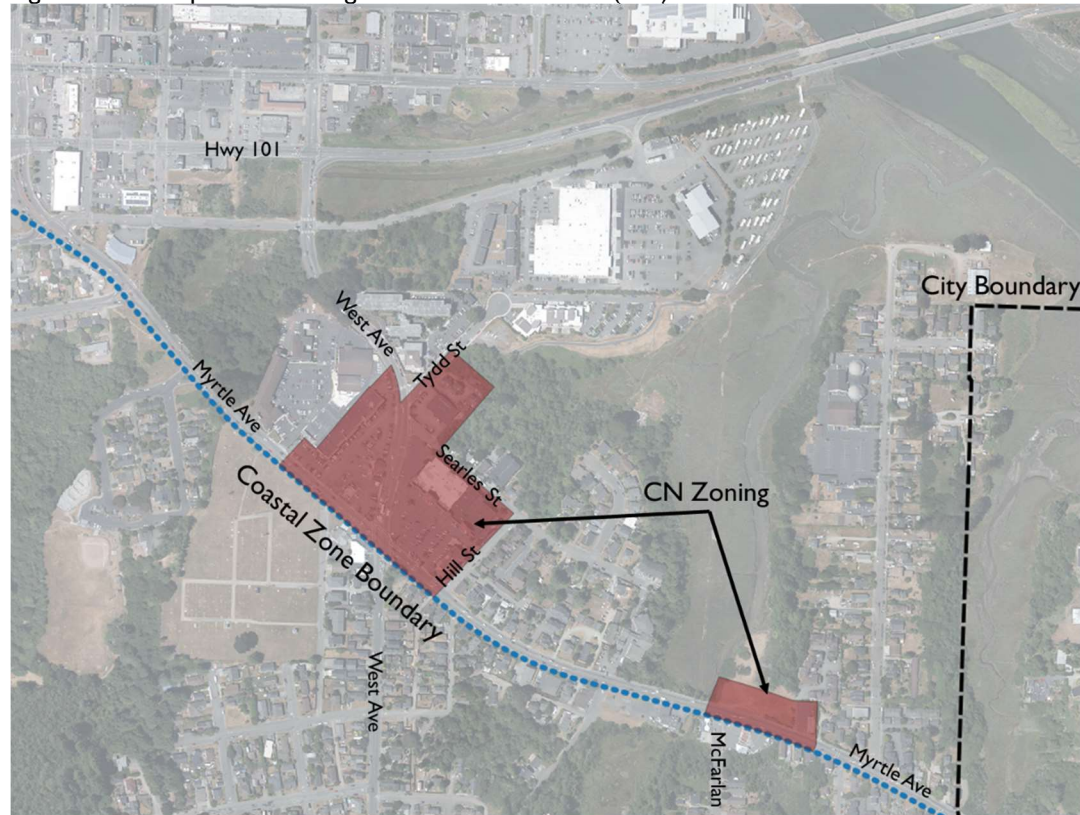


<b>Title:</b>	Martial Arts Studio
<b>Project:</b>	Determination of Use Not Listed D-23-0001
<b>Location:</b>	Neighborhood Commercial (CN) Zone District in the Coastal Zone
<b>APNs:</b>	Various
<b>Applicant:</b>	Timothy Macias
<b>Property Owners:</b>	Various
<b>Purpose/Use:</b>	Determination of Use Not Listed for Martial Arts Studios in CN District
<b>Application Date:</b>	March 20, 2023
<b>General Plan:</b>	NC – Neighborhood Commercial
<b>Zoning:</b>	CN – Neighborhood Commercial
<b>CEQA:</b>	Exempt under §15305, Class 5 Minor Alteration in Land Use Limitation
<b>Staff Contact:</b>	Cristin Kenyon, Principal Planner
<b>Recommendation:</b>	Adopt a Resolution to find the project is exempt from CEQA, and determine a martial arts studio is similar to the listed use “music and dance studios,” but does not raise the same noise concerns, and is therefore principally permitted in the CN District without a 150-foot residential district buffer limitation, provided the martial arts studio use does not play loud music or otherwise generate amplified sounds plainly audible at a distance of 50 feet from the building in which the studio is located.
<b>Motion:</b>	<i>I move the Planning Commission adopt a Resolution finding the project is exempt from CEQA and adopting Alternative 2.</i>  <i>See Suggested Motion Alternatives 1-3 on page 8.</i>

