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Filed:	May 16, 2001
49 th Day:	Waived
Staff:	Jim Baskin
Staff Report:	February 21, 2002
Hearing Date:	March 6, 2002
Commission Action:	

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE DETERMINATION AND DE NOVO

LOCAL GOVERNMENT:	City of Eureka
DECISION:	Approval with Conditions
APPEAL NO.:	A-1-EUR-01-029
APPLICANT:	Dolores Vellutini and John Ash DBA: Eureka Waterfront Partners, LLC
AGENT:	John Ash Group - Architects
PROJECT LOCATION:	Along Humboldt Bay between "D" and "F" Streets, Eureka, Humboldt County, APNs 001-054-24 & 011-054-25.
PROJECT DESCRIPTION:	<u>As Originally Approved March 24, 1999:</u> Phased development of two mixed-use, two- and three- story buildings containing visitor-serving, retail commercial, and residential uses totaling 85,390 sq.ft., and install two onsite parking lots providing 22 interior spaces and (during Phase 1 only) 56 exterior spaces. <u>As Approved as an Immaterial Amendment April 18, 2001:</u> Develop two mixed-use, three-story buildings containing visitor-serving, retail commercial, and residential uses totaling 50,295 sq.

ft., and two onsite parking lots providing 80 off-street parking spaces.

APPELLANT(S):

- (1) **Mark Jones**; and
- (2) Commissioners **Sara Wan & John Woolley**

SUBSTANTIVE FILE:
DOCUMENTS

- 1) City of Eureka Coastal Development Permit No. 3-97;
- 2) City of Eureka Parking Variance No. V-8-97;
- 3) City of Eureka Tentative Subdivision Map Approval No. SD-3-98; and
- 4) City of Eureka Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

1. Summary of Staff Recommendation: Substantial Issue.

The staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a *de novo* hearing, because the appellants have raised a substantial issue with the local government's action and its consistency with the certified LCP.

The appeal is of a decision of the City of Eureka to grant an amendment with conditions to a previously approved coastal development permit for the "Eureka Pier" project. As amended, the "Eureka Pier" project approved by the City of Eureka consists of a mixed-use commercial-residential complex comprising two three-story buildings totaling 50,295 sq. ft. of floor area. Other site developments include a paved, 80-space parking lot and improvements to adjoining public street rights-of-way. The subject property is located along the shoreline of Humboldt Bay between "D" Street and the mid-block of "E" and "F" Streets. The development would front onto the new City of Eureka's Inner-channel Boardwalk.

In their appeals, the appellants raise issues of conformity of the approved project as follows:

- The amended project did not provide the City's prescribed number of off-street parking spaces nor were the parking impacts to neighboring businesses & residences reviewed by the City in approving the amended project. Instead, the City re-certified the environmental impact report (EIR) for the original phased-construction project that incorrectly concluded that no alternatives or mitigation measures (i.e., in-lieu payments) existed to reduce project's off-street parking deficit impacts to less-than-significant levels. Thus, the amended project will curtail coastal access to the new boardwalk and other potential waterfront projects;

- The water quality impacts of polluted stormwater runoff from the amended project were not considered and/or mitigated;
- The CDP amendment approved by the City is not "immaterial." Accordingly, the process followed by City to solely approval the CDP amendment without concurrently reviewing the effects of the project changes on the use permit and parking variance circumvented Planning Commission review and diminished public notice and review opportunities; and
- The off-street parking spaces to be placed over tidelands contradicts Coastal Act fill limitations and cannot be counted toward the development's commercial off-street parking requirements;

Staff recommends that the Commission first find that the approved permit amendment raises a substantial issue of conformance with the certified LCP and the access and recreational policies of the Coastal Act regarding the adequacy of parking. The certified LCP prescribes amounts of parking spaces that must be provided with new development depending upon the kind and size of use proposed. The LCP requires that all of these spaces be provided on-site, unless the City Council grants a parking variance supported by prescribed findings or if a contribution is made to an in lieu parking mitigation fund established by the City in an amount commensurate with the number of spaces not required to be provided on site. Although the amended project approved by the City would reduce the number of residential units and amount of commercial gross floor area, lowering the off-street parking requirement from approximately 200 for the originally approved project to 107, a deficit of 27 parking spaces would still result from the amended project as approved by the City. In approving the amended project, the City relied on the findings of the EIR and the parking variance for the originally approved project. However, the early project version differed greatly from that approved under the amended permit in that the originally approved project required the applicants to: (a) limit development in the project's first phase to uses generating a parking requirement of no more than 78 spaces; (b) make a 10,300-square-foot, second phase building site available for parking for the first phase; and (c) defer construction of the second phase until adequate parking for both buildings project had been secured. These mitigating features would not be available in the amended version of the project.

The City did not conduct an updated assessment of the effects that changes in the project, such as eliminating the restriction placed on subsequent project phases until adequate parking was secured, would have on parking and particularly parking for public access uses in the area. The City's land use plan identifies the downtown waterfront area as a major coastal access point to Humboldt Bay. In addition, several major public and private developments have been planned to re-establish and enhance public access to and along the City's bay front. In addition, the City did not adopt findings explaining how the amended project approval with or without the previously granted variance would be

consistent with the parking requirements of the certified LCP. By not considering the potential adverse impacts of significant project changes on the previous assessment of the availability and accessibility of on-street parking, interference with coastal access may result from the City's action on the amended coastal development permit. Accordingly, although the proposed project amendment has reduced the total number of unmet parking spaces from approximately 44 to 27, the long-term demand on nearby on-street parking spaces and public parking lot to absorb this deficit may have effectively increased. Therefore, staff recommends that the Commission find that the project as approved by the City raises a substantial issue of conformance with the LCP policies regarding Core Area commercial development and off-street parking requirements, and the policies of the LCP and Coastal Act that adequate parking be provided in conjunction with the approval of the location and amount of new development to ensure adequate parking for public access uses.

In addition, staff recommends that the Commission also find that the development as approved by the City raises a substantial issue of conformance with the provisions of the certified LCP regarding the protection of aquatic resources and water quality. The City's Land Use Plan contains several policies that require the City to maintain the biological productivity and quality of coastal waters through various means, including but not limited to grassy swales, infiltration/sedimentation basins, oil/grit separators, and other best management practices (BMPs) to control the quantity and quality of runoff. The proposed project entails over an acre of impervious surface in the form of building coverage and paved area. Although the conditions of the City's approval required the use of BMPs to address a variety of other water quality impacts that could result from the project, no requirements for treating the stormwater runoff generated from the site were imposed in the original coastal development permit by the City or in the amended coastal development permit, and no findings were adopted explaining why such requirements were not needed. Accordingly, the project as approved by the City raises a substantial issue of conformance with the LCP policies for the management of stormwater drainage and the protection of aquatic resources.

The last valid ground for appeal, a contention for which staff recommends that the Commission find raises no substantial issue, is a contention that the City's approval of parking over tidelands would contradict the Coastal Act's limited provisions for the filling of coastal waters. Although the fill policies of the Coastal Act are not part of the standard of review for the portion of the project on appeal, the certified LCP contains a parallel restriction on fill in Policy 6.A.14 of its Land Use Plan. Staff's basis for concluding that the contention raises no substantial issue of LCP conformity is based on the observation that the City's action was limited to authorizing development only on the landward portions of the site and did not include permission to develop any portions of the project that would require placement of fill in coastal waters in the submerged and tideland areas within the Commission's retained jurisdiction.

Finally, staff recommends that the Commission find that one of the contentions raised in the appeal is not a valid grounds for appeal, in that the contention raises concerns that do not allege inconsistencies of the project as approved with either the public access and recreation policies of the Coastal Act or the policies and standards of the certified LCP. First, Appellant Mark Jones contends that the coastal development permit amendment was improperly processed by the City, in that: (a) the City should not have accepted the amendment as an "immaterial" amendment; (b) the amendment should have been referred to the Planning Commission for action; and (c) that by allowing the applicant to amend the project description of the amended project description at the public hearing, the City did not provide adequate notice of the changes and provide adequate opportunity for public review of the changes to the project. These contentions about the City's review process do not raise inconsistencies of the approved project with the requirements of the LCP. That is, rather than challenge the approved project, the appellants challenge the process leading up to the County's approval. Even if these procedural complaints were valid grounds for appeal, the staff's analysis also explains how these complaints fail to allege an inconsistency of the approved project with the certified LCP.

The motion to adopt the Staff Recommendation of Substantial Issue is found on page 8.

2. Summary of Staff Recommendation *De Novo*: Approval with Conditions.

The staff recommends that the Commission approve with conditions the coastal development permit for the proposed project on the basis that, as conditioned by the Commission, the project is consistent with the City's certified LCP.

As discussed above, the primary issues on appeal involve the project's conformity with the off-street parking, stormwater and drainage, water quality, environmentally sensitive habitat area, and visual resource policies of the certified LCP. For purposes of *de novo* review by the Commission, the applicants have submitted a revised project description and revised project plans that include additional off-site parking and a contribution to the City's parking in-lieu fee mitigation fund to account for 21 required parking spaces that could not be provided on or offsite. The revised project description also clarifies the proposed stormwater treatment measures and other elements of the project.

To address the issue of the adequacy of parking facilities and potential cumulative interference with public access due to cumulative parking congestion raised by the appeal, staff recommends that the Commission attach Special Condition No. 3. This condition would require the applicants to provide the code-required amount of off-street parking through a combination of onsite and off-site parking spaces, and payment into an in-lieu parking fee program of an amount of money equivalent to what would be necessary to provide the public parking. To prevent water quality impacts from erosion and sedimentation or stormwater runoff, staff recommends that the Commission attach Special Condition No. 4, requiring the submittal for review and approval of the Executive

Director of erosion control and water pollution control plans. Other special conditions have also been recommended to assure conformance with numerous other LCP policies and standards regarding: (a) the design of new development; (b) visual resource protection; (c) fostering non-vehicular modes of transportation; (d) provision of community services; (e) environmentally sensitive habitat area protection; (f) cultural resources protection; and (g) avoidance and reduction of geologic, seismic, and flooding hazards. As proposed and conditioned, the revised project is consistent with the City's certified LCP.

The Motion to adopt the Staff Recommendation of Approval with Conditions is found on Page 32.

STAFF NOTES:

1. Appeal Process.

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within specific geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, within one hundred feet of a wetland or stream, or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments, which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access and public recreation policies set forth in the Coastal Act.

The subject development is appealable to the Commission because the proposed development: (1) is located between the sea and the first public road paralleling the sea; (2) is within 300 feet of the mean high tide line; and (3) is located within 100 feet of Humboldt Bay, an estuarine wetland.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to hear arguments and vote on the substantial issue question,

proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission would continue with a full public hearing on the merits of the project, which may occur at a subsequent meeting.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant and persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

2. Filing of Appeal.

The appellants filed their appeals (Exhibit Nos. 6 and 7) to the Commission in a timely manner on May 16, 2001 within 10 working days of receipt by the Commission on May 2, 2001 of the City's notice of final local action (see Exhibit No. 5).

3. 49-Day Waiver.

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. The appeals on the above-described decision were filed on May 16, 2001. The 49th day from the date the appeal was filed was July 4, 2001 and the only meeting within the 49-day period was June 12-15, 2001. However, the City record was not received in time for the staff to review the information for completeness or prepare a recommendation on the substantial issue question for the Commission's June meeting agenda. Consistent with Section 13112 of the California Code of Regulations, since the Commission did not timely receive the requested documents and materials, the Commission opened and continued the hearing on June 14, 2001.

On June 26, 2001, prior to the next Commission meeting and prior to the 49th day, the applicants submitted a signed 49-Day Waiver waiving the applicants' right to have a hearing set within 49 days from the date of the appeal. Subsequent to that request, the applicants have further revised the project to address many of the issues of LCP consistency.

4. Permit Jurisdiction / Standard of Review.

The subject project site is located landward of the Mean High Tide Line (MHTL) of Humboldt Bay, within the permit jurisdiction of the City of Eureka. As the project site is located between the first public road (First Street) and the sea (Humboldt Bay), the applicable test for the Commission to consider would be whether the development is in conformity with the policies and standards of the certified LCP of the City of Eureka and the public access and recreation policies of the Coastal Act.

PART ONE – SUBSTANTIAL ISSUE

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE:

Pursuant to Section 30603(b) of the Coastal Act and as discussed below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed.

MOTION:

I move that the Commission determine that Appeal No. A-1-EUR-01-029 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-1-EUR-01-029 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. APPELLANTS' CONTENTIONS

The Commission received two appeals of the City of Eureka's decision to approve the "Eureka Pier" development. One appeal was received from Mark Jones, a neighboring property owner (herein "Appellant A"). A second appeal was received from Coastal Commissioners Sara Wan and John Woolley ("Appellants B"). The appellants'

contentions are summarized below, and the full text of the contentions are included as Exhibit Nos. 6 and 7.

The appeals raise contentions involving inconsistency with the City's LCP policies regarding parking adequacy and its effects on public access, and the alleged failure of the City to adequately consider or include all feasible mitigation measures to reduce the modified project's parking impacts. In addition, the appellant contends the project as approved is inconsistent with LCP policies regarding the protection of environmentally sensitive habitat areas and water quality. Appellant A also cites inconsistencies with the City's LCP policies regarding permit amendment review procedures. In addition, this appellant asserts that the City's authorization of the permit amendment recognizing off-street parking spaces for commercial uses would result in fill of coastal waters in conflict with Coastal Act fill policies. The appeal can be structured in terms of four basic contentions, as follows:

1. Adequacy of Parking and Protection of Public Access.

Appellant A notes that the project as approved by the City does not meet the City of Eureka's off-street parking standards. The appellant contends that in reviewing the effects of the project's lack of off-street parking, the City did not consider the adverse effects to neighboring businesses and residences. The appellant also alleges the applicants misrepresented the amount of parking that would be provided by the project in relation to that shown on site plans for the development. Furthermore, Appellant A alleges that the City perpetuated the erroneous conclusion reached in the environmental impact report (EIR) prepared for the original project that no feasible mitigation measures exist to further mitigate the impacts caused by the development's lack of parking. Providing additional off-site parking area, participation in the City's parking in-lieu fee program, or securing parking from the City in the form of Redevelopment assistance were options that the appellant believes the City neglected to explore.

The appellant also notes that the parking variance for the amended project had been initially granted for a phased-construction project in which conditions had been attached to: (1) control parking demand through building use limitations, (2) make building sites for subsequent project phases available for initial phase parking; and (3) preclude full build-out of the project until all parking deficits had been resolved. Appellant A emphasizes that these parking impact mitigation measures would no longer be applicable in the amended project.

According to the appellant, the City did not fully consider mitigation measures to offset the impacts of the approved project's lack of off-street parking and as a result the amended project as approved by the City will curtail public access to the City boardwalk and other potential waterfront projects.

The appellant specifically cites Ordinance No. 10-5.1509, codified as Section 155.123 of the City's Coastal Zoning Regulations (CZR), as the basis for the approved project being inconsistent with the off-street parking requirements of the certified LCP. Although not specifically cited, the contentions also raise issues of conformity with Coastal Act Sections 30211 and 30252, Land Use Plan Policies 1.K.4, 1.L.2, 3.H.3, 5.B.4, and 5.B.9, and Coastal Zoning Regulations (CZR) Section 156.072.

2. Protection of Marine Resources and Water Quality.

Appellants B question whether the project as approved is consistent with the Land Use Plan policies of the City's certified LCP regarding protection of aquatic resources and coastal water quality with regard to polluted stormwater runoff originating from parking lots and other impervious surfaces. The appellants observe that in approving the immaterial permit amendment, the City re-authorized the mitigation measures contained in the environmental impact report (EIR) for the original project. The EIR addressed a variety of water quality impacts and provided mitigation measures. However, the document did not address management of entrained pollutants in stormwater runoff. Accordingly, the appellants contend that a substantial issue is raised with respect to the conformance with the certified LCP's policies addressing stormwater runoff management and the protection of aquatic resources.

The appellants cite Land Use Plan Policies 4.D.6, 4.D.9, and 6.A.3 as the basis for the approved project being inconsistent with the provisions of the certified LCP regarding stormwater drainage and protection of aquatic resources.

3. Permit Amendment Procedures.

Appellant A contends that the subject coastal development permit amendment is not "immaterial" given the significant impacts he believes the changes will have on the Old Town Waterfront community district. The appellant further questions whether the City Council's exclusive determination on the requested coastal development permit amendment without providing its Planning Commission an opportunity to consider the effects of the project changes on coastal resources is contrary to LCP procedures and may have reduced opportunities for the public to review and comment on the revised project. Although the project revisions may have affected the findings of the various permits and approvals granted for the original project, including its conditional use permit, parking variance, and final map subdivision tentative approval, the City Council chose only to hear the question of the immateriality of the requested amendment to the coastal development permit. Moreover, the appellant contends that the applicants' serial changes to the project during the permit amendment hearing thwarted the ability of the public to effectively participate in the review and provide meaningful comments on the project.

The appellant did not cite any specific LCP provisions with regard to this appellate point. CZR regulations applicable to the determination of the immateriality of a coastal

development permit amendment and the process for hearing permit amendments include Sections 156.116 and 156.100, respectively.

4. Authorized Use for Filling Coastal Waters.

Finally, Appellant A contends that the project as approved by the City contradicts the provisions of the Coastal Act that relate to permissible fill of coastal waters. At the time the permit amendment was approved by the City, it was believed that portions of the exterior parking lot intended to serve the project's commercial uses would extend beyond the Mean High Tide Line and would require the filling of coastal waters delineated by that datum. The appellant asserts that to be consistent with Coastal Act fill policies the fill could only be authorized to serve coastal-dependent uses.

The Coastal Act policy addressing uses for which the filling of coastal waters may be authorized is reiterated as LUP Policy 6.A.14 of the certified LCP.

B. LOCAL GOVERNMENT ACTIONS

On September 15, 1998 and December 1, 1998, the Eureka City Council certified Environmental Impact Report (EIR) No. SCH 98062013 for the subject site's predecessor project, original "Eureka Fisherman's Wharf" mixed use project. The EIR considered the development of two buildings occupying the approximately the same footprint as that of the old Fisherman's Building complex that formerly occupied the site. "Building 'A'" would be a two-story structure with the ground floor containing retail and restaurant space, including an information center, seafood market, an oyster bar, 100-seat IMAX™ theater, and 22-parking spaces for the 11 second floor residential units. "Building 'B'" would be a three-story structure with retail uses on the ground floor and professional offices on the second and third floors. The total square footage upon completion of both buildings would be 85,390 square feet. Associated with certification of the EIR, the Council adopted a Statement of Overriding Considerations, accepting the unmitigated parking impacts resulting from the project in light of the community-wide benefits the project would bring. With regard to the coastal development permit for the this predecessor development, the Council also adopted an "intent to approve" policy statement, indicating its contemplated action once the Planning Commission had completed its proceedings on other project authorizations.

On December 14, 1998, the City's Planning Commission took four separate actions on the proposed project, including issuance of: (1) a resolution adopting and certifying the EIR and Statement of Overriding Considerations; (2) a conditional use permit to allow development of certain non-visitor serving uses in the Commercial Waterfront zoning district; (3) a tentative final map subdivision approval for creation of 11 condominium units; and (4) parking variances to allow: (a) eleven tandem (22) parking spaces counted towards the project's 16-space off-street residential parking requirement, and (b) a reduction in the project's overall off-street parking requirement by approximately 44

spaces. The latter parking variance was structured based upon the project being constructed in phases, whereby the Building "A" first-phase would be authorized "... such that the parking calculation for all such uses when combined shall not exceed 78 parking spaces." The parking variance was conditioned upon the applicants: (a) developing, to the maximum extent possible, private parking in the area designated for the second-phase Building "B," estimated by the City to be able to accommodate development of approximately 34 spaces; and (b) adhering to, or completing as necessary, all mitigation measures proposed for the project in the EIR.

On March 16, 1999, the Eureka City Council initially approved Coastal Development Permit No. CDP-3-97 for the subject site's predecessor project. This original permit included project conditions that required compliance with: (1) the mitigation measures of the Mitigation Monitoring and Reporting Program previously adopted by the Council on September 15, 1998; (2) the conditions imposed by the Planning Commission for the tentative Final Map Subdivision approval on December 14, 1998; and (3) the conditions applied by the Planning Commission for the approval of the parking variances on December 14, 1998. In addition, the Council included within its Minute Order further discussion of the parking variance for reducing the project's off-street parking requirement. The Council stipulated that development of the second-phase Building "B" (and loss of the interim parking lot to support for Building "A" uses) was to occur only after adequate parking was made available to serve both buildings.

The original coastal development permit approved for the project was not appealed to the Commission.

On January 24, 2001, the applicants submitted a request for a coastal development permit amendment to the City based upon revised plans for the project since renamed as the *Eureka Pier Project*. On February 5, 2001 the applicants submitted further project revisions to the City. On March 8, 2001, the Director of Community Development for the City of Eureka approved an Immaterial Amendment for CDP-3-97 making certain changes to the originally approved project. These changes involved significant design modifications to both the project's physical layout and its occupant uses. Instead of being built in phases, the revised project would be constructed in one building stage. Furthermore, though the original two building design had been retained, the former lofted 2-story Building "A" structure (now Building "B" in revised plans) was increased to three stories. However, the overall total building square footage was reduced from 85,390 square feet to 57,214 square feet, while the number of on-site parking spaces was increased from 56 to 66 spaces. The decision of the Community Development Director to approve the immaterial amendment was subsequently appealed at the local government level to the City Council.

On March 16, 2001, the Community Development Director granted a one-year extension to the term of Coastal Development Permit No. CDP-3-97, the related design review,

conditional use permit, parking variance, and subdivision approval, such extension to expire on March 16, 2002.

On April 3, 2001, the City Council opened the public hearing for the appeal of the Community Development Directors administrative approval of the Immaterial Amendment to CDP-3-97. After reviewing the amended project, the Council deferred action on the permit amendment to allow the applicants to either: (a) apply for a new parking variance; (b) further revise the project to decrease the building areas so that the off-street parking requirement was lowered; or (c) provide additional parking. On April 17, 2001, after considering an additionally revised project that further reduced the building floor area and added additional parking spaces, the Council upheld the Community Development Director's approval of the permit.

In approving the proposed amendment to Coastal Development Permit No. CDP-3-97 and sustaining the conditions that had been applied to the originally approved coastal development permit, the Council adopted eight findings concluding that, relative to the originally approved project: (a) the revised project was located within the same building footprint; (b) the same land uses were being proposed; and (c) the square-footage of proposed buildings were being reduced. Consequently, the Council found the development was less intensive than the project initially approved by the City Council on March 16, 1999, and the requested amendment to the project was determined to be "immaterial." In addition, the Council reasoned that the environmental impacts of the amended project would not exceed those addressed within the EIR certified for the originally approved project, and that the Statement of Overriding Considerations previously adopted remained applicable to the revised project, especially with respect to the conclusion that the benefits of the project out-weighed the adverse impacts of the project and such impacts would be acceptable within the context of decision-making for the amended project.

The City then issued a Notice of Final Local Action on April 18, 2001, which was received by Commission staff on May 2, 2001 (see Exhibit No. 5). The permit amendment was appealed to the Commission in a timely manner by both sets of appellants within 10 working days after receipt by the Commission of the Notice of Final Local Action. Appellant A filed his appeal on May 16, 2001. Appellants B filed their appeal on May 16, 2001. The Commission opened and continued the public hearing on the appeal at the Commission meeting of June 14, 2001. On June 26, 2001, prior to the expiration of the 49 day period after the filing of the appeal, the applicants waived their rights to have the appeal heard within 49 days of the filing of the appeal.

C. PROJECT SETTING AND DESCRIPTION

The ±1.25-acre project site is located at the foot of "D" and "E" Streets on the shoreline of Humboldt Bay along the central waterfront area of the City of Eureka at the former site of the Fisherman's Building complex (see Exhibit Nos. 2 and 4). These buildings were

constructed during the 1910-20 timeframe and were used as a fish packing and freight warehousing facilities. As Eureka's fish processing and timber industries began to decline in the 1970's, the buildings fell into disuse and eventual decrepitude. The Commission issued a coastal development permit (CDP No. 1-00-053) to the City of Eureka on February 16, 2001 to demolish the structures to provide room for construction of the adjacent boardwalk. The Fisherman's Building structures were subsequently razed in Spring, 2001. The majority of the waterfront in the vicinity of the site is occupied by an assortment of dilapidated structures. However, this section of the waterfront is now beginning a period of redevelopment. The first phase of the City's long-planned Eureka Boardwalk and Waterfront Revitalization project which involves constructing a pedestrian boardwalk extending from the foot of "F" Street along the waterfront to and beyond the project site to the foot of "C" Street has recently been completed. The Commission approved the Eureka Boardwalk and Waterfront Revitalization project on May 10, 2000 (CDP No. 1-99-077).

Since demolition of the Fisherman's Building complex in the Spring of 2001, much of the project site lies barren and graded. What vegetation remaining is comprised of a mixture of ruderal grasses and forbs of nominal habitat value. Some structural remnants of the former Fisherman's Building remain at the site, including former structural piles and concrete foundation slabs at or below grade. All areas landward of the top of bank that were exposed during demolition of the Fisherman's Building have been covered by geo-textile fabric and one foot of river-run gravel to stabilize the site, help minimize storm water runoff, and prevent safety hazards posed by newly uncovered areas (i.e., broken glass and metal debris).

The project site lies within the Waterfront District of the downtown Core Area. The property is planned Core – Waterfront Commercial (C-WFC), implemented by a Coastal Waterfront Commercial zoning district designation (CW). The City Coastal Zoning Regulations recognize a variety of principal and conditional uses for the CW zone including retail commercial, restaurants, theatres, piers, docks, and wharves, with an emphasis on giving priority to coastal-dependent and coastal-related uses. Offices and residences are also allowed within CW zoning districts when confined to a building's upper stories.

The *Eureka Pier* project site is located along the shoreline of Humboldt Bay, between the first public road (First Street) and the sea. Due to the presence of existing waterfront structures, views to and along Humboldt Bay in the vicinity of the project are limited to the ends of "C" and "F" Streets, and from the vacant parcel between "C" and "E" Streets, which includes the project site. The City of Eureka LCP designates the northern waterfront area in general and the foot of "F" Street in particular as "scenic vista points." The LCP contains several policies regarding visual resource protection in the project area, to promote unobstructed view corridors to the waterfront from public streets and other public spaces, to create street-end gateways, and to establish landmark features (e.g., buildings, sculptures) at the terminus of key Core Area streets, most importantly at

the west end of 2nd Street (B Street) and at the foot of F Street. Other policies seek to ensure that new waterfront development occur in harmony with and enhance the character of the Old Town area in terms of consistency with a "Victorian Seaport" theme.

The amended project as approved would result in the construction of a two building, three-story, 44-foot-high mixed-use commercial/residential development complex constructed approximately in the location of the former Fisherman's Building. Building "A" would encompass 26,440-sq.-ft. of gross floor area (23,503-sq.-ft. of net, "leasable" floor area), with a 5,704-sq.-ft. first-floor footprint, and an approximately 13,300-sq.-ft. maximum building envelope (excluding roof eaves) at the second and third floor levels. Building "B" would contain a total of 29,920-sq.-ft. of gross floor area (26,792-sq.-ft. leasable floor area), with a 9,165-sq.-ft. footprint. The 25-ft.-wide gap between the two buildings along the right-of-way of "E" Street would be connected by an 8-ft.-wide covered bridge walkway at the second and third story levels. Accessory improvements include an interior 17-space parking lot at the rear first floor level of Building "A" and a 63-space parking lot located west of Building "B." (see Exhibit No. 4). Public street improvements would also be made to the portions of "D" and "E" Streets north of First Street, as well as construction of "Pier Street," a 15-foot-wide, one-way road in the location of the existing mid-block alley linking "D" and "E" Streets between First Street and Humboldt Bay.

The first floor of the building would front on to and be directly connected to the Eureka Boardwalk. The public entrances to the first floor businesses would be from the Boardwalk. The Eureka Pier project was selected in 1993 by the Eureka Harbor Commission as one of 32 public and private projects designed to revitalize the City's waterfront. These projects were selected giving the highest priority to those enterprises aiming to enhance or improve the commercial, recreational, and visitor-serving aspects of the shoreline frontage adjacent to the Eureka Inner-channel within Humboldt Bay. The agent for the Eureka Pier development states that the purpose of the project, in conjunction with the City's boardwalk, is to "...restore access to the waterfront for the first time in many years... provid(ing) a platform for public gatherings, outdoor cafes, concerts, and community events with spectacular views of Humboldt Bay...(to) insure a quality experience for visitors coming from outside of the area."

D. SUBSTANTIAL ISSUE ANALYSIS

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

Three of four of the contentions raised by the appellant are valid grounds for appeal under Section 30603, in that they allege the project's inconsistency with policies of the certified LCP and/or with the public access policies of the Coastal Act. These contentions are discussed further below. As discussed in Finding D.2, one of the contentions raised in the appeal does not present potentially valid grounds in that it does not allege inconsistencies of the project as approved with policies of the certified LCP or with the public access policies of the Coastal Act.

1. Appellant's Contentions that are Valid Grounds for Appeal.

The three contentions raising valid grounds for appeal raise issues relate to LCP provisions regarding: (1) the adequacy of parking and the protection of public coastal access; (2) the protection of environmentally sensitive habitat areas and coastal water quality; and (3) the permissible fill of coastal waters. The Commission finds that two of these three contentions raise a substantial issue, for the reasons discussed below.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Title 14, Cal. Code Regs., Section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

- The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
- The extent and scope of the development as approved or denied by the local government;
- The significance of the coastal resources affected by the decision;
- The precedential value of the local government's decision for future interpretations of its LCP; and
- Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to certain allegations (1.a.i - 1.a.ii below), a substantial issue exists with regard to the approved project's conformance with the certified City of Eureka LCP.

a. Appellants' Allegations That Raise a Substantial Issue

i. Adequacy of Parking and Protection of Coastal Access

Appellant A maintains that the revised project authorized by the coastal development permit amendment approved by the City does not comply with the off-street parking standards of the LCP. By relying on the parking variance granted for the original project, the appellant argues that the City failed to re-examine the effects that the amended project's parking demand would have on neighboring businesses and residences, contrary to the policies of the Land Use Plan. The City has stated that the original variance was intended to balance development with the lack of parking by allowing the developer to construct one of two buildings proposed at the time, with temporary parking to be provided at the site of the second building. The City determined that this approach would initiate redevelopment of the waterfront and gain revenue, while at same time offering some level of mitigation towards lack of parking. The approval was granted with a condition requiring that, at full build-out, all parking would be provided for, either by the applicants or by the City, or alternately, a new variance would need to be granted. The appellant argues that the City's action on the amendment, however, effectively ignores the fact that the revised project does not include the phased construction features of the original project and does not require the applicants to provide all the necessary parking at full build-out as the original approval did. Accordingly, the appellant contends that cumulative impacts to coastal access will occur from the unmitigated parking congestion that will result from the project as approved by the City.

Several Coastal Act public access policies and LCP provisions, listed below, are relevant to this contention. The appellant specifically cited Ordinance 10-5.1509, codified as CZR Section 155.123, as the basis for this issue of appeal.

Summary of Coastal Act Provisions:

Coastal Act Section 30252 states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities

within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development. [emphasis added]

Summary of LCP Provisions:

LUP Commercial Development Policy 1.L.2 states:

The City shall promote high quality design attractiveness, proper location, adequate sites, sufficient off-street parking, and a convenient circulation system for commercially-designated area of the city.

LUP Core Area Circulation and Parking Policy 3.H.3. states:

The City shall work with Core Area business and property owners to develop a parking management program to balance the long and short-term parking needs of residents, employees, business patrons, and tourists.

LUP Coastal Recreation and Access Policy 5.B.9. states:

The City shall ensure that public access support facilities are distributed throughout the Eureka Coastal Zone. Off-street parking shall be provided in the waterfront area; however, it shall not be located immediately adjacent to the shoreline, unless there is no feasible alternative.

CZR Section 156.072 states, in applicable part:

- (E) *Off-street parking. Off-street parking facilities shall be provided for each use as prescribed in §§ 155.155 (sic) through 155.123 of this title.*

[Note: The full text of referenced CZR Sections 155.115 through 155.123 is provided as Exhibit No. 9]

Cited CZR Section 155.123 states, in applicable part:

In Lieu Payments

In a CN, CC or CW District, or in an OR District when that district is adjacent to a CN, CC, CW, or CS District, in lieu of providing parking facilities required by the provisions of this subchapter, the requirements may be satisfied by payment to the city, prior to the issuance of a zoning permit, of an amount per parking space, prescribed by the Council, for each parking space required by this subchapter but not provided. The payment shall be deposited with the city in a special fund and shall be used exclusively for the purpose of acquiring and developing off-street facilities located, insofar as practical, in the vicinity of the use for which the payment was made. [emphasis added]

Finally, with regard to findings for variances to parking and loading requirements, CZR Section 155.317(B) states:

Parking and loading. The Planning Commission or Director of Community Development, when authorized, may grant a variance to a regulation prescribed by this chapter with respect to off-street parking facilities or off-street loading facilities as the variance was applied for, or in modified form, if, on the basis of the application and the evidence submitted, the Commission or the Director of Community Development makes findings of fact that establish that the circumstances prescribed in § 155.316 of this subchapter apply and the following circumstances also apply:

- (1) That neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation;*
- (2) That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on streets; and,*
- (3) That the granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this chapter.*

[Note: The full text of referenced CZR Section 155.316 is provided as Exhibit No. 9]

Discussion:

The appellant contends that the amended project as approved by the City is inconsistent with the off-street parking standards of the City's LCP and the public access policies of the Coastal Act. The appellant argues that by failing to re-examine the effects of the amended project's parking demand, the project would have adverse impacts on the character of neighboring businesses and residences by causing parking congestion, and cumulatively interfere with access to the shoreline. Instead of conducting a new parking analysis, the City continued to rely on the parking analysis within the EIR, the and Statement of Overriding Considerations for the originally approved version of the project, and the parking variance, reasoning that the parking deficit for the modified project approximated that of the earlier project design.

Parking Effects of the Originally Approved Project

The primary analysis of the original project's parking effects is contained within the Environmental Impact Report prepared for the development. The EIR concluded that with an overall parking demand for approximately 200 spaces at full build-out with only 22 off-street spaces being proposed by the applicants, the increase in offsite parking demand on on-street and public lot parking facilities by approximately 180 spaces would be a significant adverse impact. The EIR identified two mitigation measures with respect to lessening the adverse effects of the project's lack of off-street parking. These measures would reduce off-site parking impacts through: (1) creating or designating short-term (less than 2-hour) off-site parking areas; and (2) constructing an off-site parking structure and/or closing streets for additional parking area. Even with these measures, the study concluded that a significant impact would result from not fully providing off-street parking spaces. In turn, the City adopted a Statement of Overriding Considerations, documenting the considerable community benefits that the project would bring, reasoning that the ostensibly unmitigatable impacts would be acceptable within the context of taking action to approve the project.

Further action to mitigate the original project's parking impacts was addressed in the parking variance granted by the City. Instead of authorizing a reduced number of parking spaces for a given proposed use as is common with most parking variances (i.e., allowing a development with a 200-space parking demand with only 22 spaces being provided), the City imposed building caps on the project to ameliorate the unmet parking requirements. The variance limited the development of uses within the first-phase building such that the parking calculation for all such uses when combined would not exceed 78 parking spaces. In addition, the applicants were required to construct a private parking lot on the site of the second phase building site to serve first-phase uses. The variance also precluded conversion of the parking lot for development of the second phase building site until adequate parking for all site uses had been secured.

Given the general design of the originally proposed project, with 11 upper-story residential units above commercial uses generating a 16-space parking requirement, the variance allowed the applicants to develop the equivalent of 62 parking spaces or approximately 18,600 square feet of gross floor area for commercial uses within the balance of the building. With the parking requirement for the 11 residential units being met by ground-level enclosed garage spaces, and development of approximately 42 parking spaces on the second-phase building site for the commercial uses based upon a design provided by the applicants (see Exhibit No. 4), the previously approved project would have resulted in a parking deficit of 20 spaces (78 total permitted spaces – 16 residential garage spaces* – 42 commercial use spaces provided in second-phase building site = 20). Based upon the inventory of available short-term parking within the projects site's vicinity conducted for the EIR, an estimated 35 on-street parking spaces were found to be available during mid-day peak traffic periods within a three-block distance that could absorb the unmet parking demand generated by the originally approved project.

Parking Effects of the Revised Project[†]

The revised project for which the applicants received the subject coastal development permit amendment from the City differs greatly from the previously approved project. Most notably, instead of being built in two phases, the modified project approved by the City would be built-out in one construction stage. In addition, the number of proposed on-site spaces has increased from 22 to 80. Though the parking demand at full build-out has dropped from approximately 200 spaces to about 125, associated with the reduction in the number of residences and commercial gross floor area, a deficit of 45 parking spaces would nevertheless result from the revised project.

* A total of 22 parking spaces in 11 enclosed garages were proposed in the original project application previously approved by the City. However, use of these parking facilities would have been exclusively for the residents and guests of the 11 upper-story residential units and would not be available for use by the tenants, employees and/or patrons of the commercial and professional office uses. Accordingly, for purposes of this analysis, only 16 of the 22 spaces are recognized as having been provided in fulfilling the 16-space residential off-street parking space requirement of the Municipal Code. Due to their limited accessibility, the remaining six spaces must be considered excess spaces for exclusive use by the residents rather than being recognized as satisfying part of the retail commercial / professional office parking requirements.

† The CDP amendment approved by the City included a total of 80 off-street parking spaces. As discussed in Findings Section II.C of this part of the

report, the project has been subsequently amended for purposes of any *de novo* hearing before the Commission to include seven additional spaces on-site, 20 spaces at an off-site location, and participation in the City's

Without conditions to require phasing of the project, set aside portions of the site for interim parking, and preclude further development of the site until adequate parking is secured for the whole of the project, this 45-space excess parking demand would have to be accommodated by available nearby on-street spaces. However, with only 35 spaces being available within nearby proximity to the site, the amended project as approved by the City would have the potential to contribute to parking and traffic congestion impacts contrary to the policies of the LCP.

The City's LCP prescribes amounts of parking spaces that must be provided with new development depending upon the kind and size of use proposed under Sections 155.115 through 155.123 of its zoning regulations. The LCP requires that all of these spaces are to be provided on-site, unless the City Council grants a parking variance based on certain findings that must be made or unless a contribution is made to an in-lieu parking mitigation fund established by the City in an amount commensurate with the number of required spaces not proposed to be provided on site (Sec. 155.123, City Zoning Regulations). The City did not include findings in its action on the CDP amendment as to how the necessary findings for the variance can properly be made for the amended project, but instead noted that the scope of parking space deficit remained within the same range as that addressed in the findings for the originally approved parking variance. However, as noted above, the City's previous approval limited the variance to include caps on the uses proposed of the first-phase building such that the required parking would not exceed 78 spaces. In addition, the City's previous approval required the applicants to construct a parking lot on the site of the second-phase building to serve first-phase uses and not build the second-phase building until adequate parking for all site uses had been secured. Thus, the scope

parking in-lieu fee program for the remaining amount of required parking. However, for purposes of determining whether a substantial issue of LCP conformance has been raised by this appeal, the above analysis regarding the "parking effects of the revised project" relates to the development as approved by the City Council on April 17, 2001. This substantial issue analysis does not consider the effects of additional off-site parking and in-lieu fee contributions proposed by the applicants subsequent to the filing of the appeal for purposes of any *de novo* hearing before the Commission. Please refer to Findings Sections IV.A and IV.C.3 of Part Two of this report (pp. 45-48 and 58-65) for a description of the proposed project's design for purposes of any *de novo* hearing as well as an analysis of its consistency with LCP parking standards.

of the parking deficit of the amended project is significantly different than the deficit for the project as originally approved. Pursuant to the certified LCP, the only other option available to ensure the project's conformance with LCP parking standards apart from providing all of the required onsite parking or making the necessary findings for the variance would be to provide for an in-lieu parking mitigation contribution pursuant to CZR Section 155.123 to make up the shortfall of parking. However, no such contribution was required or made prior to the City's action on the amended CDP.

Conclusion

Although the net size and scale of the project was reduced in the amended project as approved by the City, the project's unmet off-street parking requirement increased from 20 to 45 spaces. In approving the project, the City did not include an updated analysis of the direct and cumulative effects this increased demand would have on on-street and public parking lot facilities in the surrounding Core Area properties or public access to the shoreline and did not include findings demonstrating that the project as amended would be consistent with the parking requirements of the certified LCP. Therefore, the Commission finds that there was a limited degree of factual and legal support for the local government's decision. The Eureka Waterfront Partners project is one of several waterfront redevelopment projects being planned adjacent to, or in close proximity to the new boardwalk. Many of the projects being planned would generate significant new demand for parking. Therefore, the Commission finds that the City's decision on the coastal development permit amendment has a high degree of precedential value for future interpretations of the City's LCP. Therefore, the Commission finds the project as approved by the City raises a substantial issue with respect to conformance of the approved project with the LCP standards regarding the design and siting of new development, adequacy of parking, and the protection of public access, including LUP Policies 1.L.2, 3.H.3, 5.B.9 and of the Land Use Plan, and CZR Section 156.072, and the access policies of the Coastal Act, specifically Section 30252.

ii. Environmentally Sensitive Habitat Areas and Coastal Water Quality

Appellants B contend that the potential impacts from discharges of polluted stormwater runoff to the biologic productivity and quality of coastal waters were not considered during the City's review of the amended project. The appellants note that no stormwater mitigation measures or best management practices were identified in the development plans, discussed during the project hearings, or included in the conditions of approval for the coastal development permit amendment, contrary to the requirements of the LCP. The appellants cite Land Use Plan Policies 4.D.6, 4.D.9, and 6.A.3 as the basis for this appeal issue.

Summary of LCP Provisions:

LUP Stormwater Drainage Policy 4.D.6 states:

The City shall improve the quality of runoff from urban and suburban development through use of appropriate and feasible mitigation measures including but not limited to, artificial wetlands, grassy swales, infiltration / sediment basins, riparian setbacks, oil-grit separators, and other best management practices (BMPs).

LUP Stormwater Drainage Policy 4.D.9 states:

The City shall require new projects that effect the quantity or quality of surface water runoff to allocate land as necessary for the purpose of detaining post-project flows and/or the incorporation of mitigation measures for water quality impacts related to urban runoff. To the maximum extent feasible, new development shall not produce a net increase in peak stormwater runoff.

