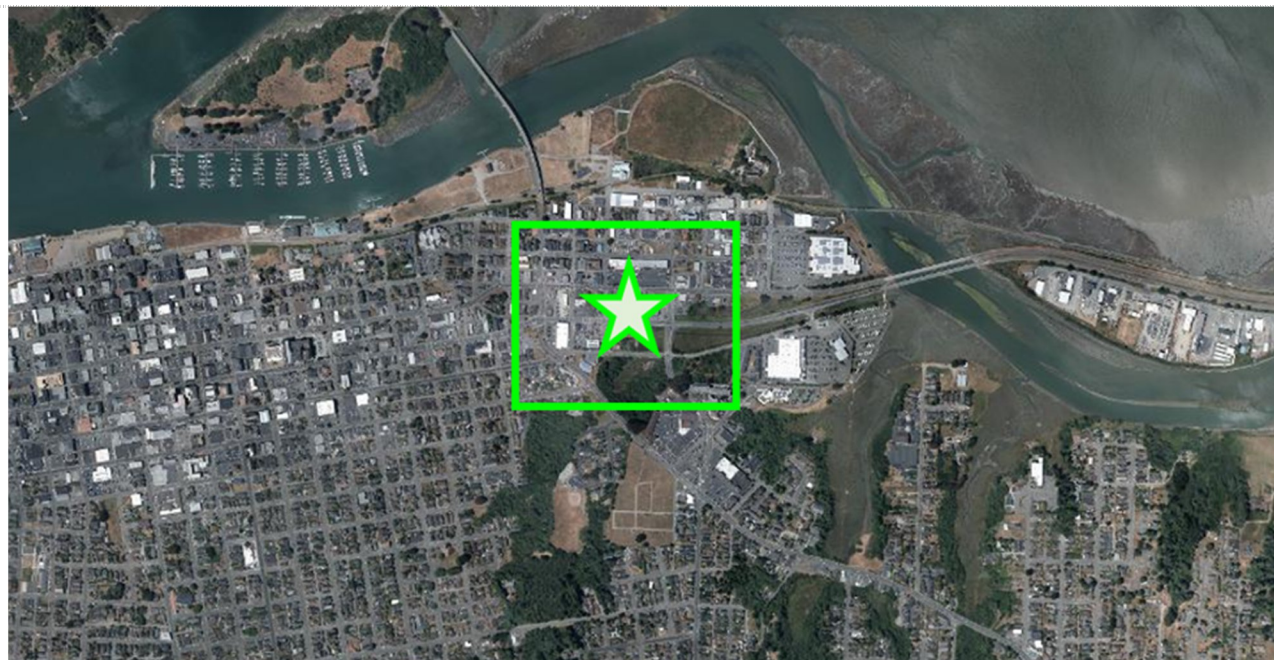


November 8, 2023

<b>Title:</b>	The Tasty Hub
<b>Projects:</b>	Conditional Use Permit CUP-23-0006, Design Review AA-23-0001, and Coastal Development Permit CDP-23-0009
<b>Location:</b>	1935 5 <sup>th</sup> Street
<b>APN:</b>	002-105-005
<b>Applicant:</b>	Kash Boodjeh
<b>Property Owner:</b>	Gabrielle Long
<b>Purpose/Use:</b>	Restaurant and commissary kitchen in an existing commercial building with a proposed 153-sf addition and other associated site improvements
<b>Application Date:</b>	July 10, 2023
<b>General Plan:</b>	HSC- Highway Service Commercial
<b>Zoning:</b>	CS- Service Commercial
<b>CEQA:</b>	Exempt under 15301, Class 1 Existing Facilities
<b>Staff Contact:</b>	Penelope Ponce, Assistant Planner
<b>Appeal Status:</b>	Not appealable to Coastal Commission
<b>Recommendation:</b>	Hold a public hearing; and Adopt a resolution finding the project is exempt from CEQA and approving with conditions
<b>Motion:</b>	<i>"I move the Planning Commission adopt a Resolution finding the project is exempt from CEQA and conditionally approving a Conditional Use Permit, Design Review and Coastal Development Permit for a restaurant and commissary kitchen at 1935 5<sup>th</sup> Street."</i>

**Figure 1: Location Map**



**Figure 2: Project Site Map**



**PROJECT SUMMARY**

The applicant is requesting approval to convert the existing Sip Café restaurant building into a new restaurant and commissary kitchen called The Tasty Hub. The commissary kitchen will serve food trucks, and food trucks will be stored and potentially operated onsite.

The project is located in the Coastal Zone in the CS (Service Commercial) zone district where restaurants are a conditional use 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). Although the site has historically been used a restaurant, the previous restaurant was a legally nonconforming use that had not obtained a CUP or associated CDP. Per EMC 10-5.2204 (Abandonment of Nonconforming Uses), whenever a nonconforming use has been abandoned for a continuous period of 90 days or more (which is the case with the subject site), the nonconforming use loses its legal nonconforming status and the use of the site or structure thereafter must conform with the regulations for the district, which thus requires this new restaurant use to obtain a CUP and associated CDP.

Per EMC 10-5.29132, mobile vendors are principally permitted in the Service Commercial (CS) zone district, and principally permitted uses at the subject location are exempt from coastal development permitting pursuant to Eureka Categorical Exclusion Order E-88-2; therefore, no discretionary review is required for the mobile vendors. Commissary kitchens are not a listed use in the Coastal Zoning Code, but have similar characteristics to a number of principally permitted uses in the CS zone district, including “food locker,” “bakery,” and “catering establishments,” and have therefore been determined to be principally permitted and also do not require a CUP or CDP.

