

# Planning Commission STAFF REPORT

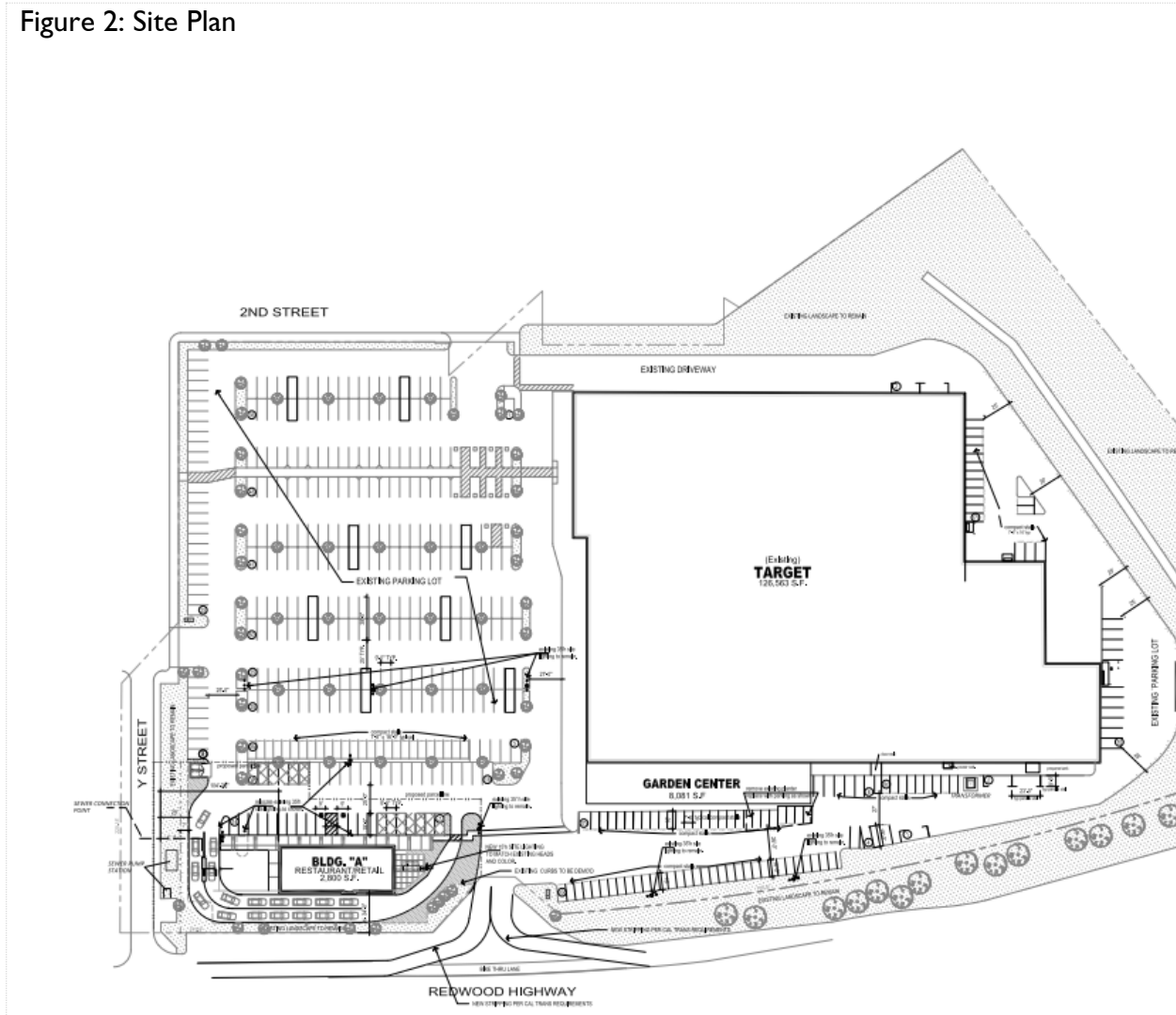
December 13, 2021

<b>Subject:</b>	Target Coastal Development Permit CDP-21-0004, Conditional Use Permit CUP-21-0003 and Design Review AA-21-0004
<b>Location:</b>	2525 4 <sup>th</sup> Street
<b>APN:</b>	002-201-008
<b>Applicant:</b>	Kristine Simmons (for Rich Development)
<b>Property Owner:</b>	Tab Johnson (for Target)
<b>Purpose/Use:</b>	Two-lane drive-through restaurant with parking, landscaping, patio, and associated subdivision
<b>Application Date:</b>	May 26, 2021
<b>General Plan:</b>	GCS – General Service Commercial
<b>Zoning:</b>	CS –Service Commercial
<b>CEQA:</b>	Exempt under §15315 (Minor Land Divisions) and §15332 (In-fill Development Projects)
<b>Staff Contact:</b>	Lisa Savage, Senior Planner
<b>Recommendation:</b>	Hold a Public Hearing; and Adopt a Resolution to approve with conditions
<b>Motion:</b>	<i>“I move the Planning Commission adopt a Resolution to conditionally approve the proposed restaurant development and subdivision for 2525 4<sup>th</sup> Street, APN 002-201-008 in the CS Service Commercial zone district.”</i>

Figure 1: Location Map- Project Area (Yellow), Proposed Location of Restaurant (Red)



Figure 2: Site Plan



## PROJECT SUMMARY

The applicant is requesting approval of a Coastal Development Permit (CDP), a Conditional Use Permit (CUP), and Design Review to construct an approximately 2,800 square foot restaurant, including parking, landscaping, a patio, and a two-lane drive-through on a portion of the Target parcel northeast of the intersection of HWY 101 and Y Streets. To accommodate this restaurant, the 11.58-acre "Target" parcel will be subdivided into two (2) parcels. Parcel 1 will be 10.8 acres and will retain the existing Target store and off-street parking, and Parcel 2 will be .78 acres (33,977 square feet) and will be developed with the drive-through restaurant. The applicant is proposing to locate thirteen of the Target Store's required off-street parking spaces on the newly created restaurant parcel, which is allowed by the zoning code with a Use Permit and recorded parking indenture. The project is located in the Coastal Zone and the proposed restaurant and subdivision require a Coastal Development Permit from the City. The drive-through restaurant also requires a Use Permit and Design Review. The subdivision is being reviewed separately for consistency with the State Subdivision Map Act and EMC Chapter 154 (Subdivision Regulations) under SDMN-21-0004, and a separate Director-level decision will occur the day after the Planning Commission meeting.