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitat Policy 6.A.3 states:

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 marine 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 waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams...

Discussion:

The project approved by the City authorized the development of two mixed-use, three-story buildings containing retail commercial, and residential development totaling 50,295 sq. ft. and two parking lots providing 80 off-street parking spaces on an approximately 1.25-acre site. With the exception of a limited landscaping area, the majority of the site, in excess of one acre, would be covered with impervious surfaces in the form of buildings and paved parking areas. Roadways and adjacent impervious surfaces such as parking lots, sidewalks, and driveways

are typically sources of nonpoint polluted runoff that discharges to coastal waters through stormwater drainage facilities.

Characteristic pollutants from urban stormwater runoff include entrained petroleum hydrocarbons from oil and grease, and polycyclic aromatic hydrocarbons, brake lining particulate, pesticide and herbicide residues, heavy metals, pathogens (bacteria and viruses), nutrients, sediment, and litter that deposit on these surfaces from motor vehicle traffic. In addition, outdoor maintenance equipment, routine washing and steam cleaning have the potential to contribute metals, oil and grease, solvents, phosphates, and suspended solids to the stormwater conveyance system. Unless interception and filtration devices are incorporated into the drainage system works, these materials can pass through the stormwater drains until they are discharged directly or indirectly into coastal waters.

These materials have been found to have profound effects on coastal water quality, either directly by impacting the productivity of wetlands and other wildlife habitat areas, or cumulatively by collecting within aquatic and terrestrial organisms, and sediments. In addition, these pollutants can contribute to a lowering of general water quality leading to health advisories and closures affecting recreational uses of coastal waters.

LUP Policy 4.D.6 and 4.D.9 state that the City shall improve the quality of runoff from urban development and require the use of appropriate mitigation measures for water quality impacts related to urban runoff such as artificial wetlands, grassy swales, infiltration/sediment basins, riparian setbacks, oil-grit separators, and other best management practices.

In approving the coastal development permit amendment for the revised project[‡], the City relied on the mitigation measures of the EIR for addressing water quality impacts adopted for the previously approved project. These measures addressed a variety of water pollution types and sources, including coastal bluff erosion, hazardous materials excavation, land and marine spill prevention and response,

[‡] The CDP amendment approved by the City included no detail as to how effluent and stormwater would be treated to protect water quality prior to their release into the City's wastewater and stormwater systems and/or runoff discharge into Humboldt Bay. As discussed in Findings Section II.C of this part of the report, the project has been subsequently amended for purposes of any *de novo* hearing before the Commission to include installation of a below-grade oil-water separator. However, for purposes of determining whether a substantial issue of LCP has been raised by this appeal, the above analysis regarding the effects of the "revised project" on environmentally sensitive habitat areas and coastal water quality relates

and solid waste management, but did not address entrained runoff from roofs, parking lots, and other impervious surfaces.

The City did not adopt findings addressing why mitigation measures for treating entrained runoff would not be appropriate. Therefore, the Commission finds that there was a limited degree of factual and legal support for the local government's decision. Therefore the Commission finds that a substantial issue is raised of the conformance of the project as approved with LUP Policies 4.D.6, and 4.D.9. Without identification of stormwater management practices or other mitigation measures discussed in the findings for approval as required by the foregoing policies, a substantial issue is further raised with the requirements of LUP Policy 6.A.3, which states that the biological productivity and the quality of coastal waters, streams, wetlands, and estuaries appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored.

b. Appellants' Allegations That Do Not Raise a Substantial Issue

i. Parking Not Allowable on Fill in Coastal Waters.

The project includes the development of a parking lot which at the time the project was acted upon by the City was believed would be partially constructed on fill in coastal waters. The appellant contends that the proposed use to which the filled area would be placed would be contrary to the provisions of the Coastal Act which limit the uses for which the filling of coastal waters may be authorized.

Summary of LCP Provisions:

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitat Policy 6.A.14 states, in applicable part:

to the development as approved by the City Council on April 17, 2001. The substantial issue analysis does not consider the effects of additional wastewater pre-treatment and stormwater management practices proposed by the applicants subsequent to the filing of the appeal for purposes of any *de novo* hearing before the Commission. Refer to Findings Sections IV.A, IV.D.1, IV.D.2 and IV.F.1 of Part Two of this report (pp. 47-49, 66-71, and 75-78) for a description of the proposed project's design for purposes of any *de novo* hearing as well as an analysis of its consistency with LCP policies and standards for pretreatment of commercial wastewater, and the protection of water quality and environmentally sensitive habitat areas, respectively.

Consistent with all other applicable policies of the General Plan, the City shall limit development or uses within...estuaries, to the following:

- a. Port facilities.*
- b. Energy facilities.*
- c. Coastal-dependent industrial facilities, including commercial fishing facilities.*
- d. Maintenance of existing or restoration of previously dredged depths in navigation channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- e. Incidental public service purposes which temporarily impact the resources of the area, such as burying cables or pipes, inspection of piers, and maintenance of existing intake and outfall lines.*
- f. Restoration projects.*
- g. Nature study, aquaculture, or similar resource-dependent activities.*
- h. New or expanded boating facilities in estuaries, consistent with the demand for such facilities.*
- i. Placement of structural piling for public recreational piers that provide public access and recreational opportunities.*

Discussion:

Coastal Act Section 30603(b)(1) limits the grounds for an appeal of this project type and location to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Although the appellant has cited an inconsistency with Coastal Act fill policies (i.e. Section 30233(a)), an equivalent restriction on the fill of wetlands and coastal waters exists within the City's certified LCP at LUP Aquatic Resources and Marine, Wetland, and Riparian Habitat Policy 6.A.14. Accordingly, the appellant has raised a potentially valid issue in terms of the approved project consistency with LUP Policy 6.A.14. This policy limits the permissible activities and development within estuaries to nine specified use types. Of these nine uses, placement of fill for the purpose of constructing parking for an adjoining use is not expressly included.

However, the approved project site is landward of the Mean High Tide Line. Although the approved site plans for the development depicted development spanning over the Mean High Tide Line and within the Commission's jurisdiction a hydrographic survey of the site has been performed which confirms that all

portions of the project site are located landward of the MHTL, and outside of the Commission's area of retained jurisdiction. Therefore, the scope of the City's action did not specifically authorize any filling of coastal waters or development within the estuary and no portion of the parking lot within the City's jurisdiction would require placement of fill in coastal waters. Therefore, the Commission finds the project as approved by the City does not raise a substantial issue with respect to conformance with the LCP standards regarding limitations on permissible uses and developments within estuaries as stated in LUP Policy 6.A.14.

2. Appellants' Contentions That Are Not Valid Grounds for Appeal

a. Permit Amendment Procedures

Appellant A questions whether the process by which the requested coastal development permit amendment was considered are consistent with the City's LCP. Firstly, the appellant contends that the permit amendment cannot be considered as an "immaterial amendment," as the degree of changes to the project and the effects it would have on the surrounding area are significant. Secondly, the appellant asserts that by limiting public hearings on the permit amendment to those held before the City Council, review of these substantial project changes and their effects by the Planning Commission was circumvented. In the appellant's opinion, such a process limits the opportunity of the public to adequately review a development proposal. Finally, the appellant notes that the applicants made serial verbal changes to the project during the hearing on the project. From the appellant's perspective, this further stymied the public's ability to track and comment on the project changes. It should be noted that none of the procedural contentions allege an inconsistency of the approved project with the certified LCP. That is, rather than challenging the project as approved, the appellant challenges the process leading up to the County's approval. Although the below analysis addresses these procedural complaints, the Commission also finds that these procedural complaints fail to allege an inconsistency of the approved project with the certified LCP. Therefore, the contentions are not valid grounds for appeal.

Determinations Regarding the Materiality of a Permit Amendment

Section 156.115 of the Coastal Zoning Regulations establishes the procedure by which coastal development permit amendments are to be processed by the City. The regulations require that applications for amendments be made to the Director of Community Development.

The Director is granted considerable latitude under the LCP to determine whether an amendment comprises an "immaterial amendment." Section 156.115(C) states that if, in the opinion of the Director of Community Development, the amendment

is of a minor or trivial nature, with no impacts not already assessed in the original permit action, and generally in keeping with the action of the appropriate approving authority, the decision on the amendment may be made by the Director. However, if timely written objection is received, the amendment is to be processed consistent with the procedures for the original permit. In this case, following the Director's approval of the requested permit changes as an immaterial amendment, the Community Development Department received six letters of objection within the specified 10-day appeal timeframe. The Director's action on the permit amendment was voided and the application was forwarded to the City Council for consideration. Following a continued hearing on April 3, 2001, the City Council approved the permit amendment request on April 17, 2001. Therefore, the permit amendment request was ultimately considered by the City Council, and the public was provided an opportunity to present testimony to the City on the requested amendment as it would have had the amendment request been processed by the City as a material amendment from the beginning.

Procedures for Permit Amendments

With respect to the City's decision not to refer the permit amendment application to its Planning Commission and instead bring the amendment directly before the City Council, Section 156.100 establishes the "original permit procedures" referred to in foregoing Section 156.115. Section 156.100(A) specifically holds that, "(a)ction to approve, condition or deny a coastal development permit [and amendments thereto] shall be taken only by the Director of Community Development or the City Council." The code does not provide for review of coastal development permits by the Planning Commission. The initial action on the requested coastal development permit amendment was taken by the Community Development Director, and upon the submission of letters of objection, the permit amendment was referred to the City Council for action consistent with these code provisions.

Provisions for Revising Applications During Public Hearings / Public Noticing Requirements for Permit Amendments

The coastal zoning standards do not specifically address provisions for making project modifications during hearings or the degree to which modifications which alter the original permit amendment application require their own public notice and hearings. The local record does show that the City sent separate notices for the April 3, 2001 and April 17, 2001 hearings, on March 26, 2001 and April 9, 2001, respectively. These notices contained differing descriptions as to the permit amendments being requested. The change in the April 17, 2001 hearing notice presumably reflected the project modifications that had been made at or subsequent to the April 3, 2001 Council meeting. Therefore, the public was afforded numerous opportunities to testify on the project before the City Council and express their concerns with the project.

3. Conclusion.

The Commission finds that, for the reasons discussed above, the appeal raises a substantial issue with respect to the requirements of the certified LCP regarding off-street parking and the public access policies of the LCP and the Coastal Act. In addition, the Commission finds that the appeal raises a substantial issue with respect to conformance of the approved project with the policies of the LCP concerning the protection of environmentally sensitive aquatic resources and the management of stormwater runoff to ensure coastal water quality.

PART TWO – DE NOVO ACTION ON APPEAL

STAFF NOTES:

1. City and Commission Permit Jurisdictions Over Site.

As detailed in Findings Section II.B of the first part of this report, on March 16, 1999, the Eureka City Council initially approved Coastal Development Permit No. CDP-3-97 for the subject development. At the time of the City's action on the project, survey records indicated the northernmost portions of the project site extending past the mean high tide line along the City's frontage of Humboldt Bay and into the Commission's original coastal development permit jurisdiction. Consequently, following the local agency permit action, on November 30, 1999 the applicants submitted an application to the Commission's offices for those portions of the project understood to be at or below the mean high tide line.

Section 30519(b) of the Coastal Act indicates that after certification of an LCP, the Commission retains coastal development permit jurisdiction over tidelands, submerged lands, or on public trust lands, whether filled or unfilled, lying within the coastal zone. No portion of the project site is within submerged areas, and the site's northern property boundary corresponds to the "settlement line" reached between the City and the State Lands Commission (see Exhibit Nos. 10 and 11). This agreement effectively extinguished public trust status over any of the former submerged or tidelands lying beneath the project site. Since receipt of the appeal filed on the City's approval of an immaterial amendment to the project in May 2001, the applicants contracted a hydrographic re-survey of the project site's bay frontage. The survey found that the location of the mean high tide line to be approximately 20 feet bayward of where the datum was originally thought to lie. According to the surveyor's letter-report (Pacific Affiliates, 2001; see Exhibit No. 11), the correct location of the mean high tide line is the top of the low bank at the edge of Humboldt Bay, roughly co-terminus with the property's northern boundary. Accordingly, securement of a coastal development permit from the Commission would not be required for the project because the project lies entirely within the permit jurisdiction of the City of Eureka. Commission staff have since returned the applicants' permit application materials and are processing a refund of their submitted permit fees.

2. Procedure.

If the Commission finds that a locally approved coastal development permit raises a Substantial Issue with respect to the policies of the certified LCP, the local government's approval no longer governs, and the Commission must consider the merits of the project with the LCP *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the City), or deny the application.

3. **Incorporation of Substantial Issue Findings.**

The Commission hereby incorporates by reference the Substantial Issue Findings above.

4. **Submittal of Additional Information by the Applicant.**

For purposes of *de novo* review by the Commission, the applicants have provided Commission staff with supplemental information including a revised project description and revised project plans. The supplemental information provides clarification of the proposed project and additional information regarding issues raised by the appeal that was not part of the record when the City originally acted to approve the coastal development permit immaterial amendment. In addition, as further described in Findings Section IV.B below, the applicants have amended the permit application to include additional on- and off-site parking to serve the project, a contribution of in-lieu parking fees by the City's Redevelopment Agency, revised the list of possible uses within the proposed buildings to uses that have fewer required off-street parking spaces, and has further described stormwater treatment facilities and landscaping for the site.

I. **MOTION, STAFF RECOMMENDATION *DE NOVO*, AND RESOLUTION:**

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-EUR-01-029 subject to conditions.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified City of Eureka LCP and is located between the sea and the nearest public road to the sea and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or 2) there are

no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS: See attached.

III. SPECIAL CONDITIONS:

1. Revised Design and Construction Plans

A. PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-EUR-01-029, the applicants shall submit revised final design and construction plans for the review and approval of the Executive Director. The plans shall be consistent with the Commission's action on Coastal Development Permit No. A-1-EUR-00-029 and shall substantially conform with the preliminary plans prepared by John Ash Group, Architects, dated February 13, 2002 and attached as Exhibit No. 4 of the staff recommendation except that the revised plans shall also provide for the following:

1) Parking Revisions

a. All required off-street parking spaces provided onsite conform to the prescriptive standards of Eureka Municipal Code Sections 155.115 through 155.123, including the following:

- Standard Parking Space Minimum Width (for spaces oriented 90° to aisle direction): 8' 6"
- Standard Parking Space Minimum Length (for spaces oriented 90° to aisle direction): 19'
- Minimum Aisle Width: 25'
- Parking space required to be located in a garage or carport shall be not less than 20 feet in length and 10 feet in width
- Compact Parking Space Minimum Width: 7' 6"
- Compact Parking Space Minimum Length: 16'
- Maximum percentage of Compact Parking Spaces: 25%
- Handicapped Parking Space Minimum Width: 14'
- Handicapped Parking Space Minimum Length: 19'
- Each parking space shall have unobstructed access from a street or alley or from an aisle or drive connecting with a street or alley without moving another vehicle;

- b. All loading areas shall conform to the prescriptive standards of Section 156.072(F) of the Coastal Zoning Regulations, and include two (2) loading areas, comprised as follows:
 - (1) One (1) large loading berth of not less than 45 feet in length and 12 feet in width, with an overhead clearance of not less than 14 feet; and
 - (2) One (1) small loading berth of not less than 25 feet in length and 12 feet in width, with an overhead clearance of not less than 14 feet; and
- c. A parking layout diagram depicting the location and dimensions of all 87 onsite off-street parking spaces conforming to the required criteria.
- 2) Landscaping Revisions
 - a. A planting schedule which ensures that all planting shall be completed within 60 days after completion of construction;
 - b. All required plantings shall be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;
 - c. Plantings within the "E" Street view corridor area shall be limited to seeded grass lawns, sodded turf, or other low-growing groundcovers whose height at maturity will not exceed one foot (1') above finished grade;
 - d. A minimum of four percent (4%) of the interior of a proposed 69-space exterior parking area shall be landscaped with trees and other plant materials suitable for ornamentation. Landscaped areas shall be distributed throughout the proposed parking area;
 - e. A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features; and
 - f. A schedule for the initial installation of plants and a maintenance plan for the upkeep and replacement as needed for all plantings.

3) Utility Revisions

- a. All utilities serving the project site shall be installed underground in conformance with LUP Policy 4.A.8 of the City of Eureka's certified LCP; and
- b. A project site map depicting the location of all utility service infrastructure indicating their installation occurring below the finished grade of the site improvements.

4) Lighting Revisions

- a. All exterior lights, including lights attached to the outside of any structures, shall be low-wattage, non-reflective and have a directional cast downward and shielded so as not to illuminate land outside the project property line; and
- b. A revised site plan map and building elevations depicting the location of all exterior buildings, grounds and parking lot lighting, accompanied by manufacturer's specifications and typicals for each type of fixture that demonstrate that the lights will be low-wattage, non-reflective and have a directional cast downward.

5) Signage Revisions

- a. All signage at the project site shall conform to LUP Policy 1.I.6 and the prescriptive standards of Eureka Municipal Code Sections 156.072(G) of the City of Eureka's certified LCP and shall include no neon or flashing signage; and
- b. Sign plans depicting all proposed signage to be placed at the project site, indicating their size, height, color, and construction materials.

6) Solid Waste Storage (Dumpster Enclosure) Revisions

- a. All solid waste trash dumpsters and trash enclosures shall be sited and designed in conformance with LUP Policy 1.J.2; and
- b. A site plan depicting all dumpster and trash enclosure areas to serve the project site tenants, designed with adequate screening to prevent impacts to visual resources and consolidated within the alley areas of the site.

7) Bicycling Racking Revisions

- a. The project shall comply with the requirements of LUP Bicycle Transportation Policy 3.C.4 by installing secure bicycle rack facilities at appropriate locations at the project site in conformance with the following minimum standards:
 - (1) One (1) four-cycle rack within the Building "A" parking enclosure.
 - (2) One (1) four-cycle rack within the Building "A" parking lot.
 - (3) One (1) six-cycle rack within the "E" Street view corridor.
 - (4) Required bicycle racks shall be designed to:
 - allow secure locking of bicycles to them without undue inconvenience and provide reasonable safeguards from accidental damage;
 - hold bicycles securely, and support the frame so that so that the bicycle cannot be pushed or fall to one side in a manner that will damage the wheels or components;
 - accommodate locking the frame and the front wheel to the rack with a standard high-security U-shaped shackle lock, if the bicyclist does not remove either wheel from the bicycle; and be securely anchored.
- b. A map showing the type, size, and location of all required bicycling racks that will be on the developed site; and
- c. Technical specifications detailing rack dimensions, capacities, and anchoring typical.

8) Foundation, Grading, and Drainage Revisions

- a. All site development shall be consistent with all recommendations contained in the Engineering Geologic Reports prepared by Taber Consultants and dated June 4, 1994 and January 3, 1997, and the geology and seismicity section of the Final Environmental Impact Report's Mitigation and Monitoring Program prepared for the project by Environmental Science Associates, dated September 4, 1998, including, but not limited to, the following recommendations:
 - i. Site structures shall be engineered and constructed to meet the most recent version of the Uniform Building Code standards for Seismic Zone 4.

- ii. All occupied building structures shall be founded on cast-in-place re-bar caged, concrete piles set to bear on bedrock strata underlying the project site.
 - iii. All fill and structural section materials within 12 inches of the structural subgrade section shall be compacted to at least 95 percent relative compaction, per ASTM D1557.
- b. Evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluations approved by the California Coastal Commission for the project site.
- 9) Exterior Materials Revisions
 - a. All exterior materials, including the roofing materials and windows, shall be non-reflective to minimize glare.
- B. The permittee shall undertake development in accordance with the approved revised plans. Any proposed changes to the approved revised plans shall be reported to the Executive Director. No changes to the approved revised site plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Future Development

- A. This permit is only for the development described in Coastal Development Permit No. A-1-EUR-00-029. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the parcel(s) governed by CDP No. A-1-EUR-01-029. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d), Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. A-1-EUR-00-029 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- B. **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-EUR-00-029**, the applicants as prospective owners of the parcel(s) governed by CDP No. A-1-EUR-01-029 pursuant to the applicable development agreement between the City and the applicants, shall ensure that the landowner(s) of the entirety of all parcel(s) governed by CDP No. A-1-EUR-01-029 have

executed and recorded a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the restricted area. The deed restriction shall include legal descriptions of the entirety of all parcel(s) governed by CDP No. A-1-EUR-01-029. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3. Compliance with Off-Street Parking Standards – Onsite and Offsite Facilities, and In-Lieu Fee Payment

A. Consistent with the terms of the revised project description as proposed by the Applicants in Exhibit No. 4 of the staff recommendation, the permittee shall satisfy the City off-street parking standards for the creation of 145 spaces through a combination of onsite parking spaces, reserved off-site spaces, and payment of fees into the City's Parking In-Lieu Fund as follows:

- On-site Parking Facilities: A total of 87 off-street parking spaces (i.e., 18 internal for residences, 69 external for residents, tenants, and customers) spaces shall be developed at the project site as illustrated on "Site Plan A0.1" as contained in Exhibit No. 4, herein.
- Off-site Parking Facilities: A total of 20 existing off-street spaces within the City of Eureka's First and "C" Streets public parking lot shall be designated for "parking by permit only" for exclusive use by employees of project site commercial and professional office tenants as provided for by the authorization granted by the City Parking Place Commission, dated October 9, 2001, attached to the staff recommendation as Exhibit No. 10.
- City Contribution to Parking In-lieu Fee Program: An in-lieu parking fee in the amount of \$150,000 for the creation of 21 spaces, based on an estimate of \$7,000 per parking space, has been made to the Waterfront Parking In-Lieu Fee fund established by the City of Eureka for development of a parking facility within the designated Waterfront project area described in the letter dated February 11, 2002 from the City Manager attached as Exhibit No. 10 of the staff recommendation.

B. **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-EUR-01-029**, the applicants shall submit for the review and approval of the Executive Director evidence that: (1) 20 off-site parking spaces within the First and "C" Street lot have been posted for sanctioned use by the Eureka Pier project site employees; (2) fees in the amount of \$150,000 have been deposited within the City of Eureka Waterfront Parking In-Lieu Fee Program Fund for development of a parking facility within the designated Waterfront project area described in the letter dated February 11, 2002 from the City Manager attached as

Exhibit No. 10 of the staff recommendation; (3) the \$150,000 that has been deposited within the City of Eureka Waterfront Parking In-lieu Fee Program Fund will be used solely for development of a parking facility within the designated Waterfront project area described in the letter dated February 11, 2002 from the City Manager attached as Exhibit No. 10 of the staff recommendation; and (4) the \$150,000 that has been reserved for development of a parking facility within the designated Waterfront project area described in the letter dated February 11, 2002 from the City Manager that is attached as Exhibit No. 10 of the staff recommendation will be used solely as mitigation for the development governed by CDP No. A-1-EUR-01-029.

4. Erosion and Run-Off Control Plan

A. PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-EUR-00-029, the applicants shall submit, for review and approval of the Executive Director, a plan for erosion and run-off control.

1) EROSION CONTROL PLAN COMPONENT

a. The erosion control plan shall demonstrate that:

- (1) During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources;
- (2) The following temporary erosion control measures, as described in detail within in the "California Storm Water Best Management Commercial-Industrial and Construction Activity Handbooks, developed by Camp, Dresser & McKee, *et al.* for the Storm Water Quality Task Force, shall be used during construction: *Structure Construction and Painting* (CA3), *Material Delivery and Storage* (CA10), *Scheduling* (ESC1), *Mulching* (ESC11), *Stabilized Construction Entrance* (ESC24), *Silt Fences* (ESC50), *Straw Bale Barriers* (ESC51), and *Storm Drain Inlet Protection* (ESC53); and
- (3) Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources.

b. The plan shall include, at a minimum, the following components:

- (1) A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control;
- (2) A site plan showing the location of all temporary erosion control measures;

- (3) A schedule for installation and removal of the temporary erosion control measures;
- (4) A site plan showing the location of all permanent erosion control measures; and
- (5) A schedule for installation and maintenance of the permanent erosion control measures.

2) RUN-OFF CONTROL PLAN COMPONENT

a. The runoff control plan shall demonstrate that:

- (1) Runoff from the project shall not increase sedimentation into coastal waters;
- (2) Runoff from all roofs, patios, driveways, parking lots, and other impervious surfaces on the site shall be collected and discharged into an oil-water separator system to avoid sedimentation either on or off the site. The system shall be designed to treat or filter stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event;
- (3) The following temporary runoff control measures, as described in detail within in the "California Storm Water Best Management Commercial-Industrial and Construction Activity Handbooks, developed by Camp, Dresser & McKee, *et al.* for the Storm Water Quality Task Force, shall be used during construction: *Paving Operations* (CA2), *Structure Construction and Painting* (CA3), *Material Delivery and Storage* (CA10), *Solid Waste Management* (CA20); *Hazardous Waste Management* (CA21), *Concrete Waste Management* (CA23), *Sanitary/Septic Waste Management* (CA24), *Vehicle and Equipment Cleaning* (CA30), *Vehicle and Equipment Fueling* (CA31), and *Employee/Subcontractor Training* (CA40); and
- (6) The following permanent runoff control measures, as described in detail within in the "California Storm Water Best Management Commercial-Industrial and Construction Activity Handbooks, developed by Camp, Dresser & McKee, *et al.* for the Storm Water Quality Task Force, shall be installed: *Non-Stormwater Discharges to Drains* (SC1), *Buildings and Grounds Maintenance* (SC10), *Employee Training* (SC14), *Oil/Water Separators and Water Quality Inlets* (TC7), *Material Use* (CA11), and *Spill Prevention and Control* (CA12).

b. The plan shall include, at a minimum, the following components:

- (1) A narrative report describing all temporary runoff control measures to be used during construction and all permanent runoff control measures to be installed for permanent runoff control;
 - (2) A site plan showing the location of all temporary runoff control measures;
 - (3) A schedule for installation and removal of the temporary runoff control measures;
 - (4) A site plan showing the location of all permanent runoff control measures; and
 - (5) A schedule for installation and maintenance of the roof drainage media infiltration interceptor, parking lot oil/water separators, and restaurant grease traps; and
 - (6) A site plan showing finished grades (at 1-foot contour intervals) and drainage improvements.
- B. The erosion and runoff control plan shall, prior to submittal to the Executive Director, be reviewed and certified by a qualified professional to ensure that the plan is consistent with the drainage recommendations of the letter-report from the applicants' civil engineer (Pacific Affiliates, Inc.), dated December 12, 2001, attached as Exhibit No. 4.
- C. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. **Tsunami Safety Plan.**

- A. **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-EUR-01-029**, the applicants shall submit, for the review and approval of the Executive Director, a plan for mitigating the hazards associated with tsunamis.

- 1) The plan shall demonstrate that: (a) the existence of the threat of tsunamis from both distant and local sources will be adequately communicated to all tenants, employees, commercial patrons, and residents, (b) information will be made available regarding personal safety measures to be undertaken in the event of a potential tsunami event in the area, (c) efforts will be provided to assist physically less physically mobile tenants, employees, patrons, and residents in seeking evacuation from the site during a potential tsunami event, and (d) staff will be adequately trained to carry out the safety plan.
- 2) The plan shall include, at a minimum, the following components:

- Tsunami Information Component, detailing the provision of informational materials to residential tenants and the posting of placards, flyers, or other materials at conspicuous locations within each occupied leasing unit within the buildings, provided in an appropriate variety of languages and formats explaining tsunami risks, the need for evacuation if strong earthquake motion is felt or alarms are sounded, and the location of evacuation routes;
 - Tsunami Evacuation Assistance Component, detailing the efforts to be undertaken by commercial, professional office, and rental property management staff to assist the evacuation of physically less mobile persons during a tsunami event; and
 - Staff Training Component, detailing the instruction to be provided to all commercial, professional office, and rental property management to assure that the Tsunami Safety Plan is effectively implemented.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Encroachment Permit

PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-EUR-01-029, the applicants shall submit to the Executive Director for review and written approval, evidence of a grant of authority, encroachment permit or exemption from the City of Eureka. The authorization, encroachment permit or exemption shall evidence the ability of the applicants to undertake the development authorized by CDP No. A-1-EUR-01-029 from the City Boardwalk or within any adjacent public street rights-of-way as conditioned herein.

7. Retention of View Corridor.

- A. For the life of the project authorized by Coastal Development permit No. A-1-EUR-00-029, the 25-ft.-wide view corridor as depicted in Exhibit No. 4 of the staff recommendation shall be maintained open and unobstructed from the finished grade for the site to the height of the base of the walkway bridge (± 12 feet above finished grade) over the "E" Street right-of-way connecting the two buildings. No structural improvements, large materials or landscaping, other than the landscaping specifically provided for in Special Condition 1.A.(2)c, shall be placed or stored within the view corridor or in a manner that would obstruct views through the corridor. In addition, the siding of both floors of the walkway bridge connector over the "E" Street right-of-way shall be constructed and maintained

over the life of the project as see-through glass and the interior walkways of the connector shall be kept free of furniture and other materials to preserve views through the structure.

- B. **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-EUR-00-029**, the applicants as prospective owner(s) of the parcel(s) governed by CDP No. A-1-EUR-01-029 pursuant to the applicable development agreement between the City and the applicants, shall ensure that the landowner(s) of the entirety of all parcel(s) governed by CDP No. A-1-EUR-01-029 have executed and recorded a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the restricted area. The deed restriction shall include legal descriptions of the entirety of all of the parcel(s) governed by CDP No. A-1-EUR-01-029. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

8. **Construction Responsibilities and Debris Removal**

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion;
- (b) Any and all debris resulting from construction activities shall be immediately removed from the bay frontage following completion of construction;
- (c) No machinery shall be allowed at any time in the intertidal zone;
- (d) Concrete trucks and tools used for construction of the approved development shall be rinsed at the specific wash-out area(s) identified in the Erosion and Runoff Control Plan approved for the project by the Commission; and
- (e) Staging and storage of construction machinery and storage of debris shall not take place on the City Boardwalk or any public street rights-of-way except in those locations and for those time periods as specified in the Erosion and Runoff Control Plan approved for the project by the Commission. Temporary construction barriers may be installed along the inland edge of the City Boardwalk but shall not encroach into the pedestrian area of the boardwalk.

9. **Archaeological Resources**

- A. The applicant shall comply with all recommendations and mitigation measures contained in the cultural resources chapter of the environmental impact report

prepared for the project by Environmental Science Associates, dated September 4, 1998.

- B. If an area of cultural deposits is discovered during the course of the project, all construction shall cease and shall not recommence except as provided in subsection (c) hereof. A qualified cultural resource specialist shall analyze the significance of the find.
- C. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a supplementary archaeological plan for the review and approval of the Executive Director.
 - (i) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are *de minimis* in nature and scope, construction may recommence after this determination is made by the Executive Director.
 - (ii) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not *de minimis*, construction may not recommence until after an amendment to this permit is approved by the Commission.
 - (iii) The applicant shall undertake development in accordance with the approved supplemental Archaeological Plan. No changes to the approved supplementary archaeological plan shall occur without a Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

10. Assumption of Risk, Waiver of Liability and Indemnity Agreement

- A. By acceptance of this permit, the applicants and landowner(s) acknowledge and agree: (i) that the site may be subject to hazards from erosion, earth movement, liquefaction-related ground subsidence or lateral spreading, tsunami inundation, and flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

- B. **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-EUR-00-029**, the applicants as prospective owners of the parcel(s) governed by CDP No. A-1-EUR-01-029 pursuant to the applicable development agreement between the City and the applicants, shall ensure that the landowner(s) of the entirety of all parcel(s) governed by CDP No. A-1-EUR-01-029 have executed and recorded a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the restricted area. The deed restriction shall include legal descriptions of the entirety of all of the parcel(s) governed by CDP No. A-1-EUR-01-029. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

11. **Subdivision Map Act Approvals**

A. **Revised Tentative Map**

PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-EUR-01-029, the applicants shall submit for the review and approval of the Executive Director a copy of the revised tentative map for the proposed condominium subdivision that has been approved by the City of Eureka. The revised tentative map shall be consistent with the terms of the revised project description as proposed by the applicants in Exhibit No. 4 of the staff recommendation and also with the terms and conditions of Coastal Development Permit No. A-1-EUR-01-029 and shall depict all easement areas consistent with Coastal Development Permit No. A-1-EUR-01-029. All development shall take place consistent with the revised tentative map as approved by the Executive Director and the Commission. Any proposed changes to the approved revised tentative map shall be reported to the Executive Director. No changes to the approved revised tentative map shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

B. **Final Subdivision Map**

PRIOR TO RECORDATION OF THE FINAL SUBDIVISION MAP, the applicants shall submit for the review and approval of the Executive Director a copy of the final subdivision map approved by the City of Eureka. The final map shall be consistent with the terms and conditions of Coastal Development Permit No. A-1-EUR-01-029 as well as the tentative map approved by the Executive Director and the Commission, and shall depict all easement areas consistent with Coastal Development Permit No. A-1-EUR-01-029. The applicant shall record the final subdivision map consistent with the revised final subdivision map as approved by the Executive Director.

12. Conditions Imposed By Local Government

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares as follows:

A. PROJECT AND SITE DESCRIPTION

As detailed above in Section II.C of Part One of this report, and hereby incorporated by reference, the proposed project would entail the development of two, three-story commercial/professional office/residential mixed-use complex on a vacant lot located between "D" and the mid-block of "E" and "F" Streets, along the City of Eureka's Humboldt Bay waterfront (see Exhibit No. 2). The subject property is located approximately 3½ blocks from the closest Humboldt Transit Authority bus stop.

The northern property boundary of the project site is co-terminus with the existing armored shoreline bank of Humboldt Bay beneath the newly constructed City Boardwalk. A recent hydrographic survey performed since the City took action on the project found the entire project site to be located inland of the Mean High Tide Line. Therefore, the project does not include the placement of fill in coastal waters and the project site does not include the actual shoreline edge of the bay.

The project is currently owned by the City of Eureka's Redevelopment Agency. The project is subject to the conditions of a public-private Disposition and Development Agreement (DDA) negotiated between the City and the applicants. Accordingly, the applicants are acting under the authority of the City owners of the project site to pursue the required coastal development permit for the development.

A principal element of the DDA is the provision that the property will be sold to the applicants upon satisfactory completion of several pre-disposition conditions, most notably that the applicants submit and obtain approval from the Redevelopment Agency of: (1) preliminary plans for the development of the site; and (2) a proposed financing plan for the site improvements. However, the DDA does not require that all permits be required or the site improvements be constructed before ownership of the property could be transferred from the City to the applicants.

The buildings to be developed on the 1¼-acre site would comprise a total of approximately 56,760-square-feet of gross floor area rising to an overall height of 44 feet. The two buildings would be connected at their second and third-story levels by an enclosed walkway spanning the foot of the "E" Street right-of-way. The sides of the

enclosed walkway would be glazed to make the walkway more transparent and help retain a view corridor down the "E" Street right-of-way to the bay. At ground level, the development would be oriented to adjoin and abut to an approximately 260-foot segment of the City of Eureka's Boardwalk, which spans the City's central waterfront from "C" to "F" Streets. As designed, the front of the project would be oriented towards Humboldt Bay, allowing for direct access to the boardwalk from the ground-level commercial space entries, exterior parking lot, and the "E" Street breezeway between the buildings.

For purposes of *de novo* review by the Commission, the applicants submitted a revised project description and project plans which differs from the project description and plans approved by the City and subject to the appeal. The revised project does not change the exterior of the proposed buildings, but changes the amount of interior space devoted to the mix of retail, office, and residential uses from what had been approved by the City prior to the appeal to the Commission. The changes have the result of reducing the total amount of required parking from 145 spaces to 121 spaces.

As proposed under the revised description and plans, the first floor of both buildings are proposed to be developed with an assortment of visitor-serving commercial uses to support and enhance the public coastal access and coastal recreational opportunities provided by the adjoining City boardwalk, including retail shops featuring locally produced wares, fish markets, and restaurants. At the second floor level of both buildings, the applicants are proposing to develop a mixture of professional office and rental apartment spaces ranging in leaseable floor area from 1,935 to 2,228 square feet in size. The applicants have identified prospective professional office tenants to include architects, engineers, yacht broker, sea kayak outfitters, and insurance brokers. The project's third floor levels would contain a total of eight condominium units, four in each proposed building, ranging from 1,935 to 2,228 square feet in size.

Table 1, below, summarizes the gross floor areas and proposed uses on each story within the two buildings:

Table 1: Summary of Proposed Mixed Uses – "Eureka Pier" Project

Building / Level	Gross Floor Area (sq. ft.)	Leaseable Floor Area (sq. ft.)	Proposed Uses
Building "A"			
- 1 st Floor	5,700	5,420	Retail Sales & Service, Restaurant
- 2 nd Floor	9,775	9,672	Professional Offices, 4 Residential Dwelling Units
- 3 rd Floor	10,965	8,411	4 Condominium Units
Building "B"			
- 1 st Floor	9,600	9,087	Retail Sales & Service
- 2 nd Floor	9870	9,412	Professional Offices; 2 Residential Dwelling Units

Building / Level	Gross Floor Area (sq. ft.)	Leaseable Floor Area (sq. ft.)	Proposed Uses
- 3 rd Floor	10,450	8,293	4 Condominium Units
Breezeway			
- 1 st Floor	n/a	n/a	n/a
- 2 nd Floor	200	0	Covered walkway common area
- 3 rd Floor	200	0	Covered walkway common area

* Exclusive of balconies, stairwells, elevator shafts, and other unoccupied spaces

In addition to the building improvements, the project as revised includes an 18-space ground-level interior parking garage within Building "A" for exclusive use by occupants and guests of the development's 14 residences, and a 69-space exterior parking to serve the tenants, employees and patrons of the commercial storefronts and professional offices. The parking lots would be inter-connected to each other by a 15-foot-wide, one-way paved alley constructed along the property's southern boundary at the mid-block location between First Street and the bay frontage. Pedestrian walkways would also be developed around the perimeters of both buildings and within the "E" Street breezeway.

The project has been further revised for the Commission's *de novo* consideration to include additional parking enhancements. The City of Eureka has authorized the use of 20 spaces in an under-utilized public parking lot located at First and "C" Streets, approximately one block from the project site, for "parking by permit only" use by employees of the commercial and office spaces (see Exhibit No. 10). In addition, the City of Eureka has pledged to contribute \$150,000 to the City's parking in-lieu fund to cover the costs for development of the 21 additional spaces required for the project (see Exhibit No. 10).

The project has also been further amended to include a preliminary stormwater treatment system. The system would collect all runoff from impervious surfaces at the site (i.e., roof, walkway, and parking lot drainage) and convey the water into two below-grade oil/water separators.

B. LAND USE AND DEVELOPMENT

1. New Commercial Development in Core and Waterfront Areas.

Summary of Applicable LCP Provisions

The City's LUP contains numerous policies applicable to development of the proposed development type and site. LUP Core Area Concentrated Mixed Use Policies 1.B.1 through 1.B.4 state that the City should promote and encourage projects that would: (a) consist of concentrated commercial development; (b) entail mixed uses; (c) include housing and/or professional offices in upper stories of buildings; (d) reinforce viable existing uses such as fishing; (e) be pedestrian-oriented; (f) attract numerous patrons to the City's commercial downtown; and (g) have the maximum positive effect on the

economic and social viability of the Core Area. Further, with respect to new development along the waterfront, LUP Waterfront Policy 1.D.5 directs the City to "... *expand and encourage opportunities for recreational and visitor-serving uses and activities along the waterfront, including visitor accommodations, boating facilities, water transportation, fish, and other similar attractions.*" LUP Commercial Development Policy 1.L.7 further states that, "(t)he City shall require major commercial development to consolidate and control access to avoid congestion, confusion, and traffic conflicts."

CZR Section 156.072(C)(7) provides for "*visitor-serving facilities, including antique shops, art galleries, restaurants (but not including drive-in establishments), bars and taverns, and other establishments that offer retail sales and services to visitors*" as a principally permitted use in Waterfront Commercial (CW) zoning districts. In addition, CZR Section 156.072(C)(8) allows for "*offices related to or dependent upon coastal-dependent or coastal-related uses*" by right in CW zones. CZR Section 156.072(D)(1)(b) further provides for "*administrative, business, and professional offices, except medical and dental offices*" as conditional uses subject to findings of consistency with LCP policies and standards, and that 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. CZR Section 156.072(D)(1)(III) provisionally allows those residential uses permitted in the Multi-Family Residential (RM) Districts (e.g., combinations of attached or detached dwelling units, including duplexes, multi-family dwellings, dwelling groups, row houses, and townhouses) in CW zones provided the units are located above the ground floor of commercial structures, the minimum size of such dwelling units shall not be less than what is required in the City's Building and Housing Code, and a use permit is secured.

Analysis

As described in Findings Section IV.A above, the applicants are proposing to construct a compact, multi-use commercial/professional office/residential complex comprising a total of approximately 56,760 square feet of gross floor area, contained in two interconnected three-story buildings. The ground floor levels of both buildings are proposed to be developed with an assortment of visitor-serving commercial uses with a retail sales & service and food service orientation. On the second floor level of both buildings the applicants are proposing to develop professional office suites and a total of six rental apartments. Eight condominium residential units would be developed on the project's third-story levels. The proposed development site has been designed to interface with the City's boardwalk, with direct ingress/egress to and from the boardwalk available at the buildings' ground floors.

Thus, the Commission concludes that the development of the proposed mixed-use project at the subject site is consistent with all applicable LCP provisions, including LUP Core Area Concentrated Mixed Use Policies 1.B.1 through 1.B.4, Waterfront Policy 1.D.5, and

Commercial Development Policy 1.L.7. In addition, all of the proposed and prospective uses of the buildings are recognized as either principally or conditionally permitted uses within the CW zoning district in which the project site is located. Therefore, the Commission finds the proposed development is consistent with the new development policies of the certified LCP for commercial and mixed use development within Eureka's waterfront and core areas because the project would: (a) consist of concentrated commercial development; (b) entail mixed uses; (c) include housing and/or professional offices in upper stories of buildings; (d) reinforce viable existing uses such as fishing; (e) be pedestrian-oriented; (f) attract numerous patrons to the City's commercial downtown; (g) have the maximum positive effect on the economic and social viability of the Core Area; (h) expand and encourage opportunities for recreational and visitor-serving uses and activities along the waterfront; (i) consolidate and control access to avoid congestion, confusion, and traffic conflicts; and (j) be consistent with the purpose and intent of the Waterfront Commercial zoning district.