Figure 1: Location Map: Coastal Neighborhood Commercial (CN) District



Figure 2: Site Map: Coastal Neighborhood Commercial (CN) District



### **PROJECT SUMMARY**

The applicant is requesting a Determination of Use Not Listed to allow a martial arts studio in the Neighborhood Commercial (CN) Zone District within the Coastal Zone. This application is to determine whether a martial arts studio, which is not a listed use in the Eureka Municipal Code Title 10, Chapter 5 (Coastal Zoning Code), is similar to other specifically allowed uses in the CN Zone District.

### **APPLICABLE REGULATIONS**

Coastal Zoning Code Chapter 5, Article 23, Section 10-5.2301 et seq. allows for the Planning Commission to determine if a specific unlisted use should be included as a permitted or conditional use in an F (Flood Plain), A (Agriculture), OR (Office and Multi-family Residential), HM (Hospital Medical), C (Commercial) or M (Industrial) District on the basis of similarity to uses specifically listed. Coastal Zoning Code Section 10-5.2301 specifies the purpose of the determination process:

*In order to ensure that the zoning regulations will permit all similar uses in each district, the Planning Commission, upon its own initiative or upon written request, shall determine whether a use not specifically listed as a permitted use or a conditional use in an F, A, OR, HM, C, or M District shall be deemed a permitted use or a conditional use in one or more districts on the basis of similarity to uses specifically listed. The procedures of this article shall not be substituted for the amendment procedure as a means of adding new uses to the lists of permitted uses and conditional uses but shall be followed to determine whether the characteristics of a particular use not listed are sufficiently similar to a listed use to justify a finding that the use should be deemed a permitted use or a conditional use in one or more districts.*

For context, the Planning Commission has previously made two similar Determinations of Use Not Listed for Inland Districts, prior to the comprehensive update to the Inland Zoning Code, when the Inland and Coastal Zoning Codes were similar:

- In 2002, a women’s fitness studio was proposed in the Inland CN District, and the Planning Commission determined a small private exercise studio without bathing or dressing facilities and of similar size (square footage), operation, number of clientele, sound levels, and products for sale to a neighborhood beauty salon or barbershop is similar in nature to a “barber shop and beauty shop,” a principally permitted use in the CN District.
- In 2009, an exercise studio was proposed in the Inland Office and Multi-Family Residential (OR) District, and the Planning Commission determined it fell under the listed use “Private schools and colleges, including music and dance studios not less than 150 feet from an R District” in the OR District.

The Planning Commission also recently determined a martial arts studio was similar to a Gymnasium use when they approved a Conditional Use Permit and Coastal Development Permit for a Jiu-jitsu use at 2<sup>nd</sup> and G Streets in the CW District. Although “Music and dance studios” are also a conditionally permitted in the CW (Waterfront Commercial) District, Staff recommended a Martial Arts Studio in the CW District is similar to a “Gymnasiums” use.

### **BACKGROUND ON APPLICANT**

The applicant is proposing to locate a martial arts studio in an approximately 2,000-square-foot, vacant suite within the CVS Shopping Center at 1105/1111 Myrtle Avenue, previously occupied by Broese’s Uniforms. The site is located in the Coastal CN District and across Hill Street from a Multi-Family Residential District (RM-1000). The Hill Street right-of-way is 50 feet wide and the distance from the rear of the building proposed to house the Martial Arts Studio is approximately 65 feet from the nearest residential structure. At the beginning of operation, the applicant intends to be the sole employee, with 60-minute classes of up to 30 students, and hours of operation from 4 p.m. to 8 p.m., Monday – Thursday, and Saturdays from 9:30 a.m. to 12:30 p.m. Once the operation has a sufficient roster of paying students, the applicant intends to hire up to two additional instructors and up to two service representatives and add more morning and evening classes throughout the week.

