

Subject:	Humboldt QOZ Fund Coastal Development Permit (CDP-21-0014), Conditional Use Permit (CUP-21-0011), and Design Review (AA-22-0003)
Location:	1906 4 th Street, 1905 5 th Street and 1917 5 th Street
APN:	002-105-006, -011, -013
Applicant:	Humboldt QOZ Fund
Property Owner:	Humboldt QOZ Fund
Purpose/Use:	Demolish three structures and construct two Restaurants with Drive-throughs
Application Date:	November 24, 2021
General Plan:	GCS – General Service Commercial
Zoning:	CS – Service Commercial
CEQA:	Exempt under Section 15332 (In-fill Development Projects)
Staff Contact:	Lisa M. Savage, Senior Planner
Recommendation:	Hold a Public Hearing; and Adopt a Resolution to approve the project with conditions
Motion:	“I move the Planning Commission adopt a Resolution to conditionally approve demolition of three structures and construction of two drive-through restaurants at 1906 4 th Street and 1905 and 1917 5 th Street.”

Figure 1: Location Map

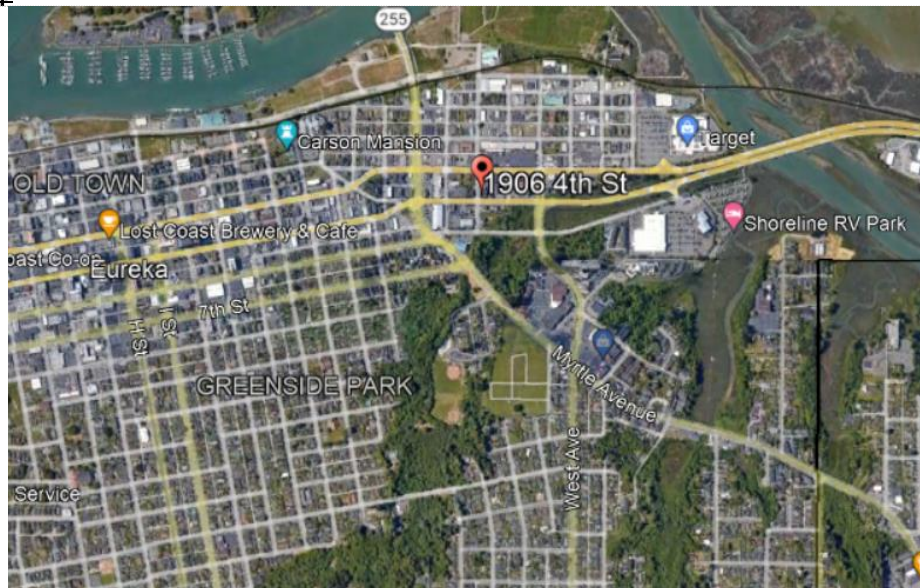
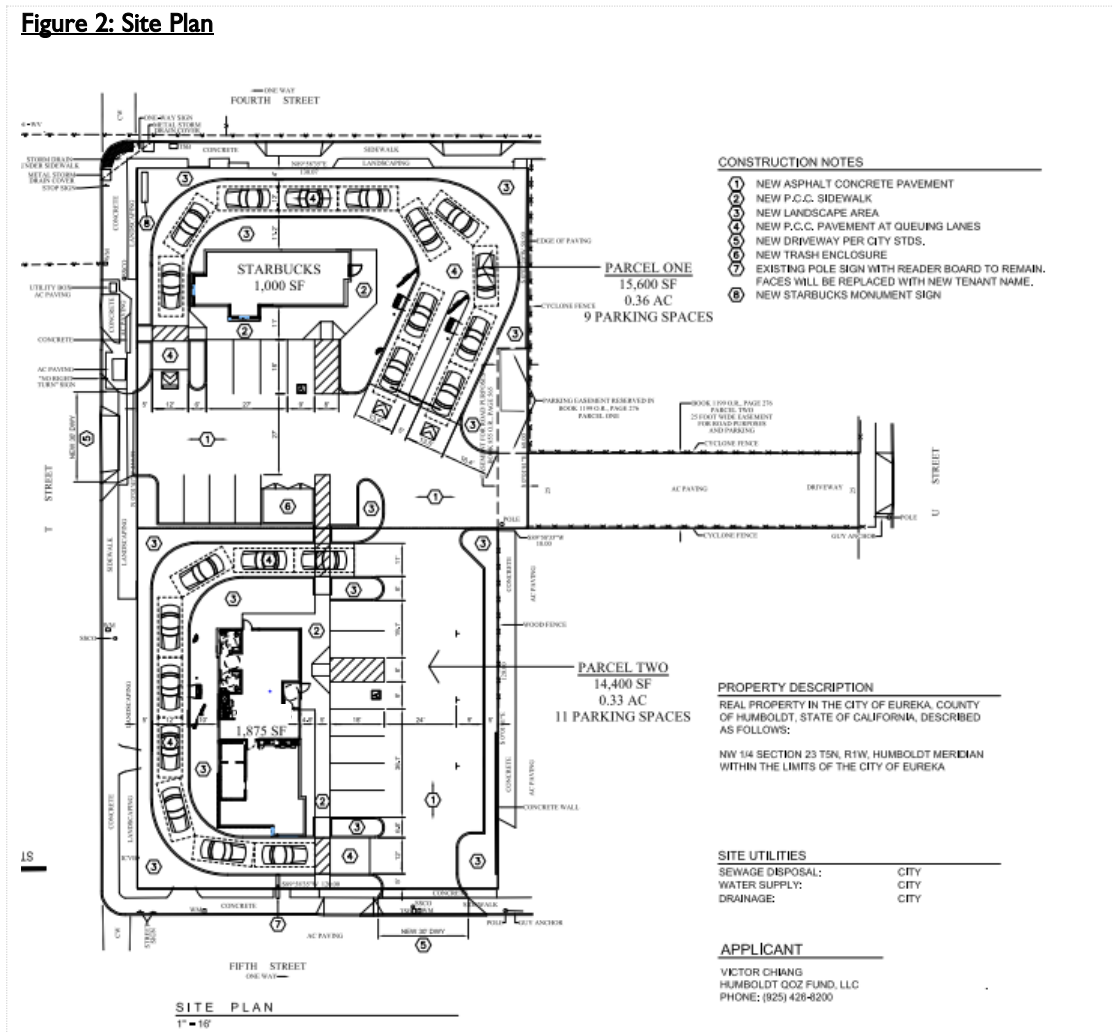


Figure 2: Site Plan



PROJECT SUMMARY

The project is located in the Coastal Zone, and drive-through restaurants are a conditional use is the CS (Service Commercial) zone district requiring a Conditional Use Permit (CUP). Pursuant to Eureka Municipal Code (EMC) §10-5.2401(c), projects requiring a use permit also require a Coastal Development Permit (CDP). The applicant, Humboldt QOZ Fund, is requesting approval of a CUP, CDP, Design Review and Sign Permit to redevelop the sites and construct two new restaurants with drive-throughs (collectively, the drive-through restaurants). The drive-through on the north of the site will be an approximately 1,000 square foot restaurant (currently proposed for Starbucks), including parking, landscaping, lighting, and signage, and the drive-through on the south of the site will be an approximately 1,875 square foot restaurant (business unknown at this time) including parking, landscaping and lighting. The proposed Starbucks is drive-through or walk-up window only; there is no proposed interior access for customers. The subject property is located between 4th and 5th Streets (Highway [Hwy] 101 South and North, respectively), east of T Street (Figure 3 below) in the CS (Service Commercial) zone district. The site currently consists of three parcels, each containing a restaurant (Subway [1906 4th St.], a vacant Sizzler [1905 5th Street], and Annie’s Cambodian [1917 5th St.]), all of which will be

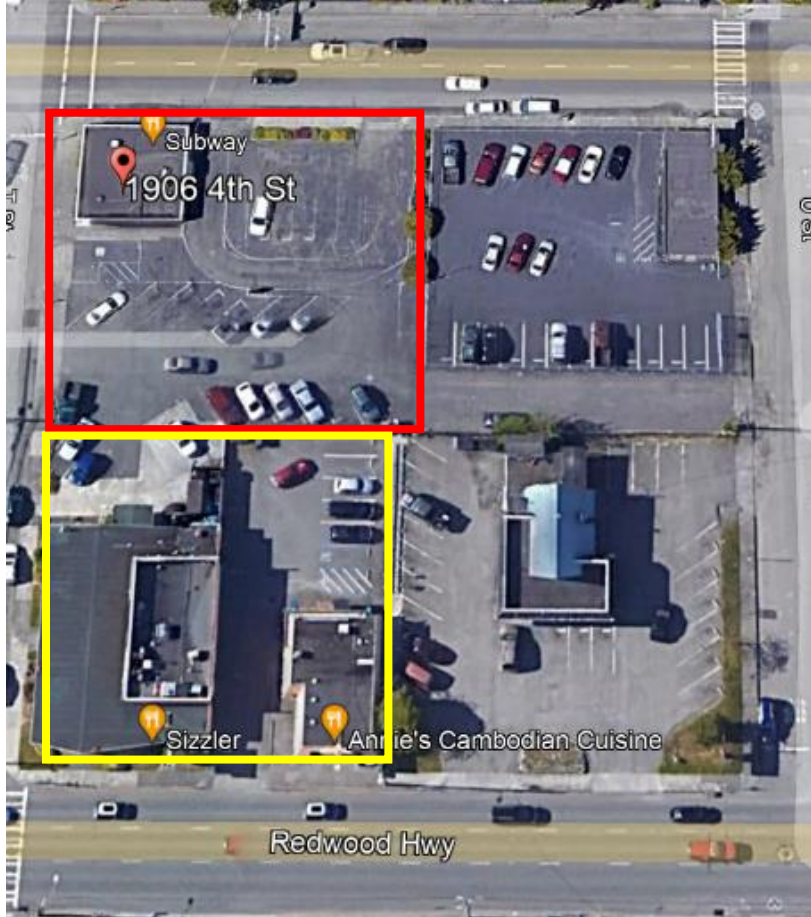
demolished prior to construction. The project is located in the Coastal Zone, and requires a CUP and CDP from the City. The project also requires Design Review, and Sign Permit (the Design Review and Sign Permit are being processed together under AA-22-0003). At this time, the Design Review and Sign Permit are only covering the Starbucks development and the applicant will come back to the Planning Commission for a Design Review Modification for the second restaurant and signs, once a tenant has been identified.

