

RESOLUTION NO. 2023-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE, CALIFORNIA DENYING APPEAL APCC 2022-01 AND UPHOLDING THE PLANNING COMMISSION APPROVAL OF DECEMBER 13th, 2022 ADOPTING MITIGATED NEGATIVE DECLARATION (BASED ON ENVIRONMENTAL ANALYSIS - INITIAL STUDY, IS 2022-06) AND CONDITIONAL USE PERMIT, CUP 2022-02 AND DESIGN REVIEW 2022-02 FOR THE DEVELOPMENT AND OPERATION OF A HOTEL WITH MEETING HALL/EVENT CENTER AND THE EXTENSION OF 18TH AVENUE LOCATED AT 6356 ARMIJO AVENUE, CLEARLAKE, CALIFORNIA, APN: 042-121-25.

WHEREAS, Matt Patel, of MLI Associates, Inc., (*Owner/Developer/Operator*), applied for approval of a Mitigated Negative Declaration (Based on Environmental Analysis, IS 2022-06) and Conditional Use Permit (CUP 2022-02) and Design Review, (DR 2022-02) for the development and operation +/- 75 Bedroom hotel with meeting hall/event center, onsite sales and consumptions of alcoholic beverages on 2.8 acres located at 6356 Armijo Avenue Clearlake, CA 95422 further described as APN: 042-121-25, and;

WHEREAS, Appeal Application APCC 2022-01, filed by Kronick Moskovitz Tiedemann & Girard, representatives of the KOI Nation contesting the determination of the Planning Commission approval on December 13th, 2022 of a Mitigated Negative Declaration (Based on Environmental Analysis, IS 2022-06) and Conditional Use Permit (CUP 2022-02) and Design Review, (DR 2022-02) for the development and operation +/- 75 Bedroom Hotel with meeting hall/event center, onsite sales and consumptions of alcoholic beverages, and;

WHEREAS, the appeal and conditional use permit application has been processed in accordance with the City's Environmental Review Guidelines; and

WHEREAS, adequate public noticing was made for the project in accordance with Section 18-28.030 the Municipal Code; and;

WHEREAS, the City Council has considered this project, the staff report, public testimony, on this date (February 2nd, 2023) at a duly noticed public hearing, and found that the project is compatible with the surrounding area, and will not be detrimental to adjacent property owners or the public at large, and approval of the Administrative Use Permit is in the public interest; and;

WHEREAS, although not part of the conditional use and design review applications which apply only to the hotel project, the environmental document for the hotel project includes construction of extending 18th Avenue from Old Highway 53 to New Highway 53 that provides critical access to the hotel, is considered as part of the overall project; and;

WHEREAS, the project is located within the General Commercial (GC) Land Use Zoning District, and per Table 5 of Chapter 18-18.030 (*Commercial, Recreation and Amusement Uses*) of the Zoning Ordinance "Hotels/Motels" is an allowed use by right, and;

WHEREAS, the zoning designation is "GC" General Commercial. As conditioned, the proposed use would be consistent with the allowable uses in the GC Zoning Designation; and;

WHEREAS, the General Plan Designates the project site as "GC" General Commercial. As conditioned, the proposed use would be consistent with the General Plan; and;

WHEREAS, the project is found to comply with the Zoning Codes as conditioned (*Refer to Enclosed Exhibit A*) by this use permit; and

WHEREAS, the Conditional Use Permit, CUP 2022-02 would allow the onsite sales and consumption of Alcoholic Beverages associated with hotel and event operations; Event Facility, Banquet Hall/Dance Hall/Lodge; Special Events and/or Public Assemblies, and Outdoor Recreation, Pursuant to Section 18.18.030 of the City Municipal Code; and

WHEREAS, in accordance with Section 18.14.445 (b) of the Zoning Code the use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to the property, improvements or potential development in the vicinity with respect to aspects including, but not limited to, the following:

- (a) *The nature of the proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures.*
- (b) *The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic and the adequacy of proposed off-street parking and loading.*
- (c) *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;*
- (d) *Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking areas, loading areas, service areas, lighting, and signs; and*

WHEREAS, in accordance with Section 18-19.110 (D) of the Zoning Code the City Council finds that alcoholic beverage sales and consumption on the site complies with the criteria for approval of this use permit; and

