

**RESOLUTION NO. 2024-03**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE, CALIFORNIA DENYING APPEAL APCC 2023-02 AND UPHOLDING THE PLANNING COMMISSION APPROVAL OF DECEMBER 18<sup>TH</sup>, 2023 APPROVING SUBDIVISION DEVELOPMENT, SD 2022-01, TENTATIVE MAP, TM 2022-01, AND CORRESPONDING MITIGATED NEGATIVE DECLARATION BASED ON ENVIRONMENTAL ANALYSIS CEQA IS 2022-08 FOR THE DANCO SUBDIVISION DEVELOPMENT PROJECT LOCATED AT 2890 OLD HIGHWAY 53, CLEARLAKE, CALIFORNIA, APN: 010-048-08**

**WHEREAS**, Danco Communities Group., applied for approval of Subdivision Development, SD 2022-01, Tentative Map, TM 2022-01 and corresponding environmental analysis, CEQA IS 2022-08 to subdivide 30 acres into 22 residential lots located at 2890 Old Highway 53 Clearlake, CA 95422 further described as Assessor Parcel Number (APN): 010-048-08 and;

**WHEREAS**, on December 21<sup>st</sup>, 2023, KOI Nation of Northern California submitted Appeal Application, APCC 2023-02 contesting the determination of the Planning Commission’s approval of December 18<sup>th</sup>, 2023, of Subdivision Development, SD 2022-01, Tentative Map, TM 2022-01 and corresponding Environmental Analysis, CEQA IS 2022-08 has been processed in accordance with Federal, State and local regulations, including the City Municipal Codes/Regulations, and;

**WHEREAS**, the project site designed is in compliance with the City’s Zoning Code which identifies the land use designation as Rural Residential (RR); and;

**WHEREAS**, the project is consistent with the General Plan that designates the project site as Low Density Residential (LDR); and;

**WHEREAS**, the project was previously environmentally analyzed with an Initial Study and Mitigated Negative Declaration and approved in 2006, with the same number of lots, access, utility connections, etc. The only current proposal is identical in every way, except for some minor revisions that include: a 50-foot setback from the creek; a “no disturbance” area to ensure protection of sensitive area; and elimination of curb, gutter, sidewalk, and bridge improvements on Highway 53; and

**WHEREAS**, none of the factors requiring a subsequent or supplemental environmental impact report are present; and

**WHEREAS**, under the California Environmental Quality Act (CEQA), it is only necessary to consider the incremental differences between the effects of the originally approved project and the proposed modifications; and

**WHEREAS**, the proposed changes are nominal and there are negligible (if any) new impacts posed by the modified project, thus, the City Council finds that no further environmental documentation is needed because the original environmental documentation is sufficient and there are no new impacts as a result of the project modifications; and

**WHEREAS**, although there are no new impacts as a result of the project modifications and the original environmental analysis is sufficient, in an abundance of caution and in the interest of public disclosure, the project underwent environmental analysis (CEQA Initial Study, IS 2022-08) subject to the California State Environmental Quality Act (CEQA) Guidelines, and the City's Environmental Guidelines, and, due to the adoption of some new mitigation measures to be consistent with current City practices and to provide further assurances that there will be no new or more severe significant impacts, a Subsequent Mitigated Negative Declaration has been prepared, and adopted; and as evidenced by the following:

1. The initial study and Subsequent 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): On November 1<sup>st</sup>, 2023, the environmental analysis/initial study and supporting documentation was uploaded to the CA State Clearinghouse and circulated via email to various Federal, State, and local agencies, including community groups for review.*
  - *The document was 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 development and that there is a 30-day commenting period on the environmental document.*
  - *The 30 days commenting period began on November 4<sup>th</sup>, 2023, and concluded on December 6<sup>th</sup>, 2023.*
  - *Several mitigation measures have been incorporated to reduce potentially significant environmental impacts from the project to a level of non-significance. These mitigation measures do not create new significant environmental effects and are necessary to mitigate an avoidable significant effect.*

**WHEREAS**, environmental review (Initial Study, IS 2022-08) 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 Subsequent Mitigated Negative Declaration (MND) and authorizes staff to file a Notice of Determination in compliance with CEQA; and,

**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**, in accordance with Government Section 66474.9, the subdivider (referred to the developer hereinafter) defend , indemnifies, and holds harmless the City, its agents, officers and employees, from any claim, action or proceeding brought within the time period provided for in Government Code Section 66499.37, against the City or its agents, officers, or employees, to attack, set aside, void, or annul the City's approval of this subdivision; and

**WHEREAS**, the City has completed Tribal Consultation in accordance with CEQA and AB 52 and per Section 21080.3.2(b)(2), and formally concluded tribal consultation per Section 21080.3.2(b)(2) of the Government Code as indicated in the letter to tribal representative on October 16<sup>th</sup>, 2023, and