To accommodate the project, the applicant is proposing a Lot Line Adjustment (LLA) to reconfigure the three parcels into two parcels (Figures 3 and 4, respectively). The newly created Parcel 1 (Figure 2, Site Plan) will be approximately 15,600 square feet (0.36 acres) and is currently proposed to be redeveloped with a Starbucks, and the newly created Parcel 2 (Figure 2, Site Plan) will be approximately 14,400 square feet (0.33 acres) and be redeveloped with a drive-through restaurant. The LLA is being reviewed separately for consistency with the State Subdivision Map Act and EMC Chapter 154 (Subdivision Regulations) under LLA-22-0003, and a separate Director-level decision will occur after the Planning Commission decision on the overall proposed project. **Condition 14** requires recordation of the LLA prior to construction of the drive-through developments. The LLA is exempt from coastal development permit requirements under the City's Categorical Exclusion Order E-88-2 (codified under EMC §10-5.29304.1).

Figure 3: Project Location APN's – APN 002-105-006 (Blue), -011 (Red), and- 013 (Yellow)



Figure 4: Proposed Lot Line Configuration (3 Parcels to 2 Parcels)



USE PERMIT ANALYSIS

A Use Permit is required to redevelop the newly created parcels as drive-through restaurants. To approve a Use Permit, the Planning Commission must make all of the following findings pursuant to EMC §10-5.2407:

1. The proposed location of the conditional use is in accord with the objectives of Chapter 5 and the purposes and intent of the district in which the site is located;
2. The proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity;
3. The proposed conditional use will comply with each of the applicable provisions of Chapter 5; and
4. The proposed conditional use is consistent with the certified Local Coastal Program.

I. Code Consistency

Chapter 5 Objectives and Purpose

Pursuant to EMC §10-5.102, the zoning regulations are adopted by the City Council in accordance with the City Charter to protect the public health, safety, peace, comfort, convenience, prosperity, and general welfare. More specifically, the chapter is adopted in order to achieve the following objectives:

- (a) **To provide a precise guide for the physical development of the City in such a manner as to achieve progressively the arrangement of land uses depicted in the General Plan adopted by the Council.**

The site is located in the General Service Commercial (GSC) land use designation which provides appropriately located areas for retail and wholesale commercial establishments that offer commodities and services required by residents of the city and its surrounding market area. The GSC land use designation is implemented through the purposes and standards of the Service Commercial (CS) zone district. Drive-through restaurants are a retail use that serve residents of the City and its surrounding market area, and they are listed as a conditional use in the CS zone district. The project currently proposes a drive-through/walk-up Starbucks and another drive-through restaurant in an area with a high concentration of restaurants (including similar drive-throughs), drive-through coffee kiosks, hotels, and commercial businesses. The site is located along Hwy 101 where auto-oriented developments are appropriately concentrated. Granting the CUP will allow Eureka residents and visitors easy vehicular access to the drive-through restaurants from the highway. Thus, the proposed uses will help facilitate and achieve the arrangement of land uses depicted in the 1997 Coastal General Plan consistent with this objective.

- (b) **To foster a harmonious, convenient, workable relationship among land uses.**

The drive-through restaurants are proposed on commercial parcels on the Hwy 101 commercial corridor, between 4th and 5th Streets (Hwy 101 South and North respectively). Presently, 1906 4th Street has a drive-through Subway sandwich restaurant, and 1905/1917 5th Street has the former Sizzler restaurant, and the Annie's Cambodian restaurant. Each leased building is slated to be demolished. Although the former Sizzler restaurant is presently not in use, both Subway and Annie's Cambodian are operational.

The project site has housed restaurant development for decades; 1906 4th Street was Weatherby's Seafood prior to Subway. The 1905 5th Street (Sizzler) opened in the 1980's and 1917 5th Street (Annie's) was Art's Bar and Grill as far back as 1969. To the north of 1906 4th Street, across 4th Street (Hwy 101 South), is the Red Lion Hotel, to the east is a commercial granite tile shop, and to the west are multi-family residences in a two-story building. To the south and southwest of 1905/1917 5th Street, across Hwy 101 North, is a gas station and drive-through coffee shop; and, to the east is a coffee shop (Sips), and east, across U Street, a multi-tenant commercial development (strip mall). To the west, across T Street is a residential property which adjoins a drive-through Burger King restaurant.

The proposed drive-through restaurant use is consistent with the surrounding scale and mix of uses. The replacement of restaurants in this area will maintain convenient restaurant choices that are also drive-throughs which can cater to highway traffic coming from both the north and south. Granting the use permit will foster a harmonious, convenient, workable relationship among land uses by providing for similar uses in an area that has been the location of restaurants for decades.

(c) To promote the stability of existing land uses that conform with the General Plan and to protect them from inharmonious influences and harmful intrusions.

The project is located on commercial parcels located on the Hwy 101 commercial corridor, which includes a diverse mix of retail and service commercial developments, including hotels, restaurants (including drive-throughs), and gas stations, as well as multi-family residential and light-industrial developments. The area surrounding the development is entirely zoned CS and is envisioned to continue to grow as an area of diversely intermixed uses.

Referrals were sent to agencies and City departments with interest or jurisdiction over the property or the intended use of the property, and no referral comments were received which would indicate the proposed restaurant would be problematic in the area. Caltrans comments regarding ingress and egress have been incorporated into the site plan, so no additional condition of approval is necessary. In addition, Humboldt County Division of Environmental Health Services reviewed the project and provided a number of requests, which have been included as **Condition 2**.

Project construction could be disruptive to surrounding land uses but will be temporary and limited, per **Condition 1**, to standard work days. For all these reasons, the project has been designed and conditioned to ensure the addition of two drive-through restaurants will not be an inharmonious influence or a harmful intrusion on the Hwy101 commercial corridor.

(d) To ensure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the city as a whole.

The drive-through restaurants are proposed on three established commercial parcels (which will be converted to two parcels through LLA-22-0003) on the Hwy 101 commercial corridor, between 4th and 5th Streets (Hwy 101 South and North respectively) and T and U Streets. The proposed project will redevelop parcels that have been developed with restaurants for many decades and are located among a mix of other retail, service commercial, and residential uses, which are all appropriate for the area. The highway receives the most vehicle trips of any roadway in the City and therefore is attractive to auto-oriented developments, where such uses are conveniently located to serve the neighborhood, greater Eureka, and visitors, which will in turn benefit the City as a whole.

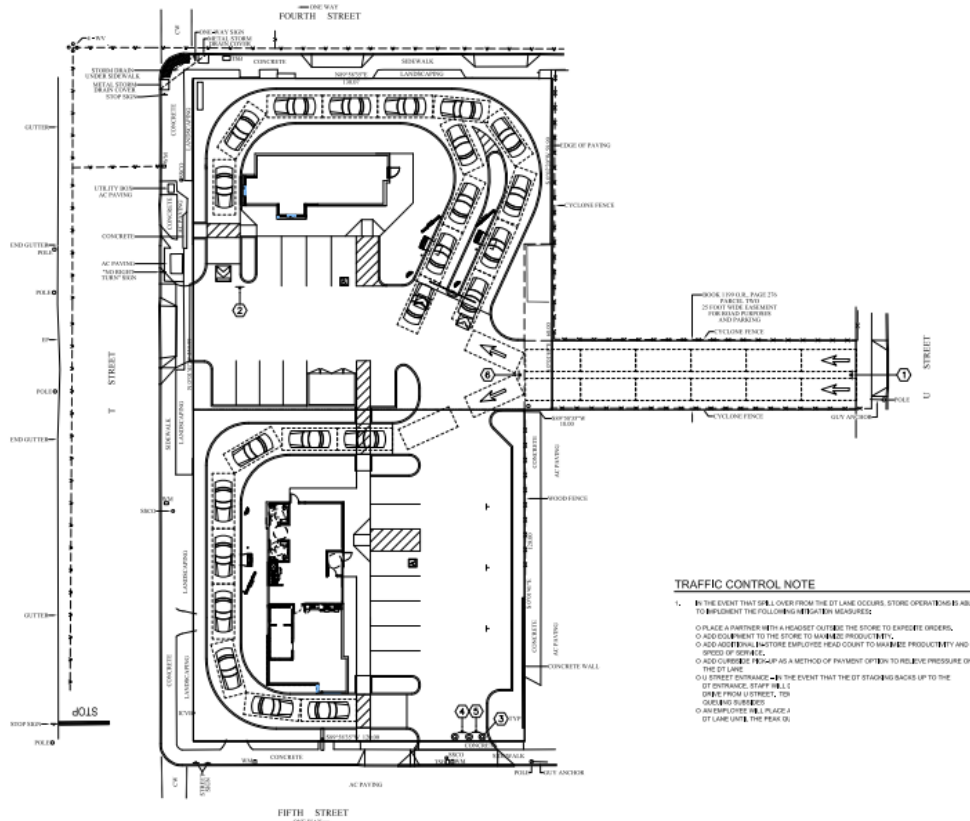
(e) To prevent excessive population densities and overcrowding of the land with structures.

