

RESOLUTION NO. PC 2025-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CLEARLAKE, CALIFORNIA ADOPTING CONDITIONAL USE PERMIT, CUP 2024-02 AND MITIGATED NEGATIVE DECLARATION (BASED ON ENVIRONMENTAL ANALYSIS – CEQA INITIAL STUDY, IS 2024-01) FOR THE DEVELOPMENT AND OPERATION OF A GAS STATION, CONVENIENCE STORE AND DRIVE THROUGH CAR WASH LOCATED AT 14975 OLYMPIC DRIVE (APN: 039-550-51); 3545 OLD HIGHWAY 53 (APN: 039-550-50) AND 3565 OLD HIGHWAY 53 (APN: 039-550-20).

WHEREAS, Tony Mehroke. (APPLICANT), applied for approval of a Conditional Use Permit (CUP 2024-02) and Mitigated Negative Declaration (Based on Environmental Analysis, CEQA IS 2024-01) for the development and operation of a Gas Station, Convenience Store and Drive through Car Wash located 14975 Olympic Drive (APN: 039-550-51); 3545 Old Highway 53 (APN: 039-550-50) and 3565 Old Highway 53 (APN: 039-550-20); and

WHEREAS, the Conditional Use Permit, CUP 2024-02 would allow a Gas Station, Convenience Store and Drive through Car Wash located at 14975 Olympic Drive (APN: 039-550-51); 3545 Old Highway 53 (APN: 039-550-50) and 3565 Old Highway 53 (APN: 039-550-20), Clearlake, CA pursuant to Section 18-19.050 and 18-19.070 of the City Municipal Code; and,

WHEREAS, the General Plan and Land Use Zoning Designation is General Commercial and the proposed use would be consistent with the allowable uses in the General Commercial Zoning Districts; and

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

WHEREAS, in accordance with Section 18-28 of the City Municipal 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, the project underwent environmental review (CEQA Initial Study, IS 2024-01) 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 2024-01) was published in the Lake County Record Bee on December 21st, 2024, Posted with the State Clearinghouse; and sent*

via email to various Federal, State, and local agencies/organizations for the minimum of a 30-day commenting period from December 23rd, 2024, through January 22nd, 2025..

- 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.

WHEREAS, environmental review (CEQA Initial Study, IS 2024-01) 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 **Thursday, January 23rd, 2025**, 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; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Clearlake that the project is hereby approved, subject to the following conditions being satisfied:

PASSED AND ADOPTED on this 23rd day of January 2025, by the following vote:

Planning Commissioner	AYES	NOES	ABSENT	ABSTAIN
Chair Fawn Williams				
Vice Chair Jack Smalley				
Robert Coker				
Christopher Inglis				
Terry Stewart				

Chairperson, Planning Commission

ATTEST:

City Clerk/Deput Clerk

EXHIBIT A

CONDITIONS OF APPROVAL CONDITIONAL USE PERMIT, CUP 2024-02 CEQA INITIAL STUDY, IS 2024-01

Pursuant to the approval of the Planning Commission on **January 23rd, 2025**, there is hereby granted to Tony Mehroke (Norcal Fuelworxz, Inc), a Conditional Use Permit, CUP 2024-02 and Mitigated Negative Declaration (Based on CEQA Analysis IS 2024-01) with the following conditions of approval to allow the development and operation of a Gas Station, Convenience Store and Drive through Car Wash located at *14975 Olympic Drive (APN: 039-550-51); 3545 Old Highway 53 (APN: 039-550-50) and 3565 Old Highway 53 (APN: 039-550-20)*, Clearlake, CA is subject to the following terms and conditions of approval.

SECTION A: GENERAL CONDITIONS:

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 January 23rd, 2025.
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).
3. **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.
4. **Prior to Operation**, the permit holder shall meet and operate in full compliance with all required food safety rules and regulations of the County of Lake Environmental Health Division.
5. **Prior to Operation and/or Development**, the applicant shall secure/maintain 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, Lake County Special Districts and/or all applicable Federal, State and local agency permits.
6. **Prior to Operation**, the applicant shall have obtained a Business License from the City of Clearlake through the City of Clearlake online permitting system. (<https://clearlakeca.portal.opengov.com/>)
7. The operation shall not exceed the maximum occupancy as prescribed by the California Building Codes/Standards.
8. The applicant is responsible for ensuring that all employees including third party vendors are informed of, understand, and agree to abide by the approved plans and project conditions.