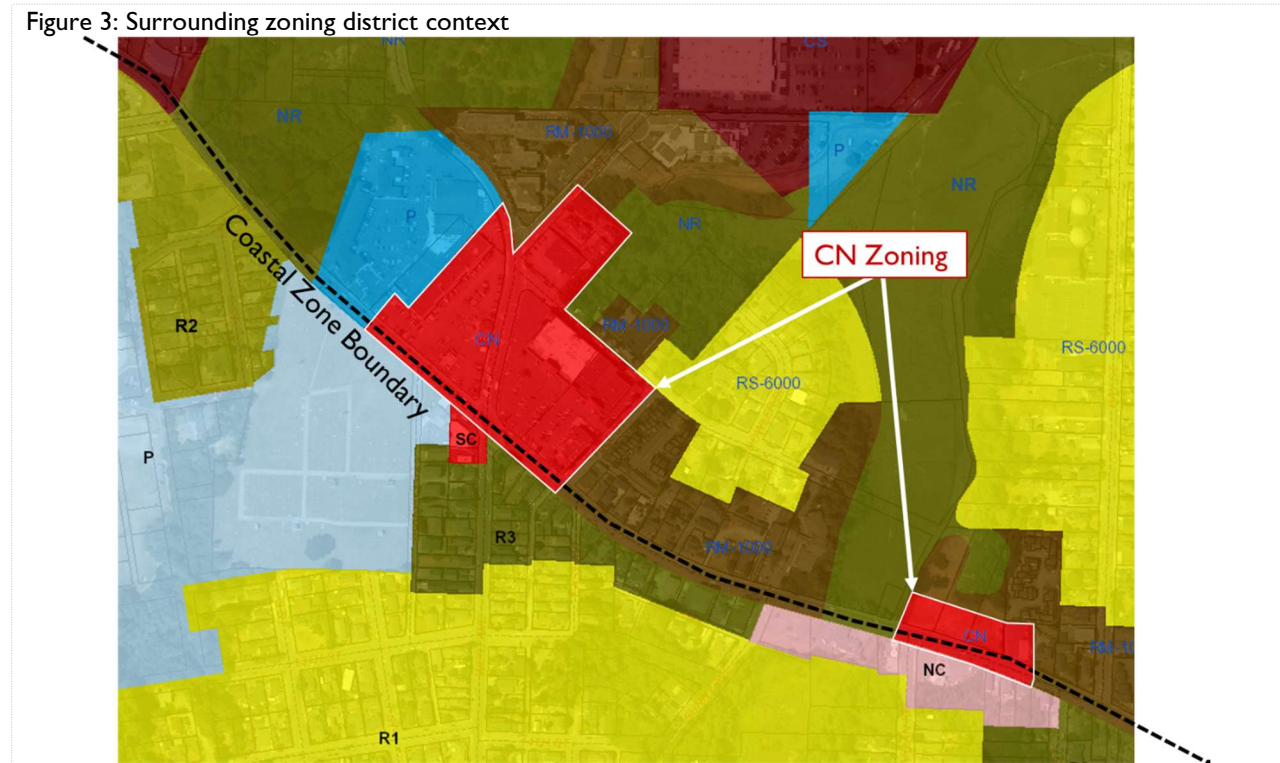
### **BACKGROUND ON COASTAL CN ZONE DISTRICT**

Because the Determination of Use Not Listed is being made relative to the CN District in its entirety, site specific circumstances or geographic location of a proposed use for which the determination is being made cannot be considered. Unless, of course, the site-specific circumstances or issues of geographic location are applicable to the entire zoning district.