Given the proposed use is a commercial development that will replace existing commercial development, granting the conditional use permit will not result in increased population densities; and, reducing the restaurants on the parcels from three to two, will not result in overcrowding of the land with structures.

(f) To promote a safe, effective traffic circulation system.

The queuing for both drive-throughs will be one-way; vehicles will enter both drive-throughs via an easement off of U Street and will exit the drive-throughs via T Street or 5th Street (Hwy 101 north) (Figure 5, Traffic Control Plan). Existing Parcel 2 has a 25-foot-wide easement to U Street for road purposes and parking (Book 1199 O.R., Page 276). **Condition 3** requires the applicant provide evidence demonstrating the allowed use of the U Street easement for drive-through queuing as proposed. Ingress and egress to the parking lots will occur via T Street and egress only via 5th Street. There will be no ingress or egress from 4th Street (Hwy 101 south). The project was reviewed and approved by Caltrans and Public Works - Engineering, and Caltrans' comments regarding ingress and egress have been incorporated into the site plan. An Access Easement Agreement will be recorded at the time of the Lot Line Adjustment (**Condition 4**) allowing vehicles to cross between the subject parcels for ingress and egress. In addition, the location of the parking in front of the restaurant entrances will prevent conflicts between pedestrians' accessing the restaurants and cars entering and exiting the drive-through. Thus, the proposed project will promote a safe, effective traffic circulation system, consistent with this objective.

Figure 5: Traffic Control Plan



(g) To foster the provision of adequate off-street parking and off-street truck loading facilities.

The project site is sufficient in size to meet the required parking for the proposed drive-through restaurants. Pursuant to the parking requirements of the zoning code, the Starbucks building requires five spaces, and nine are provided, including one ADA-accessible space. The other proposed restaurant requires nine spaces, and eleven are provided, including one ADA-accessible space.

Per EMC §10-5.1504, the new parking lots meet the required aisle width for vehicles to back out safely. Per EMC §10-5.1603, no loading berth is required for commercial uses less than 4,000 square feet. Starbucks is 1,000 square feet and the other proposed restaurant is 1,875 square feet; therefore, no loading berths are required or provided for either development. Thus, the proposed project is consistent with this objective.

(h) To facilitate the appropriate location of community facilities and institutions.

No community facilities or institutions exist at the site. Thus, the proposed use is consistent with this objective.

(i) To promote commercial and industrial activities in order to strengthen the city's tax base.

The proposed drive-through restaurants will contribute to, and since they are higher intensity, auto-oriented developments, may potentially increase the tax base via sales tax, above what is produced by the two current restaurants. The restaurants will be easily accessible to vehicles traveling both south and north on Hwy 101 (4th Street and 5th Street respectively) which will encourage visitors to stop and spend money at the restaurants. As a result, the proposed use is consistent with this objective.

(j) To protect and enhance real property values.

The proposed drive-through restaurants and associated site improvements will redevelop parcels that have been utilized for restaurants for decades, and is currently underutilized with one vacant building, the former Sizzler, which closed during the pandemic in July 2020. Although the area is already well-used, the addition of two new restaurant buildings will only serve to enhance the use and add vibrancy to the area, which will protect and enhance property values. As a result, the proposed use is consistent with this objective.

(k) To safeguard and enhance the appearance of the city.

The proposed project includes new construction that is subject to Design Review. At this time, only the proposed Starbucks on Parcel 1 is going before the Planning Commission for Design Review and Sign approval, and once a tenant is secured for Parcel 2, the Project will return to the Planning Commission for a Modification of the Design Review Permit (including signs). The site will be enhanced with new landscaping, where currently the existing parking lots are not landscaped. The new landscaping will include trees, shrubs, grasses and vines. One of the buildings (Sizzler) on the property has been vacant for almost two years and could potentially become a nuisance over time without use and associated upkeep. As a result, the overall design of the proposed use will protect and contribute positively to the appearance of the City consistent with this objective.

Purposes of the Zone District

In addition to the objectives prescribed in EMC §10-5.102 (Objectives of Chapter 5 Zoning, Article I General) and EMC §10-5.2902 (Objectives and purposes of Chapter 5 Zoning, Article 29 Coastal Development Permit Procedures), the CS - Service Commercial zone districts are included in the zoning regulations (EMC §10-5.29130 and 10-5.901.5) to achieve the following purposes:

EMC §10-5.29130

(a) To provide appropriately located areas for retail stores, offices, service establishments, amusement establishments, and wholesale businesses offering commodities and services required by residents of the city and its surrounding market area;

(b) To provide opportunities for retail stores, offices, service establishments, amusement establishments, and wholesale businesses to concentrate for the convenience of the public and in mutually beneficial relationship to each other;

- (c) To provide space for community facilities and institutions that appropriately may be located in commercial areas;
- (d) To provide adequate space to meet the needs of modern commercial development, including off- street parking and truck loading areas;
- (e) To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them;
- (f) To protect commercial properties from fire, explosion, noxious fumes, and other hazards;
- (g) To provide appropriately located areas for commercial uses having features that are incompatible with the purposes of the other commercial districts;
- (h) To permit additional development in mixed commercial areas containing both retail stores and commercial services; and,
- (j) To allow a wider choice of location for certain industrial uses that do not have an adverse impact on commercial services.

The proposed drive-through restaurants are appropriate for the CS zone, as they are commercial uses offering goods required by residents of the City and surrounding market area. The proposed drive-through restaurants will be conveniently and appropriately located along the Hwy 101 corridor in an area with a diverse mix of restaurants (including other drive-through restaurants), service establishments, and hotels, and will have a mutually beneficial relationship with the other businesses in the area. The restaurants will be located in an area where there is adequate space to meet the needs of the redevelopment project, including off-street parking. The project was reviewed and approved by Caltrans and Public Works - Engineering, and Caltrans' comments regarding ingress and egress have been incorporated into the site plan. Utilities are available on-site and the addition of **Condition 5** ensures the new utilities meet Public Works- Engineering specifications. The drive-through restaurants are not of excessive size in relation to the proposed reconfigured parcels, (three parcels are being realigned into two parcels through a future LLA) and will not overload utilities. The proposed uses will not generate an unusual risk of fire, explosion, noxious fumes, or other hazards, as **Condition 12** has been added to ensure the applicant is aware of the need for building permit review and approval prior to commencement of demolition and construction. For all these reasons, the proposed project as conditioned is consistent with the purposes of the CS zone district.

2. Public Health, Safety, and Welfare

Referrals were sent to agencies and City departments with interest or jurisdiction over the property or the intended use of the property. No comments were received that indicate the proposed restaurants will be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity. The proposed restaurants, will bring additional light and activity to the Hwy 101 corridor. The new outdoor lighting for the restaurants and increased activity is a passive way to provide a safer area for the public. Therefore, based on the discussion herein, the finding can be made that the drive-through restaurants will not negatively impact the public health, safety or welfare.

3. Provisions of Chapter 5

The project site is located in the CS zone district. Pursuant to EMC §10-5.201, the CS zone district has no minimum front, side, or rear yard setback requirements, a maximum height limit of 55 feet, and a 120% floor area ratio (FAR). The proposed buildings fit well within these parameters, and although there are no setback requirements for the newly created lots, the design provides ample space between the restaurants and property lines. On Parcel 1, the proposed building height for Starbucks is 18 feet, and the FAR is 6.4%. On Parcel 2, the proposed height for the restaurant is 21 feet and the FAR is 13%. There are no yard setback or landscaping requirements at this location. Additionally, no loading facilities are required by the Code. Both parcels have enough space for appropriately sized parking lots to meet and actually exceed the off-street parking requirements. Although no parking lot landscaping is required by the code (unlike the Inland Zoning Code), the project proposes trees, shrubs, grasses and vines, between the sidewalk and drive-throughs and between the drive-throughs and restaurants which will greatly enhance the appearance of the new structures and the overall area. Therefore, the proposed use complies with the applicable provisions of Chapter 5.

4. Local Coastal Program

The Local Coastal Program includes the 1997 Coastal General Plan (Land Use Plan) land use designations and map, and the EMC zoning district regulations (Implementation Plan) and map, among other provisions. The project site is zoned CS – Service Commercial and designated GSC – General Service Commercial, and the CS zone district conditionally permits drive-through restaurants. The siting and design of the proposed drive-through restaurant uses are consistent with the intent of the GSC land use designation and the purpose and standards of the CS zone district as described in detail above in Sections 1 and 3. The proposed drive-through restaurants are also consistent with the Local Coastal Program policies of the 1997 Coastal General Plan and the Coastal Development Permit chapter of the EMC, as discussed below in the Coastal Development Permit analysis section of this report. For all these reasons, the conditional uses can be found consistent with the certified Local Coastal Program.