**WHEREAS**, on December 18th, 2023, the City of Clearlake Planning Commission held a duly noticed public hearing at which interested persons had the opportunity to testify and at which the Planning Commission independently reviewed/analyzed the Subdivision Development, SD 2022-01, Tentative Map, TM 2022-01, and corresponding Environmental Analysis, CEQA IS 2022-08; and,

**WHEREAS**, the City Council has considered this project, the staff report, public testimony, on this date **February 1<sup>st</sup>, 2024** 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 Subsequent Mitigated Negative Declaration based on Environmental Analysis, CEQA IS 2022-08, Subdivision Development, SD 2022-01 and Tentative Map, TM 2022-01 is in the public interest; and;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Clearlake that Appeal Application APCC 2023-02 contesting the Planning Commission's decision of December 18th, 2023, is hereby **denied** and Subdivision Development, SD 2022-01, Tentative Map, TM 2022-01, and corresponding Environmental Analysis, CEQA IS 2022-08 is approved.

**PASSED AND ADOPTED on this 1st day of February 2024, by the following vote:**

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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**Mayor – City of Clearlake**

**ATTEST:**

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**City/Deputy Clerk, City Council**

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**Chairperson, Planning Commission**

**ATTEST:**

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**City Clerk/Deputy Clerk**

## EXHIBIT A

**City of Clearlake  
Conditions of Approval  
Subdivision Development, SD 2022-01  
Tentative Map, TM 2022-01  
Initial Study, IS 2022-08**

Pursuant to the approval of the **Planning Commission** on **December 18th, 2023** and the **City Council** on \_\_\_\_\_, **2024** is hereby granted to the Danco Communities, a Subdivision Map, SD 2022-01, Tentative Map, TM 2022-01 and corresponding Environmental Analysis, CEQA IS 2022-08 for the Danco Subdivision Development project located at 2890 Old Highway 53, Clearlake, CA 95422; further described as Assessor Parcel Number (APN) 010-0418-08.

### **SECTION A: GENERAL CONDITIONS:**

1. The use hereby permitted shall substantially conform to the Project description, Subdivision Map, SD 2022-01, and any Conditions of Approval/Mitigation Measures imposed by the above Subdivision Map Application Packet, City Municipal Codes and corresponding Environmental Analysis (CEQA).
2. This 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.
3. The applicant/developer is responsible for ensuring that all project workers are informed of, understand, and agree to abide by the approved plans and project conditions.
4. **Prior to final subdivision map**, the applicant/developer shall coordinate with Lake County Environmental Health to complete the Onsite Wastewater Treatment System (OWTS) for each parcel. All Onsite Waste Management System shall adhere to all applicant Federal, State and local agency requirements.
5. **Prior to operation and/or development**, the applicant shall secure any required permits (including paying all necessary fees) from the City of Clearlake (Building Department, Planning and Public Works), Lake County Fire Protection District, Lake County Air Quality Management District, Lake County Water Resources Department, Lake County Environmental Health Department, Highland Water Company and/or all applicable Federal, State, and local agency permits.
6. 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:**

1. All outdoor lighting shall be directed downwards and shielded onto the project site and not onto adjacent properties. All lighting shall comply with and adhere to all federal, state and local agency requirements, including all requirements in darksky.org.

**SECTION C. AIR QUALITY:**

1. *(Mitigation Measure AIR 1)* 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.
2. *(Mitigation Measure AIR 2)* 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.
3. *(Mitigation Measure AIR 3)* Driveways, access roads and parking areas shall be surfaced in a manner 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.
4. *(Mitigation Measure AIR-4)* 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.
5. *(Mitigation Measure AIR-5)* **During construction activities**, the applicant shall remove the daily accumulation of mud and dirt from any roads adjacent to the site.
6. *(Mitigation Measure AIR-6)* 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 the life of the project.
7. *(Mitigation Measure AIR-7)* 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.

8. *(Mitigation Measure AIR-8)* If construction or site activities are conducted within Serpentine soils, a Serpentine Control Plan may be required. Any parcel with Serpentine soil shall obtain proper approvals from LCAQMD prior to beginning any construction activities. Contact LCAQMD for more details.
9. *(Mitigation Measure AIR-9)* All engines must notify LCAQMD **prior to beginning construction activities and prior to engine Use**. Mobile diesel equipment used for construction and/or maintenance shall follow 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.
10. *(Mitigation Measure AIR-10)* 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.
11. *(Mitigation Measure AIR-11)* Significant dust may be generated from increased vehicle traffic if driveways and parking areas are not adequately surfaced. Surfacing standards shall 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.
12. *(Mitigation Measure AIR-12)* 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 shall be performed utilizing water trucks, if necessary, reduce travel times through efficient time management and consolidating solid waste removal/supply deliveries, and speed limits.