In addition to the CUP and CDP for the proposed restaurant, the project also requires Design Review because the applicant is proposing to demolish an existing attached storage structure, and construct a slightly larger storage structure in the same place. In addition, the applicant is proposing to utilize an existing pole sign for their restaurant and commissary kitchen, and therefore an Administrative Sign Permit is also required; the Sign Permit will be processed separately under SGNA-23-10.

### **Background**

The property contains an existing 1,299-sf restaurant with one 153-sf storage addition on the northeast side of the building, one 37-sf non-permanent shed on the northwest side of the building, and one 107-sf non-permanent detached shed located north of the restaurant. The applicant will keep the existing floor plan in the front of the restaurant, but proposes to demolish the 153-sf storage addition on the northside of the building, and build a new 256-sf storage addition in the same place, with exterior finishes and roofing that will match the rest of the structure. The applicant also proposes to replace the existing shingle roofing with metal roofing. The applicant also proposes to alter the existing parking lot configuration to provide a gated area for food trucks in the northwest corner of the parcel where the trucks will be cleaned, maintained, and stored. After this area is gated off, there will be 17 parking spaces remaining for customers and employees. After the remodel, the restaurant’s interior will have a 391-sf kitchen, 703-sf dining room, two 45-sf restrooms, and a 45-sf vestibule for restroom access, in addition to the new 256-sf storage area, for a total footprint of 1,485-sf and maximum occupancy of 49 persons (Figures 3 and 4 below).

The restaurant will be open Wednesday through Sunday, 8:00 am to 4:00 pm for customers, and the commissary kitchen will be open 6:00 am to 9:00 pm. There will be approximately five employees. The applicant proposes to have three to four food trucks operating on site the same hours of operation as the restaurant. Operating food trucks would be located in restaurant parking spaces outside of the gated food truck storage area.

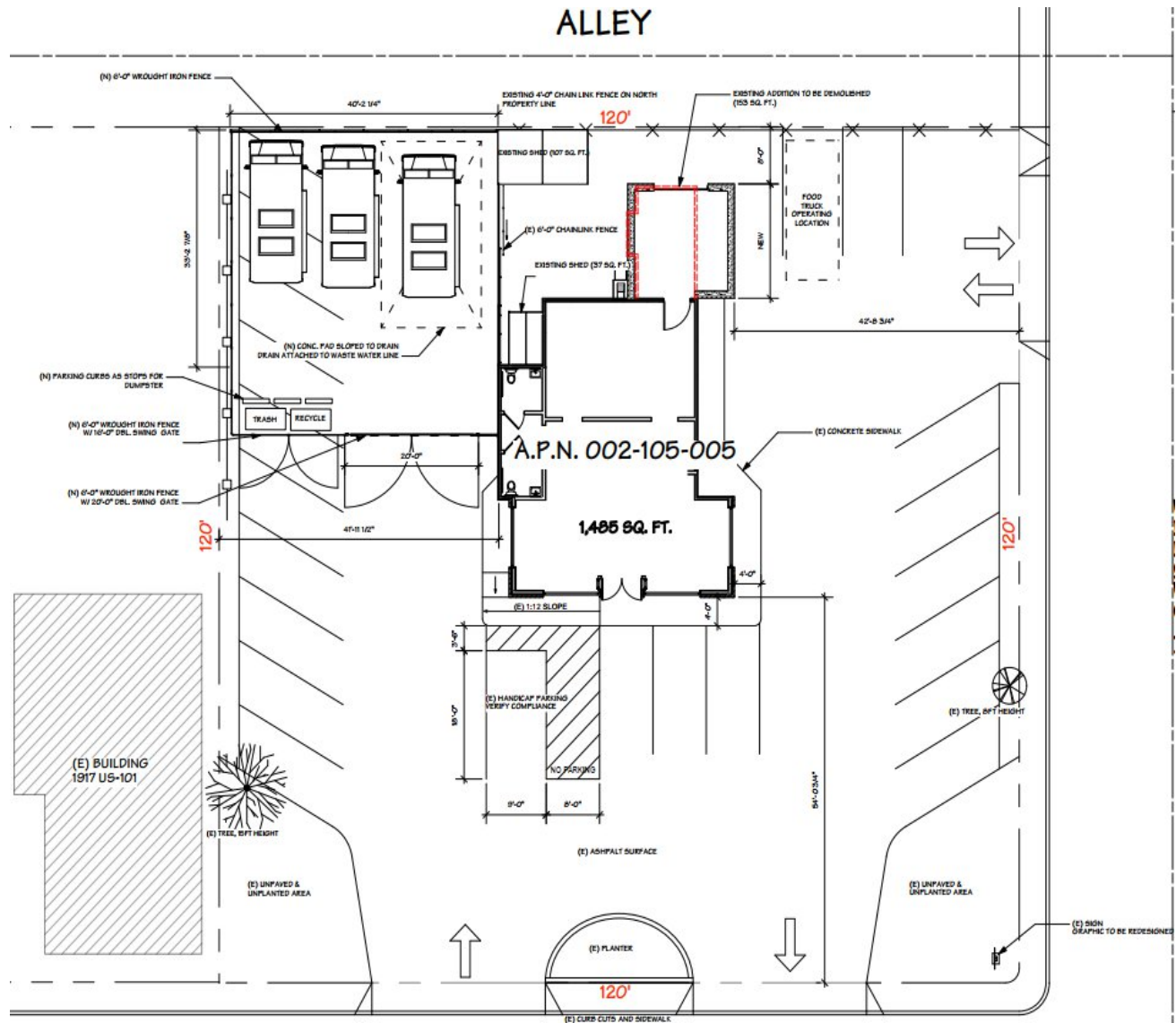
The subject property is located at the northwest corner of 5th (Highway [Hwy] 101 north) and U Streets (Figure 2 above) in the CS (Service Commercial) zone district. The property includes one driveway onto U Street and two driveways onto 5<sup>th</sup> Street; no changes to ingress and egress are proposed.