In 2002, the City's original Coastal Development Permit approval for the construction of the Target store was appealed to the California Coastal Commission (CCC). The CCC found issue with the City's approval, took jurisdiction over the application and approved a modified project with conditions on appeal in 2003 (CCC CDP No. A-1-EUR-02-166). Any modifications to the structure or site that implicate the CCC's original permit requires a permit amendment from the CCC. Based on discussions with the CCC, an amendment is required to their CDP (CDP No. A-1-EUR-02-166) to address the currently proposed changes to the Target store parking configuration, which include additional spaces allocated to Target on the new restaurant parcel, adjacent to the garden center, behind Target (to the east) and on the north side of Target in order to meet their required parking. The permit amendment for the modifications to store parking will be processed by the CCC at a later date.

### **USE PERMIT ANALYSIS**

A Use Permit is required for use of the new Parcel 2 as a drive-through restaurant and to permit the off-street parking spaces for Target on Parcel 2. Per EMC Sec. 10-5.1505(b-c), a Use Permit may be granted to permit off-street parking facilities to be separated if located within three hundred feet (300') of the use for which the spaces are required. The granting of a Use Permit for the off-site parking facility requires a parking indenture be recorded with the County Recorder. To approve a Use Permit, the Planning Commission must make all of the following findings:

- a) 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;
- b) 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;
- c) The proposed conditional use will comply with each of the applicable provisions of Chapter 5; and
- d) The proposed conditional use is consistent with the certified Local Coastal Program.

#### **I. Code Consistency**

##### **Chapter 5 Objectives and Purpose**

Pursuant to Eureka Municipal Code (EMC) Sec. 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. Drive-through restaurants are a retail use that serves residents of the city and its surrounding market area and are a listed conditional use in the GSC land use designation. The Project proposes a drive-through restaurant in an underutilized portion of the Target parking lot, which is suitable for the use. Granting the conditional use permit will allow Eureka residents and visitors easy access to a drive-through restaurant as they enter town from the north, or while shopping at Target. 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.

*The restaurant is proposed on an underutilized portion of the Target parking lot in the North Gateway Commercial Corridor. The portion of the site proposed for the restaurant is located northeast of the intersection of HWY 101 and Y Streets, and the restaurant will rely on the Target store's existing driveway access to these two roadways. There will be no adverse effects to Target as the development is tucked away in the southwest corner of the parking lot and there is sufficient parking for Target, the new restaurant, and the required public coastal access parking<sup>1</sup>.*

*In addition, the building is designed to match the look of Target, including the materials, roofline, trim, and paint which were approved by the CCC, under CDP No. A-1-EUR-02-166. The Target store and restaurant will be mutually beneficial, drawing customers to the site that will patronize both businesses.*

*The project site has been the location of commercial retail development for decades; the site was originally developed with a Montgomery Ward's Department store in the 1960s, which was demolished and replaced with the Target store in 2004. To the north of the property is a residential treatment facility and a warehouse for Pepsi, to the south is HWY 101 and retail (Harley Davidson) and general services (bank), to the east is the Eureka Slough, and to the west is a drive-through sandwich shop, restaurants, hotels, and single and multi-family residential housing. The proposed retail use is consistent with the surrounding scale and mix of uses. The addition of a restaurant to this area will provide another convenient restaurant choice that is also a drive-through which can cater to highway traffic coming from the north. Granting the use permit will foster a harmonious, convenient, workable relationship among land uses by providing for another, similar use, in an underutilized parking lot.*

---

<sup>1</sup> The original Target store project approved by the CCC included the dedication of public access easements to the City of Eureka for a public trail and boat ramp along the Eureka Slough waterfront, and the establishment of three parking spaces at the southeast corner of the property signed and reserved for recreational users of the shoreline trail and boat ramp. Under the proposed project, these three parking spaces will continue to be signed and reserved exclusively for coastal access.

- (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.

*As stated above, the Project is located in the North Gateway District which includes a diverse mix of residential, service commercial, hotel, office, drive-through fast food, and big box retail uses. This area is largely zoned CS and is envisioned to continue to grow as an area of diversely intermixed service commercial 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. Project construction could be disruptive to surrounding land uses but will be temporary and limited per **Condition 1** to standard work days. Therefore, the addition of a drive-through restaurant that serves both the neighborhood and visitors will not be an inharmonious influence or a harmful intrusion on the North Gateway District.*

- (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 restaurant will occupy an underutilized portion of the Target parking lot among a mix of other commercial, warehouse, restaurant, hotel, residential, and retail serving uses, which are all appropriate for the area. The project is proposed in an area that can handle a car-oriented, intensive restaurant use where such a use will 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 that the proposed use is a relatively small commercial development, granting the conditional use permit will not result in increased population densities. And given the proposed location on an underutilized portion of a big-box store's oversized parking lot, adding a restaurant structure will not result in overcrowding of the land.*

