

RESOLUTION NO. 2023-xx

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA
CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT AND COASTAL
DEVELOPMENT PERMIT FOR A PETROLEUM AND PETROLEUM PRODUCTS STORAGE
USE AT 3530 BROADWAY (APN 007-092-016)**

WHEREAS, Redwood Coast Fuels is proposing to store petroleum and petroleum products in a 3,000-sf portion of an existing, approximately 13,000-sf warehouse, in addition to parking three distribution trucks onsite at 3530 Broadway at the foot of Tomlinson (APN 007-092-016); and

WHEREAS, the subject property is zoned and designated General Industrial (MG zone district and GI land use designation); and

WHEREAS, pursuant to Eureka Municipal Code (EMC), petroleum and petroleum products storage is allowed with a Conditional Use Permit (CUP) in the MG zone district; and

WHEREAS, pursuant to EMC Section 10-5.2401, a Coastal Development Permit is required when a CUP is required; and, because of the location of the project site, approval of the Coastal Development Permit is appealable to the California Coastal Commission; and

WHEREAS, a Conditional Use Permit and Coastal Development Permit are discretionary actions 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 February 13, 2023, at 5:30 p.m. in person and via Zoom in the Council Chamber; and

WHEREAS, the Planning Commission of the City of Eureka has reviewed the subject application in accordance with Eureka Municipal Code 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 location of the proposed petroleum and petroleum products use is consistent with the objectives of Chapter 5 and the purposes and intent of the General Industrial zone district.
2. The proposed location of the petroleum and petroleum products use and the conditions under which it 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.
3. The proposed use will comply with each of the applicable provisions of Chapter 5.
4. The project as conditioned conforms to the policies of the Local Coastal Program.

5. The project is categorically exempt from the provisions of the CEQA, in accordance with Section 15301 (Existing Facilities) of the CEQA Guidelines, as the project will be located within an existing industrial building with no proposed expansion or enlargement of the building.

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

- A. Use Restriction. Delivery trucks shall not be serviced or washed on site.
- B. Building Permits. Prior to the on-site storage of hazardous materials, required Building and Fire Permits shall be obtained from Development Services - Building and Humboldt Bay Fire for a change of occupancy and for building and utility improvements necessary to ensure the warehouse meets the requirements for buildings storing petroleum and petroleum products.
- C. Utility Easement. Prior to issuance of building permits, the applicant shall provide proof of private water and sewer easements necessary to serve the subject parcel to the satisfaction of Development Services – Planning and Public Works - Engineering.
- D. Water and Sewer Services.
 - i. Existing water and sewer service, if any, shall be inspected, and repaired or replaced if needed, to the satisfaction of Public Works – Engineering prior to issuance of building permits.
 - ii. The proposed sewer lateral, and any other necessary utility upgrades shall be constructed to City Standards to the satisfaction of Public Works – Engineering.
 - iii. Building plans submitted for the proposed new sewer lateral, and water service, if required, shall include the location of PG&E's existing underground facilities and demonstrate necessary clearances have been met from the proposed wet utility to PG&E's underground electric line. A 5-foot separation from the proposed sewer line to said electric line is desired. A minimum of 3-foot separation including 1-foot of undisturbed soil is required. This condition shall be completed to the satisfaction of Public Works – Engineering and PG&E.
- E. Hazardous Materials.
 - i. Project operations shall comply with all applicable Health and Safety Code and California Fire Code requirements related to the storage and handling of hazardous materials. Before beginning operations, the applicant shall install necessary secondary containment and diversionary structures or equipment to prevent discharge of hazardous materials, and shall prepare and implement a Spill Prevention, Control and Countermeasure (SPCC) Plan which has been reviewed and approved by the Humboldt County Division of Environmental Health (DEH).
 - ii. Within 60 days of approval of the final certificate of occupancy, and prior to

beginning operations, the applicant shall submit a copy of their SPCC Plan, with proof of DEH approval, to Development Services - Planning.

- iii. Within 30 days of the storage of hazardous materials at or above 55 gallons, 500 pounds, or 200 cubic feet, the applicant shall submit a Hazardous Materials Business Plan for the facility to the California Environmental Reporting System (CERS) and to Development Services – Planning with proof of DEH acceptance.

F. Tsunami Safety Plan. Prior to issuance of the final certificate of occupancy, the Permittee shall submit a Tsunami Safety Plan to Development Services – Planning for review and approval. The Tsunami Safety Plan shall be implemented and enforced for the life of the development. The plan shall demonstrate the tsunami threat and evacuation route will be adequately communicated to customers and employees, procedures will be in place for the safe evacuation of all occupants in the event of a tsunami, and staff will be adequately trained to carry out the plan. The plan shall include:

- i. A Tsunami Evacuation Route Map for the project site informed by community-wide emergency response plans, showing egress direction(s) and expected assembly area(s) for safe evacuation.
- ii. Hazard risk notification procedures, including details on where placards, flyers, or other materials will be posted at conspicuous locations within the building, provided in English and Spanish, explaining tsunami risks, the need for evacuation if strong earthquake motion is felt or alarms are sounded, and the location of evacuation routes; and
- iii. Training procedures for staff, detailing the instruction to be provided to all staff to ensure that the Tsunami Safety Plan is effectively implemented.

G. Cultural Resources Monitor. At least two weeks prior to commencement of any ground-disturbing activities, the applicant shall contact the Tribal Historic Preservation Officers of the Wiyot Tribe, Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria to provide the construction schedule for when ground disturbing activities will occur, and invite Tribal representatives to be present on-site to monitor ground-disturbing activities. Tribal representatives present during ground-disturbing activities shall have the authority to stop work activities in any area, if required to avoid adverse impacts to sensitive resources, consistent with Condition H. Violations of the conditions relating to ground disturbing activities and requirements for Tribal Monitoring shall be subject to penalties as allowed under current laws and codes. Costs for monitoring, reporting and, if needed, a consulting archaeologist agreed upon by the three THPOs who shall consult, develop and implement a rapid response inadvertent discovery data recovery excavation plan, plus analyses of recovered constituents and reporting of potentially significant discovery(ies), shall be borne by the Applicant.

H. Inadvertent Archeological Discovery Protocol. For any ground disturbing activity, the City's standard protocol for inadvertent archeological discovery (cultural or historical artifacts) shall be followed:

- i. 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.
 - ii. 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.
 - iii. 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 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 Public Resources Code Section 5097.98 shall be complied with as may be required.
- I. Sign Permit. Unless otherwise exempted by EMC Section 10-51703.1, prior to any signs for the business being placed or erected, the owner or operator shall obtain a City of Eureka Sign Permit, and if required, a Coastal Development Permit, approved by

Development Services – Planning, and, if required, a building permit from Development Services – Building.

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 13th day of February, 2023, by the following vote:

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

Meredith Maier, Chair, Planning Commission

Attest:

Kristen M. Goetz, Executive Secretary