The 0.33-acre (approximately 14,400-sf) site is surrounded by a variety of commercial service uses. The property shares a block with Silverline Tree Service (to the north), a Subway Sandwich shop (to the northwest), and the now vacant Annie’s Cambodian Cuisine and Sizzler’s (to the west). The Subway Sandwich Shop, Annie’s Cambodian and the Sizzler’s will soon be demolished so that two new drive-thru restaurants (CDP-21-0014, CUP-21-0011, AA-22-0003) can be constructed. There is a Renner Petroleum gas station located south across 5<sup>th</sup> Street. To the east and across U Street is a FedEx Office store, and two vacant storefronts that were previously the B

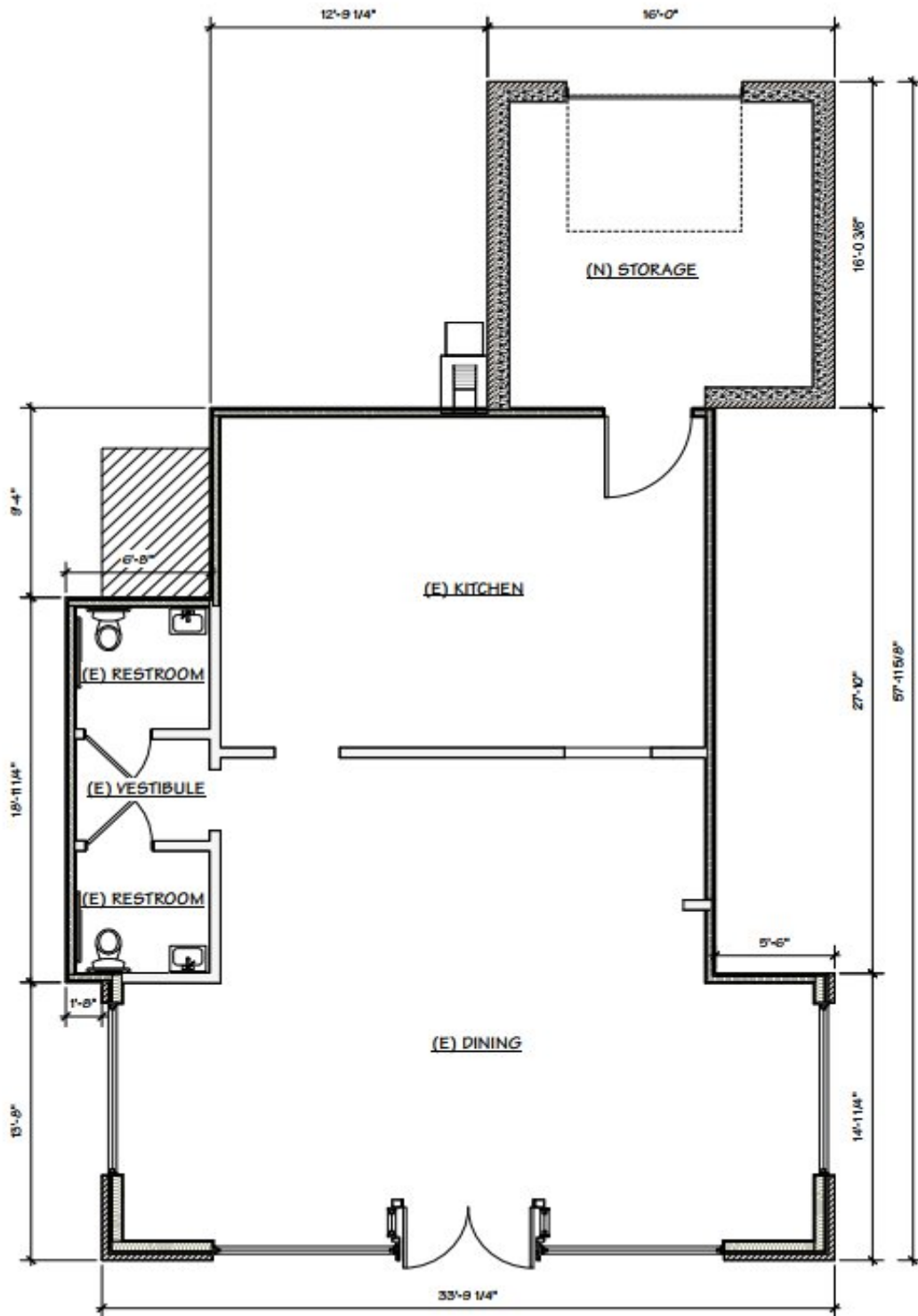
& B -The Color Salon and Weight Watchers. The Shaping Fins Surfboards and the Seadrift Inn hotel are located northeast of the project site.

The existing building was constructed in 1968 and was called the Swiss Restaurant. The Swiss Restaurant closed in 1980, and Le Chalet Coffee Shop moved into the building and operated for 40 years before closing in 2020. The property was purchased in 2021 by new owners who started the permitting process for their business called Sip Café, but the owners did not finish the permitting process and decided to sell their property in May, 2023.

**Figure 3: Project Site Plan**



**Figure 4: Project Floor Plan**



**USE PERMIT ANALYSIS**

To approve a CUP for the proposed restaurant use, the Planning Commission must make all of the following findings:

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.