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

*Ingress and egress to the proposed new use will occur either via HWY 101 from the north or 3<sup>rd</sup> Street from the south, using the existing Target store driveways. The project was reviewed and approved by Caltrans and Public Works- Engineering, and no new or modified street access was determined necessary or required to accommodate the increased vehicular traffic that will result from the new use. An Access Easement Agreement will be recorded at the time of the Subdivision (**Condition 2**). Reliance on the existing driveways will avoid any new points of conflict with through traffic. The location of the restaurant on the southwest corner of the Target parking lot is away from the majority of the traffic accessing Target which will prevent conflicts between the new use and Target. In addition, providing parking only in the front of the restaurant will prevent conflicts between pedestrians' accessing the restaurant and cars entering and exiting the drive-through. Thus, the proposed use 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. The nearest community facility is a residential treatment facility located directly adjacent to the north of the property. The addition of the restaurant provides another choice for food within a walkable distance to the treatment facility. 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 restaurant will contribute to, and potentially increase, the tax base via sales tax. The restaurant will also create new jobs, which will most likely be filled from the local population. The restaurant will be the first restaurant vehicles entering the City via HWY 101 from the north will encounter, which, combined with the easy access, may encourage visitors to stop and spend money at the restaurant and potentially increase visits to Target at the same time.*

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

*The proposed restaurant will occupy a portion of the underutilized Target parking lot. Although the area is already vibrant, lively and well-used, the addition of a restaurant will only serve to enhance the vibrancy of the area and protect and enhance property values.*

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

*The proposed project includes new construction that is subject to Design Review. The exterior of the proposed restaurant building will be similar in color and style to Target in order to blend harmoniously with Target. The site will be enhanced with landscaping, a patio, and exterior lighting. The area where the store is being developed is not particularly attractive, as it's a paved parking area with minimal landscaping. Only a few tree planters will be removed and the existing landscaped strips that separate the site from Y Street and HWY 101 will be retained. At this time no signs are proposed. Any signs proposed in the future will go to Design Review under a separate application for approval. 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.*

As previously mentioned, the proposal to locate 13 of the Target Store's required parking spaces on the restaurant parcel ("offsite parking") also requires Use Permit approval. The proposed offsite parking is necessary to provide adequate parking for the Target Store. If the offsite parking is not permitted, then the Target Store cannot meet its off-street parking requirements, and the subdivision and restaurant project are not feasible. Thus, the offsite parking promotes commercial activity and enhances property values consistent with the objectives of the zoning code. Although located on a separate parcel, the offsite parking will be directly adjacent to onsite Target Store parking and will not appear or function like a separate parking area. Because the offsite parking will not be separated from the Target Store site by any public right-of-way, it will have no impact on traffic circulation or congestion on surrounding City streets. For all the reasons mentioned above, the proposed location of the offsite parking is in accord with the objectives of Chapter 5.

### **Purposes of the Zone District**

In addition to the objectives prescribed in Sections 10-5.102 (Objectives) and 10-5.2902 (Objectives and purposes), the CS Service Commercial Districts are included in the zoning regulations to achieve the following purposes:

- (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 restaurant is appropriate for the CS zone, as it adds a commercial use to a diverse area of retail stores, offices, service establishments, hotels, and restaurants offering goods and services required by residents of the City and surrounding market area. If approved, the proposed drive-through restaurant will be conveniently and appropriately located adjacent to the highway and across Y Street from another drive-through restaurant, and will have a mutually beneficial relationship with the adjacent Target store and other businesses in the area. The restaurant will be located in a currently underutilized corner of the Target parking lot where there is adequate space to meet the needs of the new development, including off-street parking. Thirteen of the Target Store's required off-street parking spaces will be located on the restaurant parcel, which is allowed pursuant to EMC Sec. 10-5.1505(b-c) with a Use Permit and recorded parking indenture. These 13 offsite spaces are necessary to provide adequate off-street parking for Target, and due to their location directly adjacent to onsite parking, will not result in traffic congestion or circulation issues. The project has been reviewed by*



*Caltrans and Public Works- Engineering and both have deemed the project acceptable regarding no potential traffic impacts. Utilities are available on-site and the construction of the restaurant is not of excessive size in relation to the parking lot and will not overload utilities. The proposed uses will not generate an unusual risk of fire, explosion, noxious fumes, or other hazards. As a result, the proposed project, including the restaurant and off-street parking facility, is consistent with the purpose 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 restaurant will be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity. The proposed restaurant, which includes the off-site parking facility for Target, will bring light and activity to a section of the parking lot that is underutilized and often empty. The restaurant lighting and 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 project, including the restaurant and off-street parking facility, will not negatively impact the public health, safety or welfare.*

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

*The proposed restaurant meets all applicable EMC development standards, including standards for yard setbacks; building height, size, and bulk; and landscaping. Additionally, no loading facilities are required by the code.*

*While the existing parking lot has enough space to meet the off-street parking requirements for Target and the restaurant, once the property is subdivided, 13 of Target's parking spaces will be located off-site on the newly created restaurant parcel. A parking indenture is required as **Condition 3**. The required parking for coastal access will be maintained. Therefore, the proposed use and location of the offsite parking also comply 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 project site is zoned CS – Service Commercial and designated GSC – General Service Commercial, both of which allow drive-through restaurants and off-street parking facilities as conditionally permitted uses. The siting and design of the proposed drive-through restaurant use also contains the off-street parking facility for Target, and both are consistent with the intent of the GSC land use designation and the purpose and standards of the CS zone district as described in more detail above. The proposed drive-through restaurant and off-street parking facility 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 described above are consistent with the certified Local Coastal Program.*

## **DESIGN REVIEW ANALYSIS**

The proposed project requires Design Review and Architectural Review by the Planning Commission for both the site plan and development as it is located within the Design and Architectural Review Area.

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.