2. Visual Resource Protection and Compatibility with Surrounding Character.

Summary of Applicable LCP Provisions

LUP View Corridors Policy 1.H.1 states:

The City shall promote unobstructed view corridors to the waterfront from public streets and other public spaces through careful building siting and effective street tree maintenance.

CZR Section 156.054 states, in applicable part:

(A) *Scenic coastal areas.*

(1) *The following shall be considered scenic coastal areas of public importance:*

(a) *Woodley Island, Daby Island, Indian Island...*

(B) *Conditions of development near scenic areas. Permitted development within scenic coastal areas, where otherwise consistent with the policies of this Local Coastal Program, or except where designated within a MG District, shall:*

- (1) *Minimize the alteration of natural landforms;*
- (2) *Be visually compatible with the character of the surrounding area;*
- (3) *Be sited and designed to protect views to and along the ocean and scenic coastal areas;*
- (4) *Wherever feasible, restore and enhance visual quality in visually degraded areas. [emphases added]*

LUP Architectural / Landscape Character Policy 1.I.5 states:

The City shall require that new buildings in the Core Area be compatible with the surrounding building scale, character, and materials. In no event shall a new building exceed 75 feet in height. The City shall require that facades on new buildings in the Core Area are a minimum of 18 to 20 feet tall, including decorative front cornices.

LUP Architectural / Landscape Character Policy 1.I.6 states:

The City shall require that signs in the Core Area are appropriate to the pedestrian environment and to the scale and character of the buildings they serve.

LUP Architectural / Landscape Character Policy 1.I.7 states:

The City shall maintain the basic scale and character of the traditional grid street pattern in the Core Area, including street dimensions and alignment, sidewalk width, curb lines, and parallel parking.

LUP Architectural / Landscape Character Policy 1.I.8 states:

The City shall promote the creation of a strong and appealing retail environment by requiring the use of transparent commercial storefronts (i.e., windows and doors) and continuous and compatible building facades. Conversely, the City shall prohibit the creation of blank wall and discontinuity in building facades.

CZR Section 156.040(D) states, in applicable part:

Landscaping of parking facilities. In an OR, ML, RM, and all C Districts, not less than 4% of the interior of a proposed parking area shall be landscaped with trees and other plant materials suitable for ornamentation. Landscaped areas shall be distributed throughout the proposed parking area...

LUP Maintenance and Safety Policy 1.J.2 states:

The City shall work with property owners to ensure that rear entries to stores are attractive and alleys are well maintained. The City shall encourage consolidation of dumpster areas in alleys and shall require upgrading the visual quality of dumpster enclosures.

Analysis

The proposed project site is located along the City's central waterfront with Humboldt Bay at the foot of "C" and "D" Streets. The site lies directly across the bay from Woodley and Indian Islands, and is visible from these "scenic coastal areas." The parcel is not located within a formally designated "Highly Scenic Area." (Note: The City's LCP does not make that distinction for any specific sites, but focuses instead on protecting views within the "scenic coastal areas" visible from Highway 101 at the City's northern entrance, the islands within Humboldt Bay inside the City limits, wetland, riparian, and wildlife refuge areas along the sloughs along the City's eastern edge, and the "scenic routes" described in the City's General Plan.

Nevertheless, the bay front site for the proposed commercial visitor-serving mixed-use facility area is an area of notable visual interest and scenic qualities. This fact is reflected in the City's LUP, which sets forth in both general and very specific language as cited above, requirements for the protection of these scenic values and views. Though the site was previously occupied by a three-story fish processing and warehouse structure that spanned much of the lot, the property has been vacant since the dilapidated structure was demolished in mid-2001. The proposed commercial visitor-serving facility would reintroduce a significant urban-type structure into the viewshed of this scenic area. The proposed complex would be highly visible from several public streets within the city, as well from the bay islands and boats on the bay, and would affect views to and along the ocean.

a. Existing Visual Resources in the Project Vicinity

As no site improvements are currently developed on the project property, viewing opportunities currently exist laterally along the entire 440-foot width of the property. Though impressive where they can be observed, coastal views for motorists through the project site from Front Street are somewhat fleeting due to the presence of intervening commercial structures in the area which limit the expanse of bay vistas to the open spaces between buildings. In addition, the recently constructed City boardwalk just offshore of the project site further limits near shore views to and along the coast. From the fixed vantage point of the foot of "D" and "E" Street at the mid-block between First Street and the bay oriented seaward, the project site's coastal viewshed consists of an approximately 175° arc encompassing the tree-silhouetted shoreline of Woodley and Indian Islands, the moorages of the Woodley Island marina, the central span of the A.M. Bistrin Memorial Bridge (SR255), and the mid-channel bay waters of Humboldt Bay to the north, northeast and northwest. Portions of the Samoa Peninsula, including the Louisiana-Pacific Corp. pulp mill and Simpson Timber Company sawmill, are also visible beyond Indian Island to the northwest and northeast.

b. Effects of the Project on Visual Resources in the First Street Area

The proposed new development at the site would consist of two buildings, spanning approximately 260 feet of the approximately 440-ft.-wide parcel and extending to a three-story height of 44 feet (see Exhibit No. 4). Building "A" would be constructed within an approximate 125-ft. x 106-ft. building envelope at the northeast corner of the property. Building "B" would similarly occupy an approximately 125-ft. x 100-ft. building envelope at the north-central portion of the site. An enclosed, elevated walkway would connect the second and third-story levels of the two buildings. At the ground level between the two buildings, an approximately 25-ft.-wide opening would be provided coinciding roughly with the alignment of "E" Street.

With the exception of the 25-ft.-wide ground-level opening between the buildings, site developments would extend nearly a full city block of the project parcel's overall 1½-block width. With the project improvements in place, major portions of the views to and along Humboldt Bay from First Street would be significantly obstructed by the development. Instead of the relatively panoramic views currently available through the site's entire bay frontage from "C" Street east to the mid-block point between "D" and "E" Streets, the viewing area along First Street would be reduced to several openings corresponding to the exterior parking lot between east of "D" Street and the breezeway between the buildings at the foot of "E" Street.

Furthermore, at nearly 23,000 square feet of ground-level building coverage and extending to a height of 44 feet, the mixed-use complex would be a relatively large structural development for downtown Eureka. Most of the north-central portion of the waterfront in the immediate vicinity of First Street is developed with one to two-story commercial structures ranging from approximately 3,500 to 21,500 sq. ft. in size. Several of the parcels in the immediate area to the west and east of the project site within the site's Commercial Waterfront zoning district are currently vacant and/or undergoing redevelopment. However, many structures comparable in bulk and scale can be found in the downtown area. The closest structure having approximately the same bulk and scale as that of the proposed mixed-use complex is the former Vance Hotel building. This four-story, approximately 20,000-sq.ft. ground-floor coverage commercial structure is located four blocks southeast of the project site at the corner of Second and "G" Streets within the City's commercial core area.

c. Conformance with LCP Coastal Visual Resources and Architectural Compatibility Policies

Any above ground development of the site would inevitably result in a loss of some coastal views. Recognizing that the core area of the City where the site is located is an urban area where development has historically been concentrated and views have been compromised by the presence of buildings on the site and in surrounding areas, the visual resource policies of the LCP for the core area of the City do not call for the protection of all views. Rather, the policies seek to protect view corridors and ensure that new development is compatible with the character of the area. The proposed project can be

approved if the Commission finds that the development is consistent with the applicable visual resources policies and standards of the City's certified LCP. LUP View Corridors Policy 1.H.1 directs the City to promote unobstructed view corridors to the waterfront from public streets and other public spaces through careful building siting. CZR Section 156.054 requires that development near coastal scenic areas minimize alteration of natural landforms, be visually compatible with the character of the surrounding area, be sited and designed to protect views to and along the ocean and scenic coastal areas, and wherever feasible, restore and enhance visual quality in visually degraded areas. LUP Architectural / Landscape Character Policy 1.I.5 requires that all new Core Area buildings be found compatible with the surrounding building scale, character, and materials, not exceed 75 feet in height, and that facades and front cornices be a minimum of 18 to 20 feet tall. LUP Architectural / Landscape Character Policy 1.I.6 requires Core Area signage be appropriate to the pedestrian environment and to the scale and character of the buildings they would serve. LUP Architectural / Landscape Character Policy 1.I.7 directs the City to maintain the Core Area's basic scale, character, grid street pattern, street dimensions and alignment, sidewalk width, curb lines, and parallel parking layout. LUP Architectural / Landscape Character Policy 1.I.8 requires commercial storefronts to develop appropriate fenestration to achieve a transparent appearance, continuous and compatible building facades, and avoid featureless and discontinuous building facades. CZR Section 156.040(D) requires that not less than 4% of the interior of a Commercial district parking areas be landscaped with trees and other plant materials suitable for ornamentation, distributed throughout the parking area. Finally, LUP Maintenance and Safety Policy 1.J.2 requires that the visual quality of dumpster enclosures be upgraded.

In regard to conformance of the proposed above-grade structures with Policy 1.H.1, the improvements have been sited such that views of the bay from the street ends of "D" and "E" Street remain open. With respect to the standards of CZR Section 156.054 and conformance with Policies 1.I.5, 1.I.7, and 1.I.8, the development would: (a) minimize site grading; (b) not exceed 75 feet in height; (c) have facades with minimum 18-20-ft heights; (d) reserve coastal viewing opportunities from the foot of "D" and "E" Streets; (e) provide numerous visual openings through windows and doors on all floors; (f) conform to the City's grid arrangement of streets, sidewalks, curbing, and on-street parking layout; and (g) significantly improve this current blighted portion of the City's waterfront.

As to the project's compatibility with its surroundings, the character of the area in proximity to the project site may best be described as "diverse." As discussed in Findings Section IV.A above, the site's Waterfront Commercial zoning allows for a wide variety of commercial, professional office, and residential uses and structures. The property also lies near the junction of several zoning districts, including coastal-dependent light manufacturing, general commercial, and natural resources. Given the wide variety of building types, styles, sizes, heights, and coverages that currently exist or would be allowed on adjoining properties by the City's zoning regulations, the construction of the

proposed mixed-use complex cannot, from a strictly architectural point of view, be determined to be out of character with the surrounding area.

In addition, the proposed development's multi-storied, hip-with-cross-gable roofs and other English Revival / Arts & Crafts stylizations would approximate that of several other prominent structures in the downtown area (i.e. Wharfinger Building, Humboldt County Library, Palmtag Building, Mansion House). As the project architect has indicated in his letter revising the project description (see Exhibit No. 4) that the architectural style is meant to represent a modern distillation of classic architectural styles found in the Eureka area including elements of Victorian, Craftsman, and other schools of architecture. In addition, although the proposed 44-ft. height for the buildings would be greater than that of many nearby structures, the development would not project higher than the Core Area 75-ft. height limit, or the multi-storied Victorian-era buildings in the commercial core area to the south. It should also be noted that the old Fisherman's Building that occupied the site for decades up until 2000 was approximately 32 feet in height.

With regard to other exterior treatments, the applicants have not proposed or provided any details as to signage, lighting, or the physical appearance of solid waste storage containers at the site. Additionally, only a preliminary identification of areas proposed for landscaping as been submitted (see Exhibit No. 4). Depending upon the particular design and placement of these elements, the project may either harmonize or conflict with that of other development in the waterfront and core areas.

Thus, to find conformance of the project with LUP Architectural / Landscape Character Policies 1.I.5 and 1.I.6, CZR Section 156.040(D), and LUP Maintenance and Safety Policy 1.J.2, the Commission attaches Special Condition Nos. 7 and 1, respectively. Special Condition No. 7 requires that no structural improvements or landscaping, except as specifically provided for herein, or large materials be placed or stored within the "E" Street view corridor in a manner that would obstruct views through the corridor. Special Condition No. 7 also requires that the sides of the enclosed walkway above the "E" Street right-of-way be constructed out of glass and maintained as see-through structure, and that the interior of the walkways be kept free of furniture and other materials to enable views to the bay at height above the walkthrough corridor would be maintained. This requirement will further ensure consistency with the language of LUP Policy 1.H.1 that unobstructed view corridors to the waterfront from other public spaces be promoted. Special Condition No. 1 requires the applicants to submit for the review and approval of the Executive Director, revised plans for the site improvements. The condition requires that a landscaping be included for softening the appearance of the development while assuring that the landscaping materials are located and sized so as not to obstruct views to and along the coast from designated view corridors and vista points. Special Condition No. 1 also requires that all exterior lights, including lights attached to the outside of any structures must be low-wattage, non-reflective and be mounted so as to cast their illumination downward within the project boundaries to minimize glare and lighting impacts. In addition, all future signs are required to conform to the CW zoning district

standards for signage. Applied together, Special Conditions 7 and 1 will protect view corridors through the site, lessen the visual prominence of the development, minimize lighting impacts, and promote a pleasing overall appearance.

Finally, the Commission attaches Special Condition No. 2, which states that all future development on the subject parcel that might otherwise be exempt from coastal permit requirements requires an amendment or coastal development permit. Consistent with Section 13253(b)(6) of the Commission's administrative regulations, this condition will require future improvements to the development to be reviewed to ensure that the improvements will not have significant adverse impacts on visual and scenic resources. Special Condition No. 2 also requires recordation of a deed restriction to ensure that all future owners of the property are aware of the requirement to obtain a permit for improvements that would otherwise be exempt.

d. Conclusion

Accordingly, the Commission concludes that the proposed new development as conditioned has been sited and designed to protect views to and along the coast. Furthermore, the Commission concludes that, as conditioned by Special Conditions Nos. 1, 2, 3, and 4 to: (a) retain the opening between the buildings providing scenic views of the bay and wildlife, and to require the connecting walkway crossing the opening be transparent; (b) ensure that landscaping is not placed or allowed to grow to such size as to obstruct coastal views through the view corridor; and (c) allow landscaping, lighting, trash enclosures, and future development to be reviewed for conformity with all applicable LCP provisions, the project improvements will not have significant adverse effects on visual resources.

The Commission therefore finds that as: (1) views to and along the ocean have been protected through provision of a substantial view corridor oriented from the vantage point of the adjoining public street ends toward bay shore areas; (2) natural landform alteration would be minimized; (3) the quality of visually degraded areas would be restored and enhanced where feasible; (4) the project has been conditioned so that landscaping, signage, trash enclosures, and other future development will be reviewed to ensure it will not be sited where it would have significant adverse effects on visual resources; and (5) the new development would be visually compatible with the character of surrounding areas, the proposed project as conditioned is consistent with LUP Policies 1.H.1, 1.I.5-1.I.8, and 1.J.2, and the standards of CZR Sections 156.040(D) and 156.054.

C. TRANSPORTATION AND CIRCULATION

1. Streets and Highways.

Summary of Applicable LCP Provisions

LUP Streets and Highways Policy 3.A.6 states:

The City shall require all new land development projects to contribute a fair share of the cost of any street and highway improvement that can be assigned to the traffic-generating attributes of the new or intensified uses. Any project that is expected to generate more than 50 trips per peak hour shall be required to submit a traffic analysis prior to approval. Any project that is anticipated to generate significant traffic impacts will be required to mitigate such impacts.

Analysis

In 1998, the City required the development to prepare a traffic analysis pursuant to LUP Policy 3.A.6. The Final Environmental Impact Report (FEIR) for the project (ESA, 9/4/98) included a traffic analysis for the original project that concluded that the project would contribute approximately 1,500 additional vehicular trips to cumulative increases in traffic volumes at the regional street system intersections in proximity to the site. However, the report found these impacts to be less than significant and thus recommended no mitigation measures, such as street improvements addressed in LUP Policy 3.A.6. Because the current project design has less commercial gross floor area and fewer residential units to produce additional traffic than did the original project, the Commission concludes that the current project's traffic generation impacts would similarly be less than significant. The Commission therefore finds the project to be consistent with LUP Streets and Highways Policy 3.A.6.

2. Public Transit, Bicycle and Pedestrian Transportation.

Summary of Applicable LCP Provisions

LUP Commercial Development Policy 1.L.8 states:

The City shall require major commercial development projects to either be located in areas served by public transportation or in areas to which the existing public transportation service can be feasibly extended.

LUP Public Transit Policy 3.B.5 states:

Where appropriate, the City shall require new development to dedicate easements for and provide sheltered public stops for transit patron access.

LUP Bicycle Transportation Policy 3.C.4 states:

The City shall promote the installation of secure bicycle racks in areas generating substantial bicycle traffic and at major public facilities. The

City shall require the installation of bicycle racks whenever a major traffic generator is developed.

LUP Pedestrian Transportation Policy 3.D.3 states:

The City shall ensure that pedestrian walkways are separated, safe, and protected from automobile traffic.

Analysis

Public transportation services for the greater Eureka area are provided by the Humboldt Transit Authority (HTA). The closest HTA bus stop to the project site is located at the intersection of Fourth and "D" Streets, approximately 3½ blocks to the south of the site. Additionally, should future transit demand for service to the waterfront area warrant extension of services closer to the project site, bus service could be routed and bus stops placed along First Street, ½ block from the project parcel (Greg Pratt, HTA General Manager, pers. comm.).

LUP Bicycle Transportation Policy 3.C.4 directs the City to require the installation of bicycle racks whenever a major traffic generating project is developed. As discussed in Findings Section IV.C.1 above, the Eureka Pier project uses are anticipated to generate approximately 1,500 daily vehicular trips, making it a major traffic-generating project for the City's waterfront core area. Accordingly, to assure the project conforms to the LUP Bicycle Transportation policy provisions, the Commission includes within the revised development plan requirements of Special Condition No. 1 that the applicants install an appropriately apportioned number of bicycle racks at suitable locations at the project site. The condition, based on recommended standards for municipal bicycle facilities (Pedestrian and Bicycle Information Center, ©2000) requires that a minimum of three bicycle racks for a total of 14 cycles be placed at convenient and safe locations that would not otherwise interfere with vehicular or pedestrian movements.

Therefore, the Commission finds that as conditioned, the project would be consistent with the Transit, Bicycle, and Pedestrian policies of the certified LUP.

3. Parking in Commercial and Core Areas.

Summary of Applicable LCP Provisions

LUP Commercial Development Policy 1.L.2 states:

The City shall promote high quality design attractiveness, proper location, adequate sites, sufficient off-street parking, and a convenient circulation system for commercially-designated area of the city. [emphasis added]

CZR Section 156.072 states, in applicable part:

- (E) *Off-street parking. Off-street parking facilities shall be provided for each use as prescribed in §§ 155.115 through 155.123 of this title.*

[Note: The full text of referenced CZR Sections 155.115 through 155.123 is provided as Exhibit No. 9]

Cited CZR Section 155.117(E)(1) states:

Facilities accommodating the general public, including but not limited to auditoriums, theaters, restaurants, hotels, motels, stadiums, retail establishments, medical offices and office buildings, shall provide parking spaces for the physically handicapped in accordance with the following schedule:

<i>Total Number of Parking Spaces</i>	<i>Number of Handicapped Parking Spaces Required</i>
<i>1 – 5</i>	<i>0</i>
<i>6 – 40</i>	<i>1</i>
<i>41 – 80</i>	<i>2</i>
<i>81 – 120</i>	<i>3</i>
<i>121 – 160</i>	<i>4</i>
<i>161 – 300</i>	<i>5</i>
<i>301 – 400</i>	<i>6</i>
<i>401 – 500</i>	<i>7</i>
<i>Over 500</i>	<i>1 for each 200 additional spaces provided</i>

Cited CZR Section 155.117(F) states:

Compact car provisions.

- (1) *Compact car spaces may be utilized in meeting the above parking requirements.*
- (2) *No compact car spaces shall be allowed in parking areas containing less than 10 parking spaces.*
- (3) *In lots where compact car spaces are permitted, up to 25% of all spaces in the lot may be compact car spaces.*
- (4) *Compact car spaces, when allowed, shall be visibly marked with signs and shall be clustered in one section of the parking area.*

With regard to minimum dimensions for required off-street parking spaces applicable to the proposed project's parking plan, CZR Section 155.118, requires, in applicable part, as follows:

- *Standard Parking Space Minimum Width (for spaces oriented 90° to aisle direction): 8' 6"*
- *Standard Parking Space Minimum Length (for spaces oriented 90° to aisle direction): 19'*
- *Minimum Aisle Width: 25'*
- *Parking space required to be located in a garage or carport shall be not less than 20 feet in length and 10 feet in width*
- *Compact Parking Space Minimum Width: 7' 6"*
- *Compact Parking Space Minimum Length: 16'*
- *Handicapped Parking Space Minimum Width: 14'*
- *Handicapped Parking Space Minimum Length: 19'*

Cited CZR Section 155.123 states, in applicable part:

In Lieu Payments

In a CN, CC or CW District, or in an OR District when that district is adjacent to a CN, CC, CW, or CS District, in lieu of providing parking facilities required by the provisions of this subchapter, the requirements may be satisfied by payment to the city, prior to the issuance of a zoning permit, of an amount per parking space, prescribed by the Council, for each parking space required by this subchapter but not provided. The payment shall be deposited with the city in a special fund and shall be used exclusively for the purpose of acquiring and developing off-street facilities located, insofar as practical, in the vicinity of the use for which the payment was made. [emphasis added]

Analysis

The City's certified LCP addresses the importance of providing adequate off-street parking and loading facilities to serve proposed new development both in terms of general policies within its land use plan as well as specific standards within the Coastal Zoning Code. In general, these requirements are intended for progressively alleviating and preventing traffic congestion and shortages of on-street curb spaces by requiring new development to provide off-street parking facilities incidental to serve proposed new uses. The number of parking and loading spaces prescribed are set in proportion to the need for such facilities created by the particular type of land use. Off-street parking and loading areas are to be laid out in a manner that will ensure their usefulness, protect the public safety, and where appropriate, insulate surrounding land uses from their impact.

Numerical Parking Requirements for the Eureka Pier Project

With regard to the proposed development, Table 2 below summarizes the project's off-street parking requirements:

Table 2: Off-Street Parking Requirements for Eureka Pier Mixed Use Development

Project Portion	Gross Floor Area (sq. ft.)	Proposed Use(s)	Parking Requirement	No. of Spaces Required
Bldg "A"				
-1 st Floor	2,850	Retail sales & service	1 space/300 sq. ft. GFA	10
	2,850	Restaurant	1 space/200 sq. ft. GFA	14
-2 nd Floor	4,835	Professional offices	1 space/300 sq. ft. GFA	16
	n/a	Apartments (4)	1½ spaces per dwelling	6
-3 rd Floor	n/a	Condominium Units (4)	1½ spaces per dwelling	6
Bldg "B"				
-1 st Floor	4,800	Retail sales & service	1 space/300 sq. ft. GFA	16
	4,800	Restaurant	1 space/200 sq. ft. GFA	24
-2 nd Floor	7,970	Professional offices	1 space/300 sq. ft. GFA	27
	n/a	Apartments (2)	1½ spaces per dwelling	3
-3 rd Floor	n/a	Condominium Units (4)	1½ spaces per dwelling	6
Total Number of Required Off-Street Parking Spaces:				128

The applicants intend to satisfy the off-street parking requirements of the project through a combination of onsite, offsite, and deferred parking development strategies. First, a total of 87 spaces are proposed to be developed onsite: an 18-space interior lot accessible to residents of the project's 12 dwellings, and 69 spaces in exterior parking facilities for customers, employees, and occupants of the project's commercial and professional office uses. Second, the City of Eureka has sanctioned use of an additional 20 spaces within the under-utilized 1st and "C" Streets public parking lot, located one-half block from the project site. These spaces would be used exclusively by project site employees. Finally, the City's Redevelopment Agency has committed to appropriating \$150,000 in funds for deposit into an in-lieu fee account toward the development of 21 future spaces in the waterfront area to mitigate the impacts, in part, of the proposed development. Altogether, the applicants and City would construct, reserve, or provide funding for all of the 128 parking spaces required for the project.

Structure and Characteristics of Off-Street Parking Regulations

As a general land use regulatory principle, parking standards usually first require new development to self-mitigate all of its parking impacts by including within its design onsite parking facilities to meet all of its projected parking demand. When rote conformance with parking requirements cannot fully or feasibly be met onsite, the parking standards usually require the developer to construct or secure substitute off-site parking facilities within reasonable proximity to the project site. Only upon exhaustion of all onsite and nearby parking development opportunities do parking standards typically allow other solutions, such as allowances for the payment of in-lieu fee payments or

variances to be considered. The Commission notes that several of the contentions of LCP conformance raised on appeal of the *Eureka Pier* project concentrated on this issue (see Exhibit No. 6).

The City's LCP reflects the above-described hierarchical approach through the structure of its parking regulations (see Exhibit No. 9): Prescriptive standards for on-site parking requirements are first stated, setting forth the number, size and location of spaces to be provided for each type of land use. Secondly, provisions are made for ministerial exceptions to these standards, such as allowances for a portion of larger parking lots to be compact spaces, or a reduction in residential parking requirements for projects within parking improvement assessment districts, for instances where rote conformance would be difficult because of the project's unique characteristics (e.g., full compliance would require the project to be scaled-back to a size that would be economically feasible, the availability of alternative suitable sites for the project is limited). The parking ordinance also provides for further exceptions to the on-site parking requirements (i.e., provisions for development of parking facilities on nearby sites, participation in in-lieu fee programs) subject to administrative approval. Finally, the City's regulations provide for granting variances to the parking requirement at the discretion of a hearing board. Such variances are required to be based upon specified findings designed to limit their application and to prevent attempts to circumvent the established parking requirements or to avoid compliance based on frivolous reasons.

Suitability of the Proposed Development Parking Plan

With respect to the proposed development's observance of the parking compliance process outlined above, the applicants have taken efforts to first design their project to satisfy the City's schedule of parking requirements as much as feasibly possible. First, the project was scaled-back in bulk from an originally proposed 85,390-sq.-ft. size to the current 56,760-sq.-ft. size. This action reduced the parking requirement from approximately 200 spaces down to 145. Secondly, for purposes of the Commission's *de novo* review, the applicants refined the prospective future uses to restrict building space for parking-intensive retail sales and services in favor of less demanding residential units, further reducing the parking requirement to 128 spaces.

After concluding that only 87 of the 128 required spaces could be feasibly developed at the project parcel without rendering the project infeasible or adversely impacting the waterfront aesthetics of the site, the applicants then turned to meeting their remaining parking obligations at nearby sites. Finding no vacant land in proximity to the project site available for off-site parking development, the applicants began working with the City's Redevelopment Agency to investigate other options. The City found that many of the spaces within their public parking lot at First and "C" Streets, approximately 1½ blocks from the project site, were going largely unused (see Exhibit No. 10). Subsequently, on October 9, 2001 at the behest of Dolores Vellutini, applicant and with the support of the City Manager, the City's Parking Place Commission authorized 20 spaces within an under-utilized First and "C" Streets lot be made available for leasing to

the applicants for exclusive use by persons employed at the project site (see Exhibit No. 10). This action reduced the parking requirement deficit from 44 to 24 spaces.

Concurrent with these efforts, to meet the remaining 21 spaces of the project's parking requirement, the applicants in coordination with the Redevelopment Agency developed a proposal to utilize the LCP's parking in-lieu fee provisions of CZR Section 155.123 cited above. Section 155.123 stipulates that the parking space requirements of the City's zoning regulations may be satisfied by payment to the city, prior to the issuance of a zoning permit, of an amount per parking space, prescribed by the City Council, for each parking space required but not provided. The payment is to be deposited into a special fund established by the City and used exclusively for the purpose of acquiring and developing off-street facilities. The location of these facilities is to be, insofar as is practical, in the vicinity of the use for which the payment was made.

In April 1989, the City Council first established a \$7,000 per space in-lieu parking fee for a development project that had not met all applicable numerical off-street parking requirements. At that time, City staff recommended that the Council base the in-lieu fee amount on the realistic costs of providing parking spaces to offset the parking facilities not provided onsite by the developer. Based upon a review of a parking facility improvement study prepared previously (Winzler and Kelly, 1987) and the actual construction costs for then-recently created public parking lots within the Henderson Center and Commercial and Waterfront Drive areas, City staff recommended that in-lieu parking fees for the 1989 project be set at \$7,000 a space. The Council agreed and set in-lieu parking fees at the recommended \$7,000 per space.

Consistent with past practices, the Redevelopment Agency subsequently proposed to the City Council that \$150,000 of Redevelopment revenue (representing \$7,142.85 in acquisition and development costs per parking space, or 102% of the estimated \$7,000 per space cost estimate) be transferred into a fund established by the City for development of 21 parking spaces to offset the deficit in off-street parking not otherwise provided by the *Eureka* Pier project. The funds were slated to be used exclusively for future development of a public parking facility to be located within the City's waterfront area. On January 15, 2002, the City Council approved the proposal (see Exhibit No. 10). According to the description of the fund and the City's action provided by the City Manager as Exhibit 11, the \$150,000 contribution is considered to be the first of multiple contributions that may be expected to be provided by other waterfront redevelopment projects. The ultimate parking facility developed from money derived from the in lieu fund is expected to be a surface parking facility able to accommodate many more than the 21 spaces needed for the applicants project.

Thus, the Commission notes that in developing the parking plan, the applicants and City staff have endeavored to ensure that the maximum amount of off-street parking feasible be provided onsite at the project parcel. To address the shortfall between parking to be provided onsite and the total number of required spaces, the applicants and City have

investigated development of off-site parking facilities on adjoining and nearby properties, including under-utilized City-owned public lots in the vicinity. Finally, the applicants and City have relied on the in-lieu fee provisions of the certified LCP to provide the remaining parking requirement for the project. Using this strategy, the applicants have exhausted all reasonable parking remedies and avoided dependence upon the 1998 parking variance previously issued for an earlier project design or the potential for a new variance for the current project design.

The total of 128 parking spaces to be provided by a combination of development of 87 on-site parking spaces, devoting 20 under-utilized spaces at an off-site parking lot for employee parking for the proposed development, and reliance on a City commitment to deposit \$150,000 in an in lieu parking fund satisfies the 128-space parking requirement for the project calculated pursuant to CZR Section 156.072. In addition, the provision of 20 parking spaces off-site at 1st and "C" Streets is consistent with the provision of LUP Policy 1.L.2 which requires sufficient off-street parking facilities to be provided. The City has committed to leasing the 20 spaces to the applicants and the site is nearby, as it is within 1½ blocks of the proposed development. Furthermore, the use of a deposit to an in-lieu fee account toward the development of 21 future spaces within a larger parking facility to be developed by the City is consistent with CZR Section 155.123.

The City Council has pledged by resolution to deposit the \$150,000 in a fund that would be specifically used for development of a surface parking facility within the waterfront area in the vicinity of the project site. CZR Section 155.123 states that the amount per space to be paid to the in lieu account shall be prescribed by the Council. The amount of the deposit per space of \$7,142.85 is based on previous studies of the cost per space of providing a parking facility which determined the cost be approximately \$7,000. The City has consistently used the \$7,000 per space figure in its actions on other projects relying on contributions to in lieu parking mitigation funds, and the City has been able to build parking facilities utilizing such funds (see Exhibit No. 10). Therefore, the \$7,142.85 per space deposit to the in lieu parking mitigation fund is reasonable and consistent with CZR Section 155.123.

Although the City has committed to providing the 20 under-utilized spaces at the existing parking facility at 1st and "C" Streets by action of the City's Parking Place Commission and a letter to the applicant attached as Exhibit No. 10, no signed lease or other final document granting the spaces to the applicant has been submitted to the Commission. Similarly, although the City has committed to a deposit of \$150,000 in a parking in-lieu fund to serve the project by resolution of the City Council as described in the letter from the City Manager attached as Exhibit No. 10, evidence that the money has actually been fully appropriated for this purpose has not been submitted to the Commission. To ensure that the parking program is implemented as proposed, the Commission attaches Special Condition No. 3. This condition requires that evidence of sanctioned posting of the 20 spaces within the First and "C" Street public parking lot and deposit of the \$150,000 contribution of the City's Redevelopment Agency into the City's Waterfront Parking

Improvement Fund be submitted for the review and approval of the Executive Director prior to issuance of the coastal development permit. As conditioned, the Commission finds that the proposed parking plan is consistent with the requirements of the LCP for providing certain amounts of parking spaces.

Project Compliance with LCP Off-Street Parking Prescriptive Standards

As discussed above, the applicants have proposed to meet the 128-space requirement of the City's off-street parking ordinance through a development of a combination of onsite and off-site parking spaces, and participating in the City's parking in-lieu fee program. Although an intent to provide the required number of spaces has been demonstrated, there are several aspects of the parking layout depicted on the submitted site plans which do not appear to fully conform to the dimensional and modal standards for off-street parking facilities. These include:

- Twenty-four standard spaces within the exterior parking lot that do not meet the 19-ft. minimum length required by CZR §155.118(A);
- Twenty-five compact spaces within the exterior parking lot that do not meet the 16-ft. minimum length required by CZR §155.118(C);
- Two handicapped parking spaces within the exterior parking lot that do not meet the 19-ft. minimum length required by CZR §155.118(B);
- Seventeen standard spaces within the interior parking lot that do not meet the 20-ft. minimum length required by CZR §155.118(A);
- One handicapped parking space within the interior parking lot that does not meet the 20-ft. minimum length required by CZR §155.118(A);
- Exceeding the maximum 25% allowance for compact car parking spaces provided under CZR §155.117(F)(3) by three spaces; and
- Possible blockage of a portion of the Pier Street alley entrance to the exterior parking lot due to vehicles parking in spaces providing less than required stall lengths.

The Commission notes that the above deviations from the parking ordinance standards on the site plans are relatively minor and through subtle revisions to the parking facility layouts full compliance could be achieved. For example, there appears to be surplus area within the exterior parking lot islands to accommodate expanding the length of adjacent substandard spaces, and converting excess compact spaces to standard spaces without adversely affecting compliance with minimum parking lot aisle width standards, parking lot landscaping requirements, or stormwater treatment policies. Similarly, adjustments could also be made to the interior parking lot's layout to accommodate required parking stall lengths by reducing or eliminating proposed walkways within the facility.

Consequently, the Commission includes within the requirements of Special Condition No. 1 that a revised parking plan be prepared and submitted for the approval of the Executive Director illustrating that the onsite parking facilities fully conform with the standards of the City's LCP. Therefore, the Commission finds that as conditioned, the

project complies with the standards of the certified LCP with regard to off-street parking prescriptive standards.

4. Loading in Commercial and Core Areas.

Sections 155.135 through 155.141 of the Eureka Municipal Code (EMC), as incorporated within the standards of CZR Section 156.072(F) for Waterfront Commercial zoning districts, state, in applicable part:

At the time of initial occupancy, major alteration, or enlargement of a site, or of completion of construction of a structure or of a major alteration or enlargement of a structure, there shall be provided off-street loading facilities for trucks in accord with the schedule of off-street loading berth requirements prescribed in § 155.137 of this subchapter... [EMC §155.136(A)]

Commercial and industrial establishments, including retail stores, eating and drinking establishments, personal service establishments, commercial service enterprises, warehouses, storage facilities, manufacturing plants, and other industrial uses. No berths for less than 4,000 square feet gross floor area; one berth for 4,000 to 30,000 square feet gross floor area; two berths for 30,000 to 70,000 square feet gross floor area... [EMC §155.137(A); emphasis added]

All off-street loading facilities, whether provided in compliance with § 155.137 of this subchapter, or not, shall conform with the regulations prescribed in § 155.036 of this chapter and with the following standards:

(A) Small loading berths are allowed for retail and service commercial uses and financial and personal services that generally have small business floor areas of less than 10,000 square feet. These square feet berths shall be not less than 25 feet in length and 12 feet in width and shall have an overhead clearance of not less than 14 feet.

(B) Large loading berths are required for all industrial uses, markets, restaurants, large-product commercial uses, warehousing, shopping centers and large office buildings. These berths shall be not less than 45 feet in length and 12 feet in width and shall have an overhead clearance of not less than 14 feet. [EMC §155.138]

More than one use on a site. If more than one use is located on a site, the number of loading berths provided shall be equal to the sum of the requirements prescribed in this subchapter for each use. If more than one use is located on a site and the gross floor area of each use is less than the

minimum for which loading berths are required, but the aggregate gross floor area is greater than the minimum for which loading berths are required, off-street loading berths shall be provided as if the aggregate gross floor area were used for the use requiring the greatest number of loading berths. [EMC §155.140(A)]

The off-street loading facilities prescribed in §155.140 of this subchapter shall be located on the same site with the use for which the berths are required or on an adjoining site in a district in which the use served by the off-street loading facilities is a permitted use... [EMC §155.139(A)]

Analysis

The proposed development would comprise a total of 56,760 square feet of gross floor area housing a mixture of retail sales and service, restaurant, professional office, and residential uses. Sections 155.137(A) and 155.140(A) of the City's loading space standards require that two loading berths be provided onsite for the proposed development size. Further, EMC Section 155.138 stipulates that to serve the proposed restaurant uses, one of these loading spaces must be a "large loading berth," comprising a minimum 25 ft. wide by 45 ft. long area. The other loading space must meet the minimum dimensional standards for "small loading berths," being 12 feet in width and 25 feet in length.

The applicants have included in their site plan revisions for purposes of the Commission's *de novo* review the depiction of two loading areas, one 15-ft. wide x 40-ft. long small berth within the exterior parking lot, and a dimensionless area labeled "loading zone" within the 25-ft.-wide "E" Street breezeway between the buildings (see Exhibit No. 4). Although the project design could feasibly meet the loading area requirements, it is not clear from the submitted site map if the proposed berths would comply fully with the minimum dimensions for loading areas. To ensure that the loading area requirements of the City's LCP are fully met, the Commission includes within the requirements of Special Condition No. 1 that the applicants prepare and submit for the approval of the Executive Director a revised off-street loading facilities plan indicating the location and dimensions of the minimum required loading spaces. Therefore, the Commission finds that the project as so conditioned would conform to the off-street loading facilities standards of the City's LCP.

D. PUBLIC FACILITIES AND SERVICES

1. Water, Wastewater, and Other Community Services.

Summary of Applicable LCP Provisions

The City's LUP contains numerous policies regarding the community services and public utilities to serve new development. General Public Facilities and Services Policy 4.A.3

generally states that, "*the City shall require all land designated for urban development be served by adequate water and other utilities necessary for health, safety, and welfare of citizens and property...*"

Analysis

Water and sewer services will be provided for the proposed project by the City of Eureka's Community Services Department. The City has indicated that it has reserved capacity of water supply and wastewater treatment sufficient to accommodate the proposed mixed commercial-recreation / visitor-serving / residential development without compromising service to other planned higher-priority uses. Solid waste collection services would be provided to the site by the City's current waste management franchisee, Eureka Garbage Company.

The Commission thus finds that the proposed project, as conditioned, is consistent with Policy 4.A.3 of the LUP because adequate services are available and the carrying capacity of water supplies and wastewater treatment capacity is sufficient for all permitted and proposed uses at the site.

2. Grading, Drainage, and Stormwater Management.

Summary of Applicable LCP Provisions

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.3 states:

The City shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, 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 deletion 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. [emphasis added]

LUP Stormwater Drainage Policy 4.D.5 states:

The City shall promote sound soil conservation practices and carefully examine the impact of proposed urban developments with regard to water quality and effects on drainage courses.

LUP Stormwater Drainage Policy 4.D.6 states:

The City shall improve the quality of runoff from urban and suburban development through use of appropriate and feasible mitigation measures including, but not limited to, artificial wetlands, grassy swales, infiltration / sedimentation basins, riparian setbacks, oil/grit separators, and other best management practices (BMPs).

LUP Stormwater Drainage Policy 4.D.9 states:

The City shall require new projects that affect the quantity or quality of surface water runoff to allocate land necessary for the purpose of detaining post-project flows and/or for the incorporation of mitigation measures for water quality impacts related to urban runoff. To the maximum extent feasible, new development shall not produce a net increase in peak stormwater runoff.

LUP Hazardous Materials and Toxic Contamination Policy 7.E.1 states:

The City shall ensure that the use and disposal of hazardous materials in the Eureka area complies with local, state, and federal safety standards.

CZR Section 156.021 states, in applicable part:

- (A) *The ground floor level of all buildings, building enlargements, or extensions of structures shall be at a minimum elevation of 12½ feet based on city datum. In addition, the site shall be graded to drain to the adjacent design finish grade of streets or alleyways...*

Analysis

The project site is located adjacent to the Humboldt Bay. As discussed in Findings Section IV.F.1 below, this aquatic area is listed as an environmentally sensitive habitat area within the certified LCP. The project could adversely affect the water quality of this environmentally sensitive habitat area by the introduction of non-point source pollution in the form of stormwater runoff, siltation from ground disturbing construction activities, and potential accidental releases of hazardous materials. The project would entail the construction of structures and paving for parking lots, walkways, and other impervious surfaces of approximately 50,300 square feet of the roughly 55,000-sq.-ft. site.

The existing site is currently graded to a nearly flat slope with all former structural improvements having been razed. Remnants of pre-existing foundations and railroad sidings are found at and below grade. As part of the scope of work for the preceding demolition at the site, the entire property has been covered with geotextile fabric overlain with river-run gravel. Drainage at the project site is currently directed toward the

northwest corner of the property where it passes through a hay bale filtering media and a small rock-lined swale before being discharged into Humboldt Bay under the City boardwalk. Once developed, drainage from the site, especially that from impervious surfaces such as rooftops, sidewalks, and parking lots, would be collected into gutters and drop-inlets and discharged into the City's stormwater sewer. The closest storm drains to the subject property are located within "E" Street along the mid-southern boundary of the site. This 12-inch-diameter line passes under the vacated "E" Street right-of-way east of the former locations of the Fisherman's Building and discharges into bay waters to the northwest of the project site. A second storm drain line would be constructed from the middle of the exterior parking lot on the western third of the site running northward and tie into an existing 12-inch-diameter line running beneath the boardwalk.

Pollutants within stormwater runoff from commercial visitor-serving facilities uses have the potential to degrade the water quality of the nearshore environment. Parking lots contain pollutants such as heavy metals, oil and grease, and polycyclic aromatic hydrocarbons that deposit on these surfaces from motor vehicle traffic. In addition, outdoor maintenance equipment, routine washing and steam-cleaning and routine restaurant maintenance activities have the potential to contribute metals, oil and grease, solvents, phosphates, and suspended solids to the stormwater conveyance system.