## 1. Code Consistency

### Chapter 5 Objectives and Purpose

Pursuant to Eureka Municipal Code (EMC) section 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 Highway Service Commercial (HSC) 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 HSC land use designation is implemented through the purposes and standards of the Service Commercial (CS) zone district. 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. Thus, the proposed use 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.**

As mentioned above in the background section, The project site is located on the Hwy 101 commercial corridor on 5<sup>th</sup> Street, surrounded by various commercial uses including offices, restaurants (sit-in and drive-throughs), a gas station, a hotel, and various other commercial retail and service uses. The proposed restaurant, which will be operated in junction with a commissary kitchen and food trucks, is consistent with the surrounding scale and mix uses. The use will add another convenient restaurant choice catering to highway traffic traveling north on 5<sup>th</sup> Street. Thus, granting the use permit will foster a harmonious, convenient, workable relationship among land uses.

**(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 the Hwy 101 commercial corridor, which includes a diverse mix of retail and service commercial developments, including hotels, restaurants, and gas stations. The area surrounding the development is entirely zoned CS and is envisioned to continue to grow as an area of diversely intermixed uses. The vitality of the area is

threatened by vacancies, and the proposed occupation of a long-vacant storefront with a new restaurant will positively affect the surrounding land uses.

Referrals were sent to agencies and City departments with interest or jurisdiction over the property or the intended use of the property, and a number of referral comments were received related to necessary permits and site upgrades (described in greater detail later in this report), but no referral comments were received which would indicate the proposed restaurant would be problematic for surrounding land uses. There were concerns raised by Humboldt County Division of Environmental Health Services (DHHS) about the need to plan for ingress, egress, and parking for mobile food trucks in addition to restaurant customer parking, and establish parameters for the number of food trucks the facility can reasonably support. This is necessary to avoid impacts on surrounding City streets, for example, from vehicles queuing on the highway because of poorly managed onsite circulation. City Staff has since requested an updated site plan from the applicant showing where food trucks will be parked and how food trucks and other vehicles will circulate onsite. The submitted site plan shows ingress via 5<sup>th</sup> and U Streets, storage of three food trucks at the northwest corner of the parcel, and potential ingress/egress of the food trucks via the alley to the north of the site. This configuration allows food trucks to pull-through the site, avoiding the need to backup, which could conflict with restaurant parking circulation. However, the alley to the north of the site is not a public alley, and the applicant has not provided evidence of an access easement over the private alley. A condition has been added limiting the site to three food trucks at a time as long as a restaurant is also located at the site, or no storage of food trucks if alley access is denied, unless the applicant submits updated site plans demonstrating how additional food trucks can be accommodated onsite in a manner that maintains required restaurant parking and provides for safe and effective circulation, and any necessary improvements shown on the updated site plans are permitted and installed to the satisfaction of Development Services – Planning, Development Services – Building, and Public Works – Engineering.

For all these reasons, the project has been designed and conditioned to ensure the restaurant will not be an inharmonious influence or a harmful intrusion on existing land uses in the area.

**(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 proposed project site has been vacant since The Chalet House of Omelets restaurant closed down in 2020 after being in business for 40 years. Reuse of this existing vacant restaurant development by a new restaurant is appropriate and beneficial for the City as a whole, both because of the environmental and economic benefits of infill development within City limits, and the critical need to combat rising vacancies in this highly visible area of town.

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

The propose use will not increase population densities and will not result in overcrowding of the land with structures. The proposed restaurant will occupy an existing single-story restaurant building that will be increased in size by 103 sf, resulting in a 1,485-sf building

on a 14,400-sf site. Proposed site coverage and floor-area-ratio are well below maximums set by the zoning code. No residential development is proposed.

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

The site has two driveways onto 5<sup>th</sup> Street, and one driveway onto U Street, between 4<sup>th</sup> and 5<sup>th</sup> Streets. The applicant's site plan also shows food truck access from the alley to the north, although the applicant has not provided evidence demonstrating the subject property has a right to use this private alley. The restaurant will operate Wednesday – Sunday, 8:00 am to 4:00 pm, and the commissary kitchen will operate the from 6:00 am to 9:00 pm. The proposed intensity of use of the site is similar to the previous restaurant use and is not anticipated to have a significant impact on vehicle miles traveled. Concerns have been raised by Caltrans and DHHS about the need to ensure onsite circulation functions properly to avoid vehicles queuing on the highway. As discussed under (c) above, a condition has been added limiting the number of food trucks allowed onsite (while the site is also used as a restaurant) to what can be accommodated in a manner that provides for safe and effective onsite circulation.

There are six-foot-wide sidewalks adjacent to the project site along 5<sup>th</sup> and U Streets. Public Works – Engineering has indicated the adjacent sidewalks will need to be inspected and repaired to City standards if found defective; this has been added as a condition of approval to be completed prior to finalization of the necessary building permits and issuance of a City business license for the restaurant and commissary kitchen. A condition has also been added to alert the applicant to the need for an encroachment permit from Caltrans for any work in the 5<sup>th</sup> Street right of way, and an encroachment permit from Public Works – Engineering for any work in the U Street right of way.

Referral comments were also received from Caltrans Staff recommending the project be conditioned to require the surrounding sidewalks to be widened to eight feet and planted with street trees. Given the scope of the project, City Staff does not think there is adequate justification to require the widened sidewalk and street trees. Caltrans' comments also state that the site should include an ADA path of travel from the sidewalk to the building. A condition has been added requiring an accessible path of travel, unless the cost of compliance exceeds the threshold outlined in California Building Code Section 11B-202.4 (Path of Travel Requirements in Alterations, Additions and Structural Repairs).