### **Site Plan and Architectural Review**

The Planning Commission should determine whether the proposed restaurant and associated parking, landscaping, patio, and two-lane 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 an historic architectural style as a condition of approval.

The proposed development includes a 2,800 square-foot restaurant with sidewalks, parking, landscaping, patio, and two-lane drive-through. The proposed restaurant building is designed to match the look of Target, including the materials, roofline, trim, and paint. The design of Target was approved (including color) by the CCC, under CDP No. A-I-EUR-02-166 (Figure 4).

Figure 4: Existing Target Store



The front entrance of the building facing the Target parking lot will have large clear glass windows and doors inside bronze anodized aluminum frames (Figure 5). There is a wood awning over the sidewalk, roofed with gray composite shingles and supported by stone veneer columns. Stone veneer accents are found throughout the building façade. There are three raised roof areas (north, south and east sides) which are trimmed in stained wood and supported by stone veneer columns. Decorative light fixtures are proposed for each of the stone columns. The remainder of the building will be smooth painted plaster with stained wood accents. All tenant signs will be approved under a separate application.

Figure 5: Conceptual Elevation- Building Front (Facing Parking Lot)



The rear of the building will be similar to the front utilizing the same materials, roofline, and roofing materials (Figure 6). In addition, there will be wooden planted trellises, and additional shrubs and trees shielding the drive-through from view along HWY 101.

Figure 6: Conceptual Elevation- Building Rear (Facing HWY 101)



Figure 7: Conceptual Elevations- Building Sides



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 building fits well within these parameters, and although there are no setback requirements for the newly created lot, the design provides ample space between the restaurant and property lines. The maximum building height is 34' 8", and the restaurant has an 8.2% FAR.

14 off-street parking spaces are required for the restaurant including at least one ADA-accessible space, and 14 are provided, including two ADA-accessible spaces. Up to 25% of all spaces may be compact car spaces, but no compact spaces are proposed for the restaurant lot.<sup>2</sup> The dimensions of 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 restaurant is 2,800 square feet; therefore, no loading berth is provided. Based on the above analysis, the restaurant use meets all parking and loading requirements.

---

<sup>2</sup> The Target lot has compact spaces and they meet the threshold requirement of not more than 25% compact spaces.

There are no landscaping requirements for parking facilities in the CS zone district. However, the landscaping along Y Street and HWY 101 will remain. There is also landscaping proposed for the east and west sides of the restaurant adjacent to the sidewalk and some planted trellises on the south side of the building.

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 the Site Plan and Architectural Review.

## **COASTAL DEVELOPMENT PERMIT ANALYSIS**

The proposed subdivision and drive-through restaurant require a Coastal Development Permit from the City. The proposed reconfiguration of the Target store parking to accommodate the subdivision and restaurant requires separate Coastal Development Permit authorization from the CCC (as an amendment to the CCC's original Target store Coastal Development Permit). To approve a Coastal Development Permit, the Planning Commission must find that the proposed development conforms to the policies of the Certified Local Coastal Program.

The Local Coastal Program 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 Local Coastal Program is divided into two components: the first component is the *Land Use Plan*, 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 Local Coastal Program is the *Implementation Plan*, 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 Land Use Plan.

### **Land Use Plan Analysis**

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, drive-in restaurants, and mobile home and trailer parks.

*The project is consistent with the GSC land use designation as it will provide for another commercial business (restaurant) that offers commodities required by residents of the city and its surrounding market area. The proposed drive-through restaurant is conditionally permitted within the GSC-designated area.*

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 will result in the creation of a new commercial parcel and the construction of a restaurant and associated parking, landscaping, patio, and two-lane drive-through in an underutilized portion of the Target parking lot. By allowing for the development of an additional parcel and an associated commercial use in an existing commercial area at an appropriate location capable of accommodating increased density, the proposed project will have a positive effect on the City's economic vitality. The project has been reviewed by Caltrans and Public Works-Engineering and both have deemed the project acceptable regarding no potential traffic impacts, conflicts, or congestion. The restaurant will have the same ingress and egress as Target, and can be accessed via HWY 101 from the north and 3<sup>rd</sup> Street from the south. The restaurant will serve the nearby residential area and due to its location, will be easily accessible to visitors from elsewhere in the City and from out of town. 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 subdivision and restaurant are proposed on an existing commercial property in a mixed-use area away from exclusively residential neighborhoods. The project will create a new commercial parcel and restaurant, promoting economic choices and expansion. This infill project will not require service extensions and will result in redevelopment of underutilized paved land with no valuable natural or ecological resources. As discussed under Goal 6.A and Policy 6.A.3, the proposed project as conditioned will be sited and designed to avoid impacts to nearby wetlands and bay waters. For all these reasons, the proposed project as conditioned is consistent with Goal I.A.*

**Policy I.A.5 Within the coastal zone, the City shall ensure that coastal-dependent developments have priority over other developments on or near the shoreline. Except as provided elsewhere in this General Plan, coastal-dependent development shall not be sited in a wetland. Coastal-related developments shall generally be accommodated proximate to the coastal-dependent uses they support.**

*The Target property is located along the Eureka shoreline, but there is no demand for coastal-dependent or coastal-related uses at this location adjacent to Eureka Slough and away from deep-water channels. Since the property was created through bay fill, it has been zoned and utilized for general commercial development. The City's coastal-dependent uses, including commercial fishing, forest products shipping, and bulk fuel delivery, are accommodated elsewhere along the Eureka shoreline with significant waterfront land remaining vacant and underutilized, including significant land designated and zoned primarily for coastal-dependent industry. The proposed subdivision will create space for additional general commercial development on property already zoned and developed for that use, lessening demand for the conversion of coastal-dependent*

industrial land. Thus, the proposed subdivision and restaurant assure prioritization of coastal-dependent and coastal-related uses consistent with Policy I.A.5.