There are only two clusters of properties in the Coastal CN District, with a combined total of approximately 11.4 acres, both located along the northern side of Myrtle Avenue, which is the Coastal Zone boundary in eastern Eureka (See Figure 2). The first cluster includes seven developed parcels on the northeastern side of the intersection of Myrtle and West Avenues, including the Burre and CVS Shopping Centers. The second cluster includes one developed parcel (a medical office) and the street-fronting portion of three undeveloped parcels directly northeast of the intersection of Myrtle Avenue and McFarlan Street.



Current and recent uses in the Coastal CN District include a pharmacy, dollar store, restaurants, medical and dental offices, laundromat and dry cleaners, boutiques, beauty salons, offices, and multi-family housing. Surrounding zone districts include Coastal One-Family Residential (RS-6,000), Multi-Family Residential (RM-1,000), Public (P), and Natural Resources (NR) Districts, as well as Inland Residential High (R3), Neighborhood Commercial (NC), Service Commercial (SC), and Public Facilities (P) Districts (See Figure 3).



The purposes of the CN District include providing appropriately located areas for retail stores, offices and personal service establishments patronized primarily by residents of the immediate area; and permitting neighborhood shopping centers that minimize adverse impacts on adjoining residential uses. Coastal Zone Code Section 10-5.29121 includes required conditions for all uses in the CN District, including a requirement that no use shall be permitted which is found by the Planning Commission to be objectionable to persons residing or working in the vicinity or injurious to property located in the vicinity by reason of odor, insect nuisance, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, unsightliness, or heavy truck traffic. See Attachment 2 for the full list of purpose statements and required conditions.

For context, “Fitness, Dance, or Health Facility” is a listed use type in the City’s Inland Zoning Code, defined as “an indoor fitness center, gymnasium, athletic club, dance studio, yoga studio, or other similar use.” The Inland Zoning Code further categorizes a “Fitness, Dance, or Health Facility” as either large or small; if the use is 8,000 square feet or more in size, it is considered large. “Fitness, Dance, or Health Facility – Large” is not allowed in the Inland Neighborhood Commercial District, while “Fitness, Dance, or Health Facility – Small” is principally permitted. The applicant for this Determination of Use Not Listed requests to rent a space that is approximately 2,000 square feet in size, and thus would be principally permitted if it were located in the Inland Neighborhood Commercial District.

**ANALYSIS**

The Planning Commission can deem a martial arts studio a permitted or conditional use in the CN District based on the similarity of its nature and characteristics to uses specifically listed. Staff has reviewed the full lists of principally and conditionally permitted uses in the CN District (included in Attachment 2), as well as listed uses in the other coastal commercial districts [the Planned Shopping Center (CP), Waterfront Commercial (CW), and Service Commercial (CS) Districts]. The most similar uses are included below in Table I. It is important to note none of the listed uses in Table I are defined in the glossary of the Coastal Zoning Code.

**Table I. Listed Use Types Most Similar to Martial Arts Studio**  
 P = Principally Permitted Use  
 C = Allowed with Conditional Use Permit

Use	CN	CP	CW	CS
Arts and crafts schools and colleges	P	-	C	P
Barber shops and beauty shops	P	P	C	P
Business, professional, and trade schools and colleges	C	-	C	P
Dance halls	-	-	C	P
Gymnasiums	-	P	C	P
Hobby shops	P	P	-	P
Massage and physical culture studios	-	P	C	P
Meeting halls	P*	P	C	P
Music and dance studios	P*	P	C	P
Private clubs and lodges	P*	-	-	P

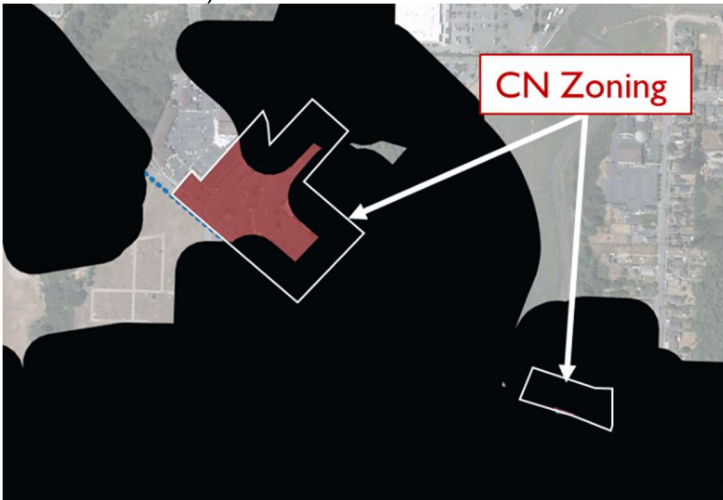
\*Only permitted if not less than 150 feet from a residential district

