**RESOLUTION NO. 2025-**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA FINDING THE PROJECT EXEMPT FROM CEQA AND SUSTAINING THE PLANNING COMMISSION'S CONDITIONAL APPROVAL OF THE NORTH COAST SUBSTANCE ABUSE COUNCIL NON-MEDICAL CARE HOUSING FACILITY CONDITIONAL USE PERMIT (UP-24-1) AT 309 HARRIS STREET (AKA 319 AND 325 HARRIS STREET; APN: 010-251-016) WITH MODIFICATION OF CONDITION B TO LIMIT THE LEVEL OF SERVICE TO A CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES 3.1 RESIDENTIAL LEVEL RECOVERY HOME

WHEREAS, the Applicant, North Coast Substance Abuse Council Inc., proposes to utilize a 0.30-acre parcel with three existing structures for residential therapy services for up to 12 people at 309 Harris Street (aka 319 and 325 Harris Street; APN 010-251-016); and

WHEREAS, the two-story building with four rooms and two bathrooms will be used as a residence, and the other two single-story buildings will be used for individual and group therapy sessions and staff office space; and

WHEREAS, the project site is within the Henderson Center Zoning District (HC District) and has a land use designation of Neighborhood Commercial (NC); and

WHEREAS, under Eureka Municipal Code (EMC) §155.208.020 (Allowed Land Uses), the proposed use falls under the Non-Medical Care Housing, Large land use type because seven or more persons will be served, which is a conditionally permitted use in the HC District and requires a Conditional Use Permit (CUP); and

WHEREAS, on February 12, 2025, the Planning Commission of the City of Eureka held a duly noticed public hearing via Zoom and in-person in the Council Chamber and adopted Resolution No.2025-3 approving a CUP for the project which included three new conditions imposed by the Planning Commission at the pubic hearing to address concerns raised at the hearing; and

WHEREAS, the Planning Commission's decision is appealable to the City Council by the applicant or an aggrieved person by filing a Notice of Appeal with the City Clerk within ten days of the Planning Commission's decision; and

WHEREAS, the Planning Commission's decision was appealed by five appellants on February 20, 2025 within the ten-day appeal period, raising a number of contentions (Attachment 3); and

WHEREAS, on April 1, 2025, the City Council of the City of Eureka did hold a duly noticed public hearing for the at City Hall in the City of Eureka, at 6:00 p.m. via Zoom and in-person in the Council Chamber; and

WHEREAS, the City Council of the City of Eureka has reviewed the actions of the

Planning Commission, and after due consideration of all testimony, evidence, and reports offered at the public hearing, does hereby sustain the Planning Commission's conditional approval with the modification to Condition B in Resolution 2025-3 to limit the level of service to a California Department of Health Care Services 3.1 Residential Level Recovery Home instead of a Level 4 facility based on the following facts:

1) It was the intent of the Planning Commission to limit the level of treatment to lowest-intensity residential treatment facility to address community concerns about safety and compatibility with the surrounding land uses.
2) The proposed use is consistent with the General Plan, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
3) The site is suitable for the size, design, and operating characteristics of the proposed use.
4) The proposed use will be compatible with existing and planned land uses in the vicinity of the property.
5) The proposed use will not be detrimental to the public health, safety, and welfare with the addition of the new conditions imposed by the Planning Commission at the public hearing, and with the modification of Condition B.
6) The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.
7) The City of Eureka, as Lead Agency, has determined the proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to §15301, Existing Facilities, Class 1 of the CEQA Guidelines. Class 1 includes the operation of private structures involving negligible or no expansion of use. As the project does not expand the existing buildings, and the buildings will be used for housing and personal services (individual and group therapy/counseling), which are similar to the previous residential and commercial uses on the parcel, the project constitutes a negligible expansion of use. Additionally, as conditioned to ensure that alternations to the buildings' fenestration meet residential building code requirements while avoiding a substantial adverse change in the significance of a historical resource, no exception to the exemption applied. Therefore, the proposed use meets the criteria for the Class 1 exemption under CEQA Guidelines §15301.

NOW THEREFORE, BE IT RESOLVED the City Council of the City of Eureka does hereby sustain the Planning Commission's conditional approval of the North Coast Substance Abuse Council Non-Medical Care Housing Facility Conditional Use Permit, with a modification to the Planning Commissions conditions of approval as follows (deletions are shown in **~~bold strike-through font~~** and additions are shown in **bold underline font**):

A. **One-year Progress Report** One year after the facility begins operations, the Applicant must submit a performance report to the Planning Commission at a noticed public hearing, paid for by the Applicant, with notice mailed to both property owners and occupants within 300-ft of the site. At the hearing, the Commission shall receive the report and provide feedback to the Applicant to address any issues relating to the conditions of approval or operational requirements and commitments originally made by the Applicant.

