

RESOLUTION NO. 2024-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA APPROVING THE WILLOW GLEN CARE CENTER FENCE MAJOR VARIANCE AT 528 N STREET (APN: 001-232-005)

WHEREAS, the Applicant, David Gilbert, is requesting approval of a Major Variance (VMJ-24-0002) at 528 N Street (APN: 001-232-005) to retain newly-constructed six-foot (ft)-tall solid fencing along the property's 6th and N Street frontages where solid fencing taller than three ft is prohibited by the Zoning Code (Eureka Municipal Code [EMC], Chapter 155); and

WHEREAS, the fencing was installed in conjunction with the construction of the Willow Glen Care Center (the Facility), a five-bedroom, short-term crisis residential treatment facility designed to provide a safe and comfortable environment for adult victims of domestic abuse and individuals experiencing mental health crises; and

WHEREAS, the property is located in the Office Residential (OR) zoning district (a mixed-use zoning district) where the Willow Glen Care Center is principally permitted under the use type "non-medical care housing"; and

WHEREAS, under EMC §155.320.040(A) (Maximum Height), solid fences taller than three ft are not permitted between a building and the street in a mixed-use zoning district, such as the OR District; and

WHEREAS, a Major Variance, in accordance with EMC §155.412.140(C)(2), is necessary because the six-foot-tall solid fence exceeds the three-foot height limit by 100%; and

WHEREAS, the Variance would allow the Applicant to retain the six-ft-tall solid fence located between the building and 6th and N Streets at the Willow Glen Care Center; and

WHEREAS, per EMC §155.412.140(A) (Purpose [of a Variance]), the purpose of a Variance is to allow for deviations from physical development standards when strict application of the standards creates a unique hardship due to unusual circumstances with the property; and

WHEREAS, a Major Variance is 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, and via Zoom, on November 13, 2024 at 5:30 PM, to consider the request; and

WHEREAS, the Planning Commission has reviewed the subject application in accordance with Eureka Municipal Code Chapter 155, and after due consideration of all testimony, evidence, and reports offered at the public hearing, does hereby find and determine the following facts:

1. There are unique circumstances applicable to the subject property which do not generally apply to other properties in the vicinity, including the property's use as a home for adults who have experienced domestic abuse or are managing mental health challenges.
2. The strict application of the Zoning Code would deprive the subject property of privileges enjoyed by nearby properties and properties in the same OR District.
3. The project will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity or in the same zoning district.
4. The Variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and in the same zoning district.
5. The project is exempt from CEQA, pursuant to §15303, Class 3, New Construction or Conversion of Small Structures which exempts the construction and location of limited numbers of new small structures including small accessory (appurtenant) structures such as fences. The project is also exempt pursuant to §15305, Class 5 (Minor Alterations in Land Use Limitations), which consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including minor setback Variances not resulting in the creation of any new parcel. The property is flat and the proposed Variance is to allow for a six-ft-tall fence between the building and the street, not for any change in land use or density. Therefore, the project is exempt under the Class 3 and 5 exemptions.

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.

- A. This Variance to allow six-ft-tall solid fencing along the property's 6th and N Street frontages does not apply to the Vision Clearance Area (the VCA) at the corner of 6th and N Streets. No fencing over 36 inches in height may be placed with the VCA (as defined by EMC §155.308.040).
- B. This Variance is intended for use of the property as "non-medical care housing" as defined by EMC §155.504 (Land Use Classifications). If, at any point, the property's use changes from non-medical care housing to another use type, fencing along the property's 6th and N Street frontages must be brought into conformance with current Zoning Code standards.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Eureka does hereby approve the application.

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 November, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Meredith Maier, Chair, Planning Commission

Attest:

Cristin Kenyon, Executive Secretary