

RESOLUTION No. PC 2022-08

**A Resolution of the Planning Commmsion
City of Clearlake, State of California
Approving Conditional Use Permit CUP 2022-01 and
Categorical Exemption, CE 2022-05 to allow the development and operation of a
Gas Station, Convenience Store/Office Space (with onsite sales of alcohol), Fast Food
Restaurant, and a Drive through Car Wash**

WHEREAS, Jeanette Verdugo (*Representative of Property Owner Jatinder Singh*) applied for approval of an Conditional Use Permit to allow a Gas Station, Convenience Store/Office Space (with onsite sales of alcohol), Fast Food Restaurant, and a Drive through Car Wash. The project is located in the General Commercial Zoning District located at 15895 Dam Road (formally 15881); Clearlake, APN 010-043-53-000; and

WHEREAS, the City of Clearlake – Planning Commission, on April 26, 2022, concurred with the City Zoning Code Section 18-09 General Commercial and Section 18-18 Use Regulations, Gas Station, Convenience Store/Office Space (with onsite sales of alcohol), Fast Food Restaurant, and a Drive through Car Wash is subject to an Conditional Use Permit; and

WHEREAS, this use permit application has been made in accordance with Section 18-09 General Commercial and Section 18-18 Use Regulations of the Zoning Code, as further defined as uses generally allowed; and

WHEREAS, the project is Categorical Exempt from Environmental Review Pursuant to Article 19, Categorical Exemptions of the State of California Environment Quality Act (CEQA) Statute and Guidelines under Section 15303 Class 3 (*New Construction or Conversion of Small Structure*), and,

WHEREAS, the 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 the Municipal Code; and

WHEREAS, the General Plan designates the project site as General Commercial as conditioned, the proposed use would be consistent with the General Plan; and

WHEREAS, in accordance with Section 18-28.040 Findings 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, open spaces, parking areas, loading areas, service areas, lighting, and signs.

WHEREAS, with the incorporated conditions of approval, the project complies with the Clearlake Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the City of Clearlake – Planning Commission of the City of Clearlake that the project is hereby approved, subject to approved Conditions of Approval (*Exhibit A*).

PASSED AND ADOPTED on this 26th day of April of 2022 by the following vote:

City of Clearlake – Planning Commission Chair

ATTEST: _____
City of Clearlake Clerk/Deputy Clerk

Exhibit A

CITY OF CLEARLAKE CONDITIONS OF APPROVAL

Conditional Use Permit, CUP 2022-01
Categorical Exemption, CE 2022-05

Pursuant to the approval of the **City of Clearlake's – Planning Commission on April 26, 2022**, it is hereby granted Jeanette Verdugo (*Representative of Property Owner Jatinder Singh*), with the following conditions of approval gas station with convenience store (with onsite sales of alcohol), office space, fast food restaurant, and a drive through car wash **located at 15895 Dam Road (formally known as 15881); Clearlake, CA 95422; further described as Assessor Parcel Number (APN) 010-043-53-000** is subject to the following terms and conditions of approval.

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 Permits** and Review Authority as shown on the approved site plan for this action **dated April 26th, 2022**.
2. 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.
3. Any conditions established pursuant to these regulations shall be met before the use is established, except that the Community Development 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.
4. This 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.
5. The developer/operator 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, business operator, property owner, developer shall use counsel reasonably acceptable to the City. The City shall promptly notify the applicant, business operator, property owner, developer of any claim, action, demands or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the developer/operator of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the developer/operator shall not thereafter be responsible to defend, indemnify, or hold the City harmless as to that action. The City may require that the developer/operator to post a bond, in an amount determined to be sufficient, to satisfy the above indemnification and defense obligation. Developer/operator 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.
6. All parking areas, routes of travel, building access and bathrooms shall meet the American with Disabilities Act (ADA) requirements and must be reviewed and approved of a Certified Accessibility Access Specialist (CASP).
7. The permit holder shall operate in full compliance with fire safety rules and regulations of the Lake County Fire District.