**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 subdivision of the developed Target parking lot and the development of a restaurant, and therefore will result in a nominal increase in demand for City services. In addition, by accommodating growth through the infill of a previously developed but underutilized parcel, the proposed project will minimize the public cost of any increase in demand for City facilities and services. The proposed project will connect to existing water, sewer, electrical, and gas lines that are located in close proximity to the project site. As a result, the proposed project 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 parcel proposed to be subdivided is located on Eureka Slough and includes existing public access to the waterfront, including three public parking spaces, a public boat launch, and a segment of the Eureka Waterfront Trail which is part of a continuous 6.3-mile-long (and growing) waterfront trail route spanning the extent of City limits. Pursuant to conditions of approval of the original Target permit, public access easements were dedicated to the City to protect lateral and vertical access to the shoreline and the boat launch facility; these recorded public access easements have been noted on the proposed subdivision map. The new parcel and restaurant are proposed on the opposite side of the property from Eureka Slough in a location where restaurant traffic does not have the potential to conflict with access to these existing public access facilities. The proposed restaurant will increase demand for parking on the subject parcel, but as described above, adequate new parking is proposed to serve the restaurant and to replace Target store parking spaces that will be displaced by the additional development. In addition, to discourage customers and employees from using the existing three public access parking spaces adjacent to the boat ramp, Target proposes and **Condition 4** requires that these spaces be signed and reserved for Bay access only. Ultimately, the proposed project will encourage additional public access by attracting more people to a waterfront site where they may discover and be inspired to use the Waterfront Trail and boat launch. For all these reasons, the proposed project maximizes public access and public recreational opportunities consistent with this goal and associated policies.*

**Policy 5.B.I The City shall provide public open space and shoreline access through the Coastal Zone, particularly along the waterfront and First Street, through all of the following:**

**...d. Consider and protect the scenic and visual qualities of coastal areas that are visible from scenic public vista points and waterfront walkways...**

*As discussed above under Goal 5.B, the parcel proposed to be subdivided is located on Eureka Slough and includes existing public access to the waterfront, including three public parking spaces, a public boat launch, and a segment of the Eureka Waterfront Trail which runs north*

*(connecting to Old Town) and south behind Target. Although the project will be visible from the Eureka Waterfront Trail, it is less visibly intrusive than Target, and will not degrade the scenic and visual qualities of the area from the Waterfront Trail. The area of the City where the project is proposed is an existing commercial property in a mixed-use area with adjacent residential pockets to the west.*

*The proposed restaurant building is designed to match the look of Target, including the materials, roofline, trim, and paint. Furthermore, the proposed project is subject to design review as outlined earlier in this report.*

*As a result, the proposed project protects the scenic and visual qualities of the area consistent with Policy 5.B.1.*

**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 project is proposed on an underutilized portion of the 11.58-acre Target property. The parcel will be subdivided to accommodate the construction of a restaurant in the southwest corner of the parking lot. The project site is located west of the Eureka Slough and north of tidally influenced wetlands located between HWY 101 north and south. There is also an artificial, man-made wetland channel, located on the north side of the project site. The channel conveys stormwater from the City's stormwater outfall at the end of 2nd Street to the Eureka Slough, just north of the Target property. The proposed new parcel is entirely upland and is at least 100 feet from any nearby habitat. As discussed in detail below, all proposed development avoids wetlands, as development will only occur within the confines of the already developed parking lot.*

*Potential project impacts on nearby wetlands/ESHA can be divided into construction-phase and post-construction impacts. Regarding potential construction-phase impacts, the construction period will be relatively short given the small scale of the proposed 2,800 square foot restaurant and associated, sidewalks, patio, landscaping, lighting, and two-lane drive through. In addition, an erosion and sediment control plan to prevent water quality and hydrologic impacts, including a map delineating the location of all proposed temporary construction-phase best-management practices (BMPs), will be required for review and approval by the Public Works Department to ensure BMP's are properly implemented as **Condition 5**. Since the applicant has not proposed specific construction phase BMP's, **Condition 6** 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 that 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.*

*Post-construction impacts should be negligible as the project area is a parking lot which is already developed to manage stormwater. Nevertheless, 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** is added requiring a post-construction stormwater management plan that will 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 ESHA/wetlands from new outdoor lighting proposed in association with the new restaurant, **Condition 7** has been added to ensure all exterior lighting shall be shielded with fixtures or hoods, shall not produce an illumination level greater than one foot-candle, and shall be directed downward such that no light or glare extends into surrounding wetlands/ESHAs. Prior to installation of any exterior lighting, lighting specifications shall be submitted to Development Services - Planning for review and approval consistent with this standard.*

*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 is proposed on an underutilized portion of the 11.58-acre Target property. The parcel will be subdivided to accommodate the construction of a restaurant in the southwest corner of the parking lot. The project site is located west of the Eureka Slough and north of tidally influenced wetlands located between HWY 101 north and south. The proposed new parcel is entirely upland and is at least 100 feet from any nearby habitat. As discussed in detail below, all proposed development avoids wetlands, as development will only occur within the confine of the already developed parking lot.*

*A referral response from the North Coast Regional Water Quality Control Board recommends stormwater BMP's be added as a condition of approval to prevent water quality and hydrologic impacts during construction. As discussed above under Goal 6.A, **Condition 6** has been added requiring adherence to various construction-phase BMPs, and **Condition 5** 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 the Public Works Department to ensure BMP's are properly implemented. Post-construction impacts will trigger stormwater management improvements consistent with current requirements of the Phase II Municipal Separate Storm Water Sewer System (MS4) Permit, and **Condition 8** is added requiring a post-construction stormwater management plan that will attenuate and treat the site's stormwater runoff.*

*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.*

**Policy 6.A.5** The City shall permit revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes only when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion.