The proposed project includes measures to mitigate some stormwater runoff impacts from impervious surfaces, through installation of subsurface oil-water separators within the landscaped areas of the site (see Exhibit No. 4). All parking lot and roof drainage would be collected and conveyed into two concrete baffle separators, one 1,200-gallon and one 750-gallon separator. These treatment works are designed to accommodate the volume of runoff generated from up to the 85th percentile storm for the Eureka area (see Exhibit No. 4). For the Eureka area, this rainfall amount is approximately one-tenth foot ($\pm 1\text{-}3/16$ ") per hour, based upon long-term precipitation rates recorded locally by the California Department of Transportation. With the mitigation measures proposed by the applicant and sized to accommodate the 85th percentile of the volume of flows from a 24-hour storm that would be generated from these impervious surfaces, the project would minimize the adverse effects of storm water discharges from the site consistent with LUP Policy 6.A.3 and LUP Policy 4.D.6.

To ensure that these mitigation measures will be implemented as proposed, the Commission includes within the scope of attached Special Condition No. 1 a requirement that final revised development drainage plans include construction engineering details for the installation of the two oil-water separators. In addition, to further ensure that water quality is protected from numerous other potential pollutants during construction of the project and its on-going operations, the Commission attaches Special Condition No. 4. Special Condition No. 4 requires that the development be performed consistent with an erosion and runoff control plan designed to prevent, intercept, and/or treat a variety of potential pollutants, including sediment, oils and grease, cleaning solvents, and solid wastes.

The Commission also attaches Special Condition No. 8. Special Condition No. 8 requires that the permittee comply with various construction-related standards designed to further protect the site from habitat and water quality impacts, including: (1) requiring that construction debris be promptly removed from the site upon the completion of construction; (2) excluding construction equipment or machinery from the beach or intertidal zone at any time; (3) limiting the rinsing of concrete trucks and tools used for construction only at the specific wash-out area(s) described within the approved Erosion and Runoff Control Plan; and (4) requiring that staging and storage of construction machinery or materials and storage of debris not take place on the beach or within public street rights-of-way.

Taken together, these special conditions form a suite of water quality Best Management Practices which will ensure that biological productivity is sustained and protected, and potentially adverse stormwater impacts of the project are reduced to less than significant levels consistent with the policies and standards of the City's LCP. The requirements of Special Condition No. 1 that the permittees install two oil-water separators designed to treat polluted runoff from the project site will ensure the project's consistency with LUP Policies 4.D.5 and 4.D.9. Special Condition No. 4 requires that the permittees prepare and implement an erosion and runoff control plan for the project. As conditioned by Special Condition No. 4, the Commission finds that the project is consistent with LUP Policy 4.D.6 as the project is required to include best management practices (BMPs) for controlling stormwater runoff and maintaining water quality. In addition, Special Condition No. 8 sets numerous construction activity and debris disposal requirements to further protect water quality. The Commission further finds that with the BMPs for controlling stormwater runoff and maintaining water quality required by Special Condition Nos. 1, 4 and 8, the project as conditioned will protect the adjacent inter-tidal and estuarine habitats from the impacts of the development and maintain habitat values consistent with LUP Policy 6.A.3.

Finally, the proposed project is designed to conform to the site grading requirements of CZR Section 156.021 that buildings be developed with a minimum +12½-ft. Eureka City Datum (ECD) floor elevation and graded to drain to adjacent street and alley drainage grades. Approximately 1,720 cubic yards of clean granular fill would be imported to the site to raise the grade by two to three feet to the specified minimum elevation. Site plans further indicate the finished floor height and project drainage flow lines would conform to the +12½-ft. ECD minimum and match the grades of facilities within adjoining "D" and "E" Streets, respectively. Therefore, the Commission finds the project as designed is consistent with the standards of CZR Section 156.021.

E. COASTAL ACCESS AND RECREATIONAL FACILITIES

Summary of Applicable Coastal Act Provisions

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected.

With regard to the adequacy of proposed parking amenities to serve new development, a form of coastal access support facility, Coastal Act Section 30252 states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development. [emphasis added]

Summary of Applicable LCP Provisions

The certified City of Eureka LCP includes policies that essentially reiterate these standards for providing, maintaining, and protecting public access and coastal recreational opportunities:

LUP Coastal Recreation and Access Policy 5.B.4. states, in applicable part:

The City of Eureka shall protect and enhance the public's rights of access to and along the shoreline, consistent with protecting environmentally sensitive resources by:

- c. *Allowing only such development as will not interfere with the public's right of access to the sea, where such right is acquired through use or legislative authorization.*

LUP Coastal Recreation and Access Policy 5.B.5. states, in applicable part:

For new development between the first public road and the sea, the City shall require the dedication of a vertical access easement to the mean high tide line unless:

- a. *Another more suitable public access corridor is available within 500 feet of the site; or*
- b. *Access to the site would be inconsistent with other General Plan coastal policies, including existing, expanded, or new coastal-dependent industry, agricultural operations, or the protection of environmentally sensitive habitat areas; or*
- c. *Access to the site is inconsistent with public safety, environmental protection, or military security needs.*

[Note: The coastal access provisions of these LUP policies are further incorporated in the standards of CZR §156.051.]

Analysis

In its application of these policies, the Commission is limited by the need to show that any denial of a permit application based on the above public access policies, or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The project site is located on the shore of Humboldt Bay adjoining the City of Eureka's boardwalk. In addition to the boardwalk and its "F" and "C" Street plazas, within ¼ mile to the east and west of the project area along Waterfront Drive are several publicly-owned coastal access facilities, including the Adorni Community Center's boat launch and floating dock, the Wharfinger Building, a community assembly facility, and the Eureka Small Boat Basin. In addition, several of the private docking areas and the parking lots are open and available for public access use.

The Eureka waterfront area receives heavy seasonal use by a combination of commercial and recreational fishermen, recreation boaters, beachcombers, hikers, and other coastal visitors. The area is a popular embarking point for private scenic bay tours and ocean fishing excursions from the Woodley Island Marina and Eureka Small Boat Basin, especially during the summer salmon and groundfish (e.g., lingcod, rockfish) seasons. Commercial fishing is also prevalent, especially during the fall-winter Dungeness crab season, commencing on December 1. During the peak boating seasons (May through

mid-September, mid-October through early December), much of the surrounding vacant waterfront areas between Commercial Street and the AM Bistrin Memorial (Samoa) Bridge are utilized by for crab pot storage and for the parking of vehicles and boat trailers.

As discussed previously, the subject property is currently owned by the City of Eureka Redevelopment Agency and is the former site of fish processing complex and railroad siding. The complex had been abandoned for many years before the structures were ultimately torn down by the City within the last two years pursuant to Coastal Development Permit No. 1-00-053. Since that time the project site has been enclosed by temporary security fencing. Due to the former presence of dilapidated structures at the site, the lack of site amenities following their demolition, closure of the site during demolition and construction of other waterfront development, and the availability of numerous alternate routes to the bay shore and adjoining open space areas nearby, this area has not typically been utilized for coastal access in recent years.

To the extent the area is used for access purposes, the project will have only a temporary impact during construction of the site improvements. The Commission attaches Special Condition No. 1(e) to protect access along the City Boardwalk during construction. The condition requires that temporary construction barriers may be installed along the inland edge of the boardwalk but shall not encroach into the portions of the boardwalk used by pedestrians.

The project site will be available again for public access use upon completion of the project. The proposed construction is for a coastal access support facility, designed specifically to attract, foster and sustain coastal access. In addition, many of the anticipated tenant uses at the project, such as restaurants and a kayak rental business, would provide commercial recreational opportunities. In addition, the development has been sited and designed to provide improved points of vertical access to the City boardwalk and function as a support facility for coastal access and recreational uses. Walkways would be developed linking the buildings and parking lots to the boardwalk, and the identified occupant commercial uses would provide a variety of coastal visitor-oriented services.

Off-street parking for the proposed visitor-serving uses would be provided at two parking lots onsite and by assignment of 20 spaces within a nearby City public lot for "parking by permit only" for commercial tenant employees. The 44-space shortfall in the amount of estimated zoning code-required parking would be mitigated by reservation of off-site, under-utilized public parking spaces and in-lieu fee payments for development of future waterfront parking facilities (see Findings Section IV.C.3 above, for detailed discussion of LCP off-street parking requirements). Consequently, the proposed development would not impact the public parking opportunities along the waterfront. Therefore, the project as conditioned is consistent with the parking provisions of Section 30252 of the Coastal Act. Similarly, construction of the proposed mixed-use complex would not result in

substantial interference with access to Humboldt Bay or adjoining areas for recreational and commercial coastal-dependent users.

Therefore, the Commission finds that, as conditioned, the proposed project is consistent with the public access policies of the Coastal Act.

F. NATURAL AND CULTURAL RESOURCE PROTECTION

1. Aquatic Resources and Marine, Wetland, and Riparian Habitats

Summary of Applicable LCP Provisions

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.3 states:

The City shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, 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 runoff, preventing deletion 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.

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.6 states, in applicable part:

The City declares the following to be environmentally sensitive habitat areas within the Coastal Zone: ...

b. Wetlands and estuaries, including that portion of Humboldt Bay within the City's jurisdiction...

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.7 states:

Within the Coastal Zone, the City shall ensure that environmentally sensitive habitat areas are protected against all significant disruption of habitat values, and only uses dependent on such resources be allowed within such areas. The City shall require that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas.

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.8 states:

Within the Coastal Zone, prior to the approval of a development, the City shall require that all development on lots or parcels designated NR (Natural Resources) on the Land Use Diagram or within 250 feet of such designation, or development potentially affecting an environmentally sensitive habitat areas, shall be found to be in conformity with all applicable habitat protection policies of the General Plan. All development plans, drainage plans, and grading plans submitted as part of an application shall show the precise location of the habitat(s) potentially affected by the proposed project and the manner in which they will be protected, enhanced, or restored.

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.19 states, in applicable part:

The City shall require the establishment of a buffer for permitted development adjacent to all environmentally sensitive habitat areas. The minimum width of a buffer shall be 100 feet, unless the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development, and/or the proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer will protect the resources of the habitat area...

[Note: The resource protection provisions of these LUP policies are further incorporated in the standards of CZR 156.052.]

Analysis

The project site is located adjacent to Humboldt Bay, approximately 1½-mile inland and six miles up-channel from where bay waters enter the Pacific Ocean near the community of King Salmon. The City's certified LCP includes area wetlands and estuaries, including that portion of Humboldt Bay within the City's jurisdiction among its list of environmentally sensitive habitat areas (ESHAs). Given this setting, aquatic resources and water quality impact evaluations were conducted as part of the environmental impact report prepared for the project. The evaluations found the project site to be adjacent to rocky intertidal habitat with a low diversity of emergent organisms, primarily consisting of sea algae (Enteromorpha sp.), pickleweed (Salicornia virginiana), with a few individuals of cordgrass (Spartina densiflora). Based upon studies conducted in conjunction with development of the City boardwalk (SHN Consulting Engineers, 1999), coastal water areas further bayward of the project site were found to contain intertidal mudflat habitat. Eelgrass (Zostera marina) beds are located within the muddy intertidal areas approximately 150 feet from the project site northwest corner in the offshore waters beyond the foot of "D" Street.

The proposed project could potentially have adverse impacts on estuarine habitat from several perspectives. First, the development would involve ground-disturbing activities in close proximity to coastal waters. In addition, site grading would entail the placement of approximately 1,720 cubic yards of granular soil fill materials on the site. Fill along the northern bayward edge of the project site would extend to an approximately 2 to 3-foot height above the existing grade. If excavations and filling is not properly performed in conjunction with appropriate water quality best management practices impacts to coastal water resources could result from the introduction of sediment and other nonpoint-source pollutants entrained in stormwater runoff into the bay. These substances can adversely affect biological productivity and water quality.

Secondly, the construction of site improvements may result in the release of wooden debris and other building materials into intertidal and submerged areas. No specific preventative or clean-up measures addressing siltation, nonpoint-source pollution, or construction debris were identified in the project application. Thirdly, accidental spills associated with activities of the commercial visitor-serving uses, especially restaurant operations and grounds maintenance, could result in hazardous materials entering coastal waters. Finally, exterior lighting for site illumination and nighttime security if not properly oriented and shielded could cause light to be cast into adjoining bay waters. Depending upon the intensity and duration of lighting shining into the bay, impacts could result to estuarine habitat by exposing prey organisms to predators, altering photosynthesis cycles in marine plants, and otherwise disrupting nocturnal biological productivity.

As further discussed in Findings Section IV.D.2 above, to ensure that sedimentation of the bay does not result from erosion of graded areas or release of unearthed contaminants, the Commission attaches Special Condition No. 4, which requires the preparation of an erosion and runoff control plan to minimize adverse impacts to coastal waters.

To reduce the potential for construction debris to enter the bay, the Commission attaches Special Condition No. 8 which prohibits work within intertidal areas and the placement or storage of materials so as to be subject to wave action and dispersal, limits staging activities to approved designated areas, and requires that all construction debris be removed immediately from the site upon completion of the project.

As further discussed in Findings Section IV.D.2 above, to reduce the potential for hazardous materials being discharged into the bay from accidental spills of hazardous materials associated with commercial food service operations and ongoing site maintenance activities, Special Condition No. 4 requires that a spill prevention and response program be developed as part of the required erosion and runoff control plan.

To protect biological resources from lighting impacts, the Commission attaches Special Condition No. 1. Special Condition No. 1 sets design lighting to be installed during the construction, requiring the applicants to eliminate glare by requiring that lighting be low-

wattage and directed in a downcast direction so as to not be cast into adjoining bay waters.

Finally, LUP Policy 6.A.19 requires the establishment of a minimum 100-foot-wide buffer unless the applicants demonstrates on the basis of site specific information, the type and size of the proposed development, and/or the proposed mitigation that will achieve the purpose(s) of the buffer, that a smaller buffer will protect the resources of the habitat area. As regards the adequacy of buffers between new development and environmentally sensitive habitat areas, the project site's northern boundary lies approximately ten feet from the edge of Humboldt Bay. Co-terminus with the bay edge is the location of the City's recently constructed boardwalk. Given the presence of this interposing structure and the redevelopment in-fill nature of the project, the direct effects of the proposed mixed use development on estuarine habitat areas within the bay are reduced. In addition, as the project involves no in-water construction activities and has been required to mitigate its construction phase, runoff and lighting related impacts, the Commission concludes that the reduced 10-foot width buffer would achieve the purpose(s) of the buffer, and provide adequate protection to the aquatic habitat resource areas within Humboldt Bay, consistent with the buffer provisions of LUP Policy 6.A.19.

The Commission thus finds that as conditioned the proposed project will include adequate mitigation to maintain biological productivity and the quality of coastal waters consistent with LUP Policy 6.A.3 and has been sited and designed to prevent impacts that would significantly degrade the adjacent environmentally sensitive habitat area of Humboldt Bay consistent with LUP Policies 6.A.7 and 6.A.8.

2. Cultural Resources.

Summary of Applicable LCP Provisions

LUP Archaeological Resources Policy 5.F.5 states:

The City shall require that discretionary development projects identify and protect from damage, destruction, and abuse, important historical, archeological, and cultural sites and their contributing environment. Such assessments shall be incorporated into a citywide cultural resource data base.

LUP Archaeological Resources Policy 5.F.6 states:

The City shall require that discretionary development projects are designed to avoid potential impacts to significant cultural resources whenever feasible. Unavoidable impacts, whenever feasible, shall be reduced to a less than significant level and/or shall be mitigated by extracting maximum recoverable data. Determinations of impacts,

significance, and mitigation shall be made by qualified archeological or historical consultants, depending on the type of resource in question.

Analysis

The above LUP policies call for the protection of historical, archaeological, and cultural sites from damage and destruction by new development. The fish-processing complex that formerly occupied the site contained a historic building that has subsequently been demolished pursuant to coastal development permits issued by the City of Eureka and the Commission. The City adopted a Statement of Overriding Considerations for aesthetic and cultural resource impacts resulting from the deconstruction of the Fisherman's Building. The building was originally constructed in 1922 and is a contributor to the Old Town National Register Historic District. Due to the poor condition of the building and its lack of structural integrity, preservation and/or reuse of the building was not considered feasible. As mitigation for the loss of a historic resource, the City prepared photo-documentation of the structure prior to and during demolition. The photo-documentation was prepared similar to the requirements and standards outlined for the Historic American Buildings Survey (HABS) program and the documentation was submitted to the HABS archives at the City of Eureka, the Historic Preservation Commission, the Humboldt County Historical Society, the Humboldt County Heritage Society, and the California Historical Resources Inventory at Sonoma State University. No historic structures currently are found on the site.

The lands surrounding Humboldt Bay are located within the ethnographic territory of the Wiyot Indians. As part of the environmental review process conducted by the City for its General Plan, a cultural resources record search of the project area was performed by a professional archaeologist with the California Archaeological Inventory, Northwest Information Center at Sonoma State University. The study results, included within the EIR prepared for the project by Environmental Science Associates, dated September 4, 1998 indicated that no prehistoric or historic cultural resources were discovered within the project area as a result of this investigation and no further archaeological studies were recommended. However, because of the archaeological sensitivity of the general area, there is a slight possibility that buried archaeological materials may be uncovered by future construction operations within the project area. Therefore, to ensure protection of any archaeological or cultural resources that may be discovered at the site during construction of the proposed project, the Commission attaches Special Condition No. 9. The special condition requires the applicant to comply with all recommendations and mitigation measures contained in the Environmental Impact Report prepared for the project by Environmental Science Associates, dated September 4, 1998. The condition further requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist must analyze the significance of the find. To recommence construction following discovery of cultural deposits the applicant is required to submit a supplementary archaeological plan

for the review and approval of the Executive Director to determine whether the changes are *de minimis* in nature and scope, or whether an amendment to this permit is required.

Therefore, the Commission finds that as conditioned, the project is consistent with LUP Policies 5.F.5 and .F.6 as: (a) the protection of historical and archaeological cultural resources as important historical, archeological, and cultural sites and their contributing environment associated with the project environs and provisions for their protection from damage, destruction, and abuse have been identified; and (b) as conditioned, the proposed project will not adversely affect cultural and archaeological resources.

G. HEALTH AND SAFETY

1. Geologic, Seismic, and Flooding Hazards.

Summary of Applicable LCP Provisions

The City's certified LCP contains numerous policies regarding avoidance and minimizing the risks of exposure of persons and property geologic, seismic, and flood hazards.

LUP Seismic Hazards Policy 7.A.3 generally states that the City shall require that new structures intended for human occupancy be designed and constructed to minimize risk to the safety of the occupants. LUP Geological Hazards Policy 7.B.2 further requires that the City ensure that development on or near the shoreline of Humboldt Bay neither contributes significantly to, nor is subject to, high risk of damage from shoreline erosion over the lifespan of the development. LUP Geological Hazards Policy 7.B.3 also requires that the City prohibit alteration of bluff tops by excavation or other means except to protect existing structures and that permitted development not require construction of protective devices that would substantially alter natural landforms. In addition, LUP Seismic Hazards Policy 7.A.6 directs the City to require that all new parapets, signs, and other building ornamentation are constructed to withstand seismic shaking.

LUP Seismic Hazards Policy 7.A.1, together with LUP Geological Hazards Policies 7.B.4 and 7.B.5, require that geo-technical analyses be prepared for all development in areas subject to seismic hazards (i.e., fault rupture, amplified seismic shaking, slope failure, subsidence, settlement, or other similar effects), all high density residential and other high occupancy development located in areas of significant liquefaction potential, and all development proposed in areas subject to significant shoreline erosion, and which is otherwise consistent with the policies of this General Plan, respectively. The reports are to be prepared by a registered geologist, a certified engineering geologist, or a registered engineer with expertise in seismic engineering, soil mechanics and/or foundation engineering, or by a certified engineering geologist.

With regard to flooding related hazards, LUP Policy 7.D.1 prohibits high occupancy development, including office buildings of 10,000 square feet in size or larger, or visitor-serving structural developments comprising 5,000 square feet in size or larger, from

locating in flood hazard areas. The City is directed to utilize the Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) to assure that such developments will be constructed with a finished foundation that extends above the 100-year flood level. Development in flood hazard areas shall be required to incorporate mitigation measures that minimize the potential for flood damage, including development siting and use of flood-proofing techniques and materials, consistent with other land use plan provisions, including all applicable drainage policies.

Analysis

The applicants are proposing to construct a new 55,000-sq.ft. commercial/professional office/residential mixed use complex on a low blufftop parcel adjacent to Humboldt Bay. The project involves grading and filling in proximity to the mean high tide line along a portion of the bay that was reclaimed in the early 1900's. The intertidal reaches adjacent to and underlying the project area are blanketed in loose sandy fills, containing shell fragments, wooden debris, and other rubble, underlain successively by bay muds, interbedded dense sands and gravel, and stiff clay. These materials do not provide a competent structural platform. Therefore, the proposed buildings have been designed to bear on pile foundations.

Because of low shear strength of the underlying soils materials, the site is also subject to liquefaction hazards that could result in ground subsidence and uneven settlement of improvements not constructed on piles (i.e. parking lots, access roads, and landscaped areas). Given its location along the middle reach of Humboldt Bay, wakes from passing freighter and fishing vessels could possibly affect bluff edge stability of the site. In addition, the site may also be exposed to seismically related inundation associated with tsunami run-up or seiches on Humboldt Bay.

The geotechnical studies prepared for the project (Taber Consultants, June 4, 1994, January 3, 1997) set forth three sets of recommendations addressing site preparation and fill placement, the jetting and driving of pile pipes, and the installation of the interconnecting sheetpile bulkhead. Several of these recommendations are no longer applicable to the current proposed development as the building sites on the project parcel have subsequently been found to lie further landward than originally thought at the time of the geo-technical report's preparation and the project scope no longer includes development of the abutting portion of the City boardwalk and floating dock facilities for which sheetpile bulkheads or in-water pile jetting would be required.

However, to ensure that stability of the project site and the structural integrity of the land based visitor-serving and other commercial and residential improvements, the Commission attaches Special Condition No. 1, which requires that the remaining applicable recommendations of the geo-technical report (i.e., design the development to the Uniform Building Code's Seismic Zone IV standards, setting foundation piles to bear on consolidated bedrock) be followed in constructing the project. In addition, as part of the requirements of Special Condition No. 1, the applicants are required to prepare and

submit for the Executive Director's approval a revised foundation plan for the project structures illustrating conformance with the geo-technical reports' recommendations.

Additionally, the Commission attaches Special Condition No. 10 which requires the applicant(s) and landowner(s) to assume the risks of liquefaction and flooding hazards to the property and waive any claim of liability on the part of the Commission. Given that the applicant(s) and landowner(s) have chosen to implement the project despite flooding and liquefaction risks, the applicant(s) and landowner(s) must assume the risks. In this way, the applicant(s) and landowner(s) are notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant(s) and landowner(s) to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. In addition, the condition ensures that future owners of the property will be informed of the risks, the Commission's immunity from liability, and the indemnity afforded the Commission.

With respect to water-borne hazards, according to the subject FEMA flood insurance rate map for the City of Eureka (Community Panel No. 060062 0005C, dated June 17, 1986), the project site is located outside of the 100-year flood elevation of Humboldt Bay. Accordingly, the site is not within a flood-prone area. In spite of this, given the subject property's bayside location, the project site is subject to exposure to seismic hazards related to tsunamis and seiches.

According to the project EIR, tsunami and seiche waves are considered to be a significant threat to the project site. However, the EIR concludes that this threat is somewhat muted by the site's location within the bay's inter-reaches as compared to more damage prone locations near the bay entrance:

Tsunami risk inside Humboldt Bay is controlled by the flow dynamics of the enclosed bay and are less than for areas without direct ocean exposure. The tsunami wave run-up for areas with direct ocean exposure were calculated as 10 feet for the 100-year event (e.g., an event that would be likely to occur once in 100-years, or that has a one percent chance of occurrence per year) and 21 feet for the 500-year event.

The EIR prepared for the most recent City of Eureka general plan update (SCH No. 9607062, J. Laurence Mintier & Assoc., February, 1997) further addresses the issue of tsunami exposure along the City waterfront. Quoting from a planning scenario prepared for the California Office of Emergency Services by the California Department of Conservation, the general plan EIR states, in applicable part:

The entire Eureka waterfront, from Elk River to Eureka Slough, is identified as subject to tsunami inundation, possibly within minutes after being subjected to very intense seismic shaking.

In response to this risk, the general plan EIR included Mitigation Measure M.6.4, which provides:

The City shall cooperate with Humboldt County and the State Office of Emergency Services, Humboldt State University, the California Division of Mines and Geology, and the U.S. Geological Survey to develop a more adequate understanding of CSZ-derived tsunami risks and the potential effects of CCSZ-derived tsunami on the city and its inhabitants. The City shall update its local preparedness programs and its General Plan policies as additional information becomes available about the risks of CSZ-derived tsunami, in order to better protect the city's inhabitants and visitors.

Notwithstanding, the City's ongoing efforts at inter-agency coordination and seeking a deeper understanding of the nature of tsunamis, with regard to the efficacy of the adopted mitigation measure, the general plan EIR concluded that, "(e)ven with this additional mitigation measure, it may not be possible to reduce the risks from a CZR-derived tsunami below the level of environmental significance."

Moreover, although the predicted 10 to 21-foot height of 100- and 500-year tsunamis would arguably be somewhat attenuated by the time they were to reach the project site, and by the intervening presence of the boardwalk absorbing some of their wave energy, with a first-floor elevation of approximately six feet above the typical bay water high tide level, portions of the site could be exposed to low to moderate intensity inundation associated with seismic events of sufficient magnitudes during the design life of the structures. Such inundation could result in significant property damage, and, unless warning and evacuation actions are undertaken in a timely manner, possible loss of human life.

To assure that the proposed new development minimizes risks to life and property from tsunami inundation, the Commission attaches Special Condition No. 5. Special Condition No. 5 requires that prior to issuance of the coastal development permit, the applicants submit for the review and approval of the Executive Director, a tsunami safety plan. The plan would detail the project site occupant's involvement in tsunami hazard response actions developed by the City of Eureka and the Humboldt County Office of Emergency Services for reducing tsunami hazard exposure, including informative materials to be provided to residential occupants and posted for commercial patrons (e.g., explanation of the threat of waterfront tsunami inundation, evacuation directions), and summarize local tsunami warning and response plans that take in the project site.

As the development has been conditioned to provide a tsunami safety plan for aiding the evacuation of commercial patrons, the proposed resort project will be designed so as to

minimize risks to life and property from tsunami inundation consistent applicable LUP Policies.

The Commission finds, that as conditioned, the proposed project will include adequate measures to assure structural stability, minimize risks to life and property from geologic instability, ensure that erosion, geologic stability, or destruction of the site is prevented, and make certain that the floor elevations of all structures intended for human occupation are located outside of the 100-year floodplain consistent with LUP Policies 7.A.1, 7.A.3, 7.A.6, 7.B.1, 7.B.3, 7.B.4, 7.B.5, and 7.D.1.

H. CONSISTENCY WITH LOCAL APPROVALS

As discussed previously in Findings Section IV.A above, the project includes a proposal to create eight condominium units, four each on the third floors of each proposed building. Pursuant to Section 66424 of the State Subdivision Map Act, condominiums are included within the definition of "subdivision" for which approval by the local government of a tentative map is required. On December 14, 1998, as part of actions taken on an earlier project design, the Planning Commission of the City of Eureka approved a tentative subdivision map for the creation of eleven (11) second-story condominium units within one project structure. For purposes of the Commission's *de novo* review, the project has been subsequently revised to propose the current eight units.

The project requires that the City of Eureka authorize an amendment to the approved tentative map pursuant to Section 154.043 of the City's Subdivision Ordinance (see Exhibit No. 9). The applicants have not yet received such an approval. Therefore, to ensure that the subdivision portion of the project reviewed and approved by the City is the same condominium project that was reviewed under this permit and approved by the Commission, the Commission attaches Special Condition No. 11 which requires that prior to issuance of the permit, the applicants submit a copy of the revised tentative map and the final map approved by the City of Eureka and demonstrate that both the revised tentative map and the final map are consistent with the terms and conditions of the Commission's action.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings on conformity with LCP policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed herein, in the findings addressing the consistency of the proposed project with the certified LCP. The proposed project has been conditioned so as to be found consistent with the City of Eureka LCP and the access and recreation policies of the Coastal Act. Mitigation measures that will minimize all adverse environmental impacts have been made requirements of project approval. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

V. EXHIBITS:

1. Regional Location Map
2. Vicinity Map
3. Jurisdictional Map
4. Proposed *Eureka Pier* Narrative Description, Project Site, Floor, Drainage, and Landscaping Plans, and Elevation Views
5. *Notice of Final Action*
6. *Appeal from Coastal Permit Decision of Local Government*, filed May 16, 2001 (Jones)
7. *Appeal from Coastal Permit Decision of Local Government*, filed May 16, 2001 (Wan & Woolley)
8. Excerpts, Project EIR and City Staff Reports Regarding Off-street Parking, Protection of Aquatic Resources and Water Quality Appellate Issues
9. Excerpts, Eureka Municipal Code
10. Review Agency Correspondence
11. General Correspondence

ATTACHMENT A:

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

A B C D E F G H I J K L M N O

Humboldt

EXHIBIT NO. 1

APPLICATION NO.
A-1-EUR-01-029

EUREKA WATERFRONT
PARTNERS

REGIONAL LOCATION
MAP

PROJECT
SITE

Fairhaven

EUREKA AIRPORT

EUREKA

Cullen

Fields
Landing

BOUNDARY

ARCATA

COASTAL

Bayside

Freshwater
SHEET MILL

LOCATION MAP

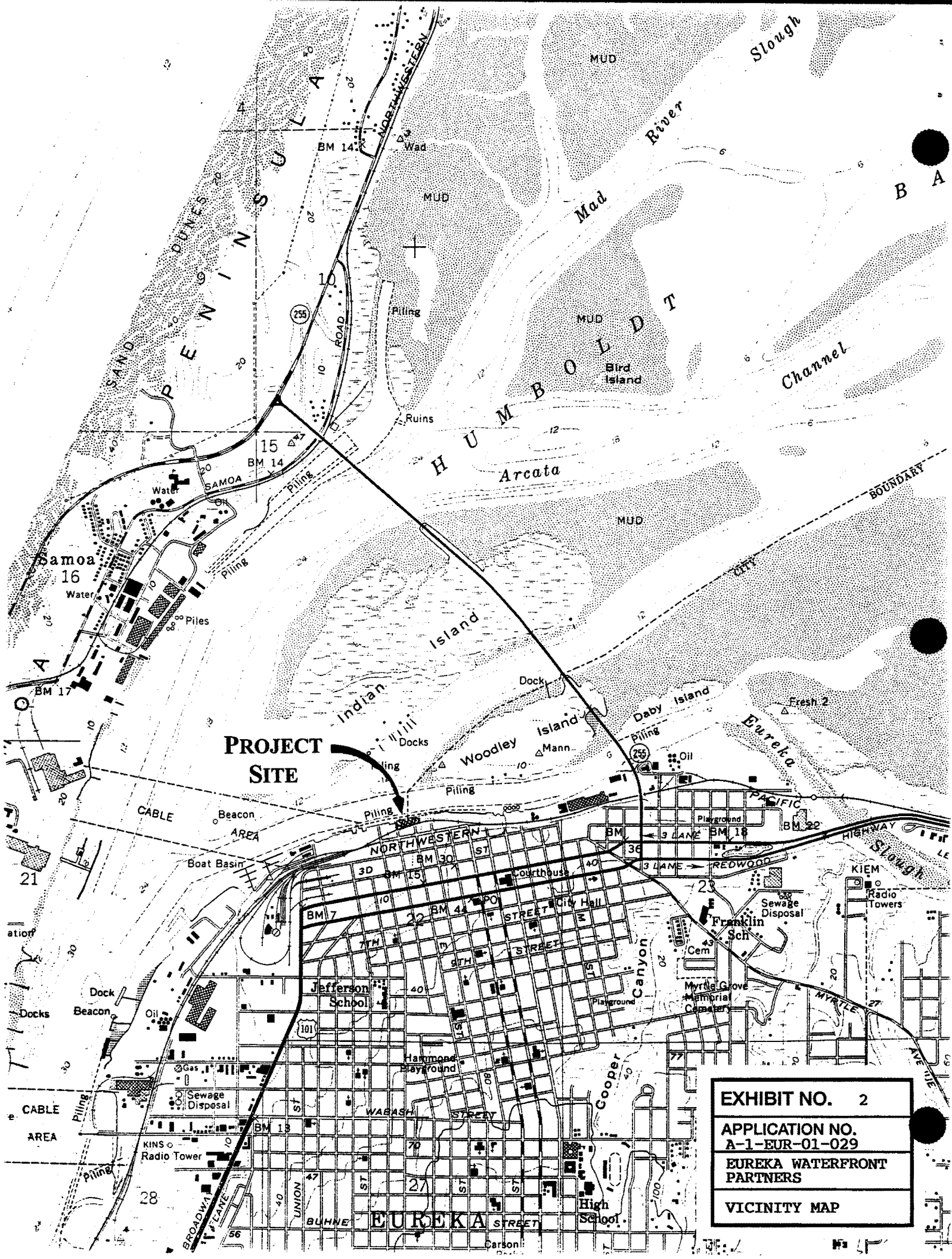
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California Coastal Commission

County of Humboldt

Sheet 4 of 8



**PROJECT
SITE**

EXHIBIT NO. 2
APPLICATION NO. A-1-EUR-01-029
EUREKA WATERFRONT PARTNERS
VICINITY MAP

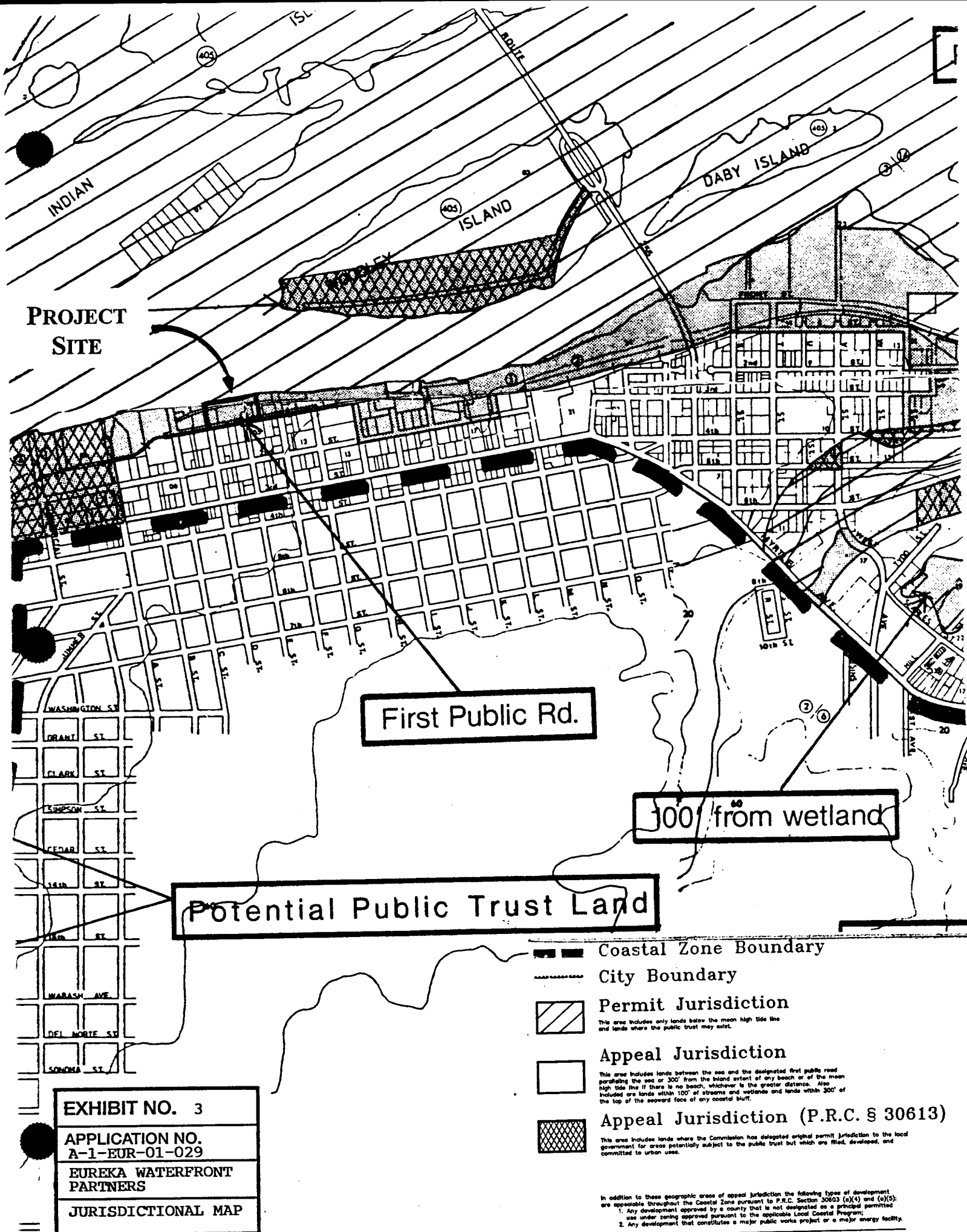




EXHIBIT NO. 4
APPLICATION NO. A-1-EUR-01-029
EUREKA WATERFRONT PARTNERS (1 of 27)
PROPOSED EUREKA PIER NARRATIVE ETC.

RECEIVED
FEB 14 2002
CALIFORNIA
COASTAL COMMISSION

February 13, 2002

Mr. Bob Merrill
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

RE: Coastal Development Permit No. 1-99-079 and Coastal Development Permit
Appeal No. A-1-EUR-01-029 for "Eureka Pier" Commercial-Residential Complex,
Eureka Waterfront Area, City of Eureka, Humboldt County California

AMENDED PROJECT DESCRIPTION

*For the purposes of the California Coastal Commission de novo review of the
project application referenced above we are amending the project description as follows:*

The Eureka Pier project coupled with the recently opened boardwalk will restore access to the waterfront for the first time in many years. The boardwalk provides a platform for public gatherings, outdoor cafes, concerts, and community events with spectacular views of the bay. The project replaces two dilapidated wood warehouse buildings. One of which collapsed under its own weight and another that the City removed last year.

The project design is for two multi-storied buildings. Building "A" will be a three-story building retail and restaurant space on the ground floor office and residential apartment space on the second floor and residential condominiums on the third floor. Building "B" will be a three-story building with retail and restaurant on the ground floor offices on the second floor and residential condominiums on the third floor. The attached Exhibit "A" provides a breakdown of the square footage and parking requirements for each building and each use.

The ground floors are designed for retail shops and restaurants. Likely ground floor retail and restaurant tenants may include. A fish market featuring local catch and imported fresh seafood. A seafood restaurant, with oyster bar, designed to highlight the history of fishing in the area; a bakery café and coffee bar; and retail stores featuring products of the North coast. The ground floor shops in buildings "A" and "B" open directly to the public boardwalk. Some of the shops in building "B" open to the South towards First Street.

The second floors will be improved as commercial office spaces and rental apartments. The third floors are designed for residential condominiums. The units range in size from 1935 to 2228 sq. ft. of area, with decks overlooking the bay and to Old Town

Dolores Vellutini, Managing Partner, John Ash, Principal Architect, Joe Vellutini, Leasing
Eureka Pier, LLC, 426 First St., Eureka, CA 95501, 707/445-8997, fax: 707/442-7981
Email: for Dolores: dmv@eurekapiers.com for John: jash@johnash.com for Joe: eoj65@aol.com



to the South.

Primary access to the site is provided from the North end of "E" Street. A right turn accesses the secure parking area for the residences and a left turn leads you to the surface-parking area, for the retail, office and apartment tenants and customers. The buildings will be owned and developed by Eureka Pier, LLC. Principal partner is Dolores Vellutini, of Eureka, California. The architect for the project is John Ash, A.I.A. Principal of JAG Architects.

Parking for the project has been supplemented as a result of an appeal to the City's Coastal Development permit. In addition to the parking provided on-site as indicated on the attached Exhibit "A", we have leased 20 spaces from the City of Eureka that will be used for permitted employee and office parking. The remaining required 20 spaces are provided through "In-Lieu" payments at a cost of \$7000 per space. A letter from the Eureka City Manager provides a further explanation of the "In-Lieu" parking supplement.

The development team principals, Dolores Vellutini and John Ash started the project in 1995 in response to a Request for Proposals put out by the City to renovate two historic fisherman's warehouses. Dolores is a leader in the community in the preservation of historic buildings. She spent 13 years documenting all of the historic buildings in the City of Eureka. Her efforts produced the book "Eureka: An Architectural View", one of the most comprehensive surveys of the historic resources of a city ever published in the United States. Recently, she has restored three of the oldest commercial buildings in Old Town Eureka. Dolores successfully nominated all three buildings for listing on the National Register of Historic Places.

Her husband, John Ash, an award winning historic preservation architect, directed the original design to adapt the two historic warehouse buildings into mixed use commercial and residential. Due to the requirements of conflicting regulatory agencies John has had to redesign the building four times.

The intention of the developer and the architect is to develop the buildings with the latest innovations in "Green" design. This includes the use of building materials that use the Earth's resources in an environmentally responsible way. Preference in product selection will be given to products that maximize the use of renewable resources, are energy efficient and that minimize pollution during construction and after the building is open for operations.

The project principals are active in the promotion of non-polluting recreational activities on Humboldt Bay. John Ash is directing the planning and implementation of the Humboldt Bay Water Trail and as such shares the concerns that the Commission has for water quality. We have provided supplemental design information for handling storm water run off that was not a part of our original Coastal Development Permit application.

The design of the building is inspired by the rocky seashore and gable roof structures of this "Victorian Seaport". Traditional forms are defined with timber features that give expression to one of the areas most renewable of resources.

Dolores Vellutini, Managing Partner, John Ash, Principal Architect, Joe Vellutini, Leasing
Eureka Pier, LLC, 426 First St., Eureka, CA 95501, 707/445-8997, fax: 707/442-7981
Email: for Dolores: dmv@eurekapiers.com for John: jash@johnash.com for Joe: coj65@aol.com

2227



EUREKA PIER

Our vision is to create a project that is an authentic expression of the culture of the North coast for the people living in the region. Accomplishment of that vision will insure a quality experience for visitors coming from outside of the area.