8. **Prior to operation and/or development**, the applicant shall secure any required permits from the City of Clearlake (Building Department, Planning and Public Works), Fire District, Lake County Air Quality Management District, Lake County Water Resources Department, Lake County Environmental Health Department and/or all applicable Federal, State and local agency permits. Permits shall be maintained for life of the project.
9. **Prior to operation**, for the proposed development the following shall be completed:
- *Civil site plans identifying existing and proposed storm drains, drainage ditches, curbs, sidewalks, gutters, and striping, as regulated by the City's Design and Construction Standards, Off-Street Parking Regulations, and Parking Design Standards to be found in compliance with all other applicable local/federal/state laws (including ADA and CASP requirements).*
 - *Submit for review and approval by the City Planning Department final landscaping and irrigation. Plans shall demonstrate compliance with the City's Municipal Code regarding landscaping.*
 - *Submit for review and approval by the City Planning Department revised building elevations that adds brick or rock wainscot to the front and sides of the building.*
 - *Submit for review and approval by the City Planning Department a detailed trash enclosure plan. The plans shall show that the enclosure will be constructed of block with an attractive cap and the gates should incorporate solid metal materials painted to match the building colors. The gates should be mounted on separate posts mounted inside the enclosure. A hose bib should be located next to the enclosure for maintenance.*
 - *Submit for review and approval by the City Planning Department an exterior lighting plan. Lighting poles, if used, should not exceed 15 feet in height. All lighting shall be shield and directed downwards and adhere to all Federal, State and local agency requirements, including the dark-sky requirements found at <https://www.darksky.org/>. All lighting shall not project beyond the project parcel boundaries.*
 - *Submit for review and approval by the City Planning Department a detailed sign program for all existing and proposed signs. The sign plan shall comply with the City's.*
10. 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.
11. 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.
12. 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.
13. During construction activities, the applicant shall remove daily accumulation of mud and dirt from any roads adjacent to the site.
14. **Prior to any ground disturbance and/or operation**, a Grading Permit shall be secured for any applicable activity from the Community Development Department. 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
15. **Prior to any ground disturbance and/or operation**, the applicant shall submit Erosion Control and Sediment Plans to the City 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.

- 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 life of the project and replace/repared when necessary
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.
 17. 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.
 18. 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
 19. 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.
 20. All mobile diesel equipment used for construction and/or maintenance shall be compliant with State registration requirements. Portable and stationary diesel-powered equipment must meet the requirements of the State Air Toxic Control Measures for CI engines as well as the Lake County Noise Emission Standards.
 21. The applicant shall maintain records of all hazardous or toxic materials used, including a Material Safety Data Sheet (MSDS) for all volatile organic compounds utilized, including cleaning materials. Said information shall be made available upon request and/or the ability to provide the Lake County Air Quality Management District such information in order to complete an updated Air Toxic Emission Inventory.
 22. **During construction activities**, if any subsurface archaeological remains are uncovered, all work shall be halted within 100 feet of the find and the applicant shall retain a qualified cultural resources consultant from the City's approved list of consultants to identify and investigate any subsurface historic remains and define their physical extent and the nature of any built features or artifact-bearing deposits. Significant historic cultural materials may include finds from the late 19th and early 20th centuries including structural remains, trash pits, isolated artifacts, etc.
 23. 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.

24. 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)”, which parties agree will likely be the Koi Nation based upon the Tribe’s ancestral ties to the area and previous designation as MLD on projects in the geographic vicinity. 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.
25. 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.
26. 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.
27. 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.
28. 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.
29. 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.
30. 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.
31. Hazardous waste must be handled according to all Hazardous Waste Control and Generator regulations. Waste shall not be disposed of on-site 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.
32. 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.
33. The applicant shall comply with the State of California Weights and Measures requirements found in the California Food and Agriculture Code, California Code of Regulations, and the California Business and Professions Code.
34. At no time shall vehicles block and/or create traffic congestion along Dam Road, Dam Road Extension and/or the neighboring roadways/highways.

35. The drive through facility shall maintain a minimum of a twelve (12) foot wide land on curves and eleven (11) feet on straight sections with a minimum stacking area of 114 feet in length. All drive through lanes shall be integrated with on-site circulation arrows and shall merge with the driveway.
36. Drive-through aisles shall be separated from landscaping areas by a six-inch high, poured in place, concrete curb or other suitable protective device meeting City's approval. Landscaping shall screen drive-through aisles to the extent feasible.
37. The operation at any given time shall not block access to the existing easement on the eastern side (along the drive through aisle).
38. Driveways, access roads and parking areas shall be surfaced with asphalt concrete in a manner to minimize dust. Driveway approaches shall be constructed of concrete and built to minimum City of Clearlake standards. An encroachment permit shall be obtained from the City of Clearlake – Public Works Department for any work within the right-of-way.
39. 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
40. If the approved use permit is not established within one (1) year of the date of approval or such longer time as may be stipulated as a condition of approval, the use permit shall expire.
41. 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.
42. **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.
- *Approvals of such renewals shall be in writing and for a specific period.*
 - *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.*
 - *Renewal of a use permit shall not require public notice or hearing unless the renewal is subject to new or modified conditions. In order to approve a renewal, the Community Development Director must make the findings required for initial approval.*
43. 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.
44. Said Use Permits shall be subject to revocation or modification by the Planning Commission if the Commission finds that there has been:
- *Noncompliance with any of the foregoing conditions of approval; or*
 - *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.*
45. 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 Planning Commission specifically declares that it would not have approved this entitlement unless all of the conditions herein are held as valid.

To Be Completed by Authorized Representative/Applicant

Name: _____

Signature: _____

Date: _____

To Be Completed by Authorized Representative/Applicant

Name: _____

Signature: _____

Title: _____

Date: _____