

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA
CONDITIONALLY APPROVING A COASTAL DEVELOPMENT PERMIT (CDP-23-0006)
AND CONDITIONAL USE PERMIT (CUP-23-0005) FOR THE USE OF AN EXISTING
VACANT COMMERCIAL BUILDING AS A RESTAURANT AT 1835 4TH STREET
(APN 002-064-008)

WHEREAS, the applicant proposes to utilize the existing 4,400-square-foot commercial building and associated parking lot at 1835 4th Street for a restaurant use; and

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

WHEREAS, pursuant to Eureka Municipal Code (EMC) §10-5.29133, restaurants are allowed with a Conditional Use Permit in the CS zone district; and

WHEREAS, pursuant to EMC §10-5.2401(c), the proposed restaurant requires a Coastal Development Permit because projects in the coastal zone which require a use permit also require a Coastal Development Permit; and

WHEREAS, the Conditional Use Permit and Coastal Development Permit approvals 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 September 11th, 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 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 location of the restaurant is in accord with the objectives of Chapter 5 and the purposes and intent of the CS zone district.
2. The proposed location of the restaurant and the conditions under which the restaurant 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 restaurant complies 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 proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), in accordance with §15301 Class 1 (Existing Facilities) of the CEQA Guidelines because the project will be located entirely within an existing 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. Compliance with the conditions will be to the satisfaction of Development Services – Planning unless noted otherwise:

1. **Building and Fire Department Approvals.** Prior to the issuance of a City business license for the restaurant, the Permittee shall obtain all required Building and Fire permits to the satisfaction of Development Services – Building and Humboldt Bay Fire.
2. **Encroachment Permits.** Any work required in, over, or under either the City of Eureka or Caltrans rights-of-way shall require issuance of an encroachment permit to the satisfaction of City of Eureka Public Works or Caltrans, as applicable.
3. **Signage.** Unless otherwise exempted by EMC §10-5.1703, no signs shall be placed or erected on-site without a City of Eureka Sign Permit approved by Development Services – Planning, and, if required, a building permit from Development Services – Building. Prior to the issuance of a City business license for the restaurant, the sign cabinet installed on the existing pole on-site without the benefit of permits shall obtain the required Administrative Sign Permit and Building Permit to the satisfaction of Development Service – Planning and Development Services – Building.
4. **Exterior Building Lighting Requirements.** Prior to installation of any new exterior lighting, specifications for all new exterior lighting fixtures shall be submitted to Development Services – Planning for review and approval, consistent with the following standards:
 - a. Exterior lighting shall be fully shielded with fixtures or hoods, or recessed.
 - b. Exterior lighting shall be directed downward, away from adjacent properties or the public right-of-way.
 - c. All exterior light fixtures must meet the International Dark Sky Association’s requirements for reducing waste of ambient light (“dark sky compliant”).
5. **Landscaping Restrictions.** No plant species with a “High” rating in the California Invasive Plant Council’s Cal-IPC inventory of invasive plants shall be planted or allowed to persist in on-site landscaping.
6. **Grease Interceptor/Grease Trap.** Prior to the finalization of any City of Eureka building permits or issuance of a City business license for the operation of the restaurant, either an in-ground grease interceptor or an above ground 100-120-gallon grease trap shall be installed to the satisfaction of Public Works – Engineering. The necessary building permit for the installation of the grease interceptor or grease trap shall be obtained and an inspection shall be conducted prior to the finalization of the building permit to the satisfaction of Development Services – Building.
7. **Humboldt County Department of Environmental Health (DEH) 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, the restaurant must be reviewed and approved by the Humboldt County Department of Environmental Health (DEH), with proof of approval submitted to Development Services – Planning.

8. **Water Service.** Prior to the finalization of any City of Eureka building permits or issuance of a City business license for the operation of the restaurant, the water service must meet current City standards, including but not limited to, the use of an approved backflow device. The water service shall be inspected and approved to the satisfaction of Public Works – Engineering.
9. **Sewer Discharge.** Prior to the finalization of any City of Eureka building permits or issuance of a City business license for the operation of the restaurant, the sewer lateral certification process must be started, including CCTV inspection of the sewer lateral, to the satisfaction of Public Works - Engineering. Following the commencement of the sewer lateral certification process, the applicant will have one year to complete any required sewer lateral repairs, to the satisfaction of Public Works – Engineering.
10. **Sidewalk Repairs.** Prior to the finalization of any City of Eureka building permits or the issuance of a City business license for the operation of the restaurant, all sidewalks abutting the property shall be inspected, and repairs made where the sidewalk is defective, to the satisfaction of Public Works – Engineering.
11. **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.

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 11th day of September, 2023, by the following vote:

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

Meredith Maier, Chair, Planning Commission

Attest:

Cristin Kenyon, Executive Secretary