WHEREAS, in accordance with Section 18-09.020-c of the Zoning Code, the City Council has reviewed the height of the proposed, approximately 50 foot tall, hotel building as part Conditional Use Permit CUP 2022-02 and has approved this height; and maximum building height in this district is 35 feet and up to 50 feet with a conditional use permit; Plans show a four-story hotel building that is approaching 50 feet in height; and

WHEREAS, in accordance with Section 18-20.090 (C) of the Zoning Code the City Council approves a reduction in the number of parking spaces from 113 to 109 spaces due to the project's mixed use and resulting shared parking demand; and

WHEREAS, the project is consisting with the provisions of Chapter 18-33, Design Review, of the City Municipal Code; and

WHEREAS, the project underwent environmental review (Initial Study, IS 2022-06) subject to the California State Environmental Quality Act (CEQA) Guidelines, and a Mitigated Negative Declaration has been prepared, and adopted; and as evidenced by the following:

1. The initial study and Mitigated Negative Declaration were properly noticed and circulated in compliance with the California Environmental Quality Act of 1970, 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 2022-06) 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 October 26th, 2022, through November 30th, 2022. The document was also uploaded onto the City's Website and made available upon request.*

- *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.*

WHEREAS, environmental review (Initial Study, IS 2022-06) was prepared in accordance with the California Environmental Quality Act (CEQA), which shows substantial evidence, in light of the whole record, that the project will not result in a significant environmental impact with the incorporated Mitigation Measures/Conditions of Approval and, hereby adopts a Mitigated Negative Declaration (MND) and authorizes staff to file a Notice of Determination in compliance with CEQA.

WHEREAS, if any section, division, sentence, clause, phrase, or portion of this resolution is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

WHEREAS, on December 13th, 2022, the Planning Commission of the City of Clearlake held a duly noticed public hearing at which interested persons had the opportunity to testify and at which the Planning Commission considered the proposed development; and

WHEREAS, adequate public noticing was made for the project in accordance with the Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Clearlake that Appeal Application APCC 2022-01 contesting the Planning Commission's decision of December 13th, 2022, is hereby **denied** and Conditional Use Permit Application CUP 2022-02, Design Review, DR 2022-02, corresponding environmental assessment/Mitigated Negative Declaration IS 2022-06 is approved.

PASSED AND ADOPTED on this **2nd day of February 2023**, by the following vote:

Mayor – City of Clearlake

ATTEST:

City Clerk, City Council

EXHIBIT A

City of Clearlake
Conditions of Approval
Conditional Use Permit, CUP 2022-02
Design Review, DR 2022-02

Initial Study, IS 2022-06

Pursuant to the approval of the Clearlake Planning Commission on December 13th, 2022 and the City Council on February 2nd, 2023 there is hereby granted to Matt Patel of MLI Associates, Inc., a Conditional Use Permit (CUP 2022-02), Design Review (DR 2022-02) and corresponding environmental analysis (CEQA Initial Study, IS 2022-06) with the following conditions of approval and related mitigation measures to authorize the development and operation of a Hotel with meeting hall/event center and the extension of 18th Avenue located at 6356 Armijo Avenue Clearlake, CA 95422 further described as APN: 042-121-25 is subject to the following terms and conditions of approval (excluding the extension of 18th Avenue between Old Highway 53 and New Highway 53).

SECTION A: GENERAL CONDITIONS:

- A-1. The use hereby permitted shall substantially conform to the Site Plan(s), and Project Description and any conditions of approval imposed by the above Conditional Use Permit as shown on the approved site plan for this action dated December 13th, 2022.
- A-2. Prior to operation, the permit holder shall meet and operate in full compliance with fire safety rules and regulations of the Lake County Fire District.
- A-3. Prior to operation and/or development, the applicant shall secure and maintain all required permits from the City of Clearlake (*Community Development Department, Building Department, Planning, Police Department and Public Works*), Lake County Fire Protection District, Lake County Air Quality Management District, Lake County Water Resources Department, Lake County Environmental Health Department, Lake County Special Districts, local water district and/or all applicable Federal, State and local agency permits. *If said permit is from another agency other than the City of Clearlake, the applicant shall submit a copy of the permit(s) to verify they have fulfilled this requirement.*
- A-4. Prior to Operation of the hotel and/or related facilities, the applicant shall apply and obtain a Business License from the City of Clearlake. Said application may be applied for and obtained through the City's Online Portal Application System.
- A-5. The applicant shall always retain a copy of the approved conditions of approval on premises.
- A-6. The operation shall not exceed the maximum occupancy as prescribed by the California Building Code.
- A-7. Any modifications and/or additions to a use requiring use permit approval shall itself be subject to use permit approval. The addition of an allowed use to a premise occupied by a conditionally allowed use shall require use permit approval of the type required for the existing use. The Community Development Director shall determine when such an addition and/or change is of such a minor or incidental nature that the intent of these regulations can be met without further use permit control.
- A-8. The operator shall be responsible to pay all sales, use, business and other applicable taxes, and all license, registration, and other fees and permits required under federal, state, and local laws.
- A-9. The applicant is responsible for ensuring that all project workers including third party vendors are informed of, understand, and agree to abide by the approved plans and project conditions.