Dolores Veilutini, Managing Partner, John Ash, Principal Architect, Joe Veilutini, Leasing
Eureka Pier, LLC, 426 First St., Eureka, CA 95501, 707/445-8997, fax: 707/442-7981
Email: for Dolores: dmy@eurekapiers.com for John: jash@johnash.com for Joe: coj65@aol.com

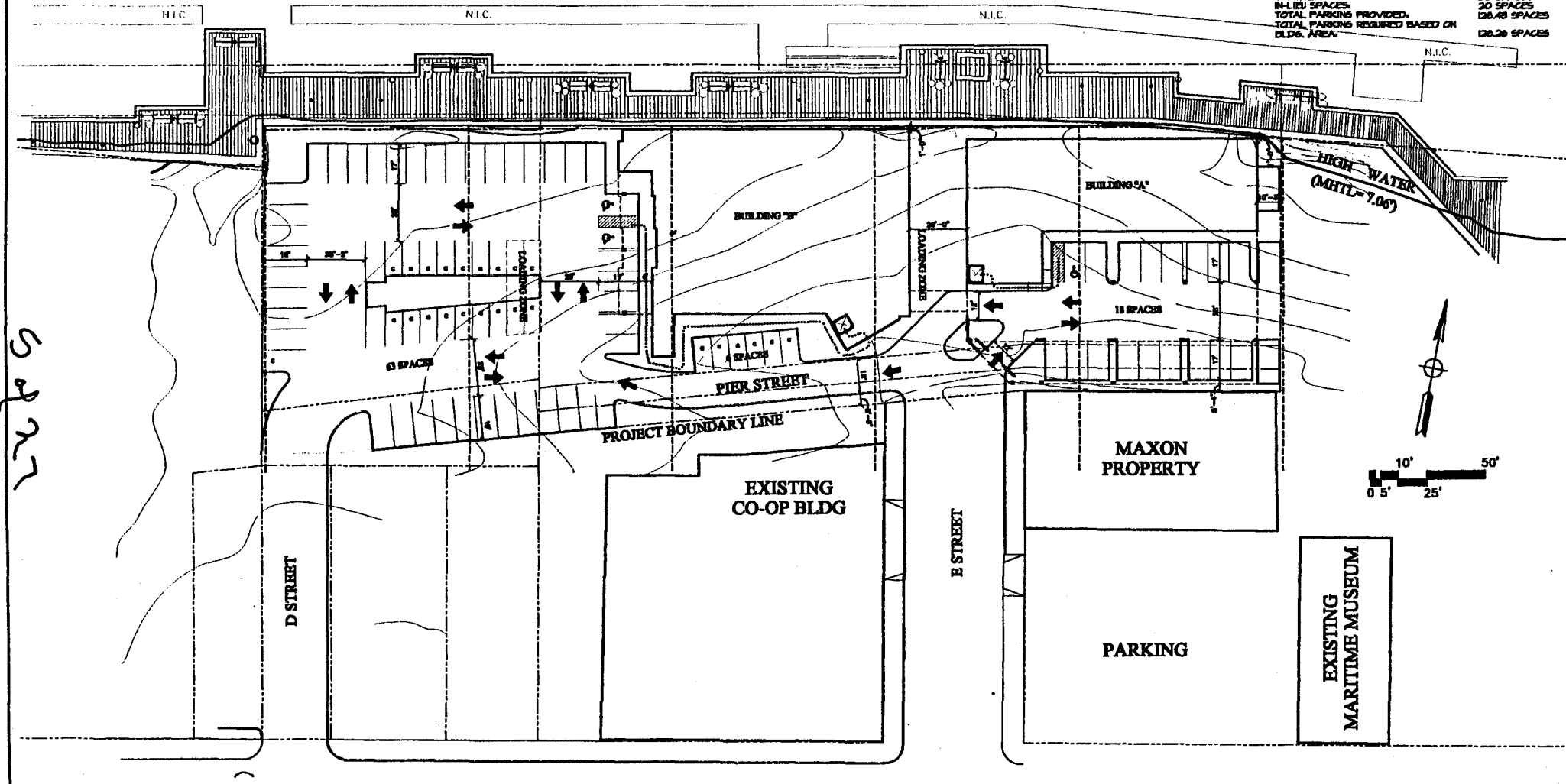
3 of 27

EXHIBIT "A"						
Revised with Scheme "B"						
EUREKA PIER PROJECT DESCRIPTION						
Building Uses, Square Footage and Parking Requirements						
February 13, 2002						
Project Portion	Gross Floor Area (sq. ft.) or Residential Units	Net Floor Area (sq. ft.) or Residential Units	Proposed Use(s)	Parking Requirement	No. of Spaces Required Gross	No. of Spaces Required Net
Bldg. "A"						
1st Floor	2850	2710	Restaurant	1 space/200 sq. ft.	14.25	13.55
	2850	2710	Retail	1 space/300 sq. ft.	9.50	9.03
2nd Floor	4835	4632	Office	1 space/300 sq. ft.	16.12	15.44
	4	4	Residential Apartment	1.5 spaces per unit	6.00	6.00
3rd Floor	4	4	Residential Condominiums	1.5 spaces per unit	6.00	6.00
Bldg. "B"						
1st Floor	4800	4543.5	Restaurant	1 space/200 sq. ft.	24.00	22.72
	4800	4543.5	Retail	1 space/300 sq. ft.	16.00	15.15
2nd Floor	7970	7412	Office	1 space/300 sq. ft.	26.57	24.71
	2	2	Residential Apartment	1.5 spaces per unit	3.00	3.00
3rd Floor	4	4	Residential Condominiums	1.5 spaces per unit	6.00	6.00
TOTAL PARKING REQUIRED					127.43	121.59
Parking Break Down						
On-Site						87
Leased Off-Site						20
In-Lieu	Per space	\$ 7,000	In-Lieu fees paid = \$	150,000		21.43
Total						128.43

4 of 27

HUMBOLDT BAY

PROJECT SUMMARY:	
GROSS BLDG. AREA W/O VERT SHAFTS	50,248
GROSS BLDG. AREA W/ VERT SHAFTS	50,781
NET RENTABLE AREA	41,148
RESTAURANT	1,850 S.F.
RETAIL	1,850 S.F.
OFFICE	1,850 S.F.
RENTAL APARTMENTS	8
RESIDENTIAL CONDOMINIUMS	8
PARKING ON SITE (25% STD. 25% COMP.)	81 SPACES
OFFSITE	20 SPACES
IN-LOT SPACES	20 SPACES
TOTAL PARKING PROVIDED	121 SPACES
TOTAL PARKING REQUIRED BASED ON BLDG. AREA	128.26 SPACES



EUREKA PIER

New mixed use project
located on Humboldt Bay
Eureka, California

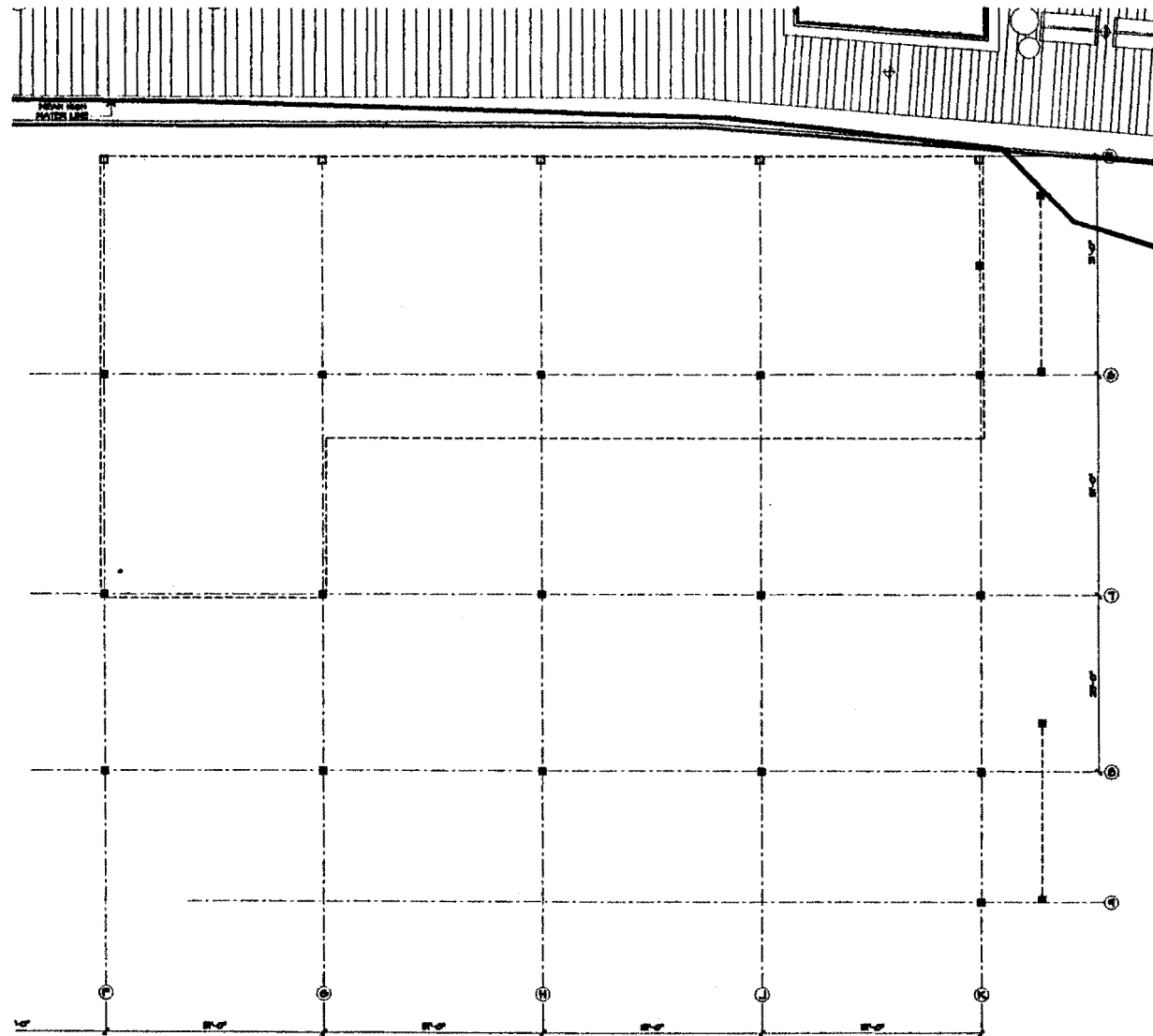
Developer: Eureka Waterfront Partners, LLC
Managing Partner: Dolores Vellutini
Architect: Johnson Group

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**SITE PLAN
SCHEME 'B'**
A0.1

Scale: 1"=20'-0"
February 13, 2002

6 of 27

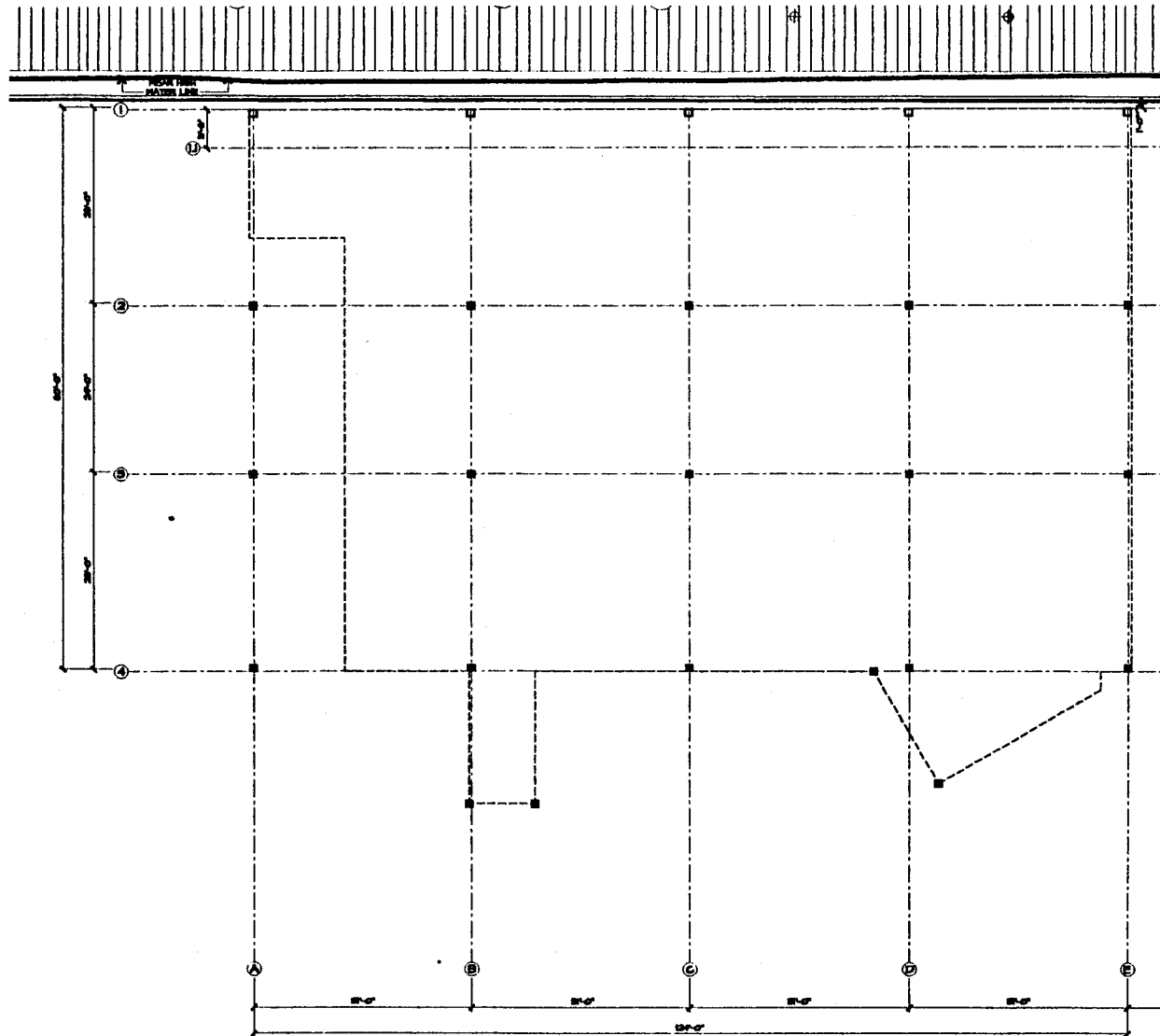


Developer: Eureka Waterfront Partners, LLC
Managing Partner: Dolores Vellutini
Architect: John Ash Group

EUREKA PIER
New mixed use project
located on Humboldt Bay
Eureka, California

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BUILDING A
FOUNDATION PLAN
A1.1
Scale: 1/8"=1'-0"
Date: January 10, 2002

709727

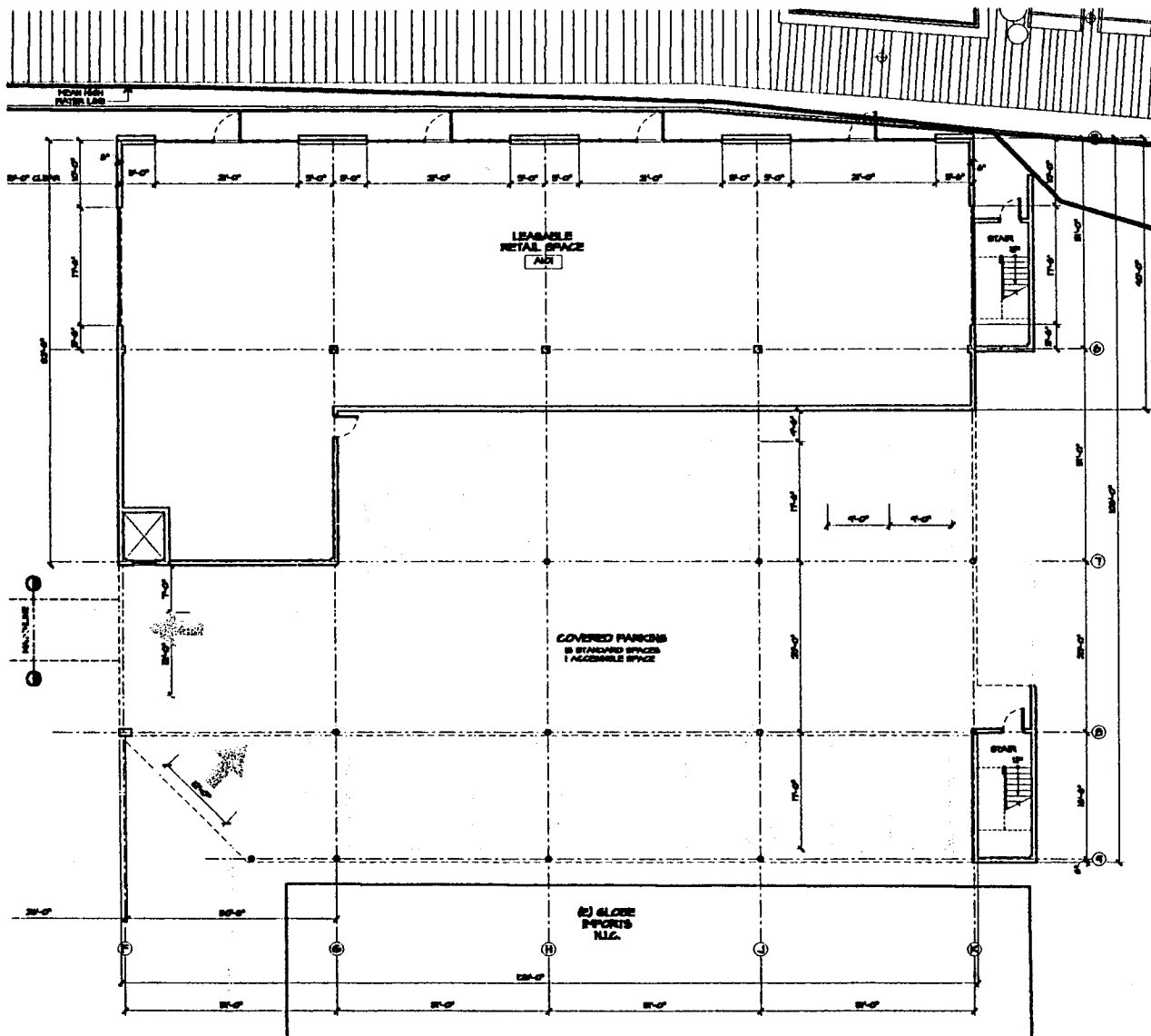


EUREKA PIER
 New mixed use project
 located on Humboldt Bay
 Eureka, California

Developer: Eureka Waterfront Partners, LLC
 Managing Partner: Dolores Vellutini
 Architect: John Ash Group

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BUILDING B
FOUNDATION PLAN
A1.2

Scale: 1/8" = 1'-0"
 January 10, 2002

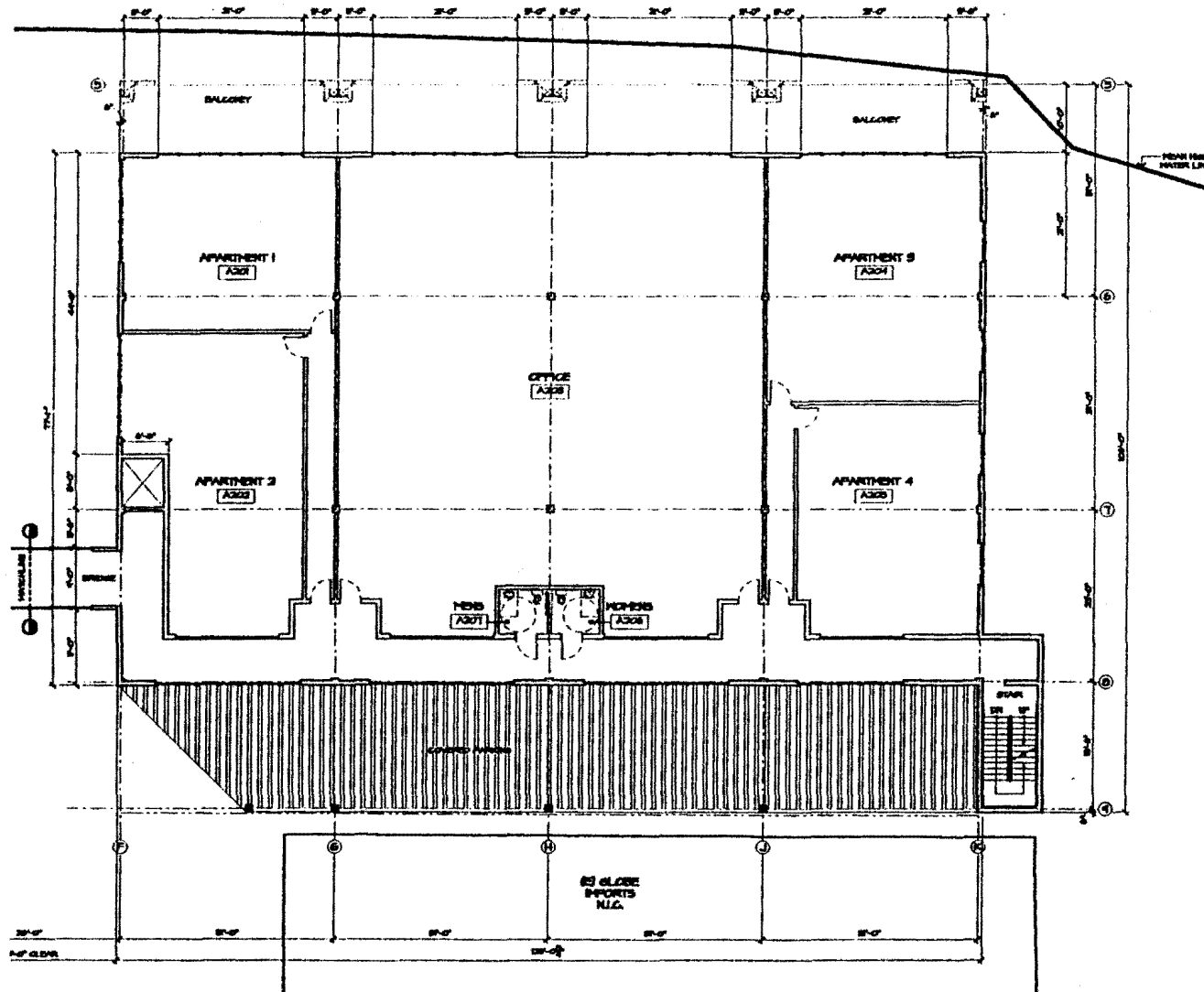


Developer: Eureka Waterfront Partners, LLC
 Managing Partner: Dolores Vellutini
 Architect: John Ash Group

EUREKA PIER New mixed use project located on Humboldt Bay Eureka, California

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BUILDING A
FIRST FLOOR PLAN
A2.1

Scale: 1/8"=1'-0"
 Date: January 10, 2002



EUREKA PIER New mixed use project located on Humboldt Bay Eureka, California

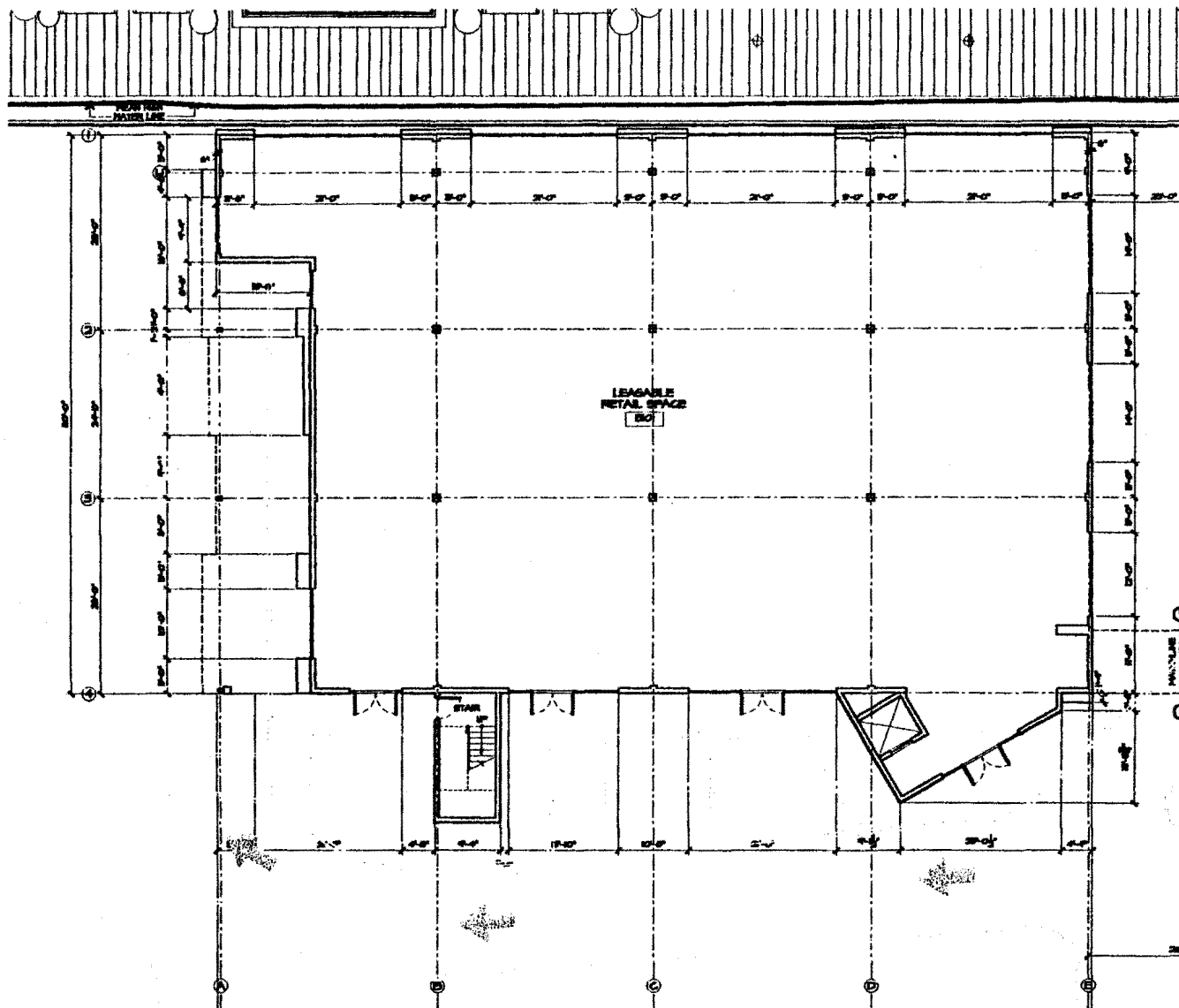
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BUILDING A
SECOND FLOOR PLAN
SCHEME "B"
A2.2

Scale: 1/8" = 1'-0"
 Date: 10/30/2002

Developer: Eureka Waterfront Partners, LLC
 Managing Partner: Dolores Vellutini
 Architect: John Lay Group

10 22

Scale: 1/8"=1'-0"
Date: January 10, 2002

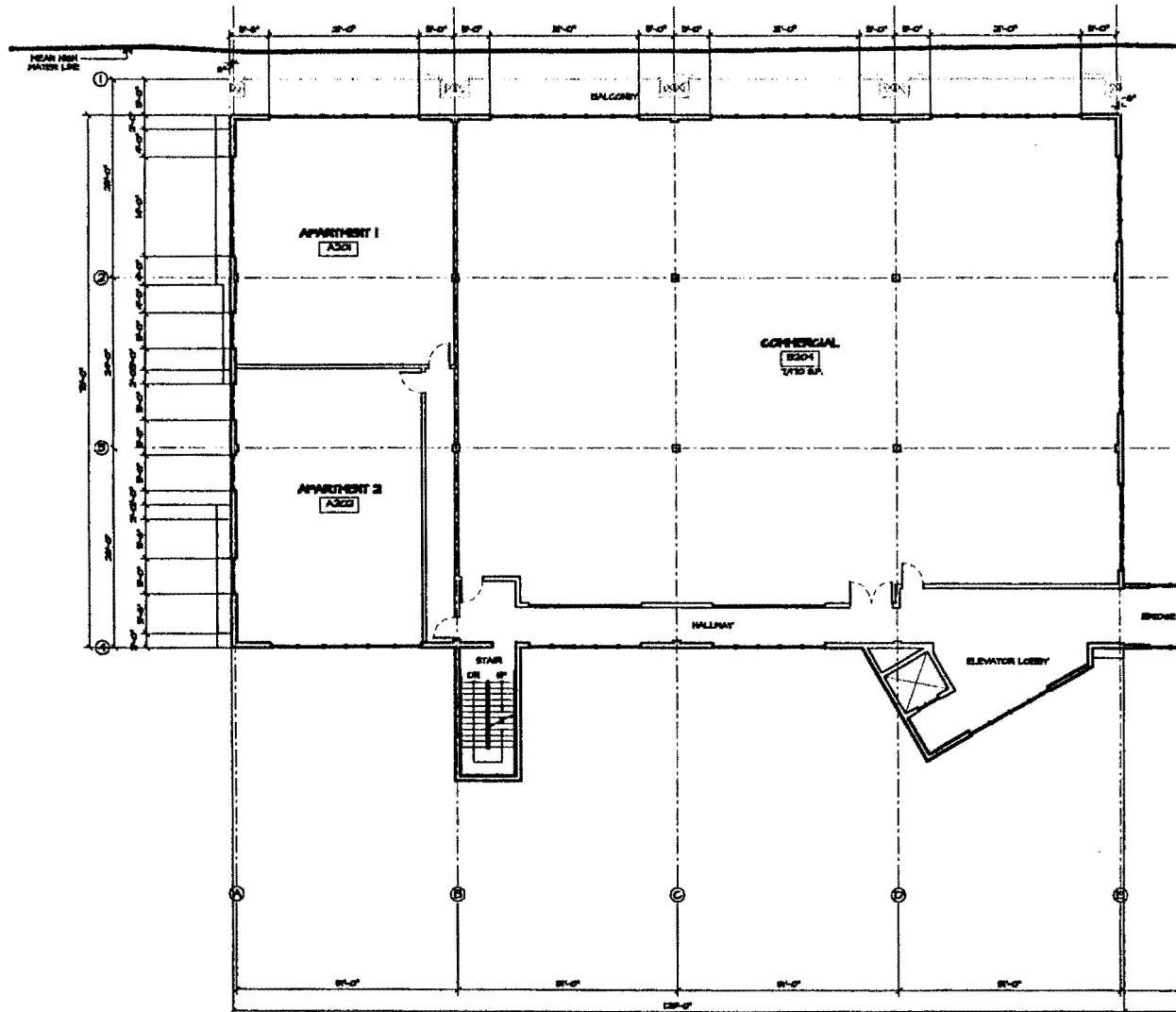


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Developer: Eureka Waterfront Partners, LLC
 Managing Partner: Dolores Vellutini
 Architect: Johnson Group

EUREKA PIER New mixed use project located on Humboldt Bay Eureka, California

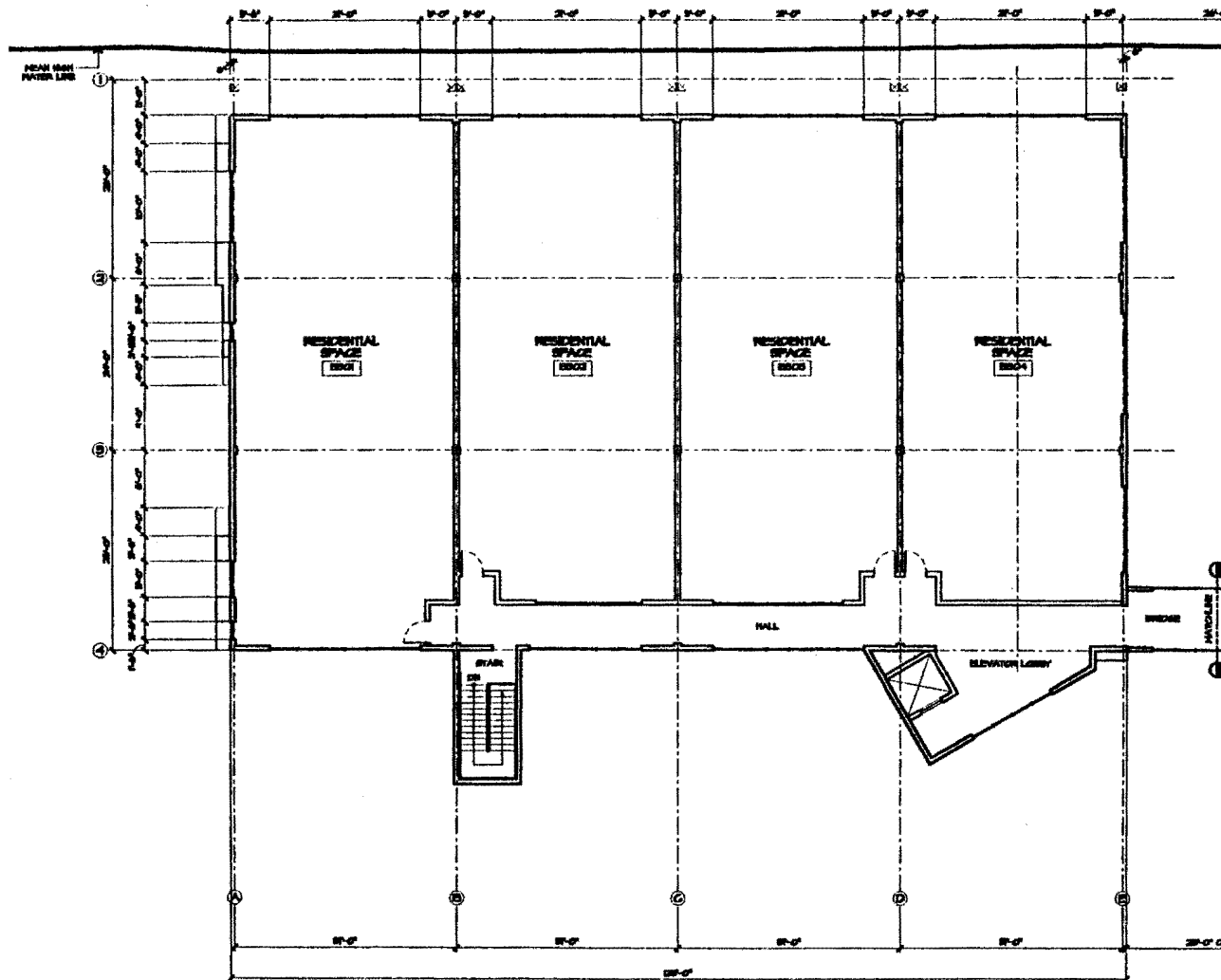
COPYRIGHT © 2002 JOHN AM GROUP
BUILDING B
FIRST FLOOR PLAN
A2.4
 Scale: 1/8" = 1'-0"
 Date: 10, 2002



Developer: Eureka Waterfront Partners, LLC
 Managing Partner: Dolores Vellutini
 Architect: John Ash Group

EUREKA PIER New mixed use project located on Humboldt Bay Eureka, California

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BUILDING B
SECOND FLOOR PLAN
SCHEME "B"
A2.5
 Scale: 1/8"=1'-0"
 Date: February 13, 2002



13822

Developer: Eureka Waterfront Partners, LLC
 Managing Partner: Dolores Vellutini
 Architect: John H. Group

EUREKA PIER
 New mixed use project
 located on Humboldt Bay
 Eureka, California

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BUILDING B
THIRD FLOOR PLAN
A2.6
 Scale: 1/8" = 1'-0"
 Date: 10, 2002

This architectural floor plan shows a building layout with a central hall and several surrounding rooms. The plan is oriented with a north arrow pointing towards the top-left corner. The central hall is a large, open rectangular space. To the left of the hall is a staircase with a curved landing. To the right of the hall is a long, narrow corridor or hallway. At the top of the plan, there is a row of rooms, each with a door opening into the central hall. The rooms are labeled with numbers: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100. The plan also shows various structural elements such as walls, doors, windows, and stairs. The overall layout is symmetrical and well-organized.

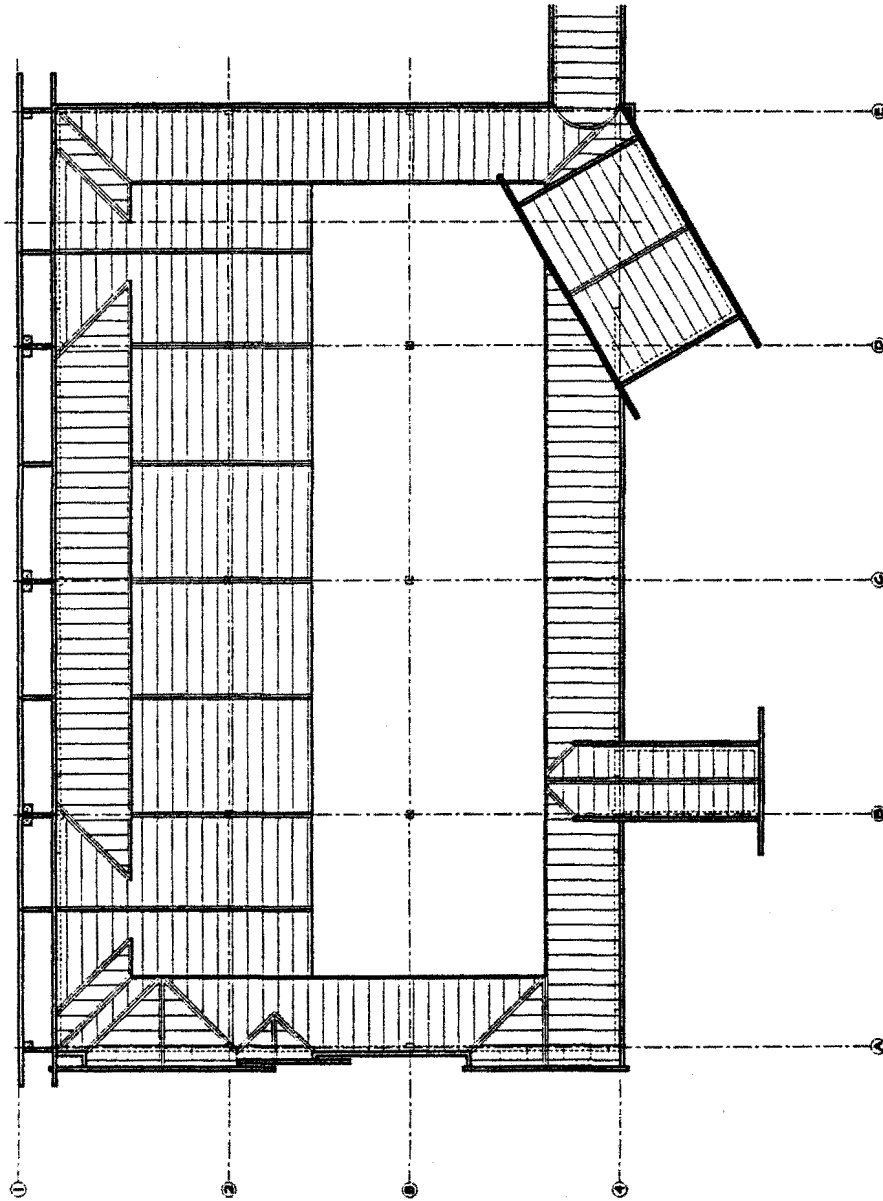
**New mixed use project
located on Humboldt Bay
Eureka, California**

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BUILDING A ROOF PLAN

A2.7

Scale: 1/8"=1'-0"
Date: January 10, 2002

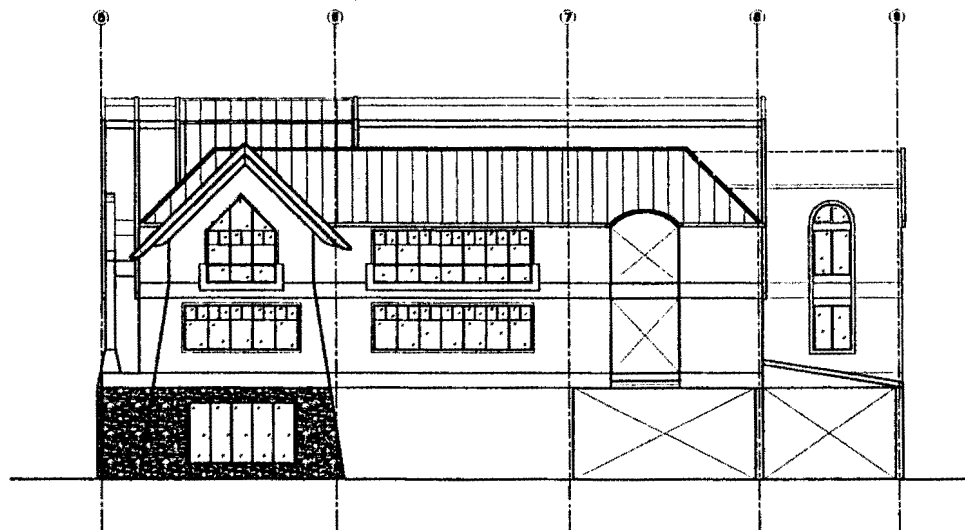


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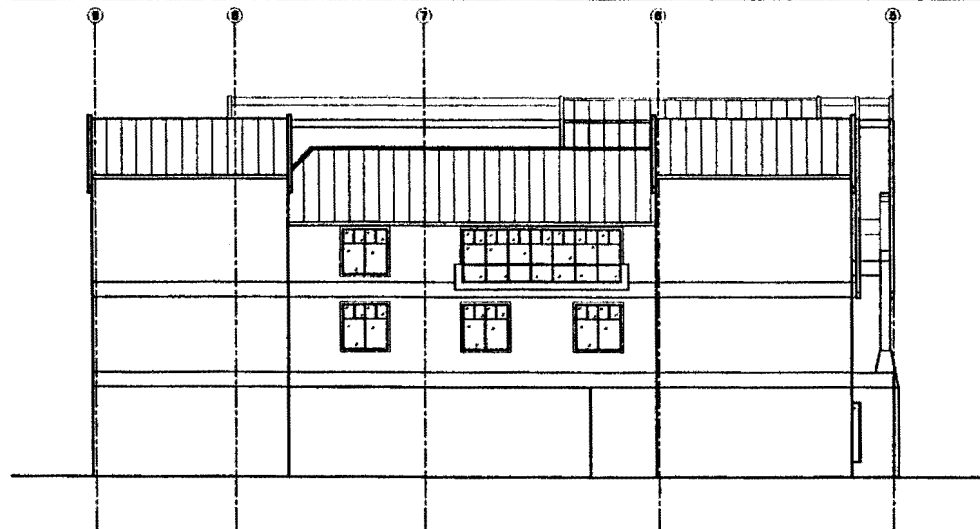
DEVELOPER: EUREKA WATERFRONT PARTNERS, LLC
 BUILDING B
 ROOF PLAN
 A2.8
 Scale: 1/8" = 1'-0"
 Date: July 10, 2002