DESIGN REVIEW ANALYSIS

The proposed project requires Design Review by the Planning Commission. The applicant is only requesting Design Review and a Sign Permit for the Starbucks restaurant and associated signage at this time (both the Design Review and Sign Permit are covered by Application No. AA-22-0003); a Modification to AA-22-0003 will be required at a later date to review the design of the second restaurant and its signage.

To approve a Design Review application, the Planning Commission must consider all of the following:

Site Plan review is intended to:

1. Preserve the natural beauty of the City's sites;
2. Prevent the indiscriminate clearing of property and the destruction of trees and shrubs;
3. Prevent excessive grading of hillsides and creation of drainage hazards;

4. Ensure structures are properly related to their sites, to surrounding sites and structures, to traffic circulation in the vicinity; and
5. Ensure parking areas, walk ways, and landscaping are arranged to accomplish the objectives of the zoning code.

Architectural review is intended to prevent the erection of structures or signs that would be inharmonious with their surroundings or would have an adverse effect on the value of property or improvements in the vicinity.

To approve Design Review and a Sign Permit for the proposed Starbucks signs, the Planning Commission must also determine compliance with the following criteria:

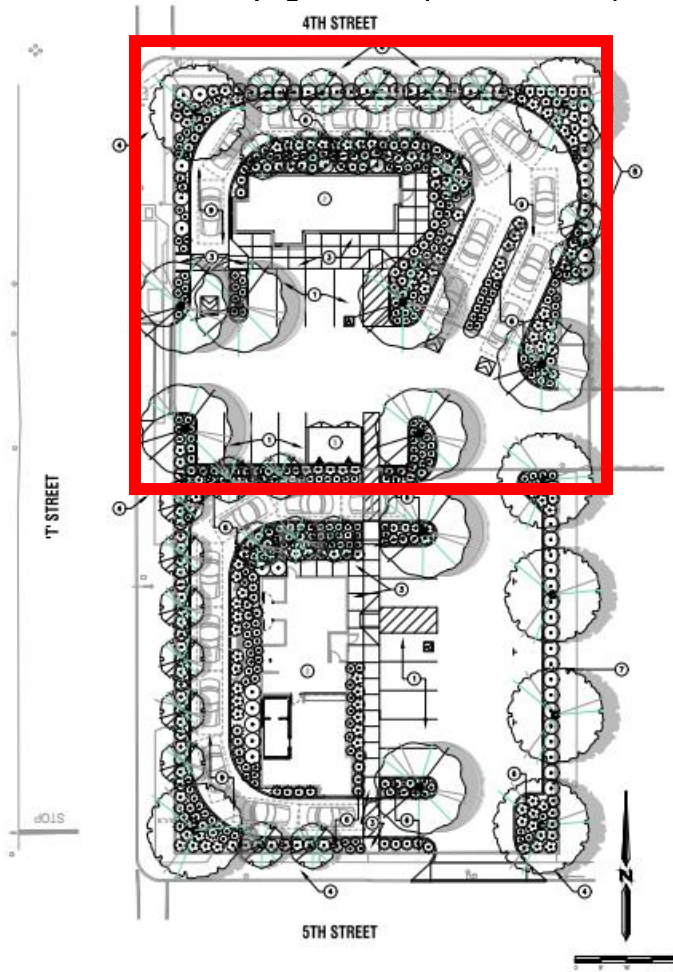
- a. The sign is desirable for the applicant's enjoyment of substantial trade and property rights, and does not constitute needless repetition, redundancy or proliferation of signing.
- b. The sign is consistent with the purposes and scope of Article 17 as set forth in §10-5.1701.
- c. The sign does not constitute a detriment to public health, safety and welfare.
- d. The location and design of the proposed sign does not obscure the view of, or unduly detract from, existing adjacent signs.

Site Plan and Architectural Review

At this time, the Planning Commission is only considering Design Review for Resultant Parcel 1 (Starbucks) and associated signage. The applicant will be required to return to the Planning Commission to modify the Design Review permit for the building on Parcel 2 and any additional proposed signs once the tenant is selected and their exterior architectural design is complete (**Condition 15**). The Planning Commission should determine whether the site plan for proposed Starbucks and associated parking, landscaping, and drive-through will be inharmonious with the surroundings or will have an adverse effect on the value of property or improvements in the vicinity. Pursuant to EMC §10-5.1801 et seq., the ugly, the inharmonious, the monotonous, and the hazardous shall be barred. The Commission's review includes exterior design, materials, textures, and colors, but does not include elements of the design that do not affect exterior appearance. The Planning Commission must recommend disapproval of drawings for a structure or a sign that would be inharmonious with surrounding development, but the Commission cannot require new structures duplicate a historic architectural style as a condition of approval.

The Starbucks development includes a 1,000 square-foot Starbucks with sidewalks, parking, landscaping, and a drive-through on Parcel 1.

Figure 6: Site Plan with Landscaping – Parcel I (4th and T Streets)



The exterior of the upper portion of the building is “fine sand finished stucco” in the “typical” Starbucks color of Sherwin Williams Grey Heron (greyish/tan). The bottom portion of the building is finished in brick in a Midnight color by NICHIHA. The overhangs, window trim, and other metal features are Sherwin Williams Iron Ore. The exterior wood component is manufactured by NICHIHA in a Vintage Wood Bark color. (See Figures 7-9, below)

Figure 7: Exterior Elevation South



Figure 8: Exterior Elevation North

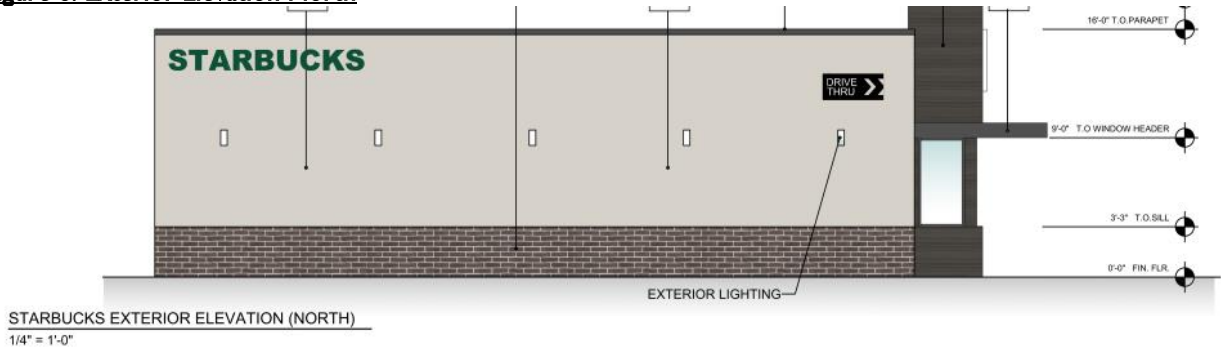
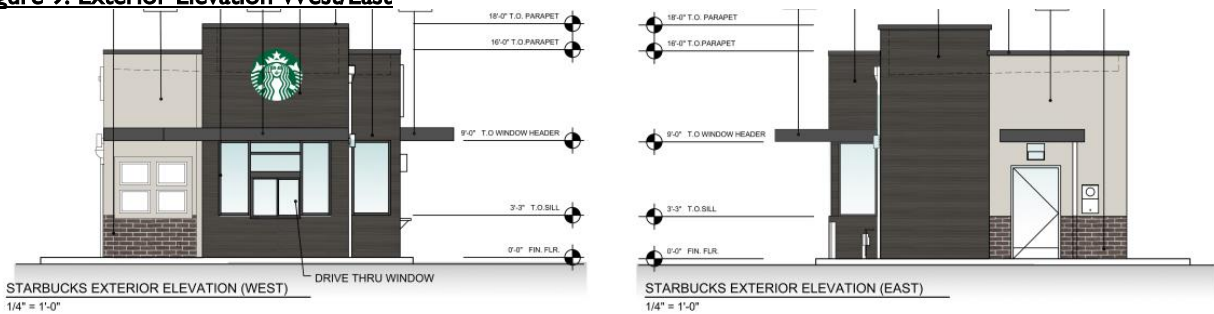


Figure 9: Exterior Elevation West/East



Five off-street parking spaces are required for Starbucks (including at least one ADA-accessible space), and nine are provided. Up to 25% of all proposed spaces may be compact car spaces, but no compact spaces are proposed for the Starbucks parking lot. In accordance with EMC §10-5.1504, the dimensions of the parking spaces and parking drive aisles meet the minimum requirements. Per EMC §10-5.1603, no loading berth is required for commercial uses less than 4,000 square feet, and the Starbucks restaurant is under 4,000 square feet; therefore, no loading berth is required or provided. Based on the above analysis, the Starbucks restaurant development meets all parking and loading requirements.

There are no landscaping requirements for parking facilities in the CS zone district; however, an extensive landscaping plan is proposed. The landscaping (Figure 6, above) consists of accent trees, shrubs (of various heights), grasses, ground cover, and vines. The plant list below is representative of some of the plants that are being proposed as “appropriate for the location.” According to the applicant, the final plant selection will be drawn from this list; however, not all plants listed below will be used, and new plant species may be added. The proposed planting design is made up of predominately low-water use trees, shrubs, and groundcover with bio-retention grasses within the proposed retention basin areas. Site irrigation will be supplied by a “Smart Controller”, and will comply with all applicable local and state water efficient landscape ordinance codes. **Condition 9** has been added prohibiting planting of invasive and problematic plant species, and prohibiting use of rodenticides containing any anticoagulant compounds.