- A-5. Prior to issuance of a building permit and/or commencing construction or as otherwise approved by the Community Development Director, the hotel project shall secure a water connection permit or other mechanism from Konocti county Water District that assures water availability and service will be provided to the hotel project prior to building occupancy.
- A-6. Prior to issuance of a building permit and/or commencing construction or otherwise approved by the Community Development Director, the hotel project shall secure a sewer connection permit from Lake County Special Districts that assures sewer access and service will be provided to the hotel project prior to building occupancy.
- A-7. All conditions are necessary to protect the general health, safety and welfare of the public. If any condition of this entitlement is held to be invalid by a court, the whole entitlement shall be invalid. The Director specifically declares that it would not have approved this entitlement unless all of the conditions herein are held as valid.
- A-8. The California Department of Fish & Wildlife filing fee shall be submitted as required by California Environmental Quality Act (CEQA) statute, Section 21089(b) and Fish and Game Code Section 711.4. The fee should be paid within five (5) days of approval of the mitigated negative declaration at the Lake County Clerk's Office. Once fees have been paid, the applicant shall submit a copy of all documentation to the City of Clearlake, verifying the fees have been paid. Said permit shall not become valid, vested or operative until the fee has been paid, including the issuance of any permits.

SECTION B. AESTHETICS:

- B-1. All graffiti shall be removed on any part of the property within 48 hours of its appearance.
- B-2. Prior to the issuance of development plans and/or building permits, a Final Lighting Design Plan shall be submitted to the City's Community Development Department for review and approval. All outdoor lighting shall be directed downwards and shielded onto the project site and not onto adjacent properties. All lighting shall comply and adhere to all federal, state and local agency requirements, including all requirements in darksky.org, in accordance with the City's Design Standards and Municipal Codes. *(Mitigation Measure AES-1)*
- B-3. Prior to issuance of a building permit and/or commencing construction the following shall be submitted for review and approval by the City:
- A Landscaping and Irrigation Plan that complies with the City's Landscaping Regulations and Design Standards. Landscaping and irrigation shall be installed in accordance with the approved plan prior to occupancy of the hotel, unless otherwise provided in the Municipal Code.
 - Trash and Recycling plan, including trash design that comply with the City's Design Standards. The trash and recycling plan shall be completed in accordance with the approved plan prior to hotel occupancy. Trash receptacles shall be located at convenient locations outside the establishment and operators of the business.

- B-4. Prior to issuance of an occupancy permit for the hotel portion of the project a Signage Program/Plan for shall be submitted for review and approval by the Community Development Department. The plan shall comply with the City's Sign Regulations. All signage shall be installed in accordance with the approved Program/Plan.
- B-5. Maximum building height for the hotel building shall be 50 feet in accordance with Section 18-09.020, Property Development Standards, of the Municipal Code.

SECTION C. AIR QUALITY:

- C-1. All refuse generated by the facility shall be stored in the approved disposal/storage containers, and appropriately covered. Removal of waste shall be on a weekly basis to avoid excess waste. All trash receptacles/containers shall always remain covered to prevent fugitive odors and rodent infestation.
- C-2. Prior to approval of any grading plans, the project applicant shall show on the plans via notation that the contractor shall ensure that the heavy-duty off-road vehicles (50 horsepower or more) to be used in the construction project, including owned, leased, and subcontractor vehicles, shall achieve a project wide fleet average 5.1 percent NO_x reduction compared to the year 2023 CARB fleet average. The 5.1 percent NO_x reduction may be achieved by requiring a combination of engine Tier 3 or Tier 4 off-road construction equipment or the use of hybrid, electric, or alternatively fueled equipment. For instance, the emissions presented in Table 4 were achieved by requiring all tractors/loaders/backhoes used for grading to be engine Tier 4. In addition, all off-road equipment operating at the construction site must be maintained in proper working condition according to manufacturer's specifications. Idling shall be limited to 5 minutes or less in accordance with the Off-Road Diesel Fueled Fleet Regulation as required by CARB. Clear signage regarding idling restrictions should be placed at the entrances to the construction site. (Mitigation Measure AQ-1)
- C-3. Portable equipment over 50 horsepower must have either a valid District Permit to Operate (PTO) or a valid statewide Portable Equipment Registration Program (PERP) placard and sticker issued by CARB. (Mitigation Measure AQ-2)
- C-4. Construction activities shall be conducted with adequate dust suppression methods, including watering during grading and construction activities to limit the generation of fugitive dust or other methods approved by the Lake County Air Quality Management District. Prior to initiating soil removing activities for construction purposes, the applicant shall pre-wet affected areas with at least 0.5 gallons of water per square yard of ground area to control dust. (Mitigation Measure AQ-3)
- C-5. Driveways, access roads and parking areas shall be surfaced in a manner so as to minimize dust. The applicant shall obtain all necessary encroachment permits for any work within the right-of-way. All improvement shall adhere to all applicable federal, State and local agency requirements. (Mitigation Measure AQ-4)
- C-6. Any disposal of vegetation removed as a result of lot clearing shall be lawfully disposed of, preferably by chipping and composting, or as authorized by the Lake County Air Quality Management District and the Lake County Fire Protection District. (Mitigation Measure AQ-5)
- C-7. During construction activities, the applicant shall remove daily accumulation of mud and dirt from any roads adjacent to the site. (Mitigation Measure AQ-6)

- C-8. Grading permits shall be secured for any applicable activity from the Community Development Department, Building Division. Applicable activities shall adhere to all grading permit conditions, including Best Management Practices. All areas disturbed by grading shall be either surfaced in manner to minimize dust, landscaped or hydro seeded. All BMPs shall be routinely inspected and maintained for life of the project (Mitigation Measure AQ-7)
- C-9. All refuse generated by the facility shall be stored in approved disposal/storage containers, and appropriately covered. Removal of waste shall be on a weekly basis so as to avoid excess waste. All trash receptacles/containers shall remain covered at all times to prevent fugitive odors and rodent infestation. An odor control plan shall be submitted for review and approval by the City in accordance with the Zoning Code. Odor control shall be maintained to an acceptable level at all times. (Mitigation Measure AQ-8)
- C-10. Construction activities that involve pavement, masonry, sand, gravel, grading, and other activities that could produce airborne particulate should be conducted with adequate dust controls to minimize airborne emissions. A dust mitigation plan may be required should the applicant fail to maintain adequate dust controls. (Mitigation Measure AQ-9)
- C-11. If construction or site activities are conducted within Serpentine soils, a Serpentine Control Plan may be required. Any parcel with Serpentine soils must obtain proper approvals from LCAQMD prior to beginning any construction activities. Contact LCAQMD for more details. (Mitigation Measure AQ-10)
- C-12. All engines must notify LCAQMD prior to beginning construction activities and prior to engine use. Mobile diesel equipment used for construction and/or maintenance must be in compliance with State registration requirements. All equipment units must meet Federal, State and local requirements. All equipment units must meet RICE NESHAP/ NSPS requirements including proper maintenance to minimize airborne emissions and proper record-keeping of all activities, all units must meet the State Air Toxic Control Measures for CI engines and must meet local regulations. (Mitigation Measure AQ-11)
- C-13. Site development, vegetation disposal, and site operation shall not create nuisance odors or dust. During the site preparation phase, the District recommends that any removed vegetation be chipped and spread for ground cover and erosion control. Burning of debris/construction material is not allowed on commercial property, materials generated from the commercial operation, and waste material from construction debris, must not be burned as a means of disposal. (Mitigation Measure AQ-12)
- C-14. Significant dust may be generated from increased vehicle traffic if driveways and parking areas are not adequately surfaced. Surfacing standards should be included as a requirement in the use permit to minimize dust impacts to the public, visitors, and road traffic. At a minimum, the district recommends chip seal as a temporary measure for primary access roads and parking. Paving with asphaltic concrete is preferred and should be required for long term occupancy. All areas subject to semi-truck / trailer traffic should require asphaltic concrete paving or equivalent to prevent fugitive dust generation. Gravel surfacing may be adequate for low use driveways and overflow parking areas; however, gravel surfaces require more maintenance to achieve dust control, and permit conditions should require regular palliative treatment if gravel is utilized. White rock is not suitable for surfacing (and should be prohibited in the permit) because of its tendency to