B. Allowed Level of Service. ~~**The facility shall be restricted to operating strictly as a Level 4 treatment facility.**~~ **The facility shall be restricted to operating strictly as a California Department of Health Care Services 3.1 Residential Level Recovery Home.**

C. **Historic Building Fenestration.** Alterations to the fenestration of historic buildings are permitted only when necessary to comply with building code requirements. The intent of this condition is not to hinder repair, maintenance, and adaptive reuse of the property, but to retain and preserve where feasible historic building materials and features that are important to the property's historical character and integrity in order to avoid a substantial adverse change in the significance of a historical resource. This condition shall be to the satisfaction of the Director of Development Services.

D. **Building and Fire Department Approvals.** The Applicant shall address the Building Departments referral comments dated December 31, 2024 (and included as Attachment 3 of the staff report), obtain all required Building and Fire permits and clearances, and receive appropriate Certificates of Occupancy to the satisfaction of Development Services – Building and Humboldt bay Fire prior to operating.

E. **Non-Conforming Site Features.** As required by EMC §155.424.030.B (Required Compliance), prior to the issuance of a Certificate of Occupancy as part of the Building Permit process (Condition A), the Applicant shall bring the following site features into compliance:

   i) Remove invasive landscaping, including pampas grass near the entrance of 309 Harris Street. Any new landscaping must comply with EMC §155.328.050 (General Landscaping Requirements), including but not limited to: not planting invasive species, planting at least 75% native species to Eureka (per the California Native Plant Society), using noncompeting exotic species for the remainder, and covering at least 50% of the landscaped area with groundcover, shrubs, turf, or other plants at maturity.

   ii) Repaint parking lot striping in compliance with in EMC §155.324.060 (Parking Design and Development Standards).

   iii) Install one short-term bicycle parking in compliance with EMC §155.324.070 (Table 324-3: Required Bicycle Parking Spaces).

iv) Remove the nonconforming pole sign near 325 Harris Street and apply for an Administrative Sign Permit for any new signage in compliance with EMC §155.340 (Signs).

v) Remove and replace any noncompliant outdoor lighting fixtures and install dark-sky compliant outdoor lighting in compliance with EMC §155.308.050 (Outdoor Lighting)

F. **Limits to Window Frosting.** To maintain a pedestrian-friendly environment, a condition has been added that prohibits frosting on the transom (upper) windows. Additionally, the window frosting must be applied in a way that allows for easy removal in the future, ensuring that full storefront transparency can be restored if the use of the structure changes. The Applicant is encouraged to include creative/artistic elements to street-facing windows including transparent cut-outs, nature-inspired designs, and community-themed graphics.

G. **Protocol for Inadvertent Discovery Protocol.** All ground disturbing activities are also subject to the City's standard protocol for inadvertent archeological discovery (cultural or historical artifacts) as follows:

i. If archaeological resources are encountered during construction activities, all onsite work shall cease in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist will be retained to evaluate and assess the significance of the discovery, and develop and implement an avoidance or mitigation plan, as appropriate. For discoveries known or likely to be associated with native American heritage (prehistoric sites and select historic period sites), the Tribal Historic Preservation Officers for the Bear River Band, 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, ground stone artifacts, shellfish or faunal remains, and human burials. Historic archaeological discoveries may include 19th century building foundations; structure remains; or concentrations of artifacts made of glass, ceramic, metal or other materials found in buried pits, old wells or privies.

ii. If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work shall stop in that area and within 100 feet of the find until a qualified paleontologist can assess the nature and importance of the find and, if necessary, develop appropriate treatment measures in conformance with Society of Vertebrate Paleontology standards, and in consultation with the City of Eureka.

iii. In the event of discovery or recognition of any human remains during construction activities, the landowner or person responsible for excavation

would be required to comply with the State Health and Safety Code §7050.5. Construction activities within 100 feet of the find shall cease until the Humboldt County Coroner has been contacted at 707-445-7242 to determine that no investigation of the cause of death is required. If the remains are determined to be, or potentially be, Native American, the landowner or person responsible for excavation would be required to comply with Public Resources Code Section 5097.98. In part, PRC §5097.98 requires that the Native American Heritage Commission (NAHC) shall be contacted within 24 hours if it is determined that the remains are Native American. The NAHC would then identify the person or persons it believes to be the most likely descendant from the deceased Native American, who in turn would make recommendations to the landowner or the person responsible for the excavation work for the appropriate means of treating the human remains and any associated grave goods within 48 hours of being granted access to the site. Additional provisions of Public Resources Code §5097.98 shall be complied with as may be required.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the 1st day of April, 2025 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS

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Kim Bergel, Mayor of the City of Eureka

*Attest:*

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Pamela J. Powell, City Clerk

*Approved as to Administration:*

_____
Miles Slattery, City Manager

*Approved as to form:*

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Autumn Luna, City Attorney