9. 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.
10. 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.
11. 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.
12. **Prior to operation and/or building permit final**, the applicant shall install curbs, gutters and sidewalks along Olympic Drive and Old Highway 53 frontage. Said installation shall adhere to all applicable Federal, State and local agency requirements, including the City's Design and Construction Standards.
13. 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. *(Mitigation Measure AES-1)*: 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. (Refer to the City's Design Standards).
2. **Prior to operation**, the applicant shall install a Trash Enclosures in accordance with City of Clearlake Municipal Codes and Trash Enclosure Design Standards.

SECTION C. AIR QUALITY:

1. *(Mitigation Measure AIR 1)*: 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.
2. *(Mitigation Measure AIR 2)*: 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.

3. *(Mitigation Measure AIR-3):* 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.
4. *(Mitigation Measure AIR-4):* **During construction activities**, the applicant shall remove daily accumulation of mud and dirt from any roads adjacent to the site.
5. *(Mitigation Measure AIR-5):* **Prior to ground disturbance activities**, a grading permit shall be secured from the City of Clearlake – Department of Public Works. Applicable grading activities shall adhere to all grading permit conditions, including Best Management Practices.
6. *(Mitigation Measure AIR-6):* 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.
7. *(Mitigation Measure AIR-7):* 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.
8. *(Mitigation Measure AIR-8):* 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 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.
9. *(Mitigation Measure AIR-9):* Significant dust may be generated from increase 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 utilizing water trucks, if necessary, reduce travel times through efficient time management and consolidating solid waste removal/supply deliveries, and speed limits.

10. *All 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. 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.

SECTION D – 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 contracted 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 in collaboration and with input from the Consulting Tribe(s), including recommendations. 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 and mitigation 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 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(s) 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 ground disturbing activities**, the applicant shall arrange for each affiliated consulting tribe to provide a joint cultural resource sensitivity training for personnel involved in ground disturbing activities.

SECTION E - GEOLOGY AND SOILS:

1. *(Mitigation Measure GEO-1)* **Prior to any ground disturbance activities**, the applicant shall secure a Grading Permit and submit Grading and Erosion Control/Sediment Plans to the Community Development Department for review and approval.
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 life of the project and replace/repared when necessary.

SECTION F - HAZARD/HAZARDOUS MATERIALS:

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.
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 a 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 G -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 regarding noise and vibration.

SECTION H – TRANSPORTATION

1. **Prior to issuance of any permits**, the applicant shall coordinate with the Department of Public Works and secure all necessary encroachment permits for any work and/or improvements within the right of way.

SECTION I - TRIBAL RESORUCES

1. *(Mitigation Measure TCR-1):* In the event that tribal cultural resources materials are discovered during construction which cannot be avoided or feasibly preserved in place, a project reburial area shall be designated. The reburial area shall be designated by the City after consulting with the project Archaeologist and all consulting Tribe(s). The reburial area shall be documented to avoid future disturbance (within 90 days of the completion of the project, the project Architect shall submit a DPR Form to the CHRIS center and submit a sacred lands file to the NAHC).

2. (Mitigation Measure TCR-2): **On or prior to the first day of ground disturbing activities**, the applicant shall arrange for each affiliated consulting tribe to provide a joint cultural resource sensitivity training for personnel involved in ground disturbing activities.
3. (Mitigation Measure TCR-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 TCR-4): At least seven days in advance of ground disturbing activities, the applicant shall coordinate with the affiliated consulting tribe(s) in relations to having a Tribal Monitor onsite during ground disturbing activities that disturb ground below the existing ground surface. To the extent that more than one affiliated consulting tribe(s) desires to monitor such activities, each Tribe shall be entitled to monitor, but the affiliated consulting Tribe(s) shall rotate monitoring shifts, such that only one tribal monitor need be present. When rotated, the non-required monitor may continue monitoring on a voluntary basis. Should the Tribal monitor choose not to monitor, or if the monitor is not present at the project location at the scheduled time, work may proceed without a monitor as long as the notification was made and documented.

SECTION I -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. 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.*

3. 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.

4. Said Use Permits shall be subject to revocation or modification by the Planning Commission if the Commission finds that there has been:
 - a) *Noncompliance with any of the foregoing conditions of approval; or*
 - b) *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. 15.*

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.

Date: _____

Applicant or Authorized Agent Signature

Printed Name of Authorized Agent

To be Completed by Authorized Staff Only:	
_____ Staff Name	_____ Staff Signature
Date Project Approved: _____	