Caltrans also commented that if the site is redeveloped in the future, the building should be relocated to the back of the sidewalk at the intersection of 5<sup>th</sup> and U Street so that traffic can circulate from the western driveway on 5<sup>th</sup> Street around the building to U Street, to allow one of the 5<sup>th</sup> Street driveways to be closed. The Local Coastal Plan (LCP) update underway will prohibit surface parking between buildings and the street and will require the number of driveways to be minimized, consistent with Caltrans' recommendations. The LCP update will hopefully be adopted and certified before anyone proposes to demolish the existing building and redevelop the site with a new building.

Ultimately, the project, as conditioned, will promote a safe, effective traffic circulation system, consistent with this objective.



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

Pursuant to the parking requirements of the zoning code, The Tasty Hub restaurant requires eight spaces. The applicant will store food trucks in a proposed fenced area at the northwest corner of the parking lot. After this storage area is constructed, 17 parking spaces will remain available for restaurant parking, including one ADA-accessible space. The applicant also proposes to potentially allow food trucks to operate onsite outside of the storage area, where the trucks will displace additional parking. A condition has been added requiring a minimum of eight parking spaces, including an ADA-accessible space, to be unobstructed by food trucks and available for restaurant parking at all times.

Per EMC 10-5.1504, the parking lot meets 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. The Tasty Hub restaurant is 1,485 square feet; therefore, no loading berths are required or provided. 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 are affected by the proposed use as no community facilities or institutions exist or are proposed on the subject parcel and there is ample vacant and underutilized land in the area to accommodate any future demand for such uses.

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

The proposed restaurant will increase the tax base via sales tax, by filling a vacant spot. The restaurant will be easily accessible to vehicles traveling north on Hwy 101 (5<sup>th</sup> Street respectively) and traveling south on Hwy 101 (4<sup>th</sup> Street) by turning south onto U Street. The accessible location will encourage visitors to stop and spend money at the restaurant. As a result, the proposed use is consistent with this objective.

**(j) To protect and enhance real property values.**

The proposed restaurant use will occupy an existing building previously occupied by a restaurant, which will result in continued maintenance of the building and will strengthen the vibrancy of the area. Thus, the proposed use protects and enhances real property values, 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. The current building on the property has been vacant for two years and could potentially become a nuisance over time without use and associated upkeep. A condition has been added requiring the applicant to plant and maintain the existing planters on site with healthy, non-invasive plants that cover at least 50% of the planters at maturity, and to cover any bare ground between plantings with mulch, bark, pebbles or similar non-plant material to the satisfaction of Development Services – Planning prior to certificate of occupancy. 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.

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 restaurant is appropriate for the CS zone, as it is a commercial use offering goods required by residents of the City and surrounding market area. The proposed restaurant will be conveniently and appropriately located along the Hwy 101 corridor in an area with a diverse mix of restaurants, service establishments, and hotels, and will have a mutually beneficial relationship with the other businesses in the area. The restaurant will be located on a site where there is adequate space to meet the needs of the use, and a condition has been added to limit the number of food trucks co-located with the restaurant, to ensure there is adequate space for both uses to function without conflict. The project was reviewed and comments from the referral had been incorporated into the conditions of approval as discussed further in other sections of this report. 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**

The proposed restaurant will bring additional light and activity to the Hwy 101 corridor in an area currently plagued by vacancies. The new outdoor lighting for the restaurant and increased activity generated by the restaurant are passive ways to provide a safer area for surrounding businesses and the general public.

Referrals were sent to agencies and City departments with interest or jurisdiction over the property or the intended use of the property. The City of Eureka's Building Department provided a list of issues that had been identified back when Sips Café was applying for a building permit in December 2021. Although some of the work was completed including the installation of an ADA parking space, the building permit was never finalized (i.e., work occurred without the benefit of permits). Remaining issues will need to be addressed and all unauthorized development to be retained will need to be included in a new building permit; a condition has been added notifying the applicant of the need to obtain all necessary Building and Fire permits prior to issuance of a business license and commencement of operations at the site. Public Works - Engineering commented on the referral that the restaurant must install an appropriately sized grease interceptor to collect food waste, and existing water and sewer service and surrounding sidewalks must be inspected and brought up to current City standards; these requirements have been added as conditions of approval.

In addition, DHHS reviewed the project and provided a number of comments mostly related to the maintenance of food trucks on site including the need for proper liquid and solid waste disposal, including an area for vehicle cleaning that slopes and drains to an approved wastewater system. DHHS requires the applicant to submit construction drawings and equipment specifications for review and approval by the Division of Environmental Health prior to being granted a building permit (California Retail Food Code §114380(e)). A condition has been added requiring evidence of DHHS approval prior to the finalization of any City of Eureka building permits or issuance of a City business license for the operation of the restaurant and commissary kitchen.

Finally, conditions have been added to address a number of comments Caltrans Staff provided on the project, including conditions requiring an accessible path of travel from the sidewalk to the building, and alerting the applicant to the need for an encroachment permit for any work in the right-of-way.

As conditioned to address referral comments, the proposed restaurant use will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

### **3. Provisions of Chapter 5**

The applicable provisions of Chapter 5 include the development standards for building height, size, and bulk; off-street parking and loading; landscaping, etc. The proposed use will be located in an existing building which meets applicable development standards for building height, floor to area ratio, and setbacks, and the proposed minor addition to the building will not conflict with any of these standards. Additionally, no new off-street parking or loading facilities are required by the Municipal Code or proposed by the applicant. Pursuant to Section 10-5.1952, mobile vendors are prohibited from obstructing pedestrian or vehicular traffic or blocking a driveway or alleyway, and mobile vendors are only allowed to occupy off-street parking spaces that are not required to meet the minimum parking standards of existing permitted uses. A condition has been added to ensure the project complies with mobile vendor standards outlined in section 10-5.1952. There are no

landscaping requirements in the CS District and no standards for fencing or lighting. The signage proposed for the project site complies with the sign standards and will be permitted separately through an Administrative Sign Permit (SGNA-23-10).