*Policy 6.A.5 only allows the City to permit armoring when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger of erosion. The proposed project is not a coastal-dependent use and does not involve an existing structure. Therefore, even though the site is currently protected from bay slough by rock slope protection (as well as a trail and parking lot), the proposed development should not be developed with any assumption of future reliance on shoreline protective devices. **Condition 10** has been added to make clear that the proposed project has no right to shoreline armoring.*

**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. The project site was historically part of Humboldt Bay before the site and surrounding intertidal mudflats were filled sometime between 1948 and 1958.<sup>3</sup> The current elevation of the new parcel is approximately 10.75 feet (North American Vertical Datum, 1988 [NAVD88]), varying between approximately 10 and 11.8 feet.<sup>4</sup>*

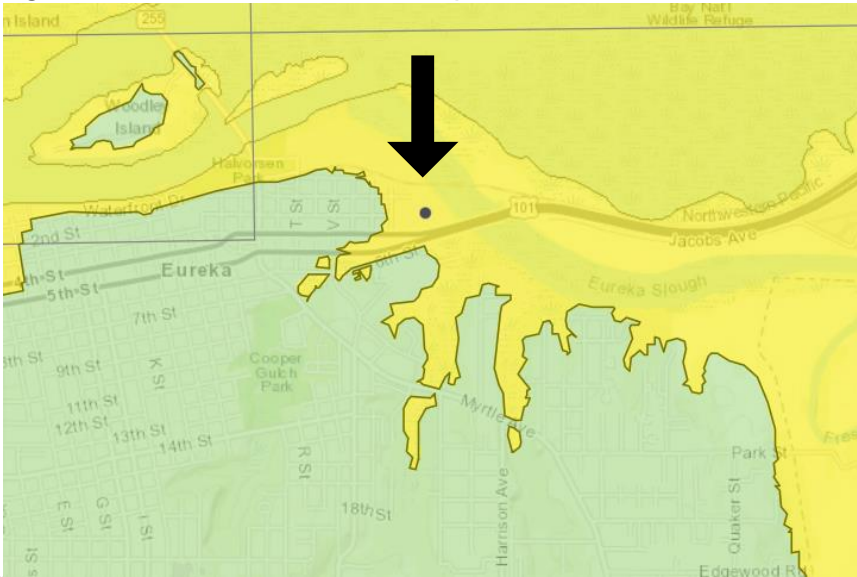
*A geotechnical investigation and report performed by geotechnical engineers and/or engineering geologists in order to obtain information on the physical properties of soil and provide recommendations on earthworks and foundation for the proposed structure will be required as **Condition 11**. All recommendations in the geotechnical report will be incorporated into the final plans and specifications for the project, and will be implemented during construction. **Condition 12** has been added to ensure the applicant is aware of the need for building permit review and approval prior to commencement of construction, to ensure City review of final building plans for consistency with geotechnical recommendations.*

---

<sup>3</sup> A historic aerial image shows no fill in 1948, with the parcel completely filled in a 1958 aerial image, indicating that the fill occurred between 1948 and 1958.

<sup>4</sup> All elevations in this document are referenced to NAVD88.

Figure 8: Tsunami Hazard Area Map- 2525 4<sup>th</sup> Street



*The project site is located within the mapped tsunami inundation area on the Tsunami Inundation Map for Emergency Planning (Figure 8; California Geological Survey, August 13, 2020) and is at risk of tsunami inundation from waves generated from a variety of local and distant sources. If the region were to suffer a major earthquake along the*

*Cascadia Subduction Zone, a local tsunami could hit the Humboldt Bay shoreline within minutes and tsunami run-up could affect the project site.*

*The tsunamis risk can best be minimized through timely evacuation from the tsunami inundation zone. Therefore, **Condition 13** has been added requiring the applicant to submit a “Tsunami Safety Plan” for review and approval by Development Services – Planning. The plan is required to demonstrate that 1) the tsunami threat and evacuation route will be adequately communicated to customers and employees, 2) procedures will be in place for the safe evacuation of all occupants in the event of a tsunami, and 3) staff will be adequately trained to carry out the plan. The plan is required to include 1) a map of the evacuation route; 2) hazard risk notification procedures, including information on where tsunami evacuation information will be conspicuously posted; and 3) training procedures for staff to ensure the plan is effectively implemented for the life of the development.*

*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.*

**Policy 7.B.2** The City shall ensure that development on or near the shoreline of Elk River, Humboldt Bay, and Eureka Slough neither contributes significantly to, nor is subject to, high risk of damage from shoreline erosion over the life span of the development.

*The project site is entirely upland and is located on a portion of the developed Target parking lot. The footprint of the new building is located over 700 feet west of the Eureka Slough and approximately 100 feet north of the tidally influenced wetlands located between HWY 101 north and south. The area is flat and low-lying without bluffs or cliffs that could potentially have slope stability issues, and the Eureka Slough is armored with rock slope protection. Although sea level rise may result in retreat of the shoreline over time, as discussed in detail under Goal 7.D, the proposed development is anticipated to be safe from tidal flooding for its design life. Thus, the proposed project will be safe from damage from shoreline erosion over its lifespan, consistent with Policy 7.B.2.*

**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 (the proposed new parcel) is located over 700 feet from the Eureka Slough and outside of the FEMA mapped floodplain. The current elevation of the site ranges from approximately 10 to 11.8 feet, and the applicant proposes to grade the site to provide a finished floor elevation of 13 feet for the new building. Although the proposed project is safe given current flood levels, flooding is expected to increase in frequency and severity in the future with sea level rise. The current mean monthly maximum water (MMMW) elevation on Humboldt Bay is 7.74 feet (as measured at NOAA’s North Spit Tide Gage), and the mean annual maximum water (MAMW; i.e., average king tide) elevation is 8.8 feet. The proposed finished floor elevation of 13 feet is 5.26 feet above current MMMW and 4.2 feet above current MAMW.*