break down and create excessive dust. Grading and re-graveling roads should utilize water trucks, if necessary, reduce travel times through efficient time management and consolidating solid waste removal/supply deliveries, and speed limits. Conformance with the foregoing requirements shall be included as notes and be confirmed through review and approval of grading plans by the City of Clearlake Community Development Department. (Mitigation Measure AQ-13)

- C-15. During construction activities, the applicant shall remove daily accumulation of mud and dirt from any roads adjacent to the site.
- C-16. Any demolition or renovation is subject to the Federal National Emissions Standard for Hazardous Air Pollutants (NESHAP) for asbestos in buildings requires asbestos inspections by a Certified Asbestos Consultant for all major renovations and all demolition. An Asbestos Notification Form with the Asbestos inspection report must be submitted to the district at least 14 days prior to beginning any demolition work. The applicant must contact the district for more details and proper approvals. Regardless of asbestos content or reporting requirements all demolition and renovation activities should use adequate water/ amended water to prevent dust generation and nuisance conditions.

SECTION D - BIOLOGICAL RESOURCES:

- D-1. Prior to initiation of ground-disturbing activities on the project site, the project applicant shall retain a qualified biologist to conduct floristic surveys to identify any special-status plant species on-site. (Mitigation Measure BIO-1)
- *Floristic surveys shall be conducted in all on-site habitats that potentially support special status species during the appropriate season to identify the species, which is typically during the species' blooming period. Based upon the suite of special status plant species potentially occurring on the site, at a minimum, four surveys shall be conducted, (i.e., in March, April, June, and October) in all areas of the site within and adjacent to (within 100 feet) project development footprints that provide potential habitat for the target species. Surveys shall be conducted in conformance with the most recent version of CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities and CNPS' Botanical Survey Guidelines.*
- D-2. If rare plant populations are determined to be present on the project site during the focused floristic surveys by a qualified/license biologist, the populations shall be mapped, and the number of individuals shall be estimated. A qualified plant ecologist or botanist shall determine whether project impacts to plant populations are significant. (Mitigation Measure BIO-2)
- D-3. To the extent practicable, the project shall be designed to avoid or minimize impacts to special status plant populations with a buffer determined by the qualified botanist or plant ecologist. (Mitigation Measure BIO-3)
- D-4. If the project cannot be redesigned to avoid or minimize impacts to the identified species to a less-than-significant level, then compensation measures shall include development of an onsite or off-site restoration plan for the species. At a minimum, any restoration plan shall contain the following elements: 1) location of restoration areas, 2) propagation and planting techniques to be employed for the restoration effort, 3) a timetable for implementation, 4) a monitoring plan and performance criteria, 5) an adaptive management plan should the restoration not meet interim success criteria, and 6) a site maintenance plan. The restoration plan shall be approved by the City of Clearlake Community Development Department prior to the start of project construction and

shall, where feasible, occur in the immediate vicinity of the identified population(s). (Mitigation Measure BIO-4)