Proposed Plant List:

Trees: Western Redbud, Crape Myrtle, Red Maple, Chinese Pistache, Chinese Elm, and Green Vase Zelkova, all in 15-gallon size.

Shrubs: Queen Anne Agapanthus, Day Lily, Sage, Bottle Brush, Saliva, and Nandina, all in one-gallon size.

Hedges: Waxleaf Privet, Little Ollie Olive, and Compact Xyosma, all in the five-gallon size.

Grasses: Feather Reed Grass, Fortnight Lily (both five-gallon size), and Pink Muhly Grass (1-gallon size).

Ground Cover: Emerald Carpet Manzanita, Striebs Findling Cottoneaster, and Pink Trailing Myoporum all in a one-gallon size.

Vines: Weeping Fig (one-gallon size), and Boston Ivy (five-gallon size).

Staff believes the proposed development will be harmonious with its surroundings and will have a positive effect on the value of properties within the vicinity. As a result, Staff believes the necessary findings, as mentioned above, can be made to approve Design Review for future Parcel 1 (Starbucks).

Sign Permit

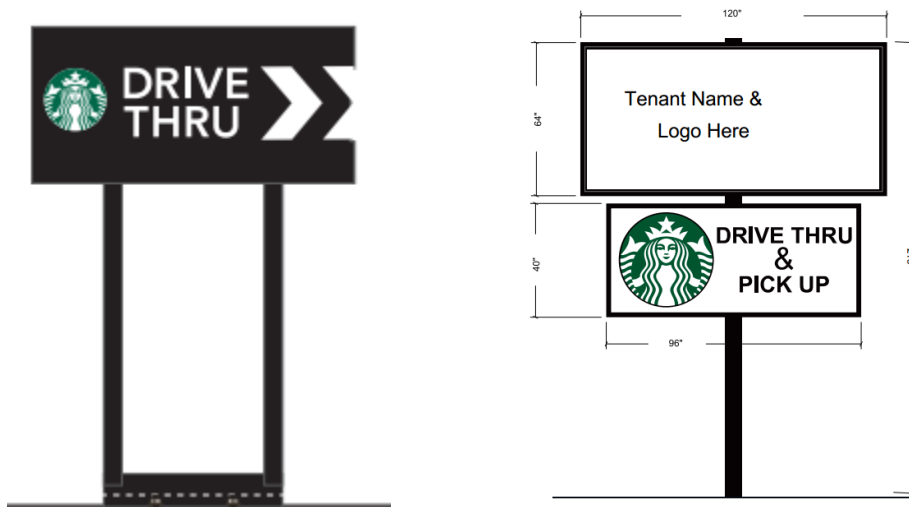
At this time signs are only proposed for Starbucks, and one sign for Starbucks is proposed to be located off-site on future Parcel 2, on an existing pole sign located on the southeast corner of the Sizzler restaurant parcel (between Sizzler and Annie's Cambodian). The applicant is also proposing a yet-to-be-designed monument sign to be located on future Parcel 1 at the corner of 4th and T Streets. The applicant is required to return to the Planning Commission to modify the Design Review permit for the new building on Parcel 2, and any additional proposed signs (including the monument sign on Parcel 1) once the design is complete. All existing signs on the project site, other than the pole sign, will be removed at the time of building demolitions.

The property is located in the CS - Service Commercial zone district where three-square feet of signage is allowed for every foot of the lot's street frontage. Reconfigured Parcel 1 will be a corner lot, with 120 feet and 130 feet of frontage on 4th and T Streets, respectively, which will allow a total of 750 square feet of signage on Parcel 1. The five proposed signs on future Parcel 1 total 78 square feet.

There will be two round internally lit wall-mounted Starbucks' logo signs. One will be located above the drive-through window (facing T Street) and one above the walk-up window (facing the parking lot), for a total of 25.12 square feet (Figures 7 and 9 above). In addition, an internally lit cabinet sign (21.75 square feet) with green channel lettering reading "Starbucks" will be located on the north (4th Street) side building wall (Figure 8 above). Finally, there are two internally lit, double sided, drive-through directional pole signs with the Starbucks' logo that will be located on either side of the drive-through entrance, with a total area of 31.96 square feet for both signs (front and back) (Figure 10).

Reconfigured Parcel 2 will be a corner lot with 120 feet of frontage on both 5th and T Streets, which allows for a total of 720 square feet of signage on Parcel 2. The proposed off-site Starbucks' double-sided, internally-lit pole sign totals 53.33 square feet (Figure 10). The applicant is also planning on adding signage for the second tenant on this pole sign through a future Modification of this Design Review. The applicant anticipates the second tenant sign (not covered under the current Design Review application) will be 106.66 square feet, for a total of 160 square feet of pole signage.

Figure 10: Drive-through Directional Signs and Pole Sign



The proposed signage meets the size and siting limitations contained in EMC §10-5.1704. The proposed signs do not constitute needless repetition, redundancy, or proliferation of signage as they only utilize approximately 10 percent of the allowed signage for Parcel 1, and approximately 7.4 percent (Starbucks sign only) of the signage allowed on Parcel 2. The signage enables drivers to identify Starbucks without degrading the quality of the City's appearance along Hwy 101 (4th and 5th Streets), consistent with the purpose and scope of the sign regulations of the zoning code. All signs currently present on the properties (with the exception of the pole sign) will be removed during building demolition, so the proposed signage will not obscure the view of, or unduly detract from, existing signs on neighboring parcels. As a result, Staff believes the necessary findings, as mentioned above, can be made to approve the Sign Review.

COASTAL DEVELOPMENT PERMIT ANALYSIS

Pursuant to EMC §10-5.2401(c), projects requiring a use permit also require a CDP; therefore, the proposed drive-through restaurants require a CDP from the City. The associated lot line adjustment is exempt from coastal development permit requirements under the City's Categorical Exclusion Order E-88-2 (codified under EMC §10-5.29304.1(c)). To approve a Coastal Development Permit, the Planning Commission must find the proposed development conforms to the policies of the Certified Local Coastal Program pursuant to EMC §10-5.29310.1.

The Local Coastal Program (LCP) is the foundational policy document for areas of the City located in the coastal zone. It establishes farsighted policy that forms the basis for and defines the framework by which the City's physical and economic resources in the coastal zone are to be developed, managed and utilized. The LCP is divided into two components: the first component is the Land Use Plan (LUP), which is the General Plan specific to land in the coastal zone. It outlines the existing conditions, permitted uses, and policies needed to achieve the goals of the Coastal Act and includes the general plan map. The second component of the LCP is the Implementation Plan (IP), which includes zoning regulations and the zoning map for land in the coastal zone, as well as specific coastal zone ordinances necessary to implement the policies of the LUP.

I. Land Use Plan (LUP) Analysis

I.A. Purpose of the GSC – General Service Commercial land use designation

The purpose of the GSC – General Service Commercial land use designation is to provide appropriately located areas for retail and wholesale commercial establishments that offer commodities and services required by residents of the city and its surrounding market area. Examples of conditionally permitted uses include but are not limited to drive-in theaters, dine-in and drive-through restaurants, and mobile home and trailer parks.

The project is consistent with the GSC land use designation as it will provide two commercial businesses (restaurants) that offer commodities required by residents of the city and its surrounding market area. The proposed drive-through restaurants are conditional uses within the GSC-designated area.

I.B. LUP Goals and Policies

Staff reviewed the goals and policies in the adopted and certified Land Use Plan (LUP) to determine whether the project conforms to the LUP. The review found the project supports the following adopted goals and policies:

Goal I.L To ensure an adequate supply of commercial land for and promote the development of commercial uses to meet the present and future needs of Eureka residents and visitors and to maintain economic vitality.

The proposed project is located in an auto-oriented commercial area (between 4th and 5th Streets/Hwy 101) at an appropriate location capable of accommodating increased commercial development intensity/density. The redevelopment of the project site with new buildings, landscaping, and parking will have a positive effect on the City's economic vitality, consistent with this policy. Furthermore, the project was reviewed and approved by Caltrans and Public Works - Engineering, and Caltrans' comments regarding ingress and egress have been incorporated into the site plan. Both restaurants' drive-throughs will queue via an easement off U Street. Ingress and egress to both parking lots will be from T Street, while 5th Street is reserved for egress only. The drive-through restaurants will serve the Hwy 101 corridor, and due to their location, will be easily accessible to visitors from elsewhere in the City, and by out of town visitors. For all the reasons described above, the proposed project is consistent with Goal I.L.

Goal I.A To establish and maintain a land use pattern and mix of development in the Eureka area that protects residential neighborhoods, promotes economic choices and expansion, facilitates logical and cost-effective service extensions, and protects valuable natural and ecological resources.

The new drive-through restaurants are proposed on existing commercial property located on the Hwy 101 corridor in a predominantly commercial mixed-use area, away from exclusively residential neighborhoods. The project will create two new drive-through restaurants, which will promote economic choice and expansion. This redevelopment project will not require service extensions, and will result in full utilization of land with no valuable natural or ecological resources. As discussed under Goal 6.A and Policy 6.A.3 below, the proposed project as sited, designed and conditioned, will avoid any potential impacts to nearby wetlands and bay waters. For all these reasons, the proposed project as conditioned is consistent with Goal I.A.

Goal 4.A To ensure the effective and efficient provision of public facilities and services for existing and new development.