#### **SECTION D - BIOLOGICAL RESOURCES:**

1. *(Mitigation Measure BIO-1)* **Prior to grading and/or soil disturbance**, a follow-up survey, prepared by qualified professionals for special status plant species, special status bat species, and nesting birds shall be conducted. Said survey shall comply with minimum standards of referenced in the HELIX Environmental Planning, Inc. Biological Resources Assessment (BRA) as revised, dated May 2023.

2. *(Mitigation Measure BIO-2)* **Prior to grading and/or soil disturbance**, a follow-up survey for the Bumble Bee Survey shall be conducted by a qualified biologist (approved by the City Planning Department). Said survey shall occur during the western bumble bee active season, including focusing on foraging habitat and suitable underground refuge areas identified during the habitat assessment.
  - The surveyor shall spend at least one hour per 3-acre area surveying suitable habitat, based on survey protocols for the rusty patched bumble bee (*B. affinis*) (USFWS 2019).
  - Surveyor(s) shall note other species of bumble bee, approximate number of each species and photographs of bumble bees shall be taken to properly identify species of bumble bee present onsite (USFWS 2019). If western bumble bee is not identified in or immediately adjacent to the Study Area (within 25 feet), no further surveys or actions would be required.
  - Results from the habitat assessment and follow-up surveys shall be provided to the California Department of Fish and Wildlife. If a western bumble bee individual or colony is identified in the Study Area or within 25 feet, then a 25-foot setback shall be implemented around the colony and consultation with CDFW may be necessary if the project activities will impact an active western bumble bee colony. Since the western bumble bee is a candidate species under the California Endangered Species Act, incidental take coverage may be required for project-related impacts that will result in take of WBB.
3. *(Mitigation Measure BIO-3)* Project design shall incorporate a 25-foot setback around milkweed habitat on the project site to protect larval habitat for Monarch Butterfly during the summer breeding season (March 16 through October 31). Said 25-foot setback design and establishment, shall be determined by a qualified biologist and follow minimum standards of the HELIX Environmental Planning, Inc. Biological Resources Assessment (BRA) as revised, dated May 2023.
2. *(Mitigation Measure BIO-4)* Project activities that occur during nesting season shall observe all mitigation measures in accordance with minimum standards referenced in the HELIX Environmental Planning, Inc. Biological Resources Assessment (BRA) as revised, dated May 2023.
3. *(Mitigation Measure BIO-5)* A 50-foot setback shall be established from the intermittent drainage for all building development and septic system development as part of the site plan. Said setback design and establishment, shall be determined by a qualified biologist and follow minimum standards of the HELIX Environmental Planning, Inc. Biological Resources Assessment (BRA) as revised, dated May 2023.
4. *(Mitigation Measure BIO-6)* **Prior to grading and/or soil disturbance**, a qualified biologist shall conduct environmental awareness training to all project-related personnel prior to the initiation of work. The training shall follow the same guidelines as the special-status amphibians training described in the Biological Assessment prepared by HELIX Environmental Consulting. (as revised dated May 2023).



5. *(Mitigation Measure BIO-7)* **Prior to any tree removal (qualifying trees per Chapter 18-40 of the Municipal Code, Native Tree Protection)**, a complete tree survey shall be conducted by a qualified arborist that identifies all trees that have a greater diameter of 6” at breast height, type, and health, on the project site to be removed.
  - *The survey/preservation plan shall include recommended measures to preserve trees on the project site during this initial construction, such as fencing at dripping lines, etc.*

#### **SECTION E - CULTURAL RESOURCES:**

1. *(Mitigation Measure CUL-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.
2. *(Mitigation Measure CUL-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. The cultural resource report shall be prepared with input from the Consulting Tribe. However, if data potential exists – e.g., there is an intact feature with a large and varied artifact assemblage – it shall 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 by the City 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 within 90 days of completion of the Project. Archeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If a historic 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. It is understood that destructive data testing and/or curation of tribal cultural resources is strongly opposed by the Consulting Tribe and should be avoided.
3. *(Mitigation Measure CUL-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.]

4. *(Mitigation Measure CUL-4)* **On or prior to the first day of construction**, the owner shall organize cultural resource sensitivity training for contractors involved in ground disturbing activities.
5. *(Mitigation Measure CUL-5)* The shaded area indicated on the Southern portion of said subdivision map shall be a non-buildable area, where no construction is allowed. The shaded area shall be identified on the parcel map and be titled as a non-buildable area.
6. *(Mitigation Measure CUL-6)* Requirement for tribal monitoring during ground disturbing activities in sensitive areas of the project area, as specifically identified in a confidential map on file with the city. The Consulting Tribe may provide spot check monitoring or voluntary monitoring, at no cost, in other areas of the project with prior coordination and approval of the owner. Tribal monitoring shall comply with the City of Clearlake’s Tribal Monitoring Policy.

