

## RESOLUTION NO. 2025-x

A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF EUREKA CONDITIONALLY APPROVING A COASTAL DEVELOPMENT PERMIT (CDP-25-5) AND DESIGN REVIEW (AA-25-5) FOR THE JACK'S SEAFOOD SECURITY FENCE AT 4 C STREET (APN 001-011-026)

WHEREAS, the Applicant, Jack Wu, proposes to install a seven-foot(ft)-tall, open, wrought-iron fence with four gates along the existing covered walkway and entrance to Jack's Seafood Restaurant, as well as across the alcove leading to the Fisherman's Terminal tenant bathrooms Project) located at 4 C Street (APN: 001-011-026); and

WHEREAS, the Project is located within the Coastal Zone and constitutes development requiring a Coastal Development Permit (CDP); and

WHEREAS, the Project is located within the Coastal Design Review Area and therefore requires Site and Architectural Review (i.e. Design Review); and

WHEREAS, the City of Eureka has permit jurisdiction for issuing the CDP, and the City's final decision on the CDP is appealable to the California Coastal Commission; and

WHEREAS, pursuant to Eureka Municipal Code (EMC) §10-5.29310.1, a CDP can be approved only upon making the finding that the Project conforms to the policies of the certified Local Coastal Program; and

WHEREAS, the CDP and Design Review approvals are discretionary actions subject to environmental review in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission of the City of Eureka did hold a duly noticed public hearing at City Hall in the City of Eureka on September 10, 2025 at 5:30 p.m. in person and via Zoom in the Council Chamber to consider the Project; and

WHEREAS, the Planning Commission has reviewed the subject application in accordance with EMC Title 10, Chapter 5, Article 29, Part 22 (CDP Procedures), and after due consideration of all testimony, evidence, and reports offered at the public hearing, does hereby find and determine the following facts:

1. As analyzed in the staff report, the Project as conditioned conforms to the certified policies of the Local Coastal Program and the required findings in EMC §10-5.1801 (Site Plan and Architectural Review).
2. The City of Eureka, as Lead Agency, has determined the proposed fence is considered a "project" for the purposes of the California Environmental Quality Act (CEQA). While the project could otherwise qualify for a categorical exemption under CEQA Guidelines §15301 (Existing Facilities) and §15303 (New Construction or Conversion of Small Structures), because it involves installation of a security fence without any expansion of

use, the site is listed as a contamination cleanup site pursuant to Government Code §65962.5 (Cleanup Case #1NHU529). Under CEQA Guidelines §15300.2 (Exceptions), categorical exemptions do not apply to projects on such sites. Review of the case file for the site indicates the contamination was identified in 1994 west of the Jack's Seafood building, within the western half of the APN, approximately 250 ft from C Street. The contamination was remediated by excavation in 2005, followed by groundwater monitoring. In 2007, the California Regional Water Quality Control Board issued a case closure letter confirming that no further action was required. Pursuant to the CEQA Guidelines, §15061(b)(3), an activity is exempt when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (the "Common Sense Exemption"). The fence will either be bolted to existing concrete or set in shallow (approximately two-ft-deep) concrete footings, resulting in little to no ground disturbance. Given the limited scope of work, the distance between the proposed fence location and the remediated area, and the fact that the cleanup case is closed, there is no reasonable potential for the project to encounter, expose, or mobilize hazardous materials or otherwise cause a significant environmental effect. Therefore, the Lead Agency has determined that the project qualifies for the Common Sense exemption in §15061(b)(3).

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.

- A. Fence Removability.** If the fence is installed in concrete, the posts shall be set in sleeves or constructed using an equivalent method approved by the City to ensure the fence can be readily removed in the future without significant ground disturbance.
- B. Building Permit and Fire Approvals.** Prior to commencement of construction/installation of fencing and gates, the Applicant shall obtain all required Building and Fire permits to the satisfaction of Development Services - Building and Humboldt Bay Fire.
- C. City of Eureka Encroachment Permit.** Prior to commencement of construction/installation of fencing and gates, the Applicant shall obtain all required Encroachment Permits for any work within the C Street right-of-way. Additional Public Improvements may be required if damage occurs to sidewalks, streets, or other public facilities during project-related activities. The Applicant shall repair, at their expense, any damage to public property as directed by the City. This condition is to the satisfaction of the City of Eureka Engineering Department.
- D. Best Management Practices (BMPs).** Due to the project's proximity to Humboldt Bay, the Applicant shall ensure the implementation of Best Management Practices (BMPs) for erosion and sediment control, as well as material and waste management, to prevent runoff or construction materials from entering the Bay. Measures shall include covering and storing materials, cleaning up spills immediately, and maintaining perimeter controls around the project site to prevent debris from entering storm drains or Humboldt Bay.
- E. Public Access.** Public access to Madaket Plaza and the adjoining dock and boardwalk shall

be maintained free of obstruction at all times during and after project construction.

**F. 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 must 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, groundstone artifacts, shellfish or faunal remains, and human burials. Historic archaeological discoveries may include 19th century building foundations; structure remains; or concentrations of artifacts made of glass, ceramic, metal or other materials found in buried pits, old wells or privies.
- b. If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work shall stop in that area and within 100 feet of the find until a qualified paleontologist can assess the nature and importance of the find and, if necessary, develop appropriate treatment measures in conformance with Society of Vertebrate Paleontology standards, and in consultation with the City of Eureka.
- c. In the event of discovery or recognition of any human remains during construction activities, the landowner or person responsible for excavation would be required to comply with the State Health and Safety Code section 7050.5. Construction activities within 100 feet of the find shall cease until the Humboldt County Coroner has been contacted at 707-445-7242 to determine that no investigation of the cause of death is required. If the remains are determined to be, or potentially be, Native American, the landowner or person responsible for excavation would be required to comply with Public Resources Code (PRC) section 5097.98. In part, PRC section 5097.98 requires that the Native American Heritage Commission (NAHC) shall be contacted within 24 hours if it is determined that the remains are Native American. The NAHC would then identify the person or persons it believes to be the most likely descendant from the deceased Native American, who in turn would make recommendations to the landowner or the person responsible for the excavation work for the appropriate means of treating the human remains and any associated grave goods within 48 hours of being granted access to the site.

Additional provisions of PRC section 5097.98 shall be complied with as may be required.

NOW THEREFORE, BE IT RESOLVED 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 10th day of September, 2025.

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

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Meredith Maier, Chair, Planning Commission

*Attest:*

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Cristin Kenyon, Executive Secretary