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 designations and map, and the EMC zoning district regulations and map, among other provisions. The proposed restaurant conditional use is consistent with the CS zone district and the GSC land use designation as described in detail above.

The Local Coastal Program also includes policies and development standards that apply to all development in the Coastal Zone regardless of district or land use designation. The proposed restaurant use is also consistent with these additional policies and development standards, as discussed below in the Coastal Development Permit analysis section of this report. For all these reasons, the conditional use is consistent with the certified Local Coastal Program.

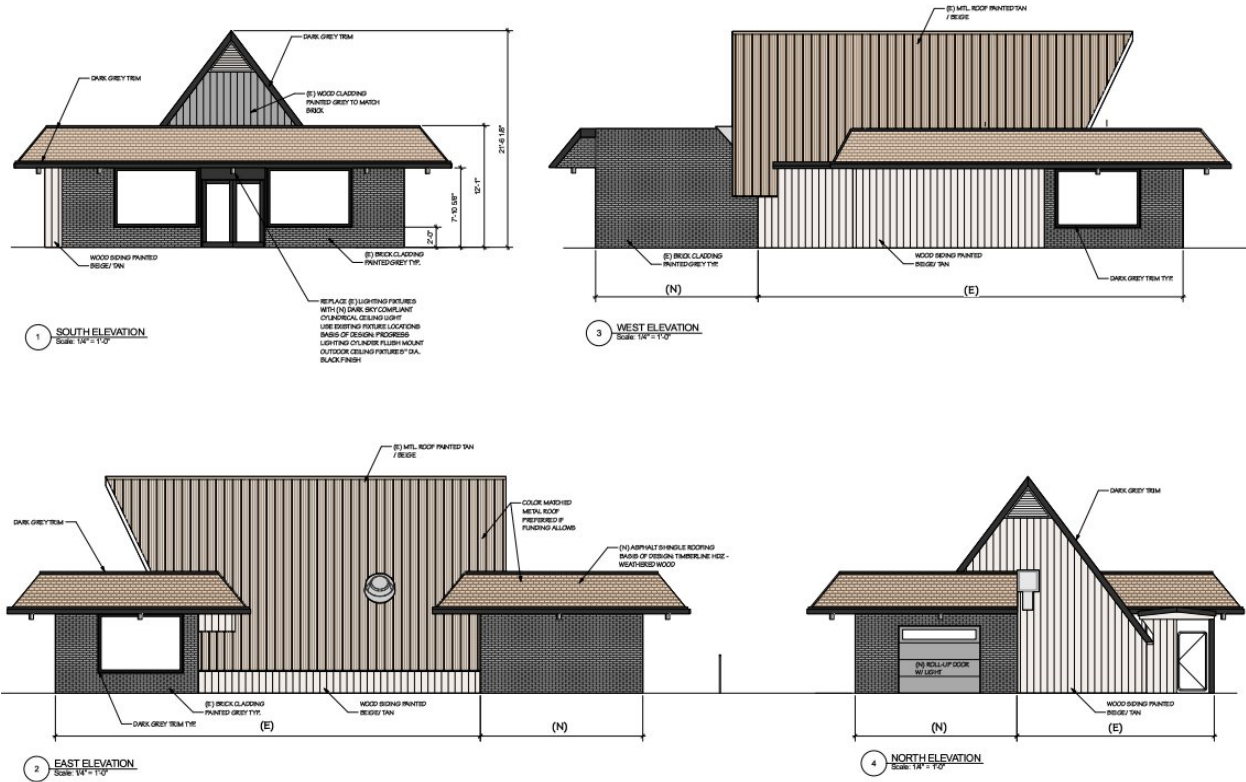
#### **DESIGN REVIEW ANALYSIS**

The proposed building and site improvements require Design Review by the Planning Commission because the project site is located in the mapped Design Review Area. The Planning Commission should determine whether the site plan for the proposed restaurant 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 that would be inharmonious with surrounding development, but the Commission cannot require new structures duplicate a historic architectural style as a condition of approval.