EUREKA PIER
 New mixed use project
 located on Humboldt Bay
 Eureka, California

Developer: Eureka Waterfront Partners, LLC
 Managing Partner: Dolores Vellutini
 Architect: Johnson Group



BUILDING A-WEST ELEVATION



BUILDING A-EAST ELEVATION

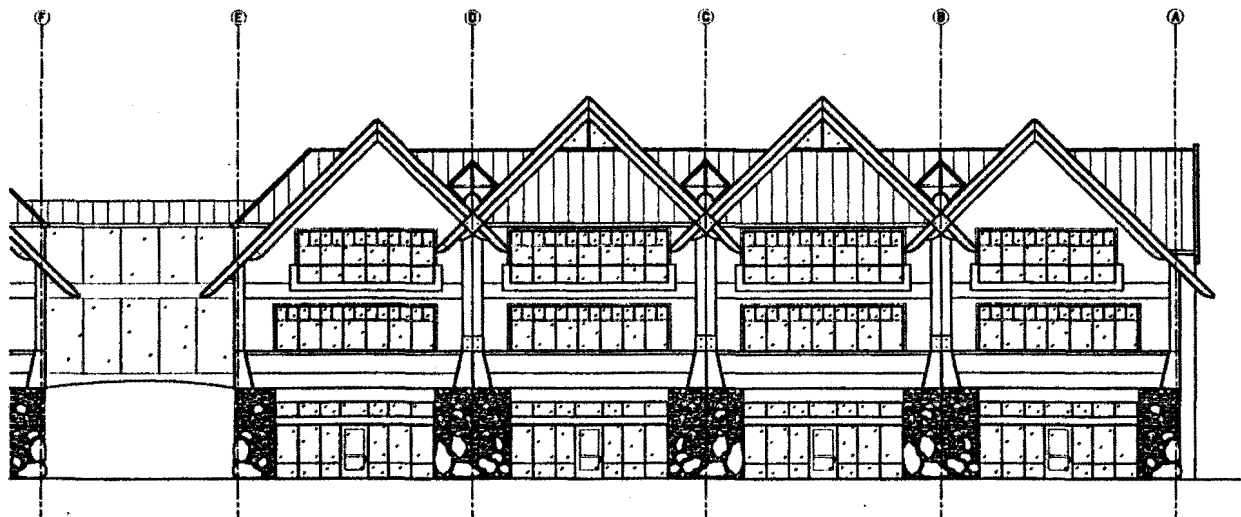
EUREKA PIER
New mixed use project
located on Humboldt Bay
Eureka, California

Developer: Eureka Waterfront Partners, LLC
 Managing Partner: Dolores Vellutini
 Architect: John Ash Group

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BUILDING A
EXTERIOR ELEVATIONS
A3.1

Scale: 1/8"=1'-0"
 Date: January 10, 2002

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BUILDING B-NORTH ELEVATION



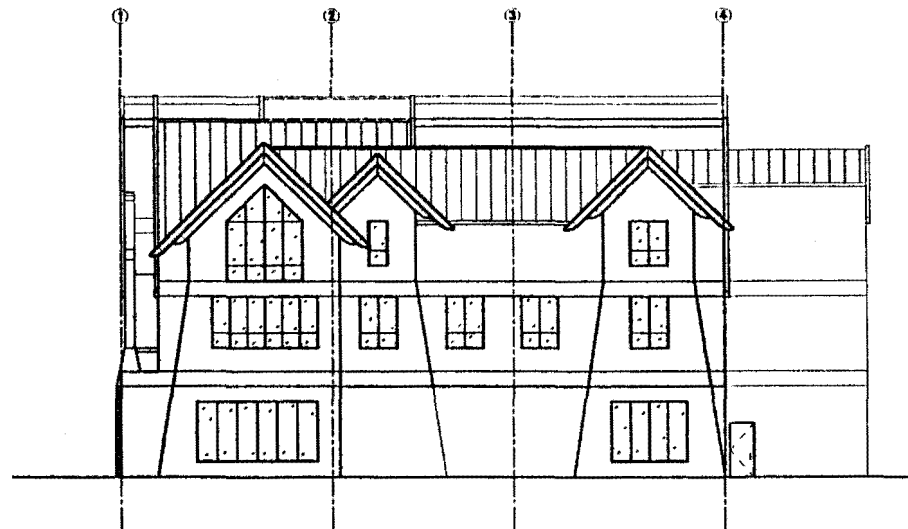
BUILDING B-SOUTH ELEVATION

EUREKA PIER
 New mixed use project
 located on Humboldt Bay
 Eureka, California

Developer: Eureka Waterfront Partners, LLC
 Managing Partner: Dolores Vellutini
 Architect: Johnson Group

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BUILDING B
EXTERIOR ELEVATIONS
A3.2
 Scale: 1/8" = 1'-0"
 Date: 10, 2002

12922



BUILDING B-WEST ELEVATION



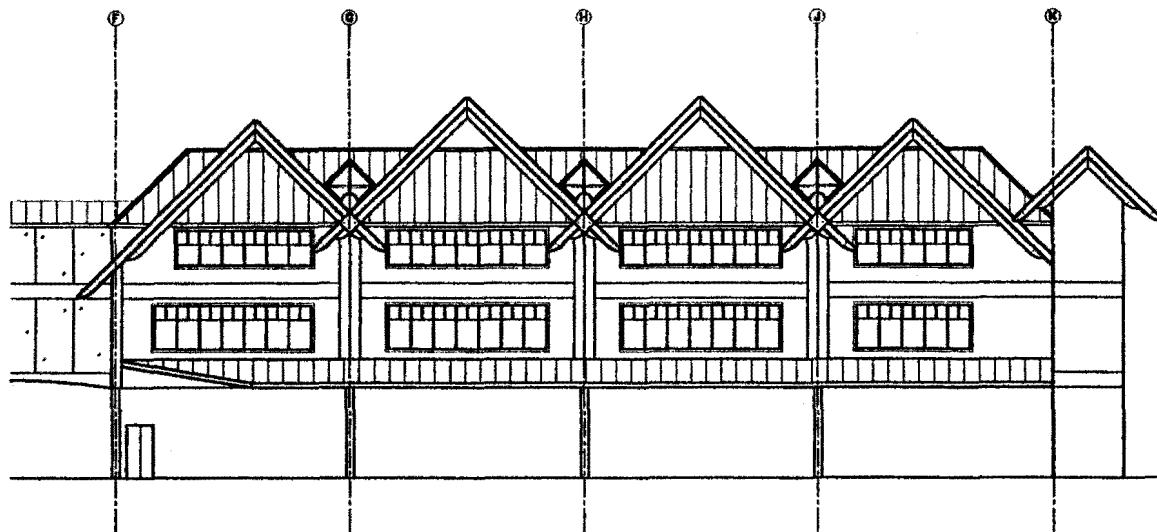
BUILDING B-EAST ELEVATION

EUREKA PIER
 New mixed use project
 located on Humboldt Bay
 Eureka, California

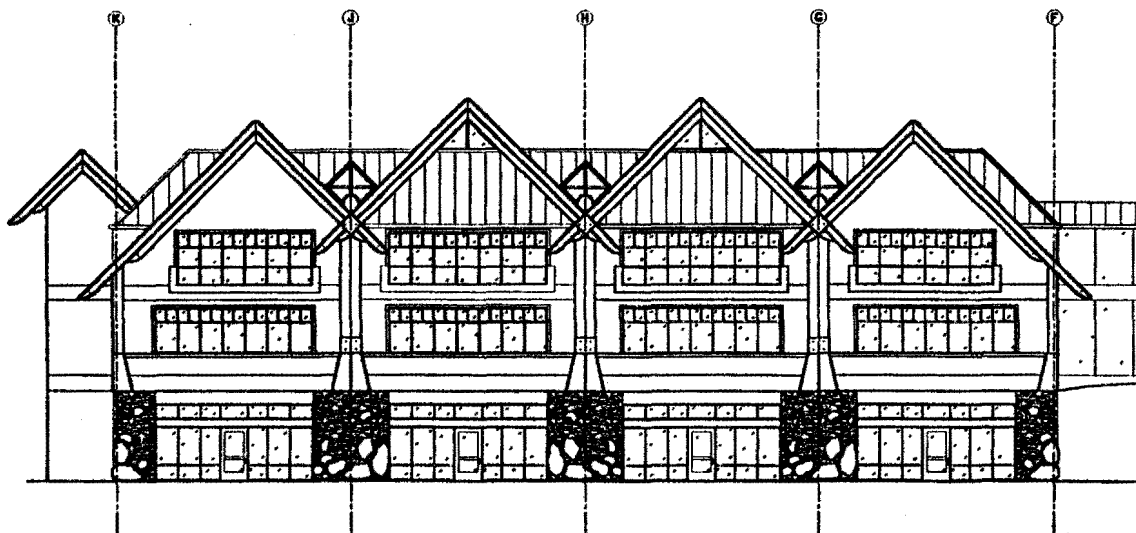
Developer: Eureka Waterfront Partners, LLC
 Managing Partner: Dolores Vellutini
 Architect: John Ash Group

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BUILDING B
EXTERIOR ELEVATIONS
A3.3
 Scale: 1/8"=1'-0"
 Date: January 10, 2002

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BUILDING A-NORTH ELEVATION



BUILDING A-SOUTH ELEVATION

EUREKA PIER
 New mixed use project
 located on Humboldt Bay
 Eureka, California

Developer: Eureka Waterfront Partners, LLC
 Managing Partner: Dolores Vellutini
 Architect: John Ash Group

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BUILDING A
EXTERIOR ELEVATIONS
A3.4

Scale: 1/8" = 1'-0"
 Date: 10, 2002

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PACIFIC AFFILIATES, INC.
A CONSULTING ENGINEERING GROUP

DAVID L. SCHNEIDER - RCE 27285

990 W. WATERFRONT DRIVE • EUREKA • CA • 95501 PH: (707) 445-3001 • FAX: (707) 445-3003

January 30, 2002

Mr. John Ash
John Ash Group Architects
426 First Street
Eureka, California 95501

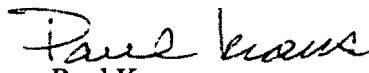
Re: City of Eureka Coastal Development Permit Application
Drainage and Grading Plan – Eureka Waterfront Partners

Dear Mr. Ash:

Per your request, we are providing a copy of the drainage plan mapping and narrative as well as runoff calculations and separator sizing for review by the City of Eureka Department of Community Development. The attached plan and supporting documentation was sent to the California Coastal Commission to address their concerns regarding grading, fill, storm water runoff and potential contaminant containment.

Please contact our office should you wish to discuss the contents of this letter.

Sincerely,


Paul Kraus
Project Engineer

PK/bs
CC: File

20927

Grading and Drainage Plan
Eureka Waterfront Partners
December 12, 2001

Grading and Drainage

Grading and final surfacing of the project site will involve import of 1720 cubic yards of clean, granular fill material. Prior to placement and compaction of granular fill along the back of the boardwalk structure within the west parking lot, polypropylene geotextile fabric (conforming to Caltrans Standard Specifications, Section 88) will be used to bridge the existing soils and prevent future erosion and loss of material that may result from tidal influence and prolonged consolidation of highly organic soils along the shore of Humboldt Bay. Placement of fill will not encroach upon tidal areas. Granular fill will be placed in 12-inch maximum lifts and compacted to 95% relative compaction using a drum roller.

The main parking lot elevation will be filled to within one-half foot of the top of the boardwalk, or 12.0 feet ECD, and sloped toward the interior lot island. An oil/water separator will be placed within the island to accept run-off from the main parking lot and entrance as well as the sidewalk west of Building 'B'. From the separator, storm water will be routed to an existing storm drain that runs to Humboldt Bay. A second oil/water separator will be placed within the island planter that divides traffic leading to and from the covered parking area. This separator will receive water from the east parking area, vehicle travel ways and surrounding sidewalk area fronting the proposed buildings and parking area. Water exiting the separator will be routed to the storm drain extending north from the northeast corner of E Street.

Water draining from building roofs, will be routed to Humboldt Bay as surface flow. Water from the building roofs will not come into contact with contaminants or sediment.

Separators will be reinforced concrete baffle tanks manufactured by Hilfiker Pipe Company, or equal.

Separator 1 (S1) 1200 gallon capacity

Separator 2 (S2) 750 gallon capacity

See attached calculations for drainage area, runoff volume and separator retention time.

All drainage piping will be Type S, smooth wall, ribbed HDPE plastic pipe, or equal.

Curb drains and drop inlets will be cast in place, conforming to Caltrans Standard Plans.

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Runoff and Separator Sizing

Site runoff for parking and vehicle access areas, where site runoff may come in contact with petroleum residues or vehicle fluids considered to be detrimental to water quality, will be collected and routed through oil/water separator systems prior to discharge from the site.

The separators were sized to their respective areas by utilizing the Rational Formula to determine volume of runoff. Determination of the average anticipated rainfall event covering a majority of the anticipated storm events, was considered to be a 2-year, one-hour storm. Rainfall associated with a 2-year one-hour event was calculated to be 0.6 inches. The respective separator retention time from an event of this magnitude will be at least six minutes for each separator. Maximum rainfall intensity was considered to be a one-hour, 100-year event. Rainfall during the one-hour 100-year event equals 1.2 inches/hour utilizing the California Department of Transportation rainfall rating curves. Separator retention time associated with the one-hour 100-year event was calculated to be greater than 3 minutes for each separator.

EUREKA WATERFRONT PARTNERS

RUNOFF CALCUALTIONS And SIZING OF OIL WATER SEPARATORS Dec. 12, 2001

SEPARATOR 1 (main parking lot and vehicle access)

Surface runoff from the vehicle access areas of the site was calculated using the Rational formula, or:

$$Q=KIA$$

Q = flow (ft³/hour) or (gallons/minute)

K = surface absorption factor

I = Selected rainfall intensity (inches/hour)

A = Drainage area (ft²)

Absorption factor (K) for asphalt/concrete surfaces (0.95) used in calculations, Handbook of Hydraulics.

I = 1.2 inches/hour - taken from Rainfall Intensity Duration Curve, Eureka WB, No. 5 California Division of Highways, District 1 Hydraulics Department.

Surface runoff Calculation for Separator S1

$$Q = (0.95)(0.1 \text{ ft./hr.})(32,000 \text{ ft}^2)$$

$$Q = 3040 \text{ ft}^3/\text{hr}$$

$$\text{(gallons/minute)} \quad Q = \frac{(3040 \text{ ft}^3/\text{hr.})(7.48 \text{ g/ft}^3)}{60 \text{ minutes}}$$

$$Q = 379 \text{ gallons/minute}$$

Separator Retention Time 1-hour, 100-year Intensity Event

Separator tank S1 = 1200 gallon capacity

$$\text{Retention Time} = \frac{1200 \text{ gallons}}{379 \text{ gal/minute}}$$

$$100 \text{ YEAR EVENT} = 3.2 \text{ minutes} = 3 \text{ minutes, 12 seconds}$$

$$2\text{-YEAR EVENT} = 6.4 \text{ minutes} = 6 \text{ minutes, 24 seconds}$$

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EUREKA WATERFRONT PARTNERS

RUNOFF CALCUALTIONS And SIZING OF OIL WATER SEPARATORS Dec. 12, 2001

SEPARATOR 2 (covered parking area and vehicle access)

Surface runoff from the vehicle access areas of the site was calculated using the Rational formula, or:

$$Q = KIA$$

Q = flow (ft³/hour) or (gallons/minute)

K = surface absorption factor

I = Selected rainfall intensity (inches/hour)

A = Drainage area (ft²)

Absorption factor (K) for asphalt/concrete surfaces (0.95) used in calculations, Handbook of Hydraulics.

I = 1.2 inches/hour - taken from Rainfall Intensity Duration Curve, Eureka WB, No. 5 California Division of Highways, District 1 Hydraulics Department.

Surface runoff Calculation for Separator S1

$$Q = (0.95)(0.1 \text{ ft./hr.})(18,300 \text{ ft}^2)$$

$$Q = 1739 \text{ ft}^3/\text{hr}$$

$$\text{(gallons/minute)} \quad Q = \frac{(1739 \text{ ft}^3/\text{hr.})(7.48 \text{ g/ft}^3)}{60 \text{ minutes}}$$

$$Q = 217 \text{ gallons/minute}$$

Separator Retention Time 1-hour, 100 year Intensity Event

Separator tank S1 = 1200 gallon capacity

$$\text{Retention Time} = \frac{750 \text{ gallons}}{217 \text{ gal/minute}}$$

$$100 \text{ YEAR EVENT} = 3.45 \text{ minutes} = 3 \text{ minutes, } 27 \text{ seconds}$$

$$2\text{-YEAR EVENT} = 6.90 \text{ minutes} = 6 \text{ minutes } 54 \text{ seconds}$$

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RETAIL CUSTOMER PARKING ONLY

PIER

PROJECT BOUNDARY

WALK

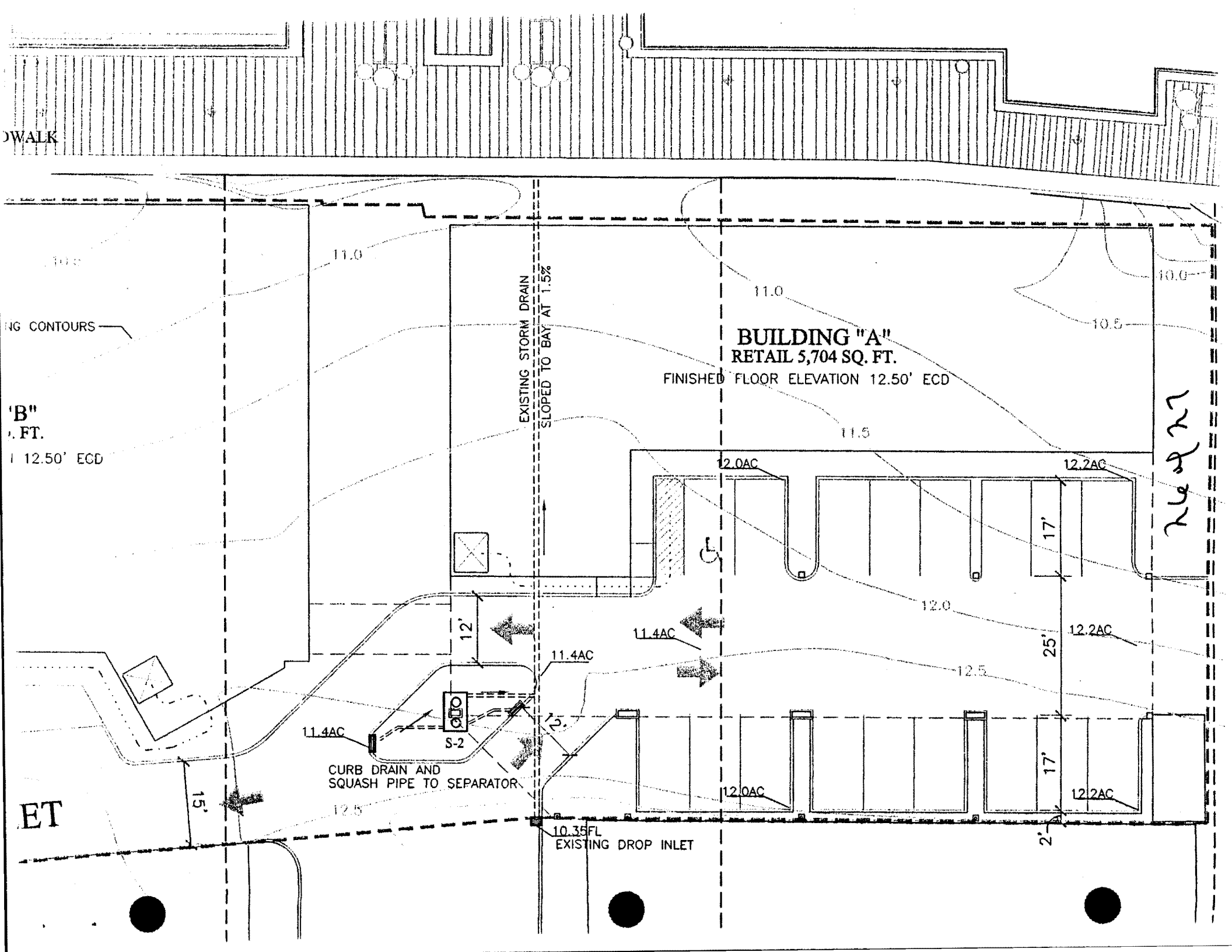
ING CONTOURS

"B"
FT.
12.50' ECD

ET

BUILDING "A"
RETAIL 5,704 SQ. FT.
FINISHED FLOOR ELEVATION 12.50' ECD

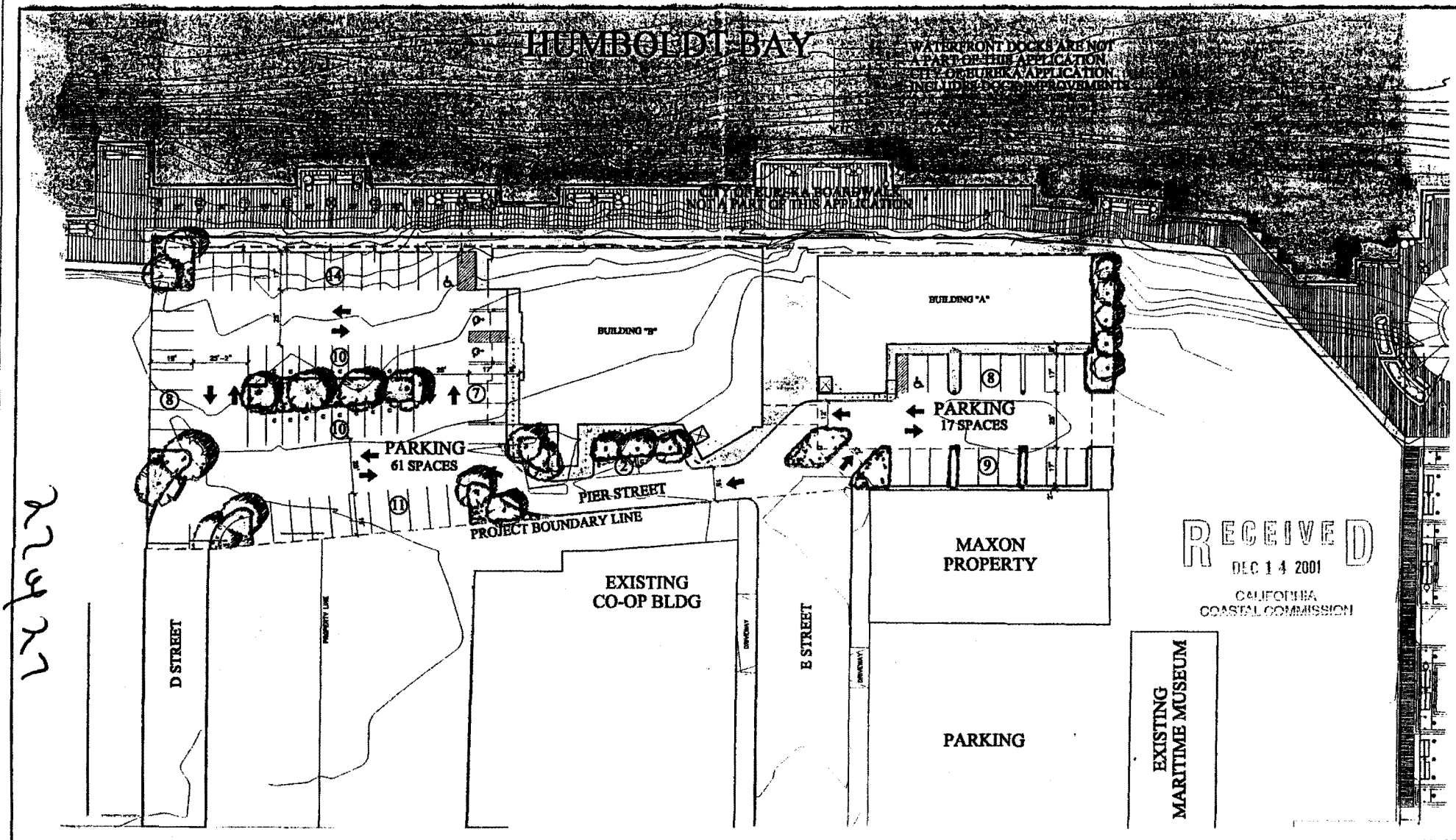
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HUMBOLDT BAY

WATERFRONT DOCKS ARE NOT
A PART OF THIS APPLICATION
SEE EUREKA APPLICATION
INSIDING FOR IMPROVEMENTS

NOT A PART OF THIS APPLICATION



EUREKA PIER

A New Retail and Restaurant project
located on Beautiful Humboldt Bay
in Old Town Eureka, California

Developer: Eureka Waterfront Partners, LLC
Managing Partner: Dolores Vellutini
Architect: John Ash Group

LANDSCAPE PLAN

Scale: 1"=40'-0"
Date: June 25, 2001

A1



CITY OF EUREKA

DEVELOPMENT

531 K Street • Eureka, California
(707) 441-4160 • Fax (707) 441-4161

EXHIBIT NO. 5

APPLICATION NO.
A-1-EUR-01-029

EUREKA WATERFRONT
PARTNERS

NOTICE OF FINAL
ACTION (1 of 4)

**NOTICE OF FINAL ACTION ON AN IMMATERIAL AMENDMENT TO A COASTAL
DEVELOPMENT PERMIT (CASE NO. CDP-3-97)
EUREKA WATERFRONT PARTNERS
April 18, 2001**

The following project is located within the Coastal Zone of the City of Eureka. On April 17, 2001, action was taken by the City on CDP-3-97 to adopt the Findings of Fact as described in the attached "Exhibit A" and approve the proposed amendment to the "Eureka Pier" Project as an immaterial amendment to the project approved by City Council on March 16, 1999 for the Eureka Waterfront Partners. The applicant requests approval of a Coastal Development Permit for construction of two mixed use three-story buildings totaling 56,814 square feet, and two private parking lots containing 66 off-street parking spaces. The project is located on Approximately 1.25 acres, located in Eureka between "D" and "F" Streets, and between First Street and Humboldt Bay; APN: 001-054-24, -25, -27.

APPLICANT: Eureka Waterfront Partners
Dolores Vellutini
2424 J Street
Eureka, CA 95501

RECEIVED
APR 18 2001
CALIFORNIA
COASTAL COMMISSION

PHONE: (707) 442-6125

APPLICATION FILE NUMBERS: CDP-3-97 **FILED:** March 25, 1997

ACTION WAS TAKEN BY: Eureka City Council on April 17, 2001.

CEQA STATUS: The project is subject to environmental review in accordance with the California Environmental Quality Act (CEQA), and the Eureka City Council has adopted Resolution 99-12, Certifying the Completion of and Making Findings and Adopting a Statement of Overriding Considerations as to the Final Environmental Impact Report and Adopting a Mitigation and Monitoring Program for the Implementation of the Proposed project.

ACTION: X Approved Denied Approved with Conditions

The project was not appealed at the local level.

The project is: Not appealable to the Coastal Commission.

 X Appealable to the Coastal Commission pursuant to Public Resources

EUREKA WATERFRONT PARTNERS
CDP-3-97
APRIL 18, 2001

Code, Section 3063. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Commission receipt of this notice. Appeals must be in writing to the appropriate Coastal Commission district office.



Kevin R. Hamblin, AICP
Director of Community Development

KRH:bas

cc: California Coastal Commission

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CITY COUNCIL, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 17, 2001.

SUBJECT: PUBLIC HEARING - IMMATERIAL AMENDMENT TO A COASTAL
DEVELOPMENT PERMIT GRANTED TO EUREKA WATERFRONT
PARTNERS FOR "EUREKA PIER" PROJECT.

ACTION:

Councilmember Arkley recused herself, and left the room for this item.

Community Development Director Hamblin provided a report.

The Public Hearing was opened at 6:53 p.m.

The following individuals addressed the Council regarding this matter:

John Ash, 2424 "J" Street, 426 First Street, provided information detailing the differences between the previously approved project and the amended smaller project, including the provision of additional parking, an expanded view corridor at "E" Street, an additional view corridor at "D" Street. He responded to previous public comment regarding shade over the Boardwalk.

Dolores Vellutini, 2424 "J" Street, Eureka Waterfront Partners, thanked staff and asked for the Council's support to go forward with the project.

Brad Floyd, Attorney, spoke regarding an increasing difficulty in finding parking spaces in Old Town with regard to variances that have been granted, citing an increased parking burden created by the Vance Hotel, the increase in sight-seers with the completion of the Boardwalk and a burden which will be created by approval of the applicants' amendment. He referenced additional issues addressed in his letter of April 13 to the Council.

Thomas Stewart, spoke regarding the importance to existing Old Town and Downtown businesses of the provision of adequate parking. He referenced discussion from the November 24, 1998 special meeting relating to the proposed parking behind the Vance Hotel.

Dan Marchetti, Rendezvous Music, 106 "G" Street, spoke regarding the need for requiring the provision of adequate parking in Old Town.

Kay Strickland, spoke regarding the need for shuttles to go between the neighborhood and shopping areas, and other positive alternatives to more parking.

Mike Yanke, spoke in support of having more residences in Old Town, bringing more viability to the region.

MINUTE ORDER, APRIL 17, 2001

ITEM: 1

PAGE: 2

Mark Jones, Eureka resident and property owner in Old Town, expressed concerns he would be affected adversely by the impact of parking. He questioned the immateriality of the amendment due to the requirement the parking shortfall be solved in full for the second phase, and raised concerns regarding the lack of collecting in-lieu fees for the shortage in required spaces.

Katie Yanke, spoke regarding the ease of parking a block away and walking.

Chuck Ellsworth, resident in Old Town, stated that the only time he has difficulty with parking is during special events such as Arts Alive, and urged support of the project.

Unidentified woman, spoke regarding property owned by Mr. Kramer in Old Town on which he is not being allowed to create parking.

Cliff Stewart, Eureka resident, expressed concerns regarding parking, citing early concessions made on parking in the Redevelopment area. He recommended adhering to the requirements for parking.

The Public Hearing was closed at 7:20 p.m.

Council adopted the findings and approved the proposed amendment to the "Eureka Pier" Project as an immaterial amendment to the project approved by the City Council on March 16, 1999 for the Eureka Waterfront Partners.

Adopted on motion by Councilmember MCKELLAR, seconded by Councilmember BASS-JACKSON, and the following vote:

AYES: HUNTER MEEKS, BASS-JACKSON, MCKELLAR, KERRIGAN

NOES: NONE

ABSENT: ARKLEY (RECUSED)

ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, KATHLEEN L. DEVITA, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on April 23, 2001.


KATHLEEN L. DEVITA
CITY CLERK

Originating Dept.

Community Development Director

Agenda Item 1

4 of 4

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

MAILING ADDRESS:

710 E STREET - SUITE 200

P. O. BOX 4908

EUREKA, CA 95501-1865

EUREKA, CA 95502-4908

VOICE (707) 445-7833

FAX (707) 445-7877

RECEIVED

MAY 16 2001

CALIFORNIA
COASTAL COMMISSIONAPPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENTPlease Review Attached Appeal Information Sheet Prior To Completing
This Form.SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

MARK JONES
202 PONDEROSA COURT
EUREKA, CA 95503 (707) 441-9005
 Zip Area Code Phone No.

SECTION II. Decision Being Appealed1. Name of local/port
government: CITY OF EUREKA2. Brief description of development being
appealed: 2 MIXED USE BUILDINGS - NEW CONSTRUCTION3. Development's location (street address, assessor's parcel
no., cross street, etc.): BETWEEN D & F STREET
ON WATERFRONT APN - 001 - 054 - 24, 25, 27

4. Description of decision being appealed:

- a. ☒ Approval; no special conditions: _____
- b. ☐ Approval with special conditions: _____
- c. ☐ Denial: _____

Note: For jurisdictions with a total LCP, denial
 decisions by a local government cannot be appealed unless
 the development is a major energy or public works project.
 Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-EUR-01-029DATE FILED: 5/16/01DISTRICT: North Coast

H5: 4/88

EXHIBIT NO.	6
APPLICATION NO.	A-1-EUR-01-029
EUREKA WATERFRONT PARTNERS	
APPEAL (JONES) FILED	5/16/01 (1 of 3)

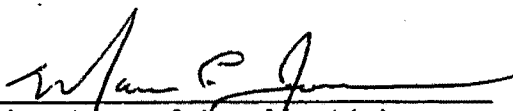
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment (Single Page)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.


Signature of Appellant(s) or
Authorized Agent

Date 5/12/01

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

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Reasons for Appeal:

This project, as presented on April 18, 2001, does not meet the City of Eureka's parking standards and was not formally reviewed by the City of Eureka Planning Commission for input regarding compliance with Coastal Act policies (coastal access, parking, etc.) The Statement of Overriding Considerations within the EIR is factually incorrect regarding the parking issue along with other cumulative impacts. The applicant has the option of providing off site parking, paying in-lieu fees (as required by the Eureka Parking Ordinance 10-5.1509), or City participation by providing parking spaces as a form of Redevelopment assistance. The EIR does not assess impacts to neighboring business and residences due to anticipated parking demand. The EIR stated the lack of parking for this project may not be fully mitigated. This situation would be true only because the City and Applicant do not choose to mitigate impacts of parking problems created, not due to lack of options. This choice, and similar recent decisions, will certainly curtail Coastal access to the new Boardwalk and other potential waterfront projects.

Adoption of The Statement of Overriding Considerations is based upon a two phase project. The Planning Commission (Dec. 14, 1998) approved a two phase project including a "temporary" parking variance for 34 spaces. A condition was attached to this permit by the Planning Commission that all parking requirements to be met for both buildings when phase two was constructed. This condition would minimize parking pressure and fulfill City parking requirements for the proposed project. I verified this personally by speaking to a Commission Member who reviewed this project and remembers this issue. The certified EIR for this proposed project is based upon these facts. Since the project has dramatically changed per the recent revised plans, the existing EIR is in need of revision. The City staff Analysis (see Agenda Review April 3, 2001) states "the Planning Commission's approved parking variance for the project is somewhat non specific". This is an inaccurate and misleading statement directed to City Council Members.

Furthermore, The Immaterial Amendment as approved by Council Members cannot be considered "immaterial" or insignificant by the community. Impacts of additional parking needs along the Waterfront are not addressed in the EIR or the Immaterial Amendment. The Immaterial Amendment misrepresents the number of parking spaces provided according to plans submitted by the Applicant. Twelve of the sixty six spaces are located over the existing tidelands in contradiction to the Coastal Act. If these are approved, the spaces would be for coastal dependent type use only and cannot be counted in fulfilling the Applicant's parking requirements. Therefore, the parking deficit increases. Mr. Kerry Rasmussen aptly outlines this and other community parking issues in his March 16, 2001 letter to the Director of Community Development.

I am concerned about the procedural process used to obtain approval of the Immaterial Amendment. Why was the Planning Commission circumvented when major design changes to this project occurred? If the Applicant petitions and submits the revised project design directly to City Council, does the general public have adequate opportunity to review and comment? At what date were revised plans submitted for potential review by public, neighboring property owners and Council Members? The Applicant was verbally changing the plans and number of parking spaces at the April 3, 2001 public hearing.

Please carefully consider these facts when this appeal is reviewed.

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A handwritten signature in black ink, appearing to read "M. J. [unclear]", written in a cursive style.



CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

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RECEIVED
MAY 16 2001CALIFORNIA
COASTAL COMMISSIONAPPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENTPlease Review Attached Appeal Information Sheet Prior To Completing
This Form.SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Commissioners Sara J. Wan and John Woolley

(See Attachment 1)

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Eureka

2. Brief description of development being appealed:

Two mixed-use, three-story buildings containing retail commercial,
professional office, and residential development totaling 56,814 ft²
and two parking lots providing 80 off-street parking spaces3. Development's location (street address, assessor's parcel
no., cross-street, etc.):Between "D" and "F" Streets and 1st Street and Humboldt Bay, Eureka, CA
APNs 001-054-24 & 011-054-25

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: _____ ✓

c. Denial: _____

Note: For jurisdiction with a total LCP, denial
decisions by a local government cannot be appealed unless
the development is a major energy or public works project.
Denial decisions by port governments are not appealable.TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-EUR-01-029

DATE FILED: May 16, 2001

DISTRICT: North Coast

EXHIBIT NO. 7

APPLICATION NO.
A-1-EUR-01-029APPEAL (WAN &
WOOLLEY) FILED
5/16/01 (1 of 19)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. ☐ Planning director/Zoning Administrator c. ☐ Planning Commission
- b. ☒ City Council/Board of Supervisors d. ☐ Other _____

6. Date of local government's decision: April 17, 2001

7. Local government's file number (if any): CDP-3-97

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Eureka Waterfront Partners (Applicant)	John Ash Group (Agent)
Attn: Dolores Velluntini	426 Front Street
2424 J Street	Eureka, CA 95501
Eureka, CA 95501	

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Brad Floyd, Attorney-at-Law

937 Sixth Street

Eureka, CA 95501

(2) Kerry Rasmusen - Dunaway Investments

P.O. Box 1212

Eureka, CA 95502

(3) Don Marchetti - Rendezvous Music and Vending

106 "G" Street

Eureka, CA 95501

(4) Rita Secard - Hotel and Spa development

#1 F Street

Eureka, CA 95501

(See Attachment 2 for additional interested parties)

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

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State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

(See Attachments 3 and 4)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: 
Appellant or Agent

Date: May 16, 2001

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

(See Attachments 3 and 4)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: _____

Appellant or Agent

Date: _____

May 16, 2001

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

(Document2)

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**ATTACHMENT #1:
APPELLANTS**

☒ **Sara J. Wan, Chair**
22350 Carbon Mesa Road
Malibu, CA 90265
(310) 456-6605

☒ **John Woolley**
Board of Supervisors
825 – 5th Street
Eureka, CA 95501-1153
(707) 476-2393

5 2 19

**ATTACHMENT #2:
OTHER INTERESTED PARTIES**

Mark Jones
202 Ponderosa Court
Eureka, CA 95503

Dalene Hills
122 I Street
Eureka, CA 95501

Diane Barmore – Waterfront Café
102 F Street
Eureka, CA 95501

**ATTACHMENT #3:
REASONS FOR APPEAL**

The proposed coastal development project as approved by City of Eureka raises a substantial issue of conformance with the Stormwater Drainage policies of Section 4 – “Public Facilities and Services,” the Aquatic Resources and Marine, Wetlands, and Riparian policies of Section 6 “Natural Resources” of the Eureka General Plan, the Environmental Resources Policies of the Land Use Plan (LUP) of the certified Eureka Local Coastal Program (LCP), and the Environmental Resource Standards of the Coastal Zoning Regulations (CZR) of the LCP, including Coastal Resources and Development Policy 5.2, Stormwater Drainage Policy 4.D.6 and 4.D.9, and Aquatic Resources and Marine, Wetland, and Riparian Habitat Policy 6.A.3.

Policy Citations

Stormwater Drainage Policy 4.D.6 of the Eureka General Plan states, “The City shall improve the quality of runoff from urban and suburban development through use of appropriate and feasible mitigation measures including but not limited to, artificial wetlands, grassy swales, infiltration / sediment basins, riparian setbacks, oil-grit separators, and other best management practices (BMPs).” [emphasis added]

Stormwater Drainage Policy 4.D.9 of the Eureka General Plan states, “The City shall require new projects that effect the quantity or quality of surface water runoff to allocate land as necessary for the purpose of detaining post-project flows and/or the incorporation of mitigation measures for water quality impacts related to urban runoff. To the maximum extent feasible, new development shall not produce a net increase in peak stormwater runoff.” [emphasis added]

Aquatic Resources and Marine, Wetland, and Riparian Habitat Policy 6.A.3 of the Eureka General Plan states, “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 marine 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 waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.” [emphasis added]

Conformance Analysis

On April 17, 2001, the City of Eureka City Council approval an Immaterial Amendment to Coastal Development Permit No. 3-97. The amended project involves the development of two mixed-use, three-story buildings containing retail commercial, professional office, and residential development totaling 56,814 ft² and two parking lots providing 80 off-street parking spaces encompassing approximately 25,000 ft² of impervious surface.

LCP Policies 4.D.6, 4.D.9, and 6.A.3 require that the quality of coastal waters be maintained. The policies also require that the City shall improve the quality of runoff from urban development by requiring mitigation measures for water quality impacts related to urban runoff, including infiltration, sediment basins, oil grit separation, and other best management practices.

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In approving the revised project, the City found that the project as amended is consistent with the certified Local Coastal Program (LCP) and that the environmental impacts of the proposed modified project would not exceed those previously addressed and mitigated for in the Environmental Impact Report Mitigation and Monitoring Program and Statement of Overriding Conditions adopted for the original project on December 1, 1998 (see Attachment 3). The original coastal development permit includes a special condition requiring that the development be performed consistent with the mitigation measures specified in the Mitigation and Monitoring Program. No additional project conditions or mitigation measures were added or substituted for in the approval of the amended project.

The Mitigation and Monitoring Program contains numerous measures for offsetting and reducing the adverse environmental effects of the project to less-than-significant levels. With respect to water quality impacts to aquatic resources, the program includes nine mitigation measures (I.2.a-i) to avoid and reduce project impacts. These measures address controlling bank erosion during and after construction, hazardous materials management through investigation and inventory, proper removal and disposal, and materials handling, proper disposal of construction solid wastes, use of boat docking water pollution regulations, development of a spill prevention plan, and controlling solid waste and other discharges from docks and vessels.

However, the mitigation measures do not include any requirements addressing polluted runoff originating from the paved parking lot areas, and no new conditions addressing contaminated stormwater runoff were required as a condition of approval of the amended project. Runoff from parking lots contain pollutants from motor vehicles such as heavy metals, oil and grease, and polycyclic aromatic hydrocarbons. If not treated, the runoff from the project would be conveyed through the City's stormwater drainage system and discharged into the coastal waters of Humboldt Bay, an environmentally sensitive habitat area listed within the City's LCP (Section 156.052(C)(1)(b), Eureka Municipal Code).