- D-5. If tree removal is required, site preparation, grading, or construction is planned to occur within the avian breeding period (i.e., between February 1 and August 31), a qualified biologist shall conduct pre-construction surveys for active nests of migratory birds within seven days of the onset of construction activities. If construction activity is planned to commence outside the breeding period, pre-construction surveys are not required for nesting birds and raptors. Survey results shall be submitted to the City of Clearlake Community Development Department. If active nests of migratory birds are not detected within the project site, further mitigation is not required. If nesting birds are detected, the applicant shall implement Mitigation Measure BIO-3. (Mitigation Measure BIO-5)
- D-6. If any active nests are discovered in or near proposed construction zones, a qualified biologist shall establish a construction-free buffer around the nest. The buffer shall be adequate to ensure the nest is not disturbed by construction activities and shall be based on the location of the nest, species of bird, sensitivity of the bird (as determined by the biologist), and proximity to and type of construction occurring near the nest. The buffer shall be identified on the ground with flagging or fencing and shall be maintained until the biologist has determined that the young have fledged. Established buffers may be altered only if a qualified biologist provides compelling biological or ecological reason to do so. Proof of compliance with this Mitigation Measure shall be provided to the City of Clearlake Community Development Department prior to recommencing construction within the buffer area. (Mitigation Measure BIO-6)
- D-7. All construction and operations workers on the project site shall be trained by a qualified biologist prior to ground disturbing activities. The tailgate training shall include a description of the Migratory Bird Treaty Act, instructions on what to do if an active nest is located, and the importance of capping pipes and pipe-like structures standing upright to avoid birds falling into the pipes and getting stuck. Proof of compliance with this Mitigation Measure shall be provided to the City of Clearlake Community Development Department. (Mitigation Measure BIO-7)
- D-8. Prior to the start of construction activities, the applicant shall retain a certified arborist to reassess the protected trees on-site and determine if any additional trees would require removal due to damage from the on-site fire. The updated report shall be submitted to the City of Clearlake Community Development Department for review and approval. (Mitigation Measure BIO-8)
- *A native tree protection and removal permit, waiver, or similar approval shall be secured prior to impacting trees protected under the City ordinance. The project applicant shall mitigate for the removal of Protected Trees located within the project site, as identified in the Arborist Report prepared for the proposed project, by preparing a Tree Replacement Plan to ensure on-site replacement planting or the payment of in-lieu fees, or a combination of both.*
 - *For the Protected Trees to be preserved as part of the project, the project applicant shall implement the Tree Protection Measures and Performance Standards included in the Arborist Report prepared for the proposed project, including requirements related to: tree removal, tree protection fencing, trenching, tree protection training, tree protection measure monitoring, and other general provisions.*
 - *The above measures shall be included in the notes on construction drawings, subject to review and approval by the City of Clearlake Community Development Department, prior to initiation of construction activities.*

SECTION E - CULTURAL/TRIBAL RESOURCES:

- E-1. During construction activities, if any subsurface archaeological remains are uncovered, all work shall be halted within 100 feet of the find and the owner shall utilize a qualified cultural resources consultant to identify and investigate any subsurface historic remains and define their physical extent and the nature of any built features or artifact-bearing deposits. (Mitigation Measure CUL-1)
- E-2. The cultural resource consultant's investigation shall proceed into formal evaluation to determine their eligibility for the California Register of Historical Resources. This shall include, at a minimum, additional exposure of the feature(s), photo-documentation and recordation, and analysis of the artifact assemblage(s). If the evaluation determines that the features and artifacts do not have sufficient data potential to be eligible for the California Register, additional work shall not be required. However, if data potential exists – e.g., there is an intact feature with a large and varied artifact assemblage – it will be necessary to mitigate any Project impacts. Mitigation of impacts might include avoidance of further disturbance to the resources through Project redesign. If avoidance is determined to be infeasible, pursuant to CEQA Guidelines Section 15126.4(b)(3)(C), a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If an artifact must be removed during Project excavation or testing, curation may be an appropriate mitigation. This language of this mitigation measure shall be included on any future grading plans and utility plans approved by the City for the Project. (Mitigation Measure CUL-2)
- E-3. If human remains are encountered, no further disturbance shall occur within 100 feet of the vicinity of the find(s) until the Lake County Coroner has made the necessary findings as to origin (California Health and Safety Code Section 7050.5). Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Lake County Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Native American Heritage Commission must then identify the "most likely descendant(s)", The landowner shall engage in consultations with the most likely descendant (MLD). The MLD will make recommendations concerning the treatment of the remains within 48 hours as provided in Public Resources Code 5097.98. (Mitigation Measure CUL-3)
- E-4. On or prior to the first day of construction the owner shall organize cultural sensitivity training for contractors involved in ground disturbing activities. (Mitigation Measure CUL-4)
- E-5. The developer/landowner shall relinquish ownership of all sacred items, burial goods and all archaeological artifacts that are found on the project area to the most likely decedent (MLD) for proper treatment and disposition.