The proposed project involves the demolition of three existing restaurant structures and the redevelopment of the project site with two new drive-through restaurants. As the project is replacing three restaurant structures with two, the project should not result in an increase in demand for City services. The proposed project will connect to existing water, sewer, electrical, and gas lines that are located in close proximity to the project site (**Condition 5**). The 2040 General Plan EIR determined the City has adequate water and sewer capacity given anticipated growth, and connecting the two new restaurants to the existing on-site City municipal sewer and water facilities will ensure the effective and efficient provision of public facilities and services, which is consistent with Goal 4.A and associated policies.

Goal 5.B To provide public open space and shoreline accessways throughout the Coastal Zone, consistent with protecting environmentally sensitive habitats and other coastal priority land uses.

The proposed redevelopment project is on the Hwy 101 corridor between 4th and 5th Streets in an existing commercial area. The project area is not near, or adjacent to, any coastal public access areas. The nearest public access point to the Humboldt Bay shoreline is less than a mile northwest of the project site at the Waterfront Trail or approximately one-mile northeast at Target. The project will not impact any existing access facilities either through direct conflict or anticipated increases in demand. Therefore, the project will have no significant adverse effect on public access, and the project, as proposed without new public access, can be found consistent with this goal and associated policies.

Goal 6.A To protect and enhance the natural qualities of the Eureka area's aquatic resources and to preserve the area's valuable marine, wetland, and riparian habitat.

The proposed project is on the Hwy 101 corridor between 4th and 5th Streets, in an existing commercial area, away from marine, wetland, and riparian habitat. The nearest Environmentally Sensitive Habitat (ESHA) is over 250 feet across 5th Street to the southeast.

Potential project impacts to Humboldt Bay can be divided into construction-phase and post-construction impacts. Regarding potential construction-phase impacts, **Condition 6** has been added requiring the submittal of an erosion and sediment control plan to prevent water quality and hydrologic impacts during construction, including a map delineating the location of all proposed temporary construction-phase best-management practices (BMPs), for review and approval by the Public Works - Engineering. Since the applicant has not proposed specific construction phase BMP's, **Condition 7** has been added with a list of required BMP's to prevent any negative construction-phase impacts to water quality and hydrology of nearby wetlands and coastal waters.

To prevent nighttime lighting impacts during construction, **Condition 1** has been added requiring project construction be limited to the hours of 7 a.m. and 7 p.m., with exceptions for good cause with prior approval from Development Services – Planning.

As for avoiding post-construction impacts, the project triggers stormwater management improvements consistent with current requirements of the Phase II Municipal Separate Storm Water Sewer System (MS4) Permit, and **Condition 8** has been added requiring a post-construction stormwater management plan to attenuate and treat the site's stormwater runoff.

Regarding landscaping, to ensure all proposed plantings do not adversely impact nearby sensitive habitat, **Condition 9** has been added prohibiting planting of invasive and problematic plant species, and prohibiting use of rodenticides containing any anticoagulant compounds.

To avoid any impacts to Hwy 101 and nearby businesses from new outdoor lighting associated with the new restaurants, **Condition 10** has been added to ensure all exterior lighting is shielded with fixtures or hoods, does not produce an illumination level greater than one foot-candle, and is directed downward such that no light or glare extends into surrounding area.

For all the reasons discussed above, the proposed project will protect and preserve the area's valuable marine, wetland, and riparian habitat consistent with Goal 6.A.

Policy 6.A.3 The City shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, wetlands, and estuaries appropriate to maintain optimum populations of aquatic organisms and for the protection of human health through, among other means, minimizing adverse effects of wastewater and stormwater discharges and entrainment, controlling the quantity and quality of runoff, preventing depletion of groundwater supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The project site is comprised of already developed commercial properties on the Hwy 101 corridor between T and U and 4th and 5th Streets. The project area is entirely uplands and is at least 250 feet from any wetland (a mapped wetland is located across 5th Street to the southeast).

As discussed above under Goal 6.A, **Condition 7** has been added requiring adherence to various construction-phase BMPs, and **Condition 6** has been added requiring an erosion and sediment control plan that includes a map delineating the location of all required and proposed temporary construction-phase best-management practices (BMPs), for review and approval by Public Works - Engineering to ensure BMPs are properly implemented. Also, **Condition 8** has been added requiring a post-construction stormwater management plan to ensure the site's stormwater runoff is attenuated and treated consistent with the City's MS4 Permit.

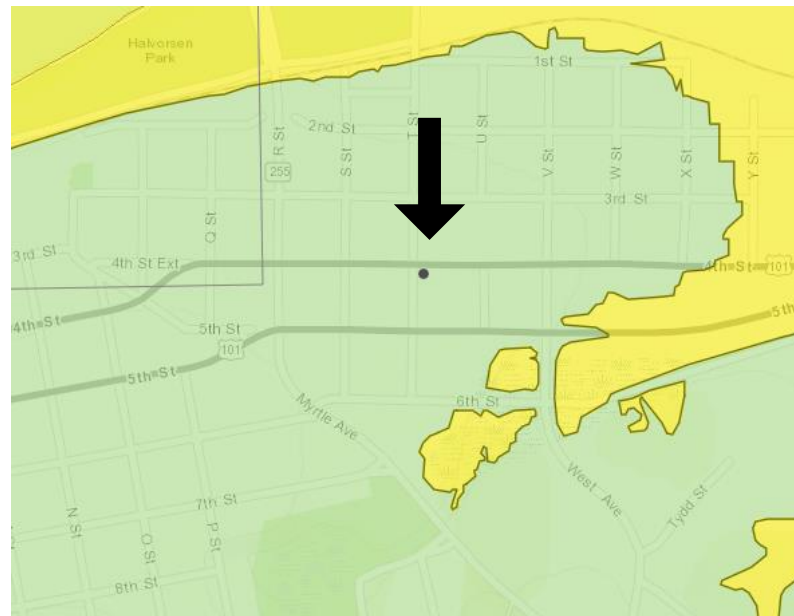
Thus, the proposed project as conditioned avoids any adverse impacts to the biological productivity and quality of nearby wetlands and bay waters, including through controlling the quantity and quality of runoff, consistent with Policy 6.A.3.

Goal 7.B To minimize loss of life, injury, and property damage due to geological hazards.

The project site is within a seismically active area in which large earthquakes are expected to occur during the lifespan of the development. A requirement for a geotechnical investigation and report performed by geotechnical engineers and/or engineering geologists has been included as **Condition 11** in order to obtain information on the site-specific physical properties of soil and

provide recommendations on earthworks and foundation for the proposed structures to ensure they will be safe from hazards resulting from earthquakes. All recommendations in the geotechnical report will be incorporated into the final plans and specifications for the project, and will be implemented during construction. Also, **Condition 12** has been added to ensure the applicant is aware of the need for building permit review and approval prior to commencement of demolition or construction, to ensure City review of final building plans for consistency with geotechnical recommendations.

Figure 11: Tsunami Hazard Area Map (inundation area in yellow)



The project site is located outside of the mapped tsunami inundation area on the Tsunami Inundation Map for Emergency Planning (Figure 11; California Geological Survey, August 13, 2020; yellow shade depicts inundation area) and is not at risk of tsunami inundation if the region were to suffer a major earthquake along the Cascadia Subduction Zone.

For all the reasons discussed above, the project as conditioned will minimize risk

to life and property from geologic hazards consistent with Goal 7.B and associated policies.

Goal 7.D To minimize the risk of loss of life, injury, damage to property and economic and social dislocations resulting from flood hazards.

The project site is located outside of the FEMA mapped floodplain. The current elevation of the site ranges from approximately 30 to 31 feet (North American Vertical Datum, 1988 [NAVD88])¹, and the proposed project is safe given current and anticipated flood levels, including under an extreme risk aversion sea level rise scenario based on the Ocean Protection Council's State of California Sea-Level Rise Guidance 2018 Update information for the Humboldt Bay North Spit tide gage. The current 100-year still-water level at the North Spit tide gage is 10.2 feet, and 10.9 feet of sea level rise can be expected by 2100 under an extreme risk aversion scenario; at a minimum 30-foot elevation, the site will be safe for the next 75 years even under this extreme scenario.

As a result, the proposed development minimizes flood hazard risk and is consistent with Goal 7.D and associated policies.

¹ All elevations in this document are referenced to NAVD88.

Based on the above goals and policies from the adopted and certified LUP, the project does not conflict with any, and is supported by several, of the adopted goals and policies; therefore, the finding the project conforms with the LUP can be made.

Implementation Plan Analysis

As described at the beginning of the CDP Analysis Section above, the CDP must be found to conform with the entire LCP, including the IP. The IP includes zoning regulations and the zoning map for land in the coastal zone, as well as specific coastal zone ordinances necessary to implement the policies of the LUP. The project site is zoned CS – Service Commercial. The proposed project conforms with the purposes of the IP (i.e. zoning code) and CS zone district, as well as the applicable CS zone district standards, as described under the Use Permit and Design Review Analysis Sections above.

In addition to specifying the regulations pertaining to specific zoning districts, EMC §10-5.2940 et. seq., specifies development standards that apply to all development in the Coastal Zone, including standards for public access, environmental resources, natural hazards, visual resources, public works, and new development. These standards largely reiterate certified LUP policies discussed in the LUP Analysis Section above, and the applicable findings are incorporated as if set forth in full herein. There is one additional standard not covered under the LUP policy analysis above, which is §10-5.2946.9:

10-5.2946.9 Archaeological areas.