As the project as approved is not required to use any best management practices to treat runoff from the proposed parking lots, a substantial issue is raised as to whether the project is consistent with the provisions of LCP Policies 4.D.6, 4.D.9, and 6.A.3 that require such measures to treat the urban runoff from new development.

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ATTACHMENT "A"

STATEMENT OF FINDINGS

The California Environmental Quality Act (CEQA) requires that one or more of a set of findings be made by the lead agency (i.e., by the City for this project) whenever an EIR identifies significant effects on the environment; these findings are established in section 15091 of the CEQA Guidelines. Therefore, the City of Eureka adopts the following findings for the Eureka Fisherman's Wharf Project.

I. IMPACTS AVOIDED OR MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

The City of Eureka makes the findings listed below regarding the construction of a mixed-use development called "Eureka Piers" ("Project") identified in the Environmental Impact Report ("EIR") prepared for the project. The Draft Environmental Impact Report for the project is hereinafter referred to as the "DEIR" or "Draft EIR," and the Final Environmental Impact Report is referred to as the "FEIR" or "Final EIR." The City finds that all mitigation measures described below will be implemented pursuant to the conditions of approval and the mitigation monitoring programs adopted as part of this project. These mitigation measures were identified and discussed, or are derived directly from measures which were identified and discussed, in the EIR. The City hereby adopts and incorporates as part of the project all mitigation measures set forth in these Findings and in the EIR.

A. LAND USE AND PLANNING

1. Environmental Concerns

The proposed project would result in the construction of the Project. This would change the land use at the project site from a vacant lot to a mixed-use development and would result in the intensification of land uses and activities at the project site. This is considered to be a less than significant impact and no mitigation is warranted.

2. Findings

The City finds that the construction of the mixed-use development Project would not result in a significant land use and planning impact.

B. AESTHETICS

1. Environmental Concerns

Construction of the mixed-use development Project would change the quality of the visual character at the project site. The Project would be visible from several vantage points in the project site vicinity.

2. Findings

As described in the Final EIR, the City finds that the following mitigation measures will avoid or reduce aesthetic effects associated with the mixed-use development Project to a less than significant level:

- a. Revise project plans to reflect architectural elements, materials, and colors that are acceptable to the City of Eureka.
- b. Project lighting will be designed and shielded so as not to illuminate land outside the

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project property line.

C. **TRAFFIC, CIRCULATION, AND PARKING**

1. Environmental Concerns

The Project would result in an increase in the number of p.m. peak hour vehicle trips at local system and regional system intersections as well as contribute to the cumulative increases in traffic volumes at local and regional system intersections. The Project also would result in an increase in pedestrian traffic on local streets and there would be an increase in the potential for accidents on local streets. In addition, the Project would result in an increase in vessel traffic in the Eureka Channel west and south of the project site.

2. Findings

The City finds that the construction of the mixed-use development Project would not result in a significant traffic or circulation impacts.

D. **AIR QUALITY**

1. Environmental Concerns

Criteria air pollutants generated by the Project would increase total air pollutant emissions in the region.

2. Findings

The City finds that the construction of the mixed-use development Project would not result in a significant air quality impact.

E. **NOISE**

1. Environmental Concerns

Project-generated vehicular traffic would result in an increase in ambient noise levels of nearby roadways used to access the site. The Project would introduce a noise-sensitive land use to an area of high existing ambient noise levels.

2. Findings

As described in the Final EIR, the City finds that the following mitigation measures will avoid or reduce noise effects associated with the Project to a less than significant level:

- a. The project sponsor shall make efforts during residential design that bedrooms are not designed to face Eureka Co-op.
- b. The project sponsor shall prepare a written statement [a letter or small brochure] to be distributed to prospective purchasers of the condominium units prior to sale informing them of the activity at the Co-op loading dock.

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F. CULTURAL RESOURCES

1. Environmental Concerns

Previously undiscovered historic or prehistoric archaeological resources could be encountered during project-related construction activities.

2. Findings

As described in the Final EIR, the City finds that the following mitigation measures will avoid or reduce cultural resources effects associated with the Project to a less than significant level:

- a. In the event that any prehistoric or historic subsurface cultural resources are discovered during construction-related earthmoving activities, all work within 100 feet of the resources shall be halted and the project applicant shall consult with a qualified archaeologist to assess the significance of the find. If any find were determined to be significant by the qualified archaeologist, then representatives of the project applicant, City of Eureka, and the qualified archaeologist would meet to determine the appropriate course of action, which could include coordination with the Native American Heritage Commission. If the discovery includes human remains, Section VIII of CEQA Guidelines Appendix K would be followed, requiring coordination with the County coroner and with the Native American Heritage Commission if the human remains are of Native American origin. All significant cultural materials recovered would be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.

G. BIOLOGICAL RESOURCES

1. Environmental Concerns

Project construction activities have the potential to adversely affect significant biological resources within the project site. Project development also would adversely affect aquatic resources. In addition, project development has the potential to introduce non-native invasive plant species to the site.

2. Findings

As described in the Final EIR, the City finds that the following mitigation measures will avoid or reduce biological resources effects associated with the Project to a less than significant level:

- a. Sensitive wildlife species have been located in close proximity to the proposed development area and may occur on-site. Although project development is unlikely to directly affect sensitive species or their habitats, construction activities, especially noise from pile driving activities, has potential to significantly affect any nesting raptors within 0.5 miles of the development area. If nesting raptors are found within 0.5 miles of the project site, pile driving activities may be affected or prohibited between March 1 and June 30 (generally nesting periods for sensitive raptors unless waived by the California Department of Fish and Game (CDFG). Avoidance periods are subject to change upon approval by CDFG, based on weather conditions and species use as determined by CDFG. Construction and construction-related activities shall not take place within 0.5 miles of identified raptor nests during the avoidance period. The biological monitor shall have the authority to halt construction activities if any significant adverse reaction to project activities is observed (e.g., incubating

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birds leave nest or abandon young).

b. Prohibit pile driving associated with pier replacement between December 1 and March 31 to reduce any potentially significant impacts. The City would consult with the permitting agencies, including but not necessarily limited to the U.S. Army Corps of Engineers, California Department of Fish and Game, National Marine Fisheries Service, U.S. Fish and Wildlife Service, State Lands Commission, and Regional Water Quality Control Board regarding the pier demolition/replacement. If these agencies determine that prohibition of pile driving activities is not warranted, then there would be no time restrictions on pile driving. The applicant shall comply with specific monitoring requirements established by these and other agencies to avoid impacts on fisheries.

c. New pilings shall be constructed of pre-stressed concrete, plastic, or steel (that has not been treated with anti-biofouling material), or by wooden pilings treated with materials approved by the Regional Water Quality Control Board that would not substantially affect biologic resources. This measure would, over time, result in additional increases in fill in the Bay, but is recommended by the Corps of Engineers.

d. All seeds and straw material shall be certified weed free by the California Department of Food and Agriculture (CDFA) seed laboratory. All gravel and fill material used during project construction and maintenance shall be certified weed free by the County Agriculture Commissioner's Office. The removal site for all fill materials shall be examined for the presence of noxious weeds by the local County Agriculture Commissioner. Material transported between counties (if any) shall be approved by the local County Agriculture Commissioner in the county receiving the materials.

e. Landscaping on the site shall conform to California Native Plant Society guidelines. Table IV.G-2 in the Final EIR presents a list of species that should not be used for project landscaping.

H. GEOLOGY AND SEISMICITY

1. Environmental Concerns

Project facilities could be damaged or destroyed by seismic activity. Significant damage could occur to the buildings and pier developed as part of the Project. In addition, Project facilities could incur significant damage as a result of underlying soil properties. Damage to Project facilities could occur as a result of foundation failure due to settlement of soils and/or fills, or damage from expansive or corrosive soils.

2. Findings

As described in the Final EIR, the City finds that the following mitigation measures will avoid or reduce geology and seismicity effects associated with the Project to a less than significant level:

a. The project sponsor shall implement the recommendations and guidelines contained in site-specific geologic and geotechnical investigation required as part of final project design.

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- b. All facilities shall be engineered and constructed to meet the specifications in the most recent version of the Uniform Building Code (currently 1994) for Seismic Zone 4. In particular, piers shall be constructed and engineered based on specifications from American Association of State Highway and Transportation Officials (AASHTO).
- c. Prior to project approval, the City shall require a geological report prepared by a registered geologist, a certified engineering geologist, or a registered engineer with expertise in seismic engineering. This report shall consider, describe and analyze the following: geologic conditions, including soil, sediment, and rock types and characteristics, in addition to structural features such as bedding, joints, and faults; evidence of past or potential liquefaction conditions, or other types of ground failure, related to seismic shaking; potential effects on the site because of fault rupture; and any other information that might affect the proposed development, such as the information called for in Division of Mines and Geology Notes 44 and 49. The report shall recommend mitigation measures for any potential impacts and shall outline alternative solutions. The report shall express a professional opinion as to whether the project can be designed so that it will neither be subject to nor contribute to significant geological instability throughout the life span of the project.
- d. The City shall require that all new parapets, signs and other building ornamentation are constructed to withstand seismic shaking.
- e. The project sponsor shall adhere to all recommendations of the existing and future geotechnical reports.
- f. The project sponsor shall prepare a project-specific geotechnical report as part of final design. This geotechnical investigation would build on the existing soils investigation to determine the presence and characteristics of potentially compressible soils on the site, the engineering properties of the foundation materials at the site, the depth and thickness of soil layers, and the depth(s) of the water table(s).
- g. All fill shall be selected, placed, compacted and inspected in accordance to plans and specifications prepared by a licensed civil engineer.
- h. Replace with Non-Expansive Soils. Expansive soils shall be excavated and replaced with non-expansive materials. (Typical pipeline construction involves use of granular materials for bedding and backfill and thereby replacing any expansive soils and mitigating the potential hazard.) The required depth of over excavation should be specified by a registered civil engineer based on project facilities and soil conditions.
- i. Treat Expansive Soils. Expansive soils shall be treated in place by mixing them with lime. Lime-treatment alters the chemical composition of the expansive clay materials such that the soil becomes non-expansive.
- j. A site specific soil corrosion survey shall be conducted. This will define the need for

and location of corrosion protection for utilities piles and foundations. Utilities may be protected by the use of insulating couplings, or galvanic or impressed current cathodic protection. Foundations and piles may require special coatings to reduce corrosion potential.

I. WATER QUALITY

1. Environmental Concerns

Project construction activities, the operation of building, fixed docks, and pier facilities, the operation of floating boat slips, and the supplying of potable water to the vessels using the floating boat slips have the potential to adversely affect water quality within the project site and adjoining areas of Humboldt Bay.

2. Findings

As described in the Final EIR, the City finds that the following mitigation measures will avoid or reduce water quality effects associated with the Project to a less than significant level:

a. The project sponsor shall control bank erosion during and after construction. Further erosion of the bank on the project site shall be controlled during demolition and construction of new facilities. A shoreline erosion control structure suitable for the site shall be used. The shoreline erosion control material will be engineered and designed to provide bank protection for the design life of the project. For this location in Humboldt Bay rock slope protection using the appropriate size and type of material or bulkheads have been successfully employed as a more permanent form of shoreline erosion control. Placement of new shoreline erosion structure will have some water quality impacts but just as for the piling removal and replacement these impacts will be very short-term and temporary. Any shoreline erosion control structure is subject to the permits from the same agencies listed in Table IV.G-1 of the Final EIR or as otherwise indicated in this document.

Temporary shoreline erosion control that shall be used at the site during demolition and construction include use of silt curtains placed along the toe of the slope, leaving the existing degraded rock slope protection in place, not parking heavy equipment close to the bank, and staging the demolition and debris removal equipment such that no further degradation of the existing bank occurs.

The shoreline erosion control material shall be placed at the site following demolition of the existing structures. Placement of the engineered upland fill can precede the placement of the shoreline erosion control if the engineered fill will be placed so as to not erode off the site into bay waters during and after construction.

b. The project sponsor shall control use of hazardous materials on-site. Implement Mitigation Measure "F" under Geology and Seismicity, which addresses inspection of subsurface excavation by a registered geologist, certified engineering geologist, or registered engineer. This same inspection can be used to determine the presence or absence of any newly exposed sources of hazardous material such as buried pipelines, underground storage tanks, grease and oil waste pits, or other historical infrastructure that could pose a hazard to water quality via surface water runoff or contamination to groundwater and seepage to the bay.

Hazardous materials encountered during demolition of existing structures shall be controlled on-site and disposed of in the manner applicable to the particular hazardous material encountered. This includes, for example, any as yet identified asbestos coated materials and buried underground storage tanks that may be present at the site.

c. The project sponsor shall control the use of materials used in maintenance activities. The site manager for the built facility shall keep a listing of all hazardous material used on-site by building and dock maintenance personnel. The location of cleaning materials and any other hazardous materials at the site shall be controlled to prevent unauthorized use.

Whenever practicable, the use of non-hazardous or biodegradable materials for cleaning will be employed. Alternatives to the use of detergents and solvents for dock maintenance will be considered including pressure washing.

d. The project sponsor shall control solid waste generated by operation of the site. Commercial and residential solid waste will be disposed of in containers sized to adequately handle the volume of waste generated at the facility. Recreational solid waste generated at the public access pier and boardwalk shall necessitate use of well-placed waste receptacles of the appropriate size for the waste generated at the site. Special consideration will be required for public events that would attract larger numbers of persons to the site.

e. The project sponsor shall clearly post on-site, and include in rental agreements, the water quality regulations for boats docking at the facility. Informational signage shall be posted at the boat slip facility to advise users of the location of fuel stations, MSD pump-outs, bilge water pump-outs, and include the jurisdiction of the USCG and fines for discharge of oil, fuels, or sanitary wastes. Rental agreements/owner agreements shall include a section addressing the same information posted at the site and include suggestions for best management practices for controlling pollution from boating activity. Transient vessels and guest vessels using the facility shall be informed of the same information.

f. The project sponsor shall develop and implement a spill emergency response plan. Facility operator shall have an emergency response plan on file with the USCG, CDFG, and the City of Eureka Fire Department. Facility owner shall file as-built drawings to the City of Eureka Fire Department and CDFG, if required, detailing the location of emergency response equipment, including fire extinguishers, fire hoses, and oil spill containment equipment. Emergency response equipment shall include a first-aid and safety kit, booms, and absorbent pads in a quantity to contain a spill from the largest vessel using the facility. Facility tenants shall be provided with information regarding spill prevention and control. Emergency contact phone numbers shall be posted and be clearly visible.

g. The project sponsor shall control solid waste discharge from vessels. Solid waste generated by berthed vessels will be disposed of in containers sized to adequately handle the volume of waste generated by the boat slips. Provide for removal on a regular basis of any floatable solid waste that becomes trapped between the floating docks.

15 of 19

- h. The project sponsor shall provide daily management of the floating boat docks. The building manager shall provide for the daily management of the facility. Twenty-four hour emergency contact shall be available.
- i. The project sponsor shall install backflow devices in all water lines supplying potable water.

II. POTENTIAL IMPACTS NOT MITIGATED TO A LESS THAN SIGNIFICANT LEVEL OR AVOIDED

The City makes the findings listed below with respect to the identified impacts, and finds that, while the mitigation measures described will lessen the potentially significant effects, all of the potential effects cannot be reduced to a level that is less than significant. These mitigation measures were identified and discussed, or are derived directly from measures which were identified and discussed, in the Final EIR. The City hereby adopts and incorporates as part of the project all mitigation measures set forth in these Findings and in the Final EIR.

A. TRAFFIC, CIRCULATION, AND PARKING

1. Environmental Concerns

The Project would increase the demand for parking while not providing for parking or complying with existing City parking requirements.

2. Findings

The City finds that the following mitigation measures will reduce the impacts associated with parking demand, but not to a less than significant level:

- a. Create off-site parking or designate existing off-site parking areas as short term (i.e., two hours or less).
- b. Construct an off-site parking structure and/or close streets for the purpose of creating additional parking.

The City finds that the implementation of the mitigation measures outlined above will not avoid or reduce impacts associated with increase in demand for parking to a less than significant level. This is considered to be a significant and unavoidable impact.

III. OTHER IMPACTS ARE NOT SIGNIFICANT

Other potential impact subject areas, including those covered in the discussion in the "Initial Study Checklist," are addressed by the Final EIR. The City finds that other potential impacts, including those in the "Initial Study Checklist," do not have significant effects on the environment. No mitigation measures are required for these other considerations.

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IV. ALTERNATIVES

The Final EIR evaluates the potential environmental consequences of a range of alternatives, including alternative development arrangements at the project site.

The "no project" alternative would temporarily retain the project site in its current condition, making this alternative the "environmentally superior alternative" required to be identified by CEQA. The City finds that "no project" is not feasible for the project site, since the site is designated for development in existing land use documents, and because the "no project" alternative will not produce the public benefits which will result from any of the development alternatives.

The Non-Coastal Dependent Alternative discussed in the Final EIR also would result in the increase in the demand for parking without providing an adequate parking supply. Therefore, the significant impacts identified for the proposed project also would occur under this alternative.

The Adequate Parking Alternative discussed in the Final EIR would require that adequate parking be provided on-site and that the building design be reconfigured, which would result in buildings of greater height or buildings that have a smaller amount of available square footage. This alternative would avoid the significant unavoidable impacts of the Project associated with the increase in parking demand.

V. STATEMENT OF OVERRIDING CONSIDERATIONS NEEDED

Because the Final EIR identifies project impacts which cannot be avoided completely or mitigated to a level that is demonstrably less than significant, the City finds that a Statement of Overriding Considerations is adopted for this project, pursuant to section 15093 of the CEQA Guidelines.

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ATTACHMENT "B"

STATEMENT OF OVERRIDING CONSIDERATIONS

The City has balanced the benefits of the proposed project against the unavoidable or unmitigable impacts associated with the project. The City has determined that the benefits identified in this Statement outweigh the project's unavoidable or unmitigable impacts, making the impacts acceptable. The City adopts this Statement pursuant to the requirements of section 15093 of the State CEQA Guidelines.

I. SOME EFFECTS MAY NOT BE FULLY MITIGATED

A Final Environmental Impact Report (EIR) has been prepared by the City of Eureka (City) for the Eureka Fisherman's Wharf Project which would construct a mixed-use development located on the water side of First Street between D and F Streets in downtown Eureka. A Statement of Findings has been prepared, reviewed, and adopted for this EIR. Among the findings was the finding that not all of the environmental consequences of the proposed project may be capable of being mitigated to a level that is less than significant. Potential impacts within the subject areas identified below may not all be reduced to less than significant levels, even though the City adopted mitigation measures in each subject area that reduced impacts below the levels that would occur without mitigation.

1. Construction of a mixed-use development would result in an increase in parking demand without an adequate parking supply.

In reviewing the potential impacts of the proposed project the City identified one concern for development in the project area and elsewhere in the City which transcend the concerns for this project alone: increase in demand for parking as a result of the mixed-use development.

II. SPECIFIC BENEFITS FROM THE PROPOSED PROJECT

The Project is expected to provide the following specific benefits to the City and to the project area:

1. The Project would result in the development of residential, retail, and office uses at the project site.
2. The Project would complement the existing and planned land uses in the Core Area of Eureka.
3. The Project would provide water-related recreational facilities along the waterfront.

III. PROJECT APPROVAL NOTWITHSTANDING ADVERSE EFFECTS

Because of the very real benefits identified above for the proposed project and for the City as a whole, the City hereby finds that the identified benefits outweigh the identified adverse impacts, and the City further finds that the project's unavoidable adverse effects are acceptable in the context of decision-making for this project.

IV. DISPOSITION OF THIS STATEMENT

This Statement of Overriding Considerations shall be included in the project record, and shall be filed with the Notice of Determination for the project.

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City of Eureka ~ City Council
AGENDA SUMMARY

RE: Immaterial Amendment to a Coastal
Development Permit granted to Eureka
Waterfront Partners for "Eureka Pier" project.

FOR AGENDA DATE: April 3, 2001

AGENDA ITEM NO.:

RECOMMENDATION:

1. Hold a Public Hearing;
2. Postpone any action on the proposed amendment to the Coastal Development Permit until one of the following has occurred:
 - a. The applicant has applied for an additional parking variance with the City's Planning Commission.
 - b. The project description is amended to include either additional parking, or a project that requires less parking, such that the difference between the required spaces, and the spaces provided is equal to or less than the variance originally approved by the Planning Commission.

SUMMARY OF THE ISSUE: On December 1, 1998 the City Council certified an EIR and adopted Overriding Considerations for the Eureka Waterfront Partners project. On March 16, 1999, after a lengthy review process, the Eureka City Council approved a Coastal Development Permit for the Eureka Waterfront Partners "Eureka Pier" project. The permit approved a project consisting of the development of two buildings to be constructed in two phases. Phase One included the construction of a 54,490 square foot mixed use two-story structure, including 11 residential units and residential garages for 22 spaces, as well as a private parking lot containing approximately 34 off-street parking spaces. Phase Two included the construction of a three-story 30,900 square foot mixed use building to be completed when adequate parking was provided for both buildings. (The original permit approval is included as Exhibit A)

On or about March 1, 2001, the applicants, Eureka Waterfront Partners, supplied plans to the Community Development Department, seeking an amendment to their Coastal Development Permit to change their project to allow the construction of two mixed use three-story buildings totaling 56,814 square feet, and two private parking lots containing 66 off-street parking spaces. (The site plan for the original approved project is attached as Exhibit B, and the proposed new plans are included as Exhibit C).

FISCAL IMPACT: No impacts to the City General Fund have been identified as a result of this project application.

Signature: *Kevin R. Hamblin*
Kevin R. Hamblin
Director of Community Department

Signature: _____
David W. Tyson
City Manager

REVIEWED BY:

DATE:

INITIALS:

City Attorney

Building

Engineering

COUNCIL ACTION:

Ordinance No. _____

Resolution No. _____

EXHIBIT NO. 8

APPLICATION NO.
A-1-EUR-01-029

EXCERPTS, PROJECT
EIR & CITY STAFF

REPORTS (1 of 46)

City of Eureka ~ City Council
AGENDA REVIEW

RE: Immaterial Amendment to a Coastal
Development Permit granted to Eureka
Waterfront Partners for "Eureka Pier" project.

FOR AGENDA DATE: April 3, 2001

PAGE 2 OF 4

APPLICABLE REGULATIONS:

The Eureka Municipal Code, Section 156.115 gives provisions for amendments to Coastal Development Permits. (That section is included as Exhibit D).

After a preliminary review of the proposed amendment, comparing the overall square footage totals of the approved project with the proposed amended project, and in compliance with section 156.115(B) of the Municipal Code, the Director of Community Development, on March 8, 2001, issued an Administrative Immaterial Amendment to the original permit, approving the requested changes to the coastal development permit. (Attached as Exhibit E)

The Community Development Department subsequently received 6 letters of objection to the administrative amendment. (Attached as Exhibit F). All the letters of objection were concerned about the impact to surrounding properties by the lack of required off-street parking as proposed by the amended project. In compliance with section 156.115 (D) of the code, the amendment was therefore set before the City Council.

The lack of required off-street parking for the "Eureka Waterfront Partners" project has been a concern of the City from the very beginning. The original project proposed 85,390 sq. ft. of building space with a total of only 11 off-street residential spaces, with an additional 11 tandem residential spaces, for a total of 22 residential parking spaces, all located in garages fronting the proposed "Baywatch" Drive. Because of the concerns over the lack of off-street parking, the applicant proposed to construct the original project in two phases, proposing a temporary parking lot of approximately 34 spaces for phase 1 of the development on the area that was proposed for the second building that would be built in phase 2 of the project. It was understood, that when phase 2 was implemented, that the parking lot would of necessity, go away.

ADOPTION OF OVERRIDING CONSIDERATIONS:

On September 15th and December 1, 1998, the Eureka City Council held a public hearing considering the Environmental Impact Report (EIR) prepared for the Eureka Waterfront Partners project. After receiving public input regarding the project, which included some of those who wrote letters objecting to the administrative immaterial amendment, the City Council certified the EIR, and adopted Overriding Considerations with regard to potentially significant environmental impacts. One of those specifically mentioned is the impact of parking. (Resolution of Overriding Considerations attached as Exhibit G.)

VARIANCE FOR PARKING REQUIREMENTS:

On December 14, 1998, the Eureka City Planning Commission, in consideration of the adopted EIR and overriding considerations adopted by the City Council, considered a variance from the parking regulations of the Eureka Municipal Code for the Eureka Waterfront Partners project. The Commission acted first to approve a variance allowing the 11 tandem spaces as providing required parking for the 11 residential units. The Commission next approved a parking variance for building "A", phase 1 of the project, approving a parking variance "to allow the applicant to develop uses in Building A, such that the parking calculation for all such uses when combined shall not exceed 78 parking spaces". The parking variance was conditioned upon the applicant developing to the maximum extent feasible, private parking in the area

City of Eureka ~ City Council
AGENDA REVIEW

RE: Immaterial Amendment to a Coastal
Development Permit granted to Eureka
Waterfront Partners for "Eureka Pier" project.

FOR AGENDA DATE: April 3, 2001

PAGE 3 OF 4

designated for Building "B". (Minute orders from the Planning Commission Action attached as Exhibit H.) The action of the Planning Commission did not address or grant a variance for phase 2 of the project.

CITY COUNCIL APPROVAL OF COASTAL DEVELOPMENT PERMIT:

On March 16, 1999, the City Council approved a Coastal Development Permit for the project, including a phase 1 building of 54,490 sq. ft. and a private parking lot containing approximately 34 spaces. Phase 2 was approved including the construction of a three-story 30,900 sq. ft. mixed use building on the location of the private parking lot constructed in phase 1, with the caveat that phase 2 would occur only when adequate parking was available for both buildings.

The City Council's action basically approved phase 1 for construction, including the 34 space parking lot. That approval resulted in a difference between the City's parking requirements and the approved phase 1 project of 44 parking spaces.

The proposed project amendment includes 8 residential units requiring 12 off-street parking spaces; 16,633 sq. ft. of retail space, requiring 55 off street parking spaces, and 20,085 sq. ft. of office space, requiring 67 off-street parking spaces, for a total of 122 off-street parking spaces required. The project proposes 66 parking spaces, leaving a difference of 56 required spaces not provided.

ANALYSIS:

The proposed amended project may be in keeping with the City's adoption of the EIR and overriding considerations. Indeed the proposed project is very important for the City because of the reasons listed in the overriding considerations, and may be even more important now because of the recent demolition of the Eureka Fisherman's building.

The City Council has authority to grant Coastal Development Permits, subject to appeal to the Coastal Commission. The City Council has ultimate authority to approve or deny variances to the Eureka Municipal Code including off-street parking requirements. The Municipal Code does however, require that variances be reviewed by the City's Planning Commission.

The Planning Commission's approved variance for the project is somewhat non specific, in that it approves a building hosting uses that require not more than 78 total off-street parking spaces, with the condition that the applicant develop to the maximum extent feasible, private parking in the area designated for Building "B". The approximate number of spaces that could have been located on the area designated for Building "B" was 34, thus leaving a shortfall of 44 spaces. No further consideration was given for phase 2 of the project by the Planning Commission. The City Council approved phase 2 of the project, but only with the condition that all of the required parking be provided for both buildings. Thus the greatest variance given to the project was that of a difference of 44 spaces.

The amended project proposes to build two buildings in one phase, totaling 57,214 sq. ft. and requiring a total of 122 off-street parking spaces. The plan includes two private parking lots totaling 66 spaces, thus leaving a difference of 56 spaces.

City of Eureka ~ City Council
AGENDA REVIEW

RE: Immaterial Amendment to a Coastal
Development Permit granted to Eureka
Waterfront Partners for "Eureka Pier" project.

FOR AGENDA DATE: April 3, 2001

PAGE 4 OF 4

STAFF RECOMMENDATION:

Staff recommends that the City Council table the proposed amendment to the Coastal Development Permit, until one of the following has occurred;

1. The applicant has applied for an additional parking variance with the City's Planning Commission.
2. The project description is amended to include either additional parking, or a project that requires less parking, such that the difference between the required spaces, and the spaces provided is equal to or less than the variance originally approved by the Planning Commission.

SUPPORT MATERIAL:

Exhibit A: The original Coastal Development Permit approved by the City Council on March 16, 1999

Exhibit B: Site plan for the original approved project.

Exhibit C: Plans for the proposed amended project.

Exhibit D: Eureka Municipal Code 156.115 governing amendments to Coastal Development Permits

Exhibit E: Administrative Immaterial Amendment to Coastal Permit.

Exhibit F: Six letters of objection to the Administrative Immaterial Amendment.

Exhibit G: Resolution of Overriding Considerations, approved by the City Council on Dec. 1, 1998.

Exhibit H: Minute orders of the Planning Commission parking variances

Eureka Waterfront Partners
Attachment A

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**NOTICE OF FINAL CITY ACTION ON A COASTAL DEVELOPMENT PERMIT
CDP-3-97 - EUREKA WATERFRONT PARTNERS
MARCH 24, 1999**

The following project is located within the Coastal Zone of the City of Eureka. On March 16, 1999, action was taken by the Eureka City Council to adopt the findings for approval, and approve with the conditions below, the Coastal Development Permit (CDP-3-97) for the Eureka Waterfront Partners project, without the pool, for the construction of two buildings to be constructed in two phases. Phase One will include the construction of a 54,490 square foot mixed use two-story structure, and a private parking lot. Phase Two will involve the construction of a three-story 30,900 square foot mixed use building. Phase Two will occur when adequate parking is available for both buildings. The project site is approximately 1.25 acres and is located in Eureka between "D" and "F" Streets, and between First Street and Humboldt Bay (APN's: 001-054-24, -28, -29, -31).

This action is based on the following findings:

1. An Environmental Impact Report (Final EIR) on the proposed Project was prepared pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq) and the Guidelines for Implementation of the California Environmental Quality Act (14 California Administrative Code Section 15000 et seq).
2. The City Council reviewed all environmental documentation comprising the EIR and found that the EIR considered all environmental effects of the proposed Project and was complete and adequate and fully complied with all requirements of CEQA and the Guidelines, and the City Council found that the Final EIR reflected the independent judgement and analysis of the City.
3. After due consideration, on September 15, 1998, the City Council certified the Final EIR in accordance with the requirements of CEQA and the Guidelines.
4. The City Council by adoption of Resolution 99-12 adopts the Statement of Findings, and the Statement of Overriding Considerations, as required by Sections 15091 and 15093 of the Guidelines.
5. The proposed project has been designed to interface with Humboldt Bay and to draw visitors to the bay, and to encourage use of the proposed boardwalk that is being

NOTICE OF FINAL CITY ACTION
CDP-3-97/EUREKA WATERFRONT PARTNERS
MARCH 24, 1999

constructed by the City. As a result, the project as designed encourages, protects and maintains coastal-dependent and coastal-related uses and it furthers the goals of the City's redevelopment plan. Therefore, the proposed project is consistent with the objectives of the Code and the purposes of the CW zone district.

6. The project as designed, located and mitigated is consistent with the certified LCP.

CONDITIONS OF APPROVAL:

Approval of the Coastal Development Permit is conditioned on the following terms, Mitigation Measures and/or requirements. The violation of any term or requirement of this conditional approval may result in the revocation of the permit.

1. The applicant shall comply with all mitigation measures as described and detailed in the Mitigation Monitoring and Reporting Program and the Final Environmental Impact Report for the project (SCH#98062013) as certified by the Eureka City Council on September 15, 1998.
2. The applicant shall comply with all conditions of approval adopted by the Planning Commission for the Parking Variance (V-8-97) to allow the applicant to develop uses in Building "A" such that the parking calculation for all such uses when combined shall not exceed 78 parking spaces. These conditions are:
 - a. The applicant shall construct, in conformance with the parking lot standards, and to the maximum extent feasible, a private parking lot on the area designated on the site plans for Building "B".
 - b. The applicant shall adhere to, or complete as necessary all mitigation measure proposed for the project in the certified EIR.
3. The applicant shall comply with all conditions of approval adopted by the Planning Commission for the Final Subdivision Map (SD-3-98) to create eleven condominium in building "A", each condominium will be approximately 3,000 square feet divided between a main floor and a loft. The conditions are:
 - a. All taxes to which the property is subject shall be paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office, and all special assessments on the property must be paid or reapportioned to the satisfaction of the affected assessment district. Please contact the Tax Collector's Office

NOTICE OF FINAL CITY ACTION
CDP-3-97/EUREKA WATERFRONT PARTNERS
MARCH 24, 1999

approximately three to four weeks prior to filing the parcel or final map to satisfy this condition. This requirement will be administered by the Public Works Department.

- b. The applicant shall submit to the Public Works Department three prints of a Final Map prepared by a Registered Civil Engineer or Licensed Land Surveyor for approval by the City Engineer. The Final Map shall conform to all requirements of the Subdivision Map Act and local regulations enacted thereto. Copies of all reference materials used in the preparation of the Final Map shall also be submitted, including a title report(s) updated within the last six months, copies of deeds, surveys, computer map checks, etc. Once approved by the City Engineer, the applicant shall submit the original signed Final Map for recording along with one reproducible mylar, two prints, recording fees and proof of property taxes and/or special taxes payments (see condition No. "3a", above).

APPLICANT: Eureka Waterfront Partners
Dolores Vellutini
2424 "J" Street
Eureka, CA 95501

PHONE: (707) 442-6125

Application File Numbers: CDP-3-97 **Filed:** March 25, 1997

Action was taken by: The Eureka City Council on March 16, 1999.

CEQA STATUS: The project is subject to the California Environmental Quality Act (CEQA) and the Eureka City Council has adopted Resolution 99-12, Certifying the Completion of and Making Findings and Adopting a Statement of Overriding Considerations as to the Final Environmental Impact Report and Adopting a Mitigation and Monitoring Program for the Implementation of the Proposed project.

ACTION:

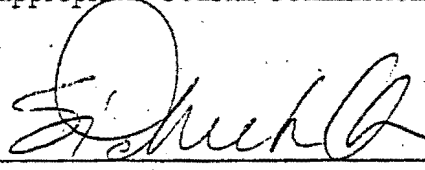
☐ Approved ☐ Denied ☒ Approved with Conditions

The project was not appealable at the local level.

NOTICE OF FINAL CITY ACTION
CDP-3-97/EUREKA WATERFRONT PARTNERS
MARCH 24, 1999

The Project is: _____ Not Appealable to the Coastal Commission.

 X Appealable to the Coastal Commission pursuant to Public Resources Code, Section 3063. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Commission receipt of this notice. appeals must be in writing to the appropriate Coastal Commission district office.



Sidnie L. Olson, AICP
Acting Director of Community Development

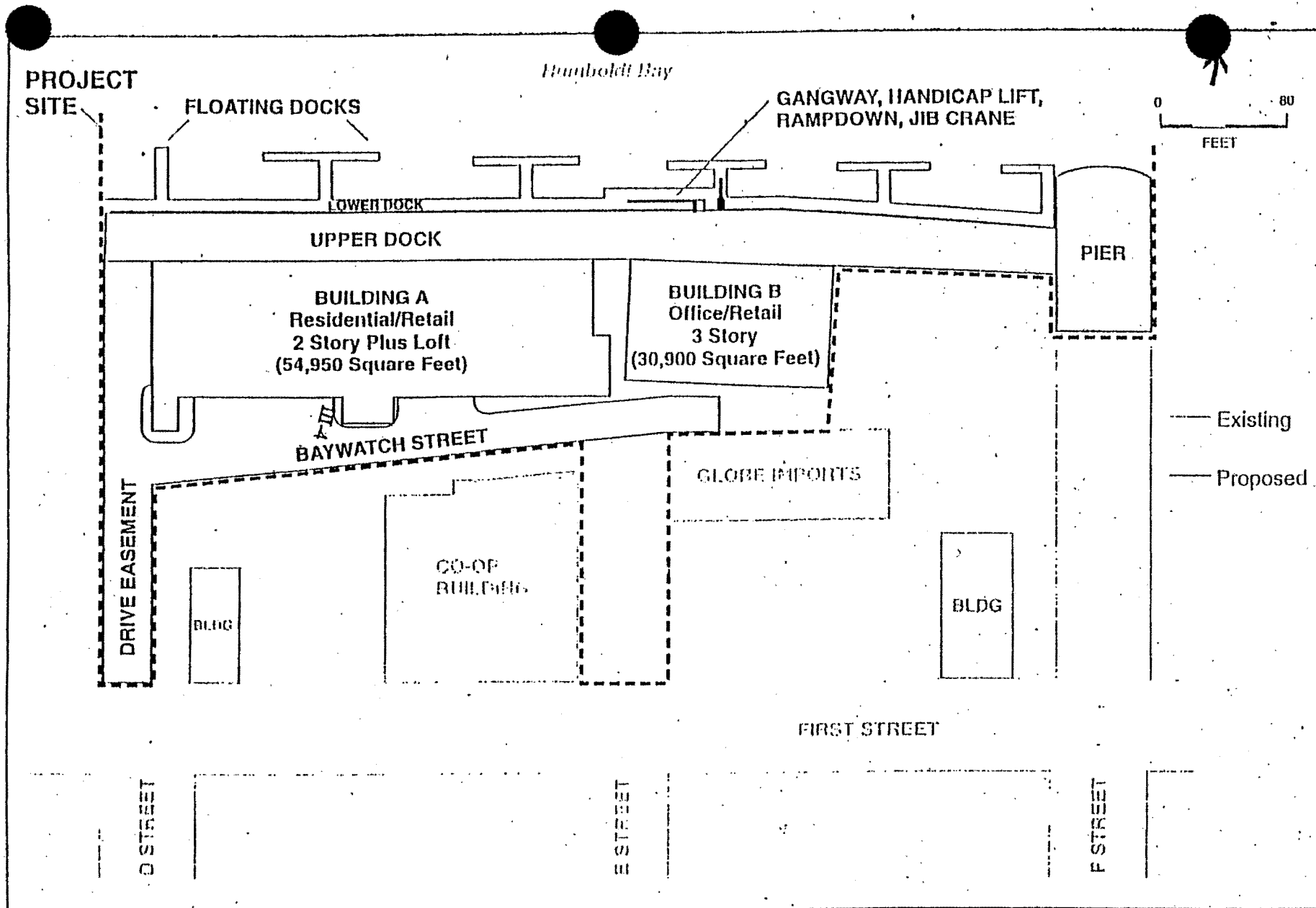
SLO:mp

cc: John Ash
Building Department
Engineering Department
Coastal Commission

Eureka Waterfront Partners
Attachment B

10446

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SOURCE: John Ash Group Architects; Environmental Science Associates