SECTION F - GEOLOGY & SOILS:

- F-1. Prior to approval of any grading permits, a Geotechnical Analysis shall be conducted by a California Geotechnical Engineer to characterize the subsurface conditions of the project site. The report shall address and make recommendations on the following: (Mitigation Measure GEO-1)
- I. Road, pavement, and parking area design.
 - II. Structural foundations, including retaining wall design (if applicable).
 - III. Grading practices.

- IV. Erosion/winterization.
 - V. Special problems discovered on-site, (i.e., groundwater, expansive/unstable soils, etc.); and
 - VI. Slope stability.
- F-2. All grading and foundation plans for the development shall be designed by a Civil and Structural Engineer and reviewed and approved by the Director of Public Works/City Engineer, Chief Building Official/Building Inspector, and a licensed/qualified Geotechnical Engineer prior to issuance of grading and building permits to ensure that all geotechnical recommendations specified in the Geotechnical Analysis are properly incorporated and utilized in the project design. (Mitigation Measure GEO-2)
- F-3. Prior to any ground disturbance and/or operation, the applicant shall submit Erosion Control and Sediment Plans to the Community Development Department for review and approval. The project shall incorporate Best Management Practices (BMPs) consistent with the City Code and the State Storm Water Drainage Regulations to the maximum extent practicable to prevent and/or reduce discharge of all construction or post-construction pollutants into the local storm drainage system. (Mitigation Measure GEO-3)
- F-4. Prior to any ground disturbance, the project applicant shall submit and obtain a Grading Permit from the Community Development in accordance with the City of Clearlake Municipal Code. (Mitigation Measure GEO-4)
- F-5. The project applicant shall monitor the site during the rainy season including post-installation, application of BMPs, erosion control maintenance, and other improvements as needed. Measures shall be maintained for life of the project and replaced/repared when necessary. (Mitigation Measure GEO-5)

SECTION G- HAZARD & HAZARDOUS MATERIALS:

- G-1. All hazardous waste shall not be disposed of on-site without review or permits from Environmental Health Department, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.
- G-2. The storage of potentially hazardous materials shall be located at least 100 feet from any existing water well. These materials shall not be allowed to leak into the ground or contaminate surface waters. Collected hazardous or toxic materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such materials.
- G-3. Any spills of oils, fluids, fuel, concrete, or other hazardous construction material shall be immediately cleaned up. All equipment and materials shall be stored in the staging areas away from all known waterways.
- G-4. The storage of hazardous materials equals to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, then a Hazardous Materials Inventory Disclosure Statement/Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division. Industrial waste shall not be disposed of on site without review or permit from Lake County Environmental Health Division or the California Regional Water Quality Control Board. The permit holder shall comply with petroleum fuel storage tank regulations if fuel is to be stored on site.

- G-5. All equipment shall be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. Hazardous materials and contaminated soil shall be stored, transported, and disposed of consistent with applicable local, state, and federal regulations
- G-6. Hazardous Waste must be handled according to all Hazardous Waste Control Laws. Any generation of a hazardous waste must be reported to Lake County Environmental Health within thirty days.
- G-7. All employees and/or staff members shall be properly trained in and utilize Personnel Protective Equipment in accordance with all federal, state and local regulations regarding handling any biological and/or chemical agents.
- G-8. Hazardous waste must be handled according to all Hazardous Waste Control and Generator regulations. Waste shall not be disposed of onsite without review or permits from EHD, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.

SECTION H -NOISE/VIBRATIONS:

- H-1. Permanent potential noise sources such as, generators used for power shall be designed and located to minimize noise impacts to surrounding properties. (Mitigation Measure NOI-1)
- H-2. During construction noise levels shall not exceed 65 decibels within fifty (50) feet of any dwellings or transient accommodations between the hours of 7:00 AM and 6:00 PM. This threshold can be increased by the Building Inspector or City Engineer have approved an exception in accordance with Section 5-4.4(b)(1) of the City Code. An exception of up to 80 decibels may be approved within one hundred (100) feet from the source during daylight hours. Project is expected to result in less than significant impacts with regards to noise and vibration. (Mitigation Measure NOI-2)

SECTION I – TRANSPORTATION & TRAFFIC:

- H-1. Prior to building permit issuance and/or commencing construction, the following shall be submitted for review and approval by the City:
 - I. Subject to City Engineer approval, Civil Site plans identifying existing and proposed storm drains, drainage ditches, curbs, sidewalks, gutters, and striping, as regulated by the City's Design/Construction Standards, Off-Street Parking Regulations, and Parking Design Standards. Said design shall be found compliance with all other applicable local/federal/state laws (including ADA and CASP requirements). Said curb, gutter, sidewalks, etc. shall be installed in accordance with the City Municipal Codes.
- H-2. Prior to operation, all handicap parking areas, routes of travel, building access and bathrooms shall meet American with Disabilities Act (ADA) requirements and be subject to review and approval of a Certified Accessibility Access Specialist (CASP).
- H-3. Prior to issuance of a building permit and/or commencing construction of the hotel project, an encroachment permit for the new driveway onto 18th Avenue shall be secured from the City. Prior to occupancy of the hotel project access to the project via 18th Avenue shall be provided through a coordinated process with the City.

SECTION J -TIMING AND MONITORING

- J-1. If the approved use permit is not established within two (2) years of the date of approval or such longer time as may be stipulated as a condition of approval, the use permit shall expire.

- J-2. If a structure(s) or associated site development authorized by use permit is not issued building permits (if building permits are required) within three (3) years of the date of approval, the use permit shall expire.
- J-3. Upon written request received prior to expiration, the Community Development Director may grant renewals of use permit approval for successive periods of not more than one (1) year each.
- I. *Approvals of such renewals shall be in writing and for a specific period.*
 - II. *Renewals may be approved with new or modified conditions upon a finding that the circumstances under which the use permit was originally approved have substantially changed.*
 - III. *Renewal of a use permit shall not require public notice or hearing unless the renewal is subject to new or modified conditions. To approve a renewal, the Community Development Director must make the findings required for initial approval.*
- J-4. The use permit may be transferred to new owners at the same location/use upon notifying the City Planning Department of said ownership transfer and upon the new owner's written agreement to maintain all conditions of approval.
- J-5. Any conditions established pursuant to these regulations shall be met before the use is established, except that the Director, Planning Commission or on appeal, the City Council, may establish a schedule for certain conditions to be met after establishment of the use. Continuance of the use shall then be contingent on complying with the schedule for meeting deferred conditions.
- J-6. This Conditional Use Permit does not abridge or supersede the regulatory powers and permit requirements of any federal, state, or local agency requirements, which may retain a regulatory or advisory function as specified by statute or ordinance. The applicant shall obtain and maintained permits as may be required from each agency.
- J-7. The applicant shall agree to indemnify, defend, and hold harmless the City or its agents, officers and employees from and against any and all claims, actions, demands or proceeding (*including damage, attorney fees, and court cost awards*) against the City or its agents, officers, or employees to attach, set aside, void, or annul an approval of the City, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations. In providing any defense under this Paragraph, the applicant shall use counsel reasonably acceptable to the City. The City shall promptly notify the applicant of any claim, action, demands or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the City harmless as to that action. The City may require that the applicant post a bond, in an amount determined to be sufficient, to satisfy the above indemnification and defense obligation. Applicant understands and acknowledges that City is under no obligation to defend any claim, action, demand or proceeding challenging the City's actions with respect to the permit or entitlement.
- J-8. The Planning Commission may revoke or modify the use permit in the future if the Commission finds that the use to which the permit allows is detrimental to health, safety, comfort, general welfare of the public; constitutes a public nuisance; if the permit was obtained or is being used by fraud; and/or if one or more the conditions upon which a permit was granted are in

noncompliance or have been violated. Applicant shall be notified of potential violations of the use permit prior to action taken by the Planning Commission.

J-9. Said Use Permits shall be subject to revocation or modification by the Planning Commission if the Commission finds that there has been:

- I. *Noncompliance with any of the foregoing conditions of approval; or*
- II. *The Planning Commission finds that the use for which this permit is hereby granted is so exercised as to be substantially detrimental to persons or property in the neighborhood of the use. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to the City of Clearlake Municipal Code.*

To Be Completed by Authorized City Staff

Staff Name (Print)

Staff Signature

Date (signed): _____

ACCEPTANCE

I have read and understand the foregoing Conditional Use Permit and agree to each term and condition of approval and/or mitigation measure(s) thereof.

Name of Applicant/Authorized Agent
(Print Name)

Signature of Applicant/Authorized Agent

Date: _____