Out of the narrowed list of uses in Table I, the most similar uses appear to be gymnasiums, which are not allowed in the CN District, and music and dance studios, which are principally permitted, provided they are located at least 150 feet from a residential district. Both these uses are commercial service uses involving indoor physical activity, like a martial arts studio.

Staff believes the proposed use is more similar to a dance studio than a gym. Gyms typically provide both scheduled classes and anytime member walk-in use, while dance and martial arts studios tend to both be classes-only. Gyms tend to provide an array of spaces for different exercise activities such as exercise equipment rooms, ball courts, and matt space, while dance and martial arts studios each focus on one genre of physical activity in one type of open workout space. A gym also typically has shower facilities, while dance and martial arts studios are less likely to provide bathing facilities.

### Determination Alternative 1

Figure 4: CN District showing 150-foot buffer from residential districts in black (CN-zoned area shaded red is over 150 feet from residential districts)



As a result of all of the similarities outlined above, the Commission could find the characteristics of a martial arts studio are sufficiently similar to a dance studio to allow a martial arts studio to be principally permitted in the CN District in the same manner as a dance studio, if located not less than 150 feet from a residential district. Under this determination, the applicant will not be able to open a studio at his proposed location because it is located within 150 feet of a residential district.

Figure 4 shows a 150-foot-wide buffer added to the residential districts nearest to the CN District. The only existing commercial spaces 150 feet or more from residential districts are located in the Burre Shopping Center.

### Determination Alternative 2

Alternatively, the Planning Commission could determine a martial arts studio is similar to a music or dance studio, but without the same concerns requiring the 150-foot buffer from residential districts.

In addition to music and dance studios, there are a six other listed principally permitted uses in the Coastal CN district with the added limitation the use must be 150 feet or more from a residential district:

- banquet rooms,
- bars,
- meeting halls,
- pet and bird stores,
- private clubs and lodges, and
- restaurants and soda fountains, not including drive-in establishments.

When comparing these uses to other principally permitted uses, there are other listed uses without the buffer restriction which would arguably generate similar or more traffic and parking demand than these uses, such as drugstores, supermarkets, liquor stores, banks, post offices, and medical and dental offices. What the uses with the 150-foot separation requirement do have in common is, they all have the potential to generate sustained loud noise, such as from animals or amplified music. As a result, it appears the 150-foot distance provision attached to the listed use “music and dance studios” is most likely related to noise concerns.

The two CN-zoned areas of the Coastal Zone are located along Myrtle Avenue, which is a major arterial street and by far the highest traffic volume street under the City’s jurisdiction. Myrtle at McFarlan has an average daily trip (ADT) count of 15,198, while east/west-bound Myrtle at West and north/south bound West at Myrtle have ADTs of 18,452 and 12,250, respectively. In the

context of the traffic-generated noise on Myrtle and West Avenues, noise likely generated by unamplified human voices and movements at a martial arts studio will not likely make a discernable difference to nearby residences.

As outlined by the applicant in their application (Attachment 3), there are two differences regarding noise between a dance studio and a martial arts studio:

1. Dance studios require music to function; sound systems are a necessary component of a dance studio.
2. Dance studios typically have hardwood floors which amplify and echo sound, while martial arts studios cover the floor and other surfaces with thick foam mats, which act as sound proofing.