- a) **When development is proposed within a known archaeological area, project design shall avoid or minimize impacts to the resource.**
- b) **When development in archaeological sites cannot be avoided, adequate mitigation measures shall be required. Mitigation shall be designed in accord with guidelines of State Office of Historic Preservation and the State of California Native American Heritage Commission. When, in the course of grading, excavation, or any other development activity, evidence of archaeological artifacts is discovered, all work which could damage or destroy such resources shall cease and the City Planning Director shall be notified immediately of the discovery.**
- c) **The City Planning Director shall notify the State Historic Preservation Officer and the Sonoma State University Cultural Resources Facility of the find. At the request of the State Historic Preservation Officer, development of the site may be halted until an archaeological survey can be made and appropriate and feasible mitigation measures are developed.**

The applicant has not yet provided a preliminary grading plan depicting the extent of potential ground disturbance; however, the applicant does not believe the depth of disturbance will go below the already disturbed area. The project was referred to the Tribal Historic Preservation Officers (THPOs) of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria on February 14, 2022, and referral responses from the Bear River Band of Rohnerville Rancheria and Blue Lake Rancheria recommend the project be conditioned with the City's standard Inadvertent Archaeological Discovery Protocol. In addition, in the event the depth of disturbance exceeds what is anticipated at this time, the project will be rereferred to the THPOs. Consistent with IP §10-5.2946.9, **Condition 13** has been added subjecting ground disturbing activities to the City's standard protocol for inadvertent discovery of archaeological and cultural resources or human remains.

Based on the discussion above, the finding can be made that the proposed project as conditioned conforms with the certified IP.

ENVIRONMENTAL ASSESSMENT

The City of Eureka, as Lead Agency, has determined the proposed project is categorically exempt from the provisions of the California Environmental Quality Act, in accordance with Section 15332 (Class 32, In-fill Development Projects) of the CEQA Guidelines.

The proposed restaurant development qualifies for a Class 32 exemption (§15332) from CEQA because: (1) the project site is less than five acres in size (0.69 acres total between the two newly created parcels); (2) the project is consistent with the LUP (i.e. General Plan) designation and policies, as well as all applicable IP (i.e. Zoning Code) designations and regulations; (3) the project is located within the City limits and surrounded by urban uses; (4) the project site has no value for habitat for endangered, rare, or threatened species; (5) approval of the project will not result in any significant effects relating to traffic, noise, air or water quality; and (6) the site can be adequately served by all required utilities and public services.

The demolition of the three structures can be included under this exemption because an Architectural and Historical Resources Report was prepared by a Cultural Resources Consultant in August 2021, and the report did not find the three structures to be of architectural or historic significance.

PUBLIC HEARING NOTICE

Public notification consisted of notification by mail of property owners within a 300-foot radius of the site on or before May 28, 2022, and posting on the City’s website and bulletin boards. A public hearing notice sign was also posted on the project site on May 28, 2022.

CONCLUSION

Based on the analysis above, the proposed drive-through restaurants are consistent with the City’s certified LCP (comprised of the LUP [i.e. General Plan] and IP [i.e., Zoning Code]). The project is suitable for the site, and is compatible with existing and planned land uses in the vicinity. The proposed drive-through restaurants, and associated parking and landscaping comply with the development standards for the CS – Service Commercial zone district, and as conditioned, are not ugly, inharmonious, monotonous, or hazardous, and will not be detrimental to property or improvements in the vicinity. The project is not detrimental to the public health, safety, and welfare, and is properly located within the City and adequately served by existing utilities and infrastructure.

STAFF CONTACT

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DOCUMENTS ATTACHED

Attachment 1: Planning Commission Resolutionpages 23-29
Attachment 2: Site Plan.....page 30
Attachment 2: Public Comments.....pages 31-54

RESOLUTION NO. 2022-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA
CONDITIONALLY APPROVING A COASTAL DEVELOPMENT PERMIT (CDP-21-0014),
CONDITIONAL USE PERMIT (CUP-21-0011) AND DESIGN REVIEW (AA-22-0003) FOR
CONSTRUCTION OF TWO DRIVE-THROUGH RESTAURANTS AND ASSOCIATED
DEVELOPMENT ON THREE PARCELS LOCATED AT
1906 4TH STREET AND 1905 and 1917 5TH STREET (APNS 002-105-006, -011, -013)

WHEREAS, Humboldt QOZ Fund proposes to construct two drive-through restaurants with associated parking and landscaping, of which one will be an approximately 1,000-square-foot Starbucks, and one will be an approximately 1,875-square foot restaurant (tenant is too be determined) on three parcels located at 1906 4th Street and 1905 and 1917 5th Street; and

WHEREAS, to accommodate the development of the drive-through restaurants, the three existing parcels will be reconfigured into two parcels via a Lot Line Adjustment; Parcel 1 will be 0.36 acres (15,600 square feet) and will be developed with the Starbucks, and Parcel 2 will be 0.33 acres (14,400 square feet) and will be developed with the restaurant; and

WHEREAS, the Lot Line Adjustment will be reviewed separately, and a Director-level decision will occur at a future date; and

WHEREAS, the project site is zoned Service Commercial (CS), and has a land use designation of General Service Commercial (GCS); and

WHEREAS, pursuant to Eureka Municipal Code (EMC) §10-5.29133, the proposed drive-through restaurants require a Conditional Use Permit because drive-through restaurants are a conditionally permitted use in the CS zone district; and

WHEREAS, pursuant to EMC §§10-5.1801.2, 10-5.2421, and 10-5.29137, the proposed drive-through restaurants require Site Plan Review and Architectural Review (i.e., Design Review); and

WHEREAS, there is no tenant identified for Parcel 2, so at this time the applicant is only requesting Design Review for the Starbucks' development and associated signage; and

WHEREAS, the proposed Lot Line Adjustment and drive-through restaurants are located within the coastal zone and constitute development requiring a coastal development permit pursuant to EMC §§10-5.29302 and 10-5.2401(c); and

WHEREAS, the proposed Lot Line Adjustment is exempt from coastal development permit requirements under the City's Categorical Exclusion Order E-88-2 (codified under EMC §10-5.29304.1); and

WHEREAS, the Conditional Use Permit, Design Review and Coastal Development Permit approvals are a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission of the City of Eureka did hold a duly noticed public hearing at City Hall in the City of Eureka on May 9, 2022 at 5:30 p.m. via Zoom and in person in the Council Chamber; and

WHEREAS, the Planning Commission of the City of Eureka has reviewed the subject application in accordance with EMC Title 10, Chapter 5, and after due consideration of all testimony, evidence, and reports offered at the public hearing, does hereby find and determine the following facts:

- A. The location of the drive-through restaurants is in accord with the objectives of Chapter 5 and the purposes and intent of the CS zone district.
- B. The proposed location of the drive-through restaurants and the conditions under which the conditional use will be operated and maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.
- C. The drive-through restaurants and associated site improvements comply with each of the applicable provisions of Chapter 5 and are consistent with the certified Local Coastal Program.
- D. The Starbucks drive-through restaurant and associated parking, landscaping, and signage will not be ugly, monotonous, hazardous, or inharmonious with its surroundings, and will have a positive effect on the value of properties within the vicinity.
- E. The project as conditioned will avoid impacts to coastal resources and priority uses, will be served by adequate services, and will minimize risks to hazards.
- F. The project as conditioned conforms to the policies of the Local Coastal Program.
- G. The proposed project is categorically exempt from the provisions of the California Environmental Quality Act, in accordance with Section 15332 (In-fill Development Projects) of the CEQA Guidelines. The demolition of the three structures can be included under this exemption because an Architectural and Historical Resources Report was prepared by a Cultural Resources Consultant in August 2021, and the report did not find the three structures to be of architectural or historic significance.
- H. The lot line adjustment is exempt from coastal development permit requirements under the City's Categorical Exclusion Order E-88-2 (codified under EMC §10-5.29304.1(c)).

WHEREAS, in the opinion of the Planning Commission of the City of Eureka, the proposed application should be approved subject to the following conditions. Compliance with conditions will be to the satisfaction of Development Services – Planning unless noted otherwise.

1. **Limitations to Construction Hours.** Project construction shall be performed on standard work days (Monday through Friday) between the hours of 7:00 a.m. and 7:00 p.m. Construction activities outside these hours and days may be allowed for good cause with prior approval from Development Services – Planning.