*Current sea level rise projections anticipate 4.2 feet of sea level rise to occur between 2070 and 2080 under a medium-high risk aversion scenario, and after 2100 under a low risk aversion scenario. It is likely that the existing rock slope protection armoring of the shoreline in the project vicinity will be fortified or some other action will be taken to address sea level rise to protect the shoreline trail and HWY 101 north and south. However, if no action is taken to protect the intervening public facilities, the proposed new building will still be safe from any direct flooding from average king tides for at least approximately 48 years under a medium-high risk aversion scenario and at least 78 years under a low-risk aversion scenario.*

**Table I. Sea Level Rise Projections (in feet) for Humboldt Bay<sup>5</sup>**

	<b>Low Risk Aversion (ft.)</b>	<b>Medium-High Risk Aversion (ft.)</b>
2040	1.1	1.6
2050	1.5	2.3
2060	1.7-1.9	2.8-3.1
2070	2-2.4	3.5-4
2080	2.4-2.9	4.4-5.1
2090	2.7-3.5	5.3-6.2
2100	3.1-4.1	6.3-7.6

*The appropriate time horizon to use to evaluate sea level rise depends on the anticipated duration of development, after which such development is expected to be removed, replaced or redeveloped. Commercial buildings are typically given a 75-year design life. As mentioned above, the proposed commercial building is expected to be safe from direct flooding from king tides for its 75-year design life under a low-risk aversion sea level rise scenario. Given that the proposed small-scale drive-through restaurant is a relatively minor investment from a commercial development perspective and no one will be living in the space, the risk to life and*

<sup>5</sup> Projections in this table are from the Ocean Protection Council (OPC)’s State of California Sea-Level Rise Guidance 2018 Update for the Humboldt Bay North Spit tide gage (considered by the California Coastal Commission as the current best available science). The projections for relative sea level rise on Humboldt Bay consider the combined effects of regional eustatic sea level rise and vertical land motion (tectonic uplift and subsidence). The low-risk aversion scenario has an approximately 17% chance of being exceeded, and the medium-high risk aversion scenario has a 1 in 200 chance, or a 0.5%, chance of being exceeded.

*property is not significant, and thus using the low risk aversion scenario for 2100 is appropriate. Finally, since construction is proposed on an existing developed parking lot, a significant increase in elevation could potentially cause issues with meeting ADA compliance and providing safe driving conditions in the driving/parking area of the development. As a result, the proposed development minimizes flood hazard risk to the maximum extent practicable and is consistent with Goal 7.D and associated policies.*

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**

The project must be found to conform with the entire Local Coastal Program, including the Implementation Plan. The Implementation Plan 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. The project site is zoned CS – Service Commercial. The proposed subdivision will result in two parcels that will both exceed the minimum parcel size of 6,000 square feet for the CS zone district and will provide adequate space for potential CS development consistent with the zoning standards, including off-street parking standards. The proposed restaurant development will also conform with the zoning code and CS zone district as described under the Use Permit and Design Review analyses above.

In addition to specifying the regulations pertaining to specific zoning districts, the IP § 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 policy analysis 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. The Project was referred to the Tribal Historic Preservation Officers*

*(TPHOS) of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria on June 3, 2021, and referral responses from the Wiyot and Blue Lake Tribes recommend the project, especially the development phase, be conditioned with the City's standard Inadvertent Archaeological Discovery Protocol. Consistent with IP §10-5.2946.9, Condition 14 has been added subjecting ground disturbing activities to the City's standard protocol for inadvertent archaeological discovery.*

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 Sections 15315 (Minor Land Divisions) and 15332 (In-fill Development Projects) of the CEQA Guidelines.

The proposed subdivision qualifies for a Class 15 exemption (Section 15315) from CEQA because: (1) the subdivision consists of the division of property in an urbanized area zoned commercial into four or fewer (two) parcels; (2) the subdivision is in conformance with the General Plan and zoning without the need for variances or exceptions; (3) all services and access to the proposed parcels required by local standards are available; (4) the parcels have not been involved in a division of a larger parcel within the previous two years; and (5) the parcels do not have an average slope greater than 20 percent.

The proposed restaurant development qualifies for a Class 32 exemption (Section 15332) from CEQA because: (1) the project site will be less than five acres in size (0.78 acres) once the proposed subdivision is complete; (2) the project is consistent with the general plan designation and policies, as well as all applicable zoning designations and regulations; (3) the project is located within the City limits and substantially 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.

## **PUBLIC HEARING NOTICE**

Public notification consisted of notification by mail of property owners within a 300-foot radius of the site on or before December 3, 2021, and posting on the City's website and bulletin boards. A public hearing notice sign was also posted on the project site on November 29, 2021.