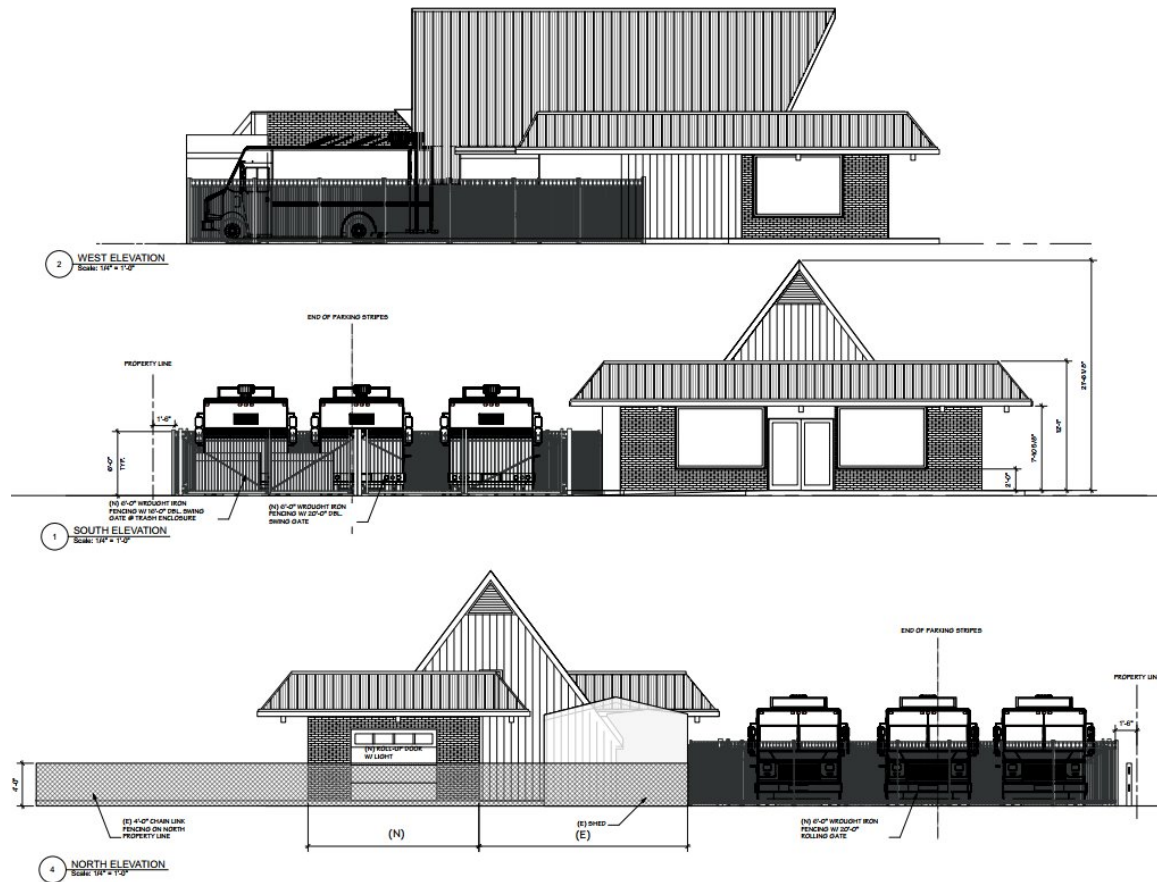
The property contains an existing 1,299-sf restaurant with a 153-sf storage addition on the northeast side of the building proposed to be demolished and replaced with a 256-sf storage addition. The front of the current building has red brick cladding, blue roof trim and window trim, and wood shingle roofing, while the back of the building includes a blue metal A-frame roof and light-blue wood cladding. The applicant proposes to paint the brick cladding grey, paint the metal A-frame tan, replace the wood shingles on the front roof with a tan-colored metal roof or asphalt shingles, paint the roof trim and window trim dark grey, paint the wood cladding tan on the north, east and west side of the building, and paint the wood cladding on the south face A-frame grey to match the brick. The applicant has decided to keep the exiting outdoor lighting, a condition has been added requiring Dark Sky Compliant fixtures if the applicant chooses to replace the lights in the future. The new addition will have brick cladding and metal roof to match the material and new paint colors on the existing structure (Figure 5). The applicant proposes to add a six-foot-tall wrought iron fence to create a designated food truck parking area in the northwest corner of the property, as well as add a four-foot-tall chain link fence along the north property line (Figure 6).

#### **Figure 5: Proposed Elevations with Color Scheme**

The Tasty Hub Design Review, Use Permit, and Coastal Development Permit  
 Project Nos: AA-23-0001, CUP-23-0009, CDP-23-0009



**Figure 6: Proposed Elevations with Fencing**



## **COASTAL DEVELOPMENT PERMIT ANALYSIS**

The proposed conditional restaurant use and associated physical site improvements require a Coastal Development Permit (CDP). As described at the beginning of this staff report, the proposed commissary kitchen and mobile vendors technically do not require CDP authorization, but because the restaurant and commissary kitchen uses will be co-located and operated together as one development, the project as a whole is analyzed below. To approve a Coastal Development Permit, the Planning Commission must find the proposed development conforms to the policies of the certified Local Coastal Program. The Local Coastal Program is divided into two components: The Land Use Plan and Implementation Plan. The first component, the Land Use Plan, 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.

### **Land Use Plan Analysis**

The purposes of the HSC - Highway 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. The proposed project will add retail establishments (a restaurant and operating food trucks) at a central location on 5<sup>th</sup> Street easily accessible by residents of the city and surrounding area. The project will also add a commissary kitchen to the site, a commercial service use required by DHHS to support commercial food truck establishments and currently in short supply in Humboldt County, resulting in wait-lists and unmet needs. As a result, the proposed project is consistent with the HSC land use designation.

The applicable goals of the Land Use Plan are listed below, followed by a brief discussion how the project conforms to each goal and associated policies.

#### **Goal 1.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 reuse of an existing vacant commercial development with a new restaurant and commissary kitchen will have a positive effect on the City's economic vitality, consistent with this policy. Due to its location on the Hwy 101 corridor, the Tasty Hub will be easily accessible to residents of the City and out of town visitors. For all the reasons described above, the proposed project is consistent with Goal 1.L.

#### **Goal 1.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 restaurant and commissary kitchen are proposed on an existing commercial property located on the Hwy 101 corridor in a predominantly commercial mixed-use area, away from exclusively residential neighborhoods. The project will transform a currently vacant restaurant space into and new restaurant space and commissary kitchen, 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. For all these reasons, the proposed project as conditioned is consistent with Goal 1.A.