#### **SECTION F - GEOLOGY AND SOILS:**

1. **Prior to any ground disturbance and/or operation**, the applicant shall submit a *Grading Permit and 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.
  - *Typical BMPs include the placement of straw, mulch, seeding, straw wattles, silt fencing and the planting of native vegetation on all disturbed areas. No silt, sediment or other materials exceeding natural background levels shall be allowed to flow from the project area. The natural background level is the level of erosion that currently occurs from the area in a natural, undisturbed state. Vegetative cover and water bars shall be used as permanent erosion control after project installation.*
2. The applicant shall monitor the site during the rainy season including post-installation, application of BMPs, erosion control maintenance, and other improvements as needed. Said measures shall be maintained for the life of the project and replaced/repared when necessary.
3. **Prior to any ground disturbance and/or operation**, if the project disturbs more than one (1) acre of soil, the applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) with the California State Water Resource Board for review and approval and obtain all necessary Federal, State, and local agency permits. Said verification and approval shall be submitted to the City of Clearlake.

## **SECTION G- HAZARD/HAZARDOUS MATERIALS:**

1. All hazardous waste shall not be disposed of on-site without review or permits from Lake County 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.
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.
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.
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.
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.
6. Hazardous Waste must be handled according to all Hazardous Waste Control Laws. Any generation of hazardous waste must be reported to Lake County Environmental Health within thirty days.
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.
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 – HYDROLOGY & WATER QUALITY**

1. *(Mitigation Measure HYDRO-1)*: Permitting any new structures on site shall require FEMA compliance. Permits for new construction shall require a pre-construction and post-construction flood elevation certificate prepared by a California Licensed Surveyor and/or Engineer. Said certificates shall be submitted at the time of Building Permit Application(s).

## **SECTION I - NOISE/VIBRATIONS:**

1. *(Mitigation Measure NOI-1)* All construction activities including engine warm-up shall be limited to weekdays and Saturday, between the hours of 7:00am and 7:00pm to minimize noise impacts on nearby residents.
2. *(Mitigation Measure NOI-2)* Permanent potential noise sources such as, generators used for power shall be designed and located to minimize noise impacts to surrounding properties.
3. *(Mitigation Measure NOI-3)* 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.

## **SECTION J - TRANSPORTATION/TRAFFIC:**

1. *(Mitigation Measure TRI-1)* To maintain adequate sight lines, any new signage, monuments, and/or landscaping on Lots 1, 12, 13 and 22 shall be kept out of the vision triangles along the intersections on Old Highway 53.
2. The applicant/developer shall obtain the necessary encroachment permits for any works and/or improvements with the right of way.

## **SECTION K – TRIBAL CULTURAL RESOURCES**

1. *(Mitigation Measure TCR-1)*: Requirement to designate a project reburial area on the Project site in advance of ground disturbing activities, in the event that tribal cultural resources materials are discovered during construction which cannot be avoided or feasibly preserved in place. The reburial area shall be in a mutually agreed upon location with the Consulting Tribe, in an area not subject to further disturbance, and capped after ground disturbance is complete.
2. *(Mitigation Measure TCR-2)*: Requirement for contractors engaged in ground disturbing activities to receive meaningful training on tribal cultural sensitivity and tribal cultural resources one time and prior to the beginning of work, from a tribal representative.

3. (*Mitigation Measure TCR-3*): The project shall comply with existing state law including but not limited to, Health and Safety Code Section 7050.5 and Public Resources Code sections 5097.94-5097.99 in the event of the discovery of Native American human remains during ground disturbance.
4. (*Mitigation Measure TCR-4*): In the event that reburial of tribal cultural resources on site is infeasible, the owner and City shall consult with the Consulting tribe regarding any removal of tribal cultural soils from the project area.

#### **SECTION L -TIMING AND MONITORING**

1. 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.
2. The applicant/developer and approved permit shall adhere to all applicable requirements in the City of Clearlake Municipal Codes/Standards.

To Be Completed by Authorized City Staff

\_\_\_\_\_  
Name of City Representative

\_\_\_\_\_  
Title/Position

\_\_\_\_\_  
Signature of City Representative

\_\_\_\_\_  
Date

ACCEPTANCE BY APPLICANT

I, the applicant/developer have read and understand the foregoing requirements 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: \_\_\_\_\_