

RESOLUTION NO. 2024-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA
CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT (CUP-23-0010), COASTAL
DEVELOPMENT PERMIT (CDP-23-0013), AND VARIANCE (V-23-0001) FOR A NEW FOUR-
STORY, MIXED-USE DEVELOPMENT AT THE NORTHWEST CORNER OF THIRD AND G
STREETS (APN 001-091-009)

WHEREAS, the applicant has requested approval to construct an approximately 18,002 square-foot, four-story, mixed-use building on a vacant lot located on the northwest corner of Third and G Streets (APN 001-091-009); and

WHEREAS, the proposed building will include 13 residential apartments above two ground-floor commercial spaces; and

WHEREAS, the project site is located in the Coastal Zone in the Waterfront Commercial (CW) Zoning District with a Core Retail Commercial (C-RC) land use designation; and

WHEREAS, pursuant to Eureka Municipal Code (EMC) §10-5.29113, a conditional use permit is required in the CW District for use of the second, third, and fourth floors residential apartments, and potential use of the ground-floor commercial spaces for an office use; and

WHEREAS, pursuant to EMC §10-5.2401(c), projects requiring a conditional use permit also require a coastal development permit; and

WHEREAS, the project also requires a variance to allow a floor-area ratio (FAR) of 4 (400%) because the maximum FAR for the CW District is 2.5 (250%); and

WHEREAS, approval of the aforementioned permits is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, the project also requires Historic Preservation Review (because the project site is on the Local Register of Historic Places due to the historic Russ Market Building that used to occupy the site but was destroyed by fire in 2006) and Design Review; the Historic Preservation Commission unanimously approved (with two commissioners absent) the Historic Preservation Review HP-23-0012 and Design Review AA-23-002 for the project at their regular meeting on December 6, 2023; 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 February 14, 2024 at 5:30 p.m. in person and via Zoom in the Council Chambers to consider the conditional use permit, coastal development permit, and variance; and

WHEREAS, the Planning Commission of the City of Eureka has reviewed the subject applications 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:

1. The project as conditioned and its location are consistent with the objectives and standards of the zoning code, and with the purpose of the CW zone district and C-CR land use designation.
2. The project as conditioned will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.
3. The project as conditioned is served by adequate services, avoids impacts to coastal resources and priority uses, minimizes risks to hazards, and conforms to the policies of the Local Coastal Program.
4. The required findings for a variance enumerated in EMC §10-5.2507.1 can be made for the proposed Floor Area Ratio, including the finding that the variance is consistent with and implements the certified Local Coastal Program, and the granting of the variance does not reduce or in any way adversely affect the requirements to protect coastal resources.
5. The project qualifies for a Class 32 exemption from CEQA as an infill-development project (§15332 of the CEQA Guidelines) because: (1) the project is consistent with applicable general plan policies, and granting approval of a variance will allow the project to conform to the zoning standards; (2) the project will not result in significant effects on the environment; and, (3) the project footprint is within City limits, is less than five acres in size, is surrounded by urban uses, does not contain wetlands/ESHA, and is adequately served by all required utilities and public services.

WHEREAS, in the opinion of the Planning Commission of the City of Eureka, the proposed application should be approved subject to the following conditions:

1. **Ground-Floor Conditional Use Allowance.** The property owner must give priority to potential tenants proposing principally-permitted uses on the ground floor of the building. Otherwise, a conditional office use is allowed on the ground-floor, either occupying the northern tenant space only (Commercial Tenant Space B) or both tenant spaces (Commercial Tenant Spaces A and B). If both Tenant Spaces A and B are occupied by a ground-floor office use, the front storefront area of Tenant Space A at the corner of 3rd and G Streets, including the space behind the corner entrance and two nearest windows (one on 3rd Street and one on G Street), must look and function predominately like an active visitor-serving use such as an art gallery or retail sales. The active, visitor-serving use must be prominently displayed and highly visible through the corner entryway and two adjacent windows (one on 3rd Street and one on G Street) so that it appears to be the primary use of the space to pedestrians at street level. The active, visitor-serving use must also be regularly open to the public, generate customer or visitor foot traffic, and sell goods typically consumed on premises or carried away by customers, or services of a personal or recreational nature. If only Tenant Space B is occupied by an office use (because Tenant Space A is occupied by a principally-permitted use), no active, visitor-serving use is required for the front storefront area of Tenant Space B. No other conditional uses are allowed on the ground floor without additional conditional use permit and coastal development permit approval.

2. **Upper-Floor Conditional Use Allowance.** Residential uses conditionally permitted in the CW District may be allowed on the second, third, and fourth floors of the structure. No other conditional uses are allowed on the upper floors without additional conditional use permit and coastal development permit approval.
3. **Pick-up/Delivery Restrictions.** The Permittee shall insure all tenants direct pick-up/delivery vehicles to the alley at the rear of the building. This condition shall be enforced at all times to the satisfaction of Public Works – Engineering and Eureka Police.
4. **Alternative Transportation Provisions.** The proposed bicycle storage room inside the building's rear access space shall remain available to building tenants 24-hours a day for bicycle storage for the life of the development.
5. **Building and Fire Department Approvals.** Prior to commencement of construction, the applicant shall obtain all required Building and Fire permits to the satisfaction of Development Services – Building, and Humboldt Bay Fire Department.
6. **Public Right-of-Way Temporary Encroachment Approvals.** Authorization from Public Works – Engineering, including an Encroachment Permit, shall be required prior to any work conducted in the right-of-way (alley or street).
7. **Humboldt County Division of Environmental Health Approval.** Prior to building permit approval, the applicant/owner is required to provide written approval from Humboldt County Division of Environmental Health (DEH) to Development Services – Planning that the solid waste storage area proposed on the alley-side of the building is adequately sized to hold recycling and source-separated organics storage. If a restaurant tenant is selected for one or both of the ground-floor commercial spaces, the Permittee must submit plans for the retail food space for review and approval by DEH.
8. **Construction Noise Limitations.** Project construction shall be performed on standard work days (Monday through Friday) between the hours of 7:00 a.m. and 7 p.m. Construction activities outside these hours and days may be allowed for good cause with prior approval from Development Services – Planning.
9. **Erosion and Sediment Control Plan.** Prior to final building plan approval, 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), must be submitted for review and approval by Public Works – Engineering.
10. **MS4 Stormwater Program Requirements.** Prior to final building plan approval, documentation demonstrating the project meets the City's MS4 Stormwater Program requirements must be submitted for review and approval by Public Works – Engineering.
11. **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. Planting of species native to Eureka as listed by the California Native Plant Society is encouraged.

12. **Lighting Restrictions.** To minimize the trespass of artificial light, all outdoor lighting fixtures shall be fully shielded and downward facing and shall meet the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light ("dark sky compliant"). Prior to installation of any exterior lighting, lighting specifications shall be submitted to Development Services – Planning for review and approval consistent with this standard.
13. **Sign Approval.** Unless otherwise exempted by Eureka Municipal Code §10-5.1703.1, prior to the installation of any signs, a City of Eureka Sign Permit shall be obtained from Development Services – Planning, and, if required, a building permit from Development Services – Building.
14. **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, 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.

NOW THEREFORE, BE IT RESOLVED 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 14th day of February, 2024, by the following vote:

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

Meredith Maier, Chair, Planning Commission

Attest:

Cristin Kenyon, Executive Secretary