## **CONCLUSION**

Based on the analysis above, the proposed subdivision and drive-through restaurant are consistent with the General Plan, Zoning Code, and Local Coastal Program. The project is suitable for the site, and is compatible with existing and planned land uses in the vicinity. The proposed restaurant, parking, landscaping, patio, and two-lane drive through, complies with the development standards for the CS – Service Commercial zone district and as conditioned is 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**

Lisa Savage, Senior Planner, 531 K Street, Eureka, CA 95501; [planning@ci.eureka.ca.gov](mailto:planning@ci.eureka.ca.gov); (707) 441-4160

**DOCUMENTS ATTACHED**

Attachment 1: Planning Commission CDP, CUP and AA, Subdivision Resolution ..pages 24-30

Attachment 2: Site Plan..... page 31

**RESOLUTION NO. 2021-xx**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA CONDITIONALLY APPROVING A COASTAL DEVELOPMENT PERMIT (CDP-21-0004), CONDITIONAL USE PERMIT (CUP-21-0003) AND DESIGN REVIEW (AA-21-0004) FOR CONSTRUCTION OF A DRIVE-THROUGH RESTAURANT AND ASSOCIATED DEVELOPMENT ON A NEW PARCEL ON A PORTION OF THE EXISTING TARGET STORE PARKING LOT AT 2525 4<sup>TH</sup> STREET (APN 002-201-008)

WHEREAS, Rich Development proposes to construct an approximately 3,742-square-foot restaurant with associated parking, landscaping, patio, and two-lane drive-through on a portion of Target's parking lot; and

WHEREAS, to accommodate the drive-through restaurant, the 11.58-acre "Target" parcel will be subdivided into two (2) parcels; Parcel 1 will be 10.8 acres and will retain the existing Target store, and Parcel 2 will be .78 acres and will be developed with the restaurant; 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) §§ 10-5.1801.2, 10-5.2421, and 10-5.29137, the proposed drive-through restaurant development requires Site Plan Review and Architectural Review (i.e., Design Review) because it involves new construction in the CS zone district; and

WHEREAS, pursuant to EMC § 10-5.29133, the proposed drive-through restaurant requires a Conditional Use Permit because drive-through restaurants are a conditionally permitted use in the CS zone district; and

WHEREAS, based on the configuration of the proposed subdivision, thirteen parking spaces required for Target will be located on the newly created restaurant parcel (i.e., on a separate parcel from the use to be served by the parking); and

WHEREAS, pursuant to EMC § 10-5.1505(b-c), parking facilities on a separate parcel from the use to be served by the parking ("offsite parking facilities") are allowed in the CS zone district with a Conditional Use Permit; and

WHEREAS, the proposed subdivision and drive-through restaurant 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 original Target store project was appealed to the California Coastal Commission (CCC) who then has coastal development permit jurisdiction for any modifications to the original Target store project included in the appeal; and



WHEREAS, based on discussions with the CCC, the only modification required to their CDP (#A-1-EUR-02-166) for this project is for the proposed changes to the Target store parking to accommodate the subdivision and new development; 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 December 13, 2021 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:

1. The location of the drive-through restaurant and offsite parking facility are in accord with the objectives of Chapter 5 and the purposes and intent of the CS zone district.
2. The proposed location of the drive-through restaurant and offsite parking facility and the conditions under which the conditional uses 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 drive-through restaurant and offsite parking facility comply with each of the applicable provisions of Chapter 5 and are consistent with the certified Local Coastal Program.
4. The drive-through restaurant and associated parking, landscaping, and patio 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.
5. 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.
6. The project as conditioned conforms to the policies of the Local Coastal Program.
7. The proposed project is categorically exempt from the provisions of the California Environmental Quality Act, in accordance with Sections 15315 (Minor Land Divisions) and 15332 (In-fill Development Projects) of the CEQA Guidelines.

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. **Access Easement Agreement.** An Access Easement Agreement allowing the newly created parcel to utilize Target's ingress and egress will be recorded at the time of the subdivision.
3. **Parking Indenture.** A parking indenture designating thirteen (13) parking spaces for Target's use on the newly created parcel will be executed and recorded at the time of subdivision.
4. **Preservation of Public Access Parking.** The three parking spaces located on the east side of the Target building, adjacent to Humboldt Bay, shall be reserved and signed exclusively for coastal access.
5. **Construction-Phase Erosion and Sediment Control Plan.** Prior to the issuance of any building permits, the applicant shall submit, for the review and approval of the Public Works Department, 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 phases. The ESCP shall demonstrate proposed best management practices (BMPs) 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 6 (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. Contractor shall ensure BMPs are in place before commencing work and contact the engineering department 24 hours in advance for inspection. Any proposed changes to the ESCP shall be reported to the Public Works Department who will determine whether an amendment is legally required.
6. **Construction Responsibilities.** The Permittee shall comply with the following construction-related requirements to the satisfaction of the Public Works Department:
  - 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 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.

#### **7. 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 such that no light or glare extends into surrounding wetlands/ESHAs.
- 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.

- 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 the Eureka Public Works Department 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) before the City approves the Project. 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. Any proposed changes shall be reported to the Public Works Department who will determine whether an amendment is legally required. Implementation of structural post-construction BMPs included in the final approved SCP shall be inspected by the Eureka Public Works department 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.
10. **Waiver of Rights to Shoreline Protection.** By acceptance of this permit, the Permittee acknowledges that the development authorized by this permit constitutes new development, and is therefore not entitled to a shoreline protective device under the City's Local Coastal Program. Thus, by acceptance of this permit, the Permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.
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 applicant shall obtain all required Building and Fire permits to the satisfaction of Development Services - Building and Humboldt Bay Fire.
13. **Tsunami Safety Plan.** Prior to the issuance of any building permits, 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 that 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:
  - a. 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.
  - b. 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

- c. Training procedures for staff, detailing the instruction to be provided to all staff to ensure that the Tsunami Safety Plan is effectively implemented.

**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 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.

15. **Subdivision.** Prior to the issuance of any building permits, a subdivision shall be recorded which will divide the 11.58 acre "Target" parcel (002-201-008) into two (2) parcels. Parcel 1 will be 10.8 acres and will retain the existing Target Retail Store, and Parcel 2 will be .78 acres (33,977 square feet) and will be developed with the restaurant and drive-through.

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 13<sup>th</sup> day of December, 2021 by the following vote:

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

\_\_\_\_\_  
Tiana Arriaga, Chair, Planning Commission

*Attest:*

\_\_\_\_\_  
Kristen M. Goetz, Executive Secretary