Based on these differences, Planning Commission could determine a martial arts studio in a CN District is similar to the listed use “music and dance studios,” but does not require the same 150-foot buffer from residential districts. However, while a martial arts studio does not necessarily require amplified music to function, its operators may decide to play loud music equivalent to a music or dance studio. Therefore, if the Planning Commission chooses Alternative 2, Staff recommends specifying a martial arts studio is allowed as a principally permitted use without the 150-foot residential district buffer limitation, provided the martial arts studio use does not play loud music or otherwise generate amplified sounds plainly audible at a distance of 50 feet from the building in which the studio is located. Under this determination, the applicant will be able to open a studio at his proposed location. The use would be a principally permitted use in the Coastal Zone Categorical Exclusion Area, so no Use Permit or Coastal Development Permit would be required.

### **Determination Alternative 3**

Alternatively, the Planning Commission could determine a martial arts studio less than 150 feet from a residential district is a conditional use in the CN District. This would allow the Planning Commission to address noise and other residential impact concerns on a case-by-case basis. Under this determination, the applicant will be able to open a studio at his proposed location with a Conditional Use Permit and Coastal Development Permit from the Planning Commission, in addition to other necessary City approvals (e.g., business license, sign permit, etc.).

### **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, pursuant to Section 15305 of the State CEQA guidelines, which exempts minor alterations in land use limitations. The project can be considered a minor alteration in land use limitations because the determination will allow a use sufficiently similar to a listed use in the zoning code to justify a finding the use should be deemed allowed, rather than requiring a zoning code amendment to add a new listed use.

### **CONCLUSION**

Martial arts studios are not a listed use in the Coastal Zoning Code, but their characteristics are sufficiently similar to the listed use “music and dance studios” to justify a finding that martial arts studios should be deemed an allowed use in the CN District. In the CN District, music and dance studios are allowed as a principally permitted use if located 150 feet or more from a residential district, and are not allowed if located less than 150 feet from a residential district. The Planning

Commission can decide to include this same restriction on martial arts studios, determine such a buffer is not required for martial arts studios without loud music or other amplified sounds plainly audible at a distance of 50 feet from the building in which they are located, or allow martial arts studios less than 150 feet from a residential district with a Conditional Use Permit. Under all three of these alternatives, martial arts studios can be permitted in the CN District in a manner which is not objectionable to nearby residents by reason of noise or other externalities, consistent with Coastal Zoning Code Section 10-5.29121. This conclusion is specific to the CN District.

### **SUGGESTED MOTIONS**

#### **Alternative 1 – require 150-foot buffer from residential districts**

*“I move the Planning Commission adopt a Resolution finding the project exempt from CEQA, and determining a martial arts studio is similar to the listed use ‘music and dance studios,’ and is therefore principally permitted in the CN District, if located not less than 150 feet from a residential district.”*

#### **Alternative 2 – don’t require buffer from residential districts**

*“I move the Planning Commission adopt a Resolution finding the project exempt from CEQA, and determining a martial arts studio is similar to the listed use “music and dance studios,” but does not raise the same noise concerns, and is therefore principally permitted in the CN District without a 150-foot residential district buffer limitation, provided the martial arts studio use does not play loud music or otherwise generate amplified sounds plainly audible at a distance of 50 feet from the building in which the studio is located.”*

#### **Alternative 3 – allow within 150 feet of residential districts with a Conditional Use Permit**

*“I move the Planning Commission adopt a Resolution finding the project exempt from CEQA, and determining a martial arts studio is similar to the listed use ‘music and dance studios,’ but potentially does not require the same 150-foot buffer from residential districts, and is therefore principally permitted in the CN District if located 150 feet or more from a residential district, and conditionally permitted if located less than 150 feet from a residential district.”*

*[Note: The attached Resolution will be updated depending on which alternative the Planning Commission adopts.]*

### **STAFF CONTACT**

Cristin Kenyon, Principal 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 Resolution .....pages 9-11  
Attachment 2: CN District Purposes and Listed Uses .....pages 12-16  
Attachment 3: Applicant Submitted Material .....pages 17-22