2. Humboldt County Division of Environmental Health (DEH).

- a. Prior to City of Eureka Building Permit approval, the following shall be provided to the Division of Environmental Health Solid Waste LEA (Local Enforcement) Program, and proof of submittal shall be provided to Development Services – Planning: (1) the name and location of the solid waste facility proposed to receive all waste generated from the project; and (2) the name and location of the inert debris recycling center proposed to receive inert debris generated from the project.
 - b. Prior to City of Eureka Building Permit approval for the construction of either drive-through restaurant, each restaurant must be reviewed and approved by the DEH Consumer Protection Program, with proof of approval submitted to Development Services – Planning.
- DEH Solid Waste Local Enforcement (LEA) Program Conditions

 - c. All solid waste generated from construction or demolition activities must be handled in compliance with local and state regulation.
3. **U Street Easement.** Prior to the issuance of building permits for the construction of either of the drive-through developments, the Applicant shall provide evidence to Development Services – Planning demonstrating the right to use the easement on U Street for drive-through queuing as proposed.
4. **Access Easement Agreement.** An Access Easement Agreement allowing vehicles to cross over Future Parcels 1 and 2 and for ingress and egress must be recorded at the time of the Lot Line Adjustment.
5. **Utilities.** The Permittee shall comply with the following utility service requirements to the satisfaction of Public Works – Engineering:
 - a. Existing water services on 5th Street (Hwy 101 North) must be abandoned and any new water services, including fire service lines, must make their connections to the main in T Street.
 - b. New water services will require the installation of backflow protection devices.
 - c. Prior to Building Permit approval, pursuant to EMC §50.202, existing sewer laterals serving the subject parcels must be inspected and tested utilizing Closed-Circuit Television (CCTV), and the inspection test results must be submitted to Public Works – Engineering. Vitrified Clay Pipe (VCP) sewer laterals must be replaced to City Standards. Any required repairs or replacements shall be completed in a timely manner consistent with the schedule outlined in EMC §50.206.
 - d. Proposed sewer laterals must connect to the main in T street (not 4th and/or 5th Streets).
 - e. Sewer laterals no longer being utilized must be properly capped and abandoned.
 - f. Impact fees will apply with credit given for existing uses.
 - g. Applicant shall receive encroachment permits from the appropriate agency (Caltrans (Hwy 101 N/S) or City of Eureka (T/U Street)) prior to any construction being done in the right-of-way.
6. **Construction-Phase Erosion and Sediment Control Plan.** Prior to commencement of construction, the Permittee shall submit, for review and approval to Public Works-Engineering, a construction-phase Erosion and Sediment Control Plan (ESCP) that

demonstrates that impacts to the biological productivity and quality of coastal waters shall be avoided and minimized during all construction and demolition phases. The ESCP shall demonstrate proposed best management practices (BMPs) will be implemented to prevent construction waste, debris or contaminants from entering the storm water system or leaving the property in accordance with provision E.10.b of the Phase II MS4 Stormwater Permit and Condition 7 (Construction Responsibilities) of this permit. BMPs may include, but are not limited to the use of wattles, compost socks, silt fences, or filter materials at drain inlets and gutters to retain debris, dirt and other pollutants generated by such work. The ESCP must include a rationale for why specific BMPs were chosen. The ESCP shall also name and provide contact information of the Responsible Individual (RI) installing and maintaining BMPs. The RI shall ensure BMPs are in place before commencing work and contact Public Works- Engineering 24 hours in advance for inspection. The Permittee shall undertake development in accordance with the approved final ESCP.

7. **Construction Responsibilities.** The Permittee shall comply with the following construction-related requirements to the satisfaction of Public Works - Engineering:
- a. All ground-disturbing activities and paving operations shall occur during dry weather only;
 - b. All onsite stockpiles of soil and construction debris shall be contained at all times and covered and secured prior to the onset of precipitation;
 - c. Temporary soil stabilization BMPs (such as mulching) shall be implemented on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters;
 - d. Suitable sediment control BMPs such as silt fencing or straw wattles shall be installed downgradient of disturbed areas;
 - e. Suitable tracking control BMPs shall be implemented to prevent tracking sediment by vehicles leaving the construction area;
 - f. Suitable runoff control BMPs (including for groundwater dewatering, concrete washout, etc.) shall be implemented to prevent polluted runoff from being conveyed off-site;
 - g. Staging, fueling, and equipment maintenance shall occur in a designated staging area in a location and manner that prevents polluted discharge from reaching any drainage courses or storm drain inlets;
 - h. Equipment will be maintained free of oil and fuel leaks at all times and hazardous materials management equipment including absorbent pads shall be kept available and immediately on-hand at the project site. Any accidental spill shall be contained and rapidly cleaned up;
 - i. Any excess excavated material and other construction debris resulting from construction and demolition activities must be removed immediately upon completion of component construction, and must be disposed of at a legally authorized disposal site outside the coastal zone or within the coastal zone pursuant to a valid Coastal Development Permit; and
 - j. Only wildlife-friendly 100% biodegradable erosion control products that will not entrap or harm wildlife shall be used. Erosion control products shall not contain synthetic (that is, plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable.

8. **Post-Construction Stormwater Control Plan.** Prior to the issuance of any building permits, the Permittee shall complete a preliminary and final Stormwater Control Plan (SCP) review with Public Works – Engineering consistent with requirements from the Humboldt LID Manual for Discretionary Regulated Projects. The SCP must incorporate Low Impact Development (LID) site design, source control, and runoff reduction measures to meet Provisions E.12.b - E.12.e of the [Phase II MS4 Stormwater Permit](#) (Order). The Best Management Practices (BMPs) should be vegetation-based infiltration BMPs (e.g., bioretention) to meet the Order’s Maximum Extent Practicable stormwater control standard. On-site infiltration systems, such as infiltration trenches or basins, dry wells, and subsurface infiltrations systems are not credited site design measures per MS4 provision E.12.b. The Permittee shall undertake development in accordance with the approved final SCP. Implementation of structural post-construction BMPs included in the final approved SCP shall be inspected by Public Works - Engineering and may be subject to an Operations and Maintenance Verification Program consistent with MS4 provision E.12.h.
9. **Landscaping Restrictions.** No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be planted on the project site. Rodenticides containing any anticoagulant compounds, including, but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used in landscaping. It is strongly encouraged that plants replaced from the proposed plant list are species native to Eureka as listed by the California Native Plant Society.
10. **Exterior Building Lighting Requirements**
 - a. Exterior lighting shall be shielded with fixtures or hoods.
 - b. Exterior lighting shall not produce an illumination level greater than one foot-candle.
 - c. Exterior lighting shall be directed downward.
 - d. Prior to installation of any exterior lighting, lighting specifications shall be submitted to Development Services - Planning for review and approval consistent with this standard.
11. **Geotechnical Report.** Prior to the submission of Building Plans to Development Services - Building, a site-specific geotechnical report shall be prepared by a certified engineering geologist and/or civil engineer documenting the results of an investigation of the site for geologic hazards and recommending mitigation measures to reduce the risk of identified hazards to acceptable levels consistent with the state and local building codes. The geotechnical report shall be submitted to Development Services – Building for review and approval and the Final Building Plans shall incorporate the recommendations of the approved report.
12. **Building and Fire Department Approvals.** Prior to commencement of construction, the Permittee shall obtain all required Building and Fire permits to the satisfaction of Development Services - Building and Humboldt Bay Fire.

13. Inadvertent Discovery Protocol. Ground disturbing activities are subject to the City's standard protocol for inadvertent archeological discovery (cultural or historical artifacts) as follows:

- a. If archaeological resources are encountered during construction activities, all onsite work shall cease in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist will be retained to evaluate and assess the significance of the discovery, and develop and implement an avoidance or mitigation plan, as appropriate. For discoveries known or likely to be associated with native American heritage (prehistoric sites and select historic period sites), the Tribal Historic Preservation Officers for the Bear River Band of Rohnerville Rancheria, Blue Lake Rancheria, and Wiyot Tribe are to be contacted immediately to evaluate the discovery and, in consultation with the project proponent, City of Eureka, and consulting archaeologist, develop a treatment plan in any instance where significant impacts cannot be avoided. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. Historic archaeological discoveries may include 19th century building foundations; structure remains; or concentrations of artifacts made of glass, ceramic, metal or other materials found in buried pits, old wells or privies.
- b. If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work shall stop in that area and within 100 feet of the find until a qualified paleontologist can assess the nature and importance of the find and, if necessary, develop appropriate treatment measures in conformance with Society of Vertebrate Paleontology standards, and in consultation with the City of Eureka.
- c. In the event of discovery or recognition of any human remains during construction activities, the landowner or person responsible for excavation would be required to comply with the State Health and Safety Code section 7050.5. Construction activities within 100 feet of the find shall cease until the Humboldt County Coroner has been contacted at 707-445-7242 to determine that no investigation of the cause of death is required. If the remains are determined to be, or potentially be, Native American, the landowner or person responsible for excavation would be required to comply with Public Resources Code (PRC) section 5097.98. In part, PRC section 5097.98 requires that the Native American Heritage Commission (NAHC) shall be contacted within 24 hours if it is determined that the remains are Native American. The NAHC would then identify the person or persons it believes to be the most likely descendant from the deceased Native American, who in turn would make recommendations to the landowner or the person responsible for the excavation work for the appropriate means of treating the human remains and any associated grave goods within 48 hours of being granted access to the site. Additional provisions of PRC section 5097.98 shall be complied with as may be required.

14. Lot Line Adjustment. Prior to the issuance of building permits for the construction of either of the drive-through developments, a Lot Line Adjustment shall be recorded to reconfigure three (3) parcels into two (2) parcels; Parcel 1 will be .36 acres and will be developed with the Starbucks, and Parcel 2 will be .33 acres and will be developed with a second drive-through restaurant.

15. **Design Review Approval for Parcel 2.** The Permittee must return to the Planning Commission for Design Review Modification for any exterior changes, including landscaping and parking lot layout, and for any associated signage for the second tenant, prior to issuance of any building permits for construction of the drive-through restaurant on future Parcel 2. With issuance of a demolition permit, the Permittee may demolish the existing structures on Parcel 2 prior to Design Review Modification.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Eureka does hereby approve the application, subject to the conditions listed above.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Eureka in the County of Humboldt, State of California, on the 9th day of May, 2022 by the following vote:

AYES: COMMISSIONER
NOES: COMMISSIONER
ABSENT: COMMISSIONER
ABSTAIN: COMMISSIONER

Meredith Maier, Chair, Planning Commission

Attest:

Kristen M. Goetz, Executive Secretary