated September 2, 2023, the city met with tribal representatives on October 12th and 20th, 2022 and subsequently exchanged ideas, comments, and information. During the consultation process, the city revised the Mitigated Negative Declarations Tribal/Cultural Mitigation Measures, in coordination with the tribe. The revised Mitigation Measures are as follows:

- *TCR-1: Requirement to develop a tribal cultural resources preservation plan that delineates the boundary of CCL-21-01 and CCL-21-02, describes the appropriate combination of materials and culturally sterile fill in capping, provides landscaping specifications that favor culturally important plants, and restricts certain types of post-project activities in or on the cap.*
- *TCR-2: Requirement to designate a project reburial area in advance of ground disturbing activities in the event that materials are discovered during construction.*
- *TCR-3: Requirement for contractors to receive meaningful training on cultural sensitivity and tribal cultural resources from a tribal representative.*
- *TCR-4: Requirement for tribal monitoring during ground disturbing activities in sensitive areas of the project area.*
- *TCR-5: Procedures for compliance with existing state law in the event of the discovery of human remains during construction.*
- *TCR-6: A prohibition on the removal of cultural soils from the project area.*

The city has maintained consultation since September 2022, which resulted in significant modifications to the mitigation measures, and the design of the project was carried out in good faith with reasonable effort. As indicated in the letter dated March 21, 2023, to tribal representatives, the city formally concluded tribal consultation under CEQA and AB 52 per Section 21080.3.2(b)(2) of the Government Code.

OPTIONS:

1. Move to Adopt Resolution 2023-03, A Resolution of the City Council of the City of Clearlake denying Appeal Application, APCC 2023-01 and upholding the Planning decisions of April 25th, 2023, approving the referenced projects.
2. Move to Adopt Resolution 2023-03, A Resolution of the City Council of the City of Clearlake approving the Appeal Application, APCC 2023-01 and denying the referenced projects.
3. Move to continue the item and provide alternate direction to staff.

Attachments:

- 1) Resolution 2023- 03 with Conditions of Approval
- 2) Appeal Application Packet dated May 4th, 2023.
- 3) Staff Report Packet from April 25, 2023, PC Meeting
- 4) Proposed Concept Master Plan
- 5) Amended CEQA Initial Study, IS 2022-05 (Approved by PC)
- 6) CEQA Attachments "A through G"
- 7) Geotechnical Report
- 8) Agency Comments
- 9) Public Comment
- 10) Mitigation Monitoring Reporting Program (MMRP)
- 11) Tribal Consultation Conclusion Letter