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

As the project is going into an existing vacant structure with a minor addition, the project should not result in an increase in demand for City services. The proposed project will use existing water, sewer, electrical, and gas connections to the project site. Conditions have been added to address Public Works – Engineering requirements for the applicant to add an appropriately-sized grease interceptor, and upgrade the site’s water and sewer services to current City standards as necessary. The 2040 General Plan EIR determined the City has adequate water and sewer capacity given anticipated growth, and reconnecting the restaurant to the existing on-site City municipal sewer and water facilities will ensure the effective and efficient provision of public facilities and services, 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 over four blocks and a third of a mile from the Humboldt Bay shoreline. The project will not impact any existing public 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 located on a developed property on the Hwy 101 corridor between 4th and 5th Streets, in an existing urban area, away from marine, wetland, and riparian habitat. The nearest Environmentally Sensitive Habitat (ESHA) is over 160 feet across 5th Street to the southeast.

The project could impact nearby ESHA through exposure to invasive plants or artificial nighttime lighting. Conditions of approval have been added prohibiting invasive plants from being planted or allowed to persist on site, and requiring all new exterior lighting to be fully shielded, directed downward, and dark-sky compliant. To ensure compliance with these limitations, the conditions require landscaping plans and lighting specifications to be submitted to Development Services – Planning for review and approval prior to installation of new landscaping or lighting.

Nearby ESHA could also be impacted by polluted runoff from the cleaning and maintenance of food trucks onsite. However, DHHS has indicated they will require a vehicle cleaning area that slopes and drains to an approved wastewater system, and a sanitary RV dump station for disposal of liquid wastes. A condition has been added requiring evidence of DHHS approval prior to the finalization of any City of Eureka building permits or issuance of a City business license for the operation of the restaurant and commissary kitchen.

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 and associated policies.

**Goal 7.A To minimize loss of life, injury, and property damage due to seismic hazards; and Goal 7.B To minimize loss of life, injury, and property damage due to geological hazards. 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 within a seismically active area in which large earthquakes are expected to occur during the lifespan of the proposed use. The proposed project involves the reuse of the existing restaurant building which was constructed in 1968. The proposed restaurant will not significantly increase exposure to seismic hazards. The site is flat (slope is less than 15%) and is considered relatively stable for seismic safety, and it is not located near or on an active fault or liquefaction area. A building permit will be required for the proposed improvements, and inspections will occur to ensure compliances with the City's building code standards.

The project site is located outside of the FEMA mapped 100 and 500-year flood zones (Figure 6), and the mapped tsunami inundation area on the Tsunami Inundation Map for Emergency Planning (Figure 7; California Geological Survey; yellow shade depicts inundation area). The current elevation of the site ranges from approximately 29 to 31 feet (North American Vertical Datum, 1988 [NAVD88]). The project site is safe from flooding given current and anticipated flood levels, as the current 100-year still-water level at the North Spit tide gate is 10.2 feet and is expected to rise by 10.9 feet by 2100 under an extreme risk scenario. At a minimum of 29 feet in elevation, the site will be safe for the next 75 years even under this extreme scenario.

For all the reasons discussed above, the project will minimize risk to life and property from seismic, geologic, and flood hazards consistent with Goals 7.A, 7.B and 7.D and associated

**Figure 6: FEMA Flood Map – 1935 5<sup>th</sup> Street**



**Figure 7: Tsunami Hazard Area Map (inundation area in yellow)**



policies.



### **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 Implantation Plan (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 Land Use Plan (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 Analysis Section 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 project was referred to the Tribal Historic Preservation Officers (THPOs) of the Wiyot Tribe, the Bear River Band, and the Blue Lake Rancheria on September 1, 2023, and no referral responses from the THPOs were received. At the time of referral, the only ground disturbance anticipated was as the result of the addition of a 1-ft wide, 1-ft deep concrete foundation around the edge of the proposed 256-sf building addition. Now additional ground disturbance is anticipated, including potentially for installation of a grease interceptor required by Public Works and installation of a sanitary RV dump station and a sloped area for vehicle cleaning draining to an approved wastewater system required by DHHS. To ensure protection of archaeological resources consistent with IP 10-5.2946.9, a condition has been added specifying that all future building permit applications involving ground disturbance beyond what was outline in the original project referral will be referred to the THPOs, and if an Archaeological Monitor and/or Tribal Cultural Monitor is requested, such a monitor will be required as a condition of building permit approval. In addition,

a condition has been added subjecting all future ground disturbing activities to the City's standard protocol for inadvertent discovery of archaeological and cultural resources and 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 (CEQA), in accordance with section 15301, Existing Facilities, Class 1 of the CEQA Guidelines, which covers the operating of private structures involving negligible or no expansion of use. Since the proposed project will utilize an existing building on a developed site with negligible enlargement of the building, the project qualifies for the Class 1 exemption.

### **PUBLIC HEARING NOTICE**

Public notification consisted of notification by mail of property owners and residents within a 300-foot radius of the site on or before October 27, 2023. In addition, the notice was posted on the City's website and bulletin boards, and a public hearing notice sign was posted on the site on October 27, 2023.

### **CONCLUSION**

Based on the analysis above, the Conditional Use Permit findings for the proposed restaurant can be made, and the project as conditioned can be found consistent with the City's certified LCP, including the Land Use Plan and Map and the Coastal Zoning Code and Map. The project as conditioned is not detrimental to the public health, safety, and welfare; is suitable for the site; is adequately served by existing utilities and infrastructure; and is compatible with existing and planned land uses in the vicinity. The proposed building and site improvements will not be ugly, monotonous, hazardous, or inharmonious with the surroundings, and will have a positive effect on the value of properties within the vicinity.

### **STAFF CONTACT**

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### **DOCUMENTS ATTACHED**

- Attachment 1: Planning Commission Resolution
- Attachment 2: Site Plans
- Attachment 3: Referral Comments