Eureka Fisherman's Wharf EIR / 970339 ■

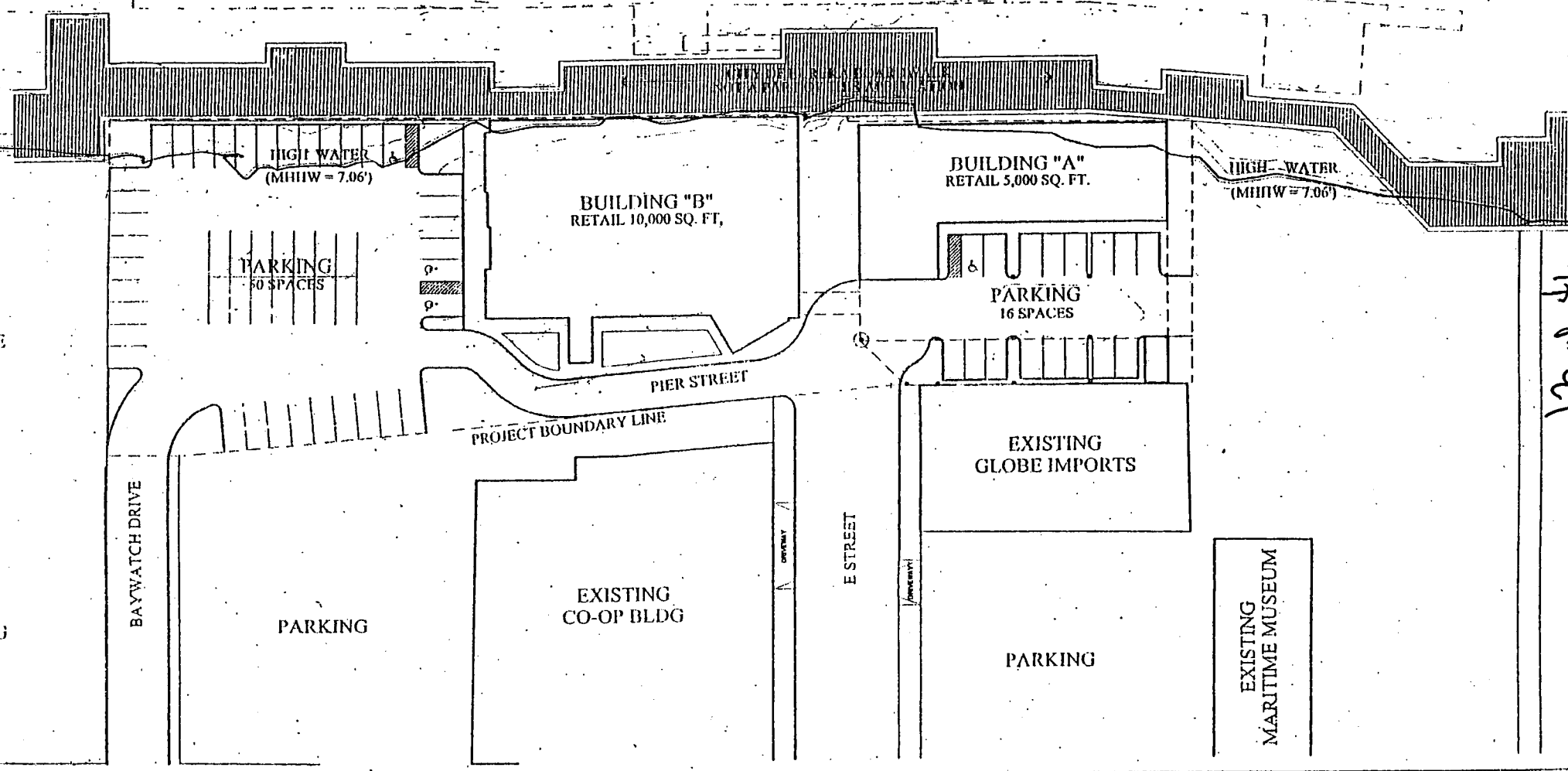
Proposed Site Plan

Eureka Waterfront Partners
Attachment C

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HUMBOLDT BAY

WATERFRONT DOCKS ARE NOT
A PART OF THIS APPLICATION.
CITY OF EUREKA APPLICATION
INCLUDES DOCK IMPROVEMENTS



Handwritten note: 9th St

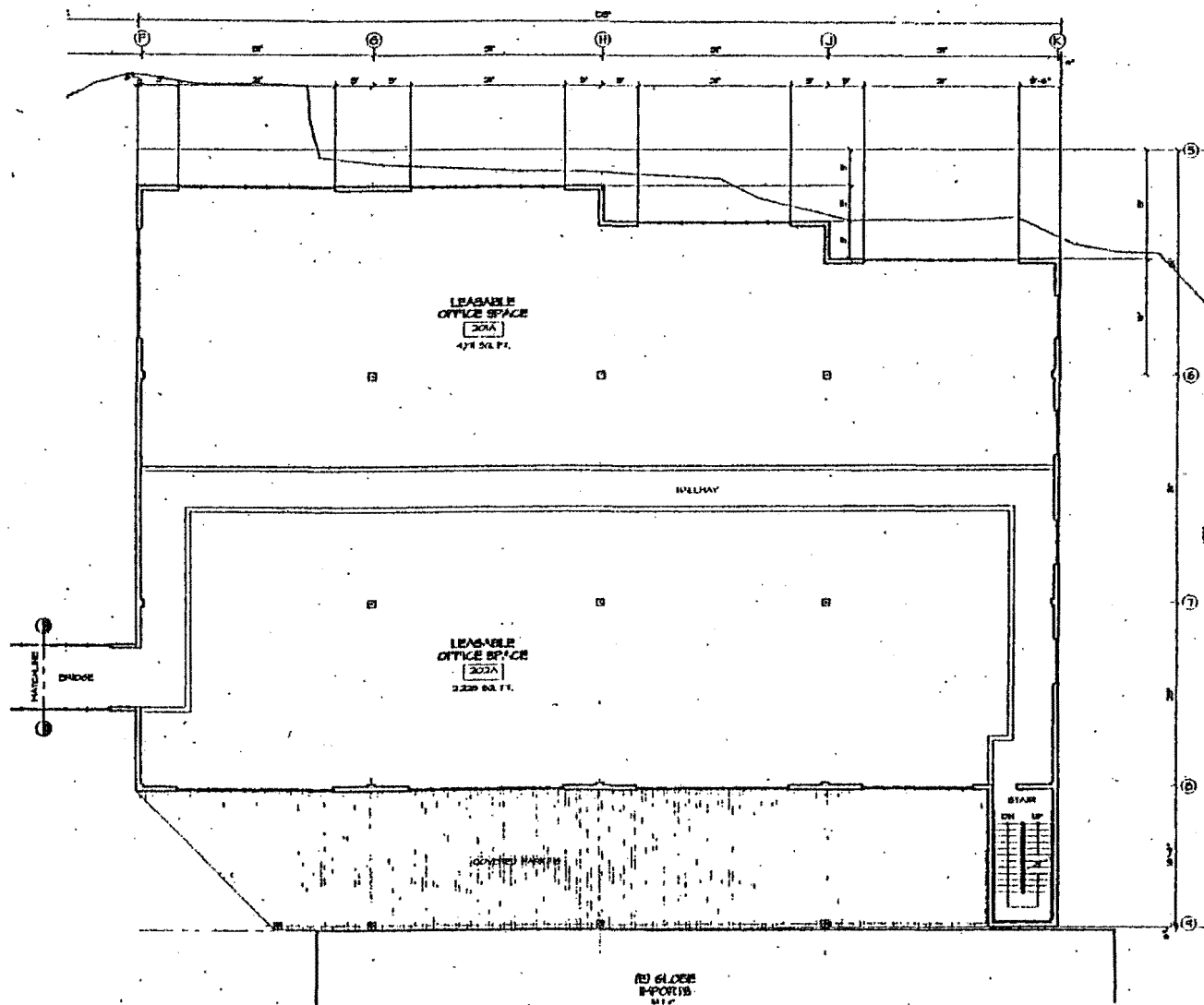
EUREKA PIER

A New Retail and Restaurant project
located on Beautiful Humboldt Bay
in Old Town Eureka, California

SITE PLAN

Scale: 1"=40'-0"
Date: January 24, 2001

Developer: Eureka Waterfront Partners, LLC
Managing Partner: Dolores Vellutini
Architect: John Ash Group



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EUREKA PIER

A New Retail and Restaurant project
located on Beautiful Humboldt Bay
in Old Town Eureka, California

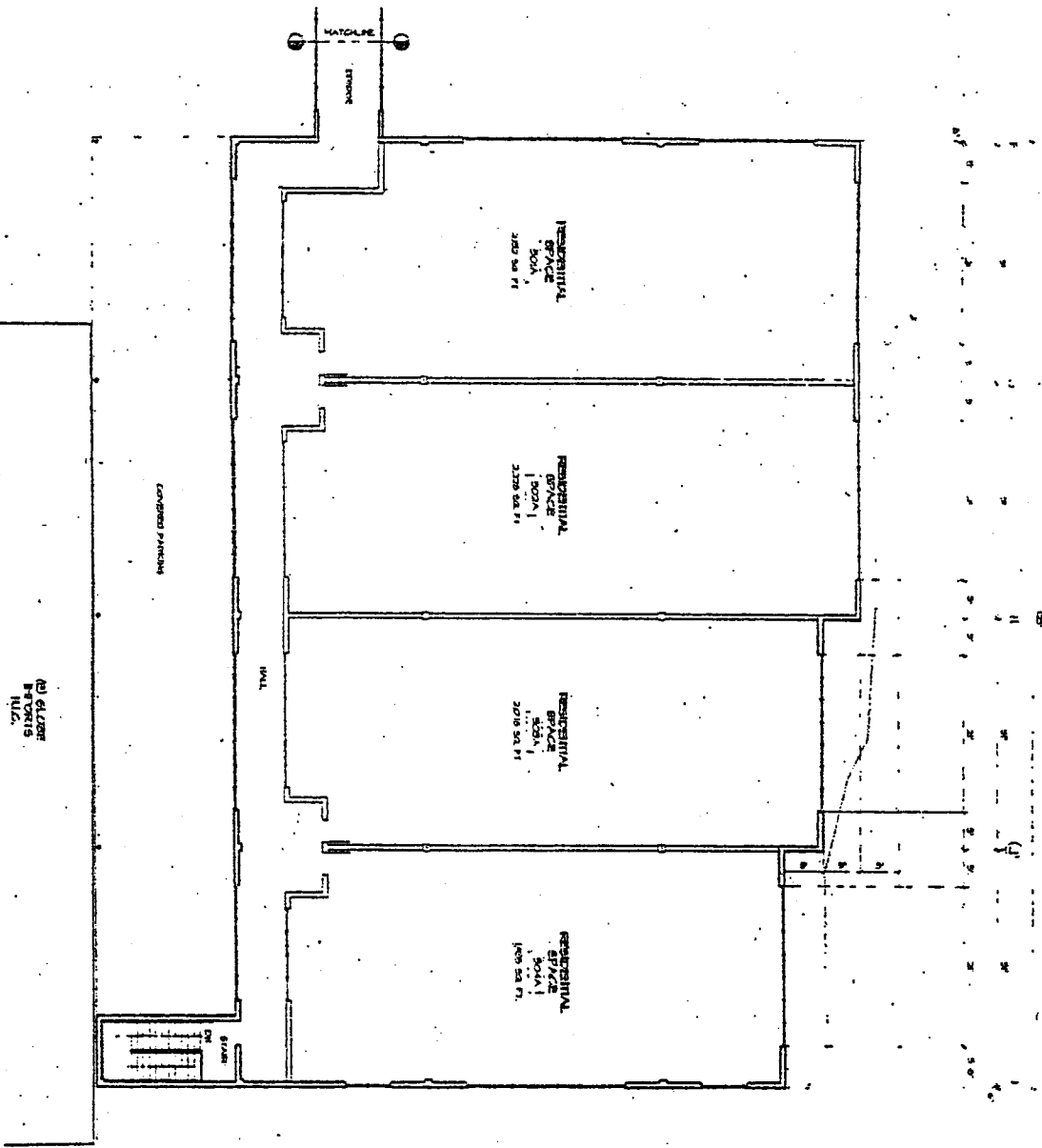
BUILDING A
SECOND FLOOR PLAN

1/15"-1"=0'
Date: January 24, 2001

A3

oper: Eureka Waterfront Partners, LLC
ging Partner: Dolores Vellutini
tect: John Ash Group

16 of 46



(N) 64,000
SQUARE
FOOTAGE
N/A

EUREKA PIER

A New Retail and Restaurant project
located on Beautiful Humboldt Bay
in Old Town Eureka, California

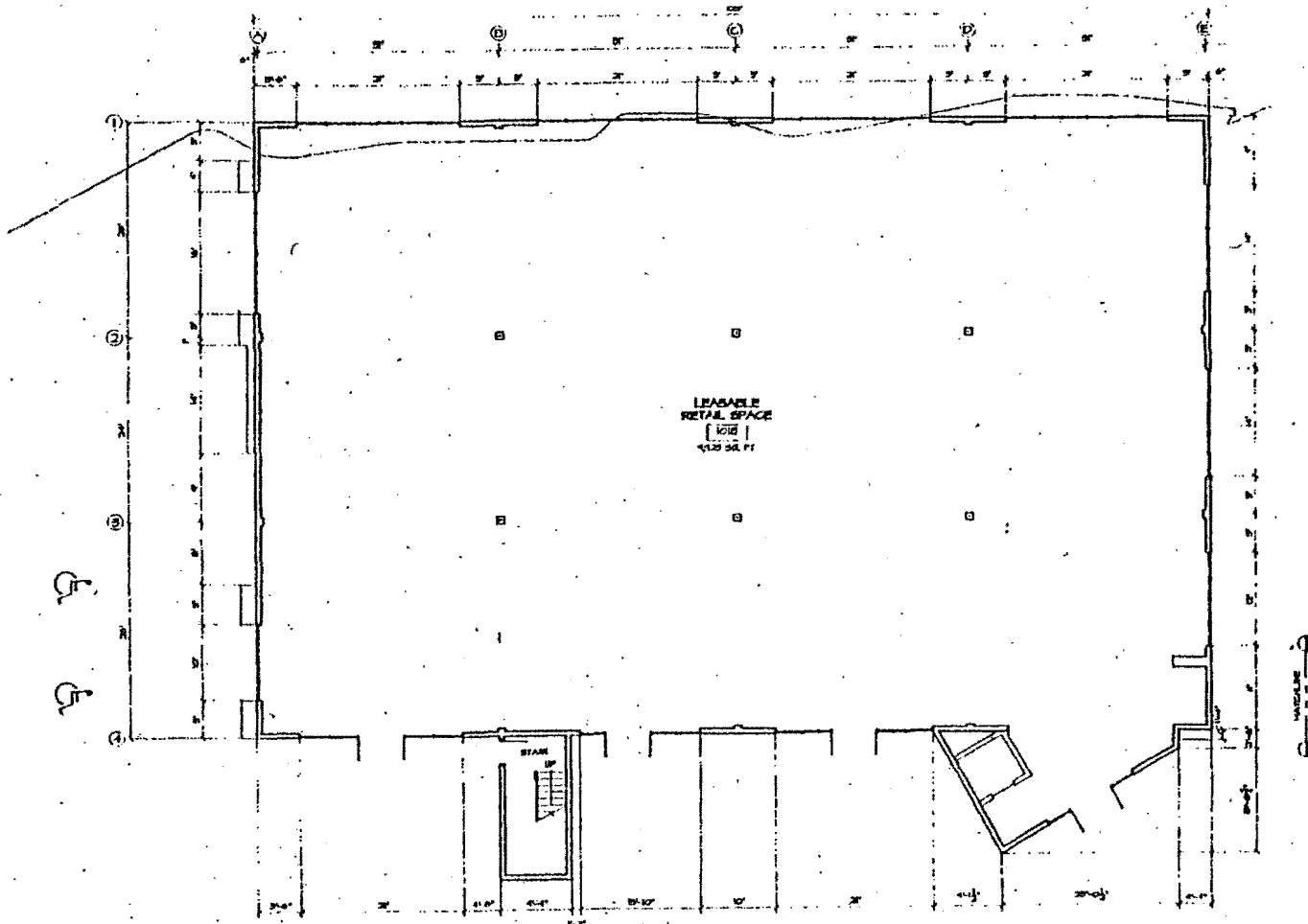
Developer: Eureka Waterfront Partners, LLC
Design Partner: Dolores Vellutini
Client: John Ash Group

BUILDING A

THIRD FLOOR PLAN

1/18"-1"=0'
Date: January 24, 2001

A'

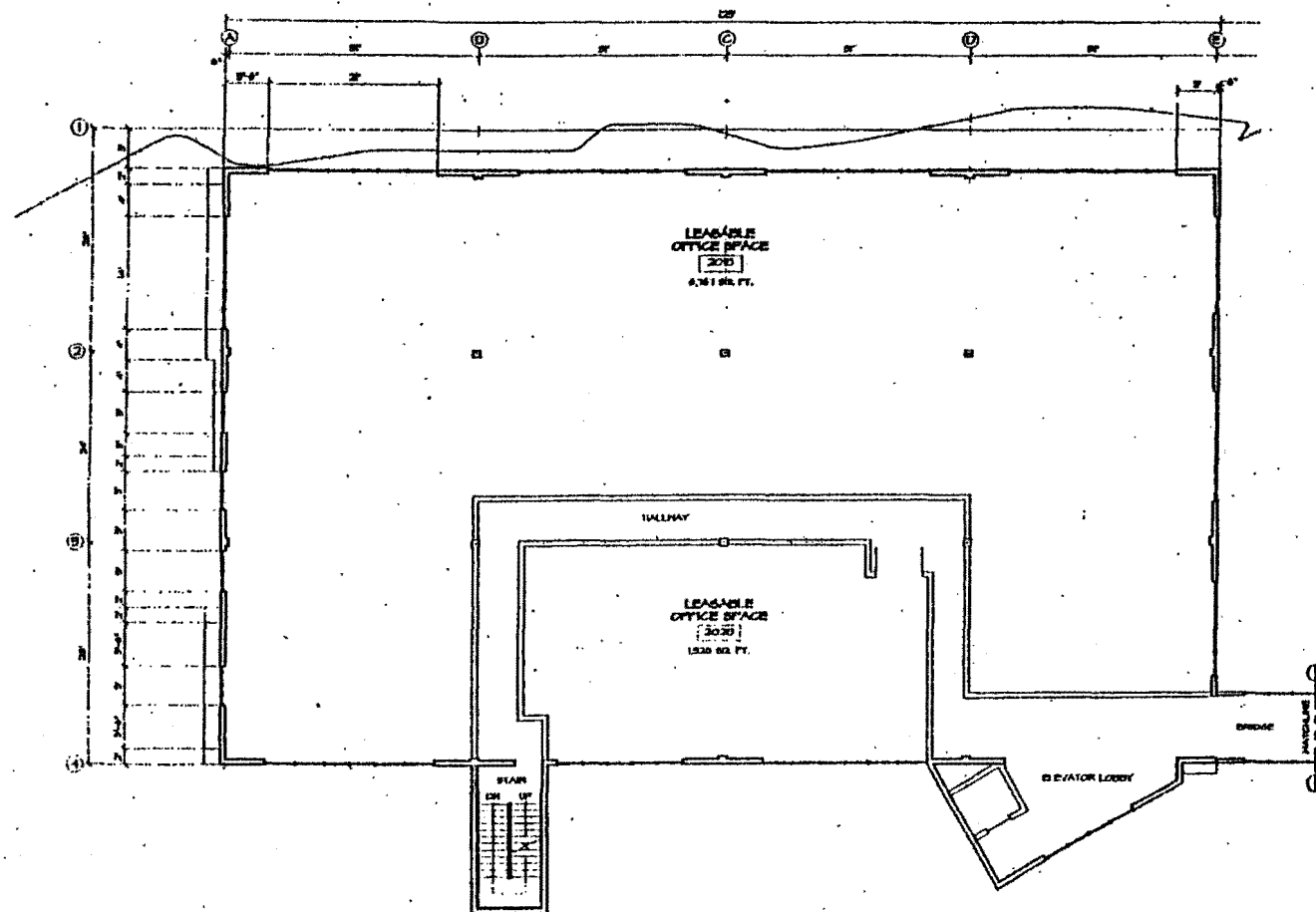


EUREKA PIER

A New Retail and Restaurant project
located on Beautiful Humboldt Bay
in Old Town Eureka, California

BUILDING B
FIRST FLOOR PLAN
1/16"=1'-0"
Date: January 24, 2001

Developer: Eureka Waterfront Partners, LLC
Managing Partner: Dolores Vellutini



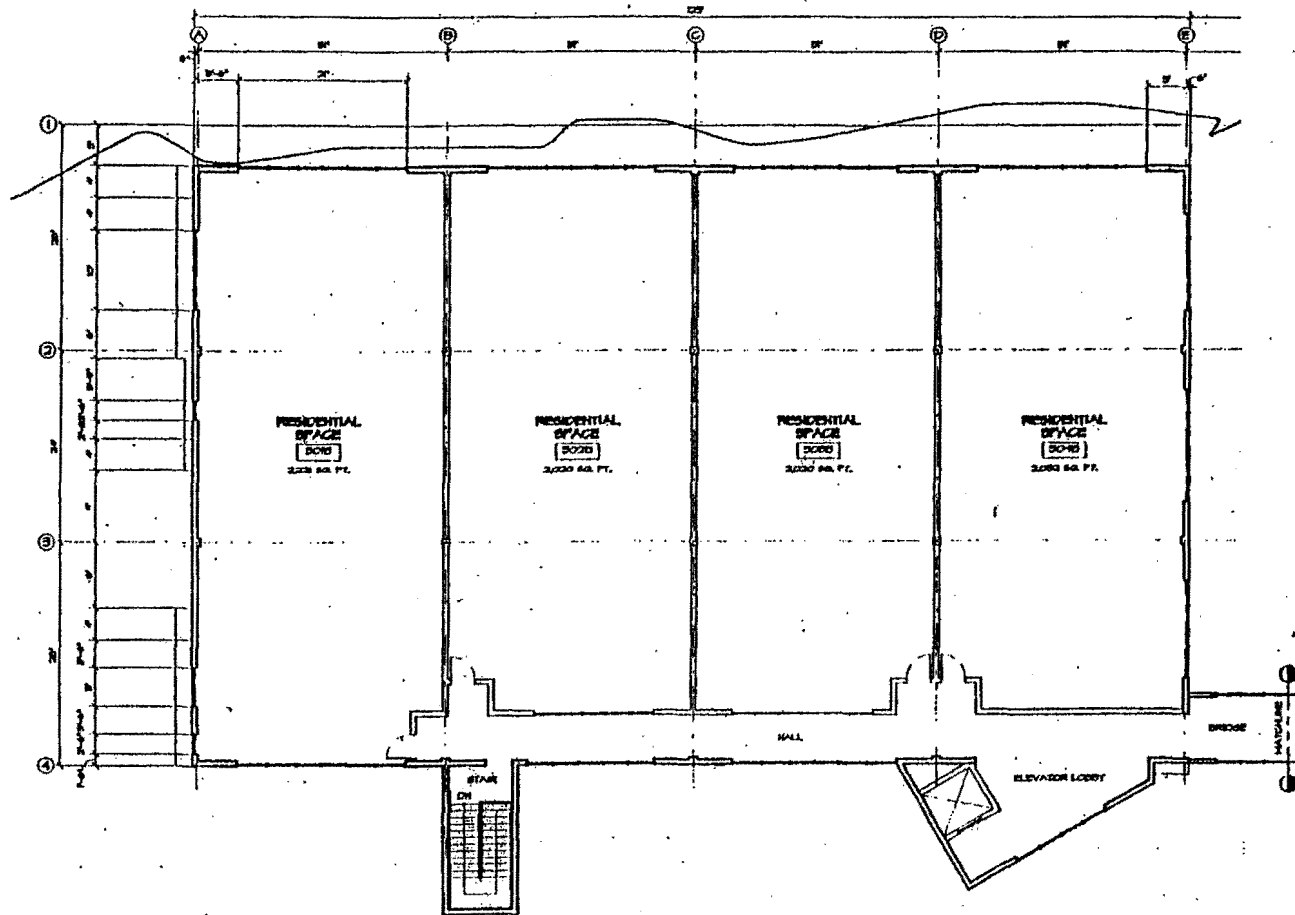
108 of 46

Developer: Eureka Waterfront Partners, LLC
 Managing Partner: Dolores Vellutini
 Architect: John Ash Group

EUREKA PIER
 A New Retail and Restaurant project
 located on Beautiful Humboldt Bay
 in Old Town Eureka, California

© 2001 JOHN ASH GROUP
BUILDING B
SECOND FLOOR PLAN
 1/16"=1'-0"
 Date: January 24, 2001

Λ



12246

EUREKA PIER

A New Retail and Restaurant project
located on Beautiful Humboldt Bay
in Old Town Eureka, California

BUILDING B
THIRD FLOOR PLAN
1/16"=1'-0"
Date: January 24, 2001

A

Developer: Eureka Waterfront Partners, LLC
Managing Partner: Dolores Vellutini
Architect: John Aske Group

Eureka Waterfront Partners

Attachment D

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(3) The work proposed would be consistent with the requirements of the Local Coastal Program.

(E) Within 10 calendar days of the request for an emergency permit, the owner/applicant shall submit an application for a coastal development permit. Failure by the owner/applicant to follow through in a timely manner with a regular application, shall be cause for the Director of Community Development to revoke the emergency permit and to possibly direct removal of any improvements installed under the emergency permit. The Director of Community Development may conduct a public hearing prior to taking action in such situations.

(F) (1) The Director of Community Development shall report the granting of an emergency permit, in writing, to the City Council and to the Coastal Commission. The request to the City Council shall be scheduled for its next regular meeting. The report shall be mailed to all persons who have requested such notification in writing.

(2) The report of the Director of Community Development shall be informational only. The decision to issue an emergency permit is solely at the discretion of the Director of Community Development.

('63 Code, § 10-5.29317) (Ord. 519-C.S., passed 8-26-90)

§ 156.115 AMENDMENTS TO COASTAL DEVELOPMENT PERMITS.

(A) Applications for amendments to previously approved coastal development permits shall be filed with the Community Development Department. The application shall be in writing and shall contain sufficient detail to adequately assess the nature of the amendment and any potential impacts of the amendment.

(B) Applications for amendments shall be rejected if the proposed amendment would lessen or avoid the intended effect of an approved or conditionally approved permit unless the applicant presents newly discovered material information which could not, with reasonable diligence, have been discovered and produced before the original permit was granted.

(C) If, in the opinion of the Director of Community Development the amendment is of a minor or trivial nature, with no impacts not already assessed in the original permit action, and generally in keeping with the action of the appropriate approving authority, the amendment may be approved by the Director of Community Development. If the Director of Community Development determines that the proposed amendment is immaterial, as described above, notice of such a determination shall be sent to the Executive Director of the Coastal Commission, to each property owner and occupant of property within 100 feet of the property and to all other parties that the Director of Community Development has reason to know who may be interested in the application. If no written objection is received by the Community Development Department within 10 calendar days of sending the notice, the amendment shall be deemed approved. If objections are received, the amendment shall be considered under division (D) of this section.

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(D) If in the opinion of the Director of Community Development, the amendment is other than a minor or trivial nature, or may cause impacts not already assessed in the original permit, or is not in keeping with the action of the appropriate approving authority, the amendment shall be taken to the approving authority of the original permit and processed consistent with the original permit procedures. ('63 Code, § 10-5.29318) (Ord. 519-C.S., passed 8-26-90)

§ 156.116 LAPSE OF COASTAL DEVELOPMENT PERMIT.

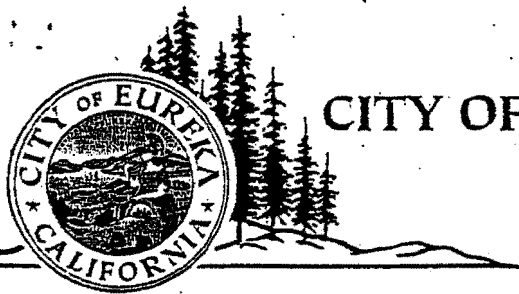
(A) A coastal development permit shall lapse and become void if construction or implementation of the permit has not commenced within two years from the date of final approval of the application for a coastal development permit.

(B) Upon written request received prior to the expiration of the permit, a one-year extension may be granted by the approving authority. The request may be granted upon making the findings that no substantial change of circumstances has occurred and that the extension would not be detrimental to the purpose of this chapter. Notice of the requested extension shall be given to any person determined by the Director of Community Development to have been aggrieved at the original hearing. Any persons aggrieved by the Director of Community Development's decision on an extension request may appeal that decision to the City Council. The decision of the City Council on an extension request is final.

('63 Code, § 10-5.29319) (Ord. 519-C.S., passed 8-26-90)

Eureka Waterfront Partners
Attachment E

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CITY OF EUREKA

COMMUNITY
DEVELOPMENT DEPARTMENT

531 K Street • Eureka, California 95501-1146
(707) 441-4160 • Fax (707) 441-4202

ADMINISTRATIVE IMMATERIAL AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. CDP-07-98

Issued March 8, 2001

The City of Eureka has considered an amendment to coastal development permit (CDP-03-97) granted by the City on March 16, 1999, to Eureka Waterfront Partners, for property between "D" and "F" Streets, and between First Street and Humboldt Bay, APN's 001-054-24,-28,-29,-31. The coastal development permit for the Eureka Waterfront Partners project was for the construction of two buildings to be constructed in two phases. Phase One was to have included the construction of a 54,490 square foot mixed use two-story structure, and a private parking lot. Phase Two was to have involved the construction of a three-story 30,900 square foot mixed use building, when adequate parking was provided for both buildings.

The requested change is to construct two mixed use three-story buildings totaling 56,814 square feet, and two private parking lots containing 66 off-street parking spaces.

The original project, approved by the City Council, contained 29,195 sq. ft. of retail commercial space; 11 residences, totaling 29,995 sq. ft. of residential space; and 20,600 sq. ft. of office space, for a total building area of 85,390 sq. ft.; with 22 residential parking spaces located in garages, and a phase one parking lot of approximately 34 spaces.

The new amendment to the coastal development permit represents a down sizing of the total square footage of the buildings, and an increase in the total off-street parking. The amendment proposes 16,644 sq. ft. of retail commercial space; 20,085 sq. ft. of Office space, and proposes 8 residential units totaling 20,085 sq. ft. of residential space. Comparisons to the original project are as follows;

	Existing permit	Proposed project	Percentage change
Retail	29,295 sq. ft.	16,633 sq. ft.	-43%
Office	20,600 sq. ft.	20,085 sq. ft.	-2.5%
Residential	29,995 sq. ft.	20,085 sq. ft.	-33%
Parking	22 spaces; 56 phase I	66 spaces	+18%
Total Building area.	85,390 sq. ft.	57,214 sq. ft.	-33%

24946

After consideration, it has been determined that an amendment allowing the reconfiguration of the buildings and parking spaces is a reduction of the total development originally approved by the City Council. Further it has been determined that the proposed project offers additional off-street parking spaces, thereby reducing impacts to parking in the general area from the original project permit. Staff therefore finds that the amended project has no substantial impacts not already discussed and analyzed in the approved coastal development permit, the changes are in keeping with the action taken for CDP-03-97, and that the proposed amendment is therefore considered to be an immaterial amendment to the coastal development permit, as described in Section 156.115 of the Eureka Municipal Code.

Accordingly, coastal development permit CDP-03-97 is hereby amended to allow the amended project as shown on the plans submitted by John Ash dated January 24, 2001, and February 5, 2001. (attached). In accordance with Eureka Municipal Code Section 156.115, notification of the immaterial amendment is hereby submitted to the Executive Director of the Coastal Commission, to each property owner within 100 feet of the property and to all other parties known by the Community Development Department to be interested in the application. If no written objection is received by the Community Development Department within ten (10) calendar days of this notice, the amendment will be deemed approved.

Kevin R. Hamblin
Kevin R. Hamblin, AICP
Director of Community Development

3-8-01
Date

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Eureka Waterfront Partners
Attachment G

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RESOLUTION NO. 98-2

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA
CERTIFYING THE COMPLETION OF AND MAKING FINDINGS AND ADOPTING A STATEMENT OF
OVERRIDING CONSIDERATIONS AS TO
THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH#98062013)
FOR
THE EUREKA FISHERMAN'S WHARF PROJECT
AND
ADOPTING A MITIGATION AND MONITORING PROGRAM
FOR THE IMPLEMENTATION OF THE PROPOSED PROJECT

WHEREAS, the Community Development Department has received and has submitted to the Planning Commission of the City of Eureka (Planning Commission) applications for a Parking Variance (Case No. V-8-97), a Conditional Use Permit (Case No. C-03-97), and a Final Subdivision Map (Case No. SD-3-98) for the proposed Eureka Fisherman's Wharf project which would construct a mixed-use development located on the water side of First Street between D and F Streets in downtown Eureka (Project), as further described in the Project Applications on file with the City of Eureka Community Development Department, and as described in the Community Development Department's staff report; and

WHEREAS, a Final Environmental Impact Report (Final EIR) on the proposed Project was prepared pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereinafter "CEQA") and the Guidelines for Implementation of the California Environmental Quality Act (14 California Administrative Code Section 15000 et seq., hereinafter the "State CEQA Guidelines"); and

WHEREAS, a Notice of Preparation for a Draft Environmental Impact Report (Draft EIR) was filed with the State Clearinghouse in the Office of Planning and Research, and was also issued by the City for local agency and public review, with a Public Review Period starting 1 May 1997 and ending 1 June 1997; and

WHEREAS, a Notice of Completion for the Draft EIR was filed with the State Clearinghouse (SCH#98062013) on 8 June 1998, establishing a Public Review Period for the Draft EIR beginning 10 June 1998 and ending 24 July 1998; and

WHEREAS, copies of the Draft EIR were distributed to the State Clearinghouse and to those public agencies which have jurisdiction by law with respect to the proposed Project, and to other interested persons and agencies, and the comments of such persons and agencies were sought; and

WHEREAS, written comments on the EIR were received during the review period and the Draft EIR was thereafter revised and supplemented to adopt changes suggested; and

WHEREAS, a public hearing was held by the City Council of the City of Eureka (City Council) on 15 September 1998, on the Final EIR, following notice duly and regularly given as required by law, and all interested persons expressing desire to comment thereon or object thereto having been heard, and said Final EIR and all comments and responses thereto having been considered; and

WHEREAS, the City Council found that the Final EIR consisted of the Draft EIR, as revised, incorporating substantive comments received during the Public Review Period and the response of the City Council thereto; and

WHEREAS, the City Council reviewed all environmental documentation comprising the EIR and found that the EIR considered all environmental effects of the proposed Project and was complete and adequate and fully complied with all requirements of CEQA and the Guidelines; and

WHEREAS, the City Council found that the Final EIR reflected the independent judgement and analysis of the City; and

WHEREAS, after due consideration and upon the findings described above, the City Council certified the Final EIR in accordance with the requirements of CEQA and the Guidelines; and

WHEREAS, Section 21081 of CEQA and Section 15091 of the CEQA Guidelines require that prior to approval of the Project for which the EIR was certified, the Planning Commission must make one or more of the following findings for each significant effect identified in the Final EIR, along with a brief explanation of the rationale for each finding. The possible findings described in Section 15091 are:

FINDING 1 - Changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effects thereof as identified in the Final EIR; or

FINDING 2 - Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or

FINDING 3 - Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR; and

WHEREAS, Section 15093(a) of the Guidelines requires the Planning Commission to balance, as applicable, the economic, legal, social, technological, or other benefits of the proposed project against its unavoidable environmental risks when determining whether to approve the project; and

WHEREAS, Section 15093(b) requires, where the decision of the Planning Commission allows the occurrence of significant affects which are identified in the EIR but are not avoided or substantially lessened, the Planning Commission must state in writing the specific reasons to support its action, based on the Final EIR and/or other information in the record; and

WHEREAS, the Planning Commission has reviewed and considered all of the environmental and other documentation prepared to evaluate the proposed project, including but not limited to the Staff report and all elements of the Final EIR; and

WHEREAS, the Planning Commission contemplates and directs continuing compliance with CEQA and the Guidelines as necessary in the implementation of the Project; and

WHEREAS, the Planning Commission by this Resolution adopts the Statement of Findings (Attachment "A" hereto), and the Statement of Overriding Considerations (Attachment "B" hereto), as required by Sections 15091 and 15093 of the Guidelines.

NOW, THEREFORE, be it resolved, determined, and ordered by the Planning Commission that:

1. The City Council did certify, on 15 September 98, the Final EIR for the proposed Project as complete and adequate in that it addressed all environmental effects of the proposed Project and fully complied with all requirements of the CEQA, the State CEQA Guidelines, and local procedures adopted by the City of Eureka pursuant thereto, and that the City Council reviewed and considered the information contained in the Final EIR. The Final EIR, which has been and will be on file with the City of Eureka, 531 K Street, Eureka, California, is composed of the following elements:
 - a. Draft EIR;
 - b. Appendices to the Draft EIR;
 - c. Comments received on the Draft EIR and responses to those comments; and
 - d. All attachments, incorporations, and references delineated in a. through c. above.
2. The Planning Commission makes the findings contained in the Statement of Findings with respect to significant effects identified in the Final EIR and finds that each fact in support of the findings is true and is based upon substantial evidence in the record, including the Final EIR. The Statement of Findings is attached hereto as Attachment "A", and is incorporated herein by this reference.
3. The Planning Commission finds that the facts set forth in the Statement of Overriding Considerations are true and are supported by substantial evidence in the record, including the Final EIR. The Statement of Overriding Considerations is attached hereto as Attachment "B", and is incorporated herein by this reference.
4. The Planning Commission finds that the Final EIR has identified all significant environmental effects of the proposed Project and that there are no known potential environmental effects not addressed in the Final EIR.
5. The Planning Commission finds that all significant effects of the proposed Project are set forth in the Statement of Findings and the Final EIR.
6. The Planning Commission finds that although the Final EIR identifies certain significant environmental effects that will result if the Project is approved, all significant effects that can be feasibly mitigated or avoided have been reduced to an acceptable level by the imposition of mitigation measures on the approved Project. All mitigation measures shall be incorporated as conditions of approval of the project. The list of mitigation measures, and City monitoring programs for those measures, is included in the Statement of Findings attached hereto as Attachment "A", and is incorporated herein by this reference.

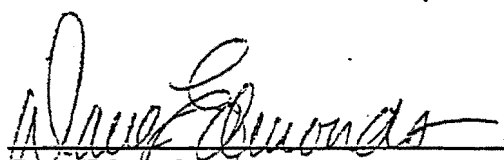
7. The Planning Commission finds that potential mitigation measures or project alternatives not incorporated into the Project (including the "No Project" alternative) were rejected as infeasible, based upon specific economic, legal, social, technological, or other considerations as set forth in the Statement of Findings and the Final EIR.

8. The Planning Commission finds that many of the unavoidable significant impacts of the Project, as identified in the Statement of Findings, that have been reduced to a less than significant level have been substantially reduced in their impacts by the imposition of mitigation measures which shall be incorporated into conditions of approval of the project. The Planning Commission finds that the remaining unavoidable significant impacts are clearly outweighed by the economic, legal, social, technological, or other benefits of the Project, as set forth in the Statement of Overriding Considerations.

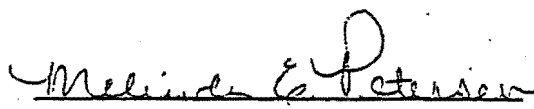
9. The Planning Commission finds that the Final EIR has described all reasonable alternatives to the Project that could feasibly obtain the basic objectives of the Project (including the "No Project" alternative), even when these alternatives might impede the attainment of Project objectives and might be more costly. Further, the Planning Commission finds that a good faith effort was made to incorporate alternatives in the preparation of the Draft EIR, and all reasonable alternatives were considered in the review process of the Final EIR and ultimate decision on the Project.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Eureka, County of Humboldt, State of California, on the Fourteenth day of December, 1998, by the following vote:

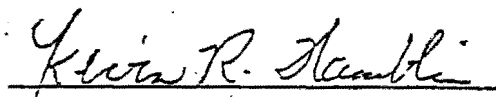
AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:


Dave Edmonds
Chairman


ATTEST:


Melinda E. Petersen
Planning Commission Secretary

APPROVED AS TO ADMINISTRATION:


Kevin R. Hamblin
Director Community Development Department

APPROVED AS TO FORM:


Brad L. Fuller
City Attorney

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ATTACHMENT "A"

STATEMENT OF FINDINGS

The California Environmental Quality Act (CEQA) requires that one or more of a set of findings be made by the lead agency (i.e., by the City for this project) whenever an EIR identifies significant effects on the environment; these findings are established in section 15091 of the CEQA Guidelines. Therefore, the City of Eureka adopts the following findings for the Eureka Fisherman's Wharf Project.

I. IMPACTS AVOIDED OR MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

The City of Eureka makes the findings listed below regarding the construction of a mixed-use development called "Eureka Piers" ("Project") identified in the Environmental Impact Report ("EIR") prepared for the project. The Draft Environmental Impact Report for the project is hereinafter referred to as the "DEIR" or "Draft EIR," and the Final Environmental Impact Report is referred to as the "FEIR" or "Final EIR." The City finds that all mitigation measures described below will be implemented pursuant to the conditions of approval and the mitigation monitoring programs adopted as part of this project. These mitigation measures were identified and discussed, or are derived directly from measures which were identified and discussed, in the EIR. The City hereby adopts and incorporates as part of the project all mitigation measures set forth in these Findings and in the EIR.

A. LAND USE AND PLANNING

1. Environmental Concerns

The proposed project would result in the construction of the Project. This would change the land use at the project site from a vacant lot to a mixed-use development and would result in the intensification of land uses and activities at the project site. This is considered to be a less than significant impact and no mitigation is warranted.

2. Findings

The City finds that the construction of the mixed-use development Project would not result in a significant land use and planning impact.

B. AESTHETICS

1. Environmental Concerns

Construction of the mixed-use development Project would change the quality of the visual character at the project site. The Project would be visible from several vantage points in the project site vicinity.

2. Findings

As described in the Final EIR, the City finds that the following mitigation measures will avoid or reduce aesthetic effects associated with the mixed-use development Project to a less than significant level:

- a. Revise project plans to reflect architectural elements, materials, and colors that are acceptable to the City of Eureka.
- b. Project lighting will be designed and shielded so as not to illuminate land outside the

project property line.

C. **TRAFFIC, CIRCULATION, AND PARKING**
1. Environmental Concerns

The Project would result in an increase in the number of p.m. peak hour vehicle trips at local system and regional system intersections as well as contribute to the cumulative increases in traffic volumes at local and regional system intersections. The Project also would result in an increase in pedestrian traffic on local streets and there would be an increase in the potential for accidents on local streets. In addition, the Project would result in an increase in vessel traffic in the Eureka Channel west and south of the project site.

2. Findings

The City finds that the construction of the mixed-use development Project would not result in a significant traffic or circulation impacts.

D. **AIR QUALITY**
1. Environmental Concerns

Criteria air pollutants generated by the Project would increase total air pollutant emissions in the region.

2. Findings

The City finds that the construction of the mixed-use development Project would not result in a significant air quality impact.

E. **NOISE**
1. Environmental Concerns

Project-generated vehicular traffic would result in an increase in ambient noise levels of nearby roadways used to access the site. The Project would introduce a noise-sensitive land use to an area of high existing ambient noise levels.

2. Findings

As described in the Final EIR, the City finds that the following mitigation measures will avoid or reduce noise effects associated with the Project to a less than significant level:

- a. The project sponsor shall make efforts during residential design that bedrooms are not designed to face Eureka Co-op.
- b. The project sponsor shall prepare a written statement [a letter or small brochure] to be distributed to prospective purchasers of the condominium units prior to sale informing them of the activity at the Co-op loading dock.

F. CULTURAL RESOURCES

1. Environmental Concerns

Previously undiscovered historic or prehistoric archaeological resources could be encountered during project-related construction activities.

2. Findings

As described in the Final EIR, the City finds that the following mitigation measures will avoid or reduce cultural resources effects associated with the Project to a less than significant level:

- a. In the event that any prehistoric or historic subsurface cultural resources are discovered during construction-related earthmoving activities, all work within 100 feet of the resources shall be halted and the project applicant shall consult with a qualified archaeologist to assess the significance of the find. If any find were determined to be significant by the qualified archaeologist, then representatives of the project applicant, City of Eureka, and the qualified archaeologist would meet to determine the appropriate course of action, which could include coordination with the Native American Heritage Commission. If the discovery includes human remains, Section VIII of CEQA Guidelines Appendix K would be followed, requiring coordination with the County coroner and with the Native American Heritage Commission if the human remains are of Native American origin. All significant cultural materials recovered would be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.

G. BIOLOGICAL RESOURCES

1. Environmental Concerns

Project construction activities have the potential to adversely affect significant biological resources within the project site. Project development also would adversely affect aquatic resources. In addition, project development has the potential to introduce non-native invasive plant species to the site.

2. Findings

As described in the Final EIR, the City finds that the following mitigation measures will avoid or reduce biological resources effects associated with the Project to a less than significant level:

- a. Sensitive wildlife species have been located in close proximity to the proposed development area and may occur on-site. Although project development is unlikely to directly affect sensitive species or their habitats, construction activities, especially noise from pile driving activities, has potential to significantly affect any nesting raptors within 0.5 miles of the development area. If nesting raptors are found within 0.5 miles of the project site, pile driving activities may be affected or prohibited between March 1 and June 30 (generally nesting periods for sensitive raptors unless waived by the California Department of Fish and Game (CDFG). Avoidance periods are subject to change upon approval by CDFG, based on weather conditions and species use as determined by CDFG. Construction and construction-related activities shall not take place within 0.5 miles of identified raptor nests during the avoidance period. The biological monitor shall have the authority to halt construction activities if any significant adverse reaction to project activities is observed (e.g., incubating

birds leave nest or abandon young).

b. Prohibit pile driving associated with pier replacement between December 1 and March 31 to reduce any potentially significant impacts. The City would consult with the permitting agencies, including but not necessarily limited to the U.S. Army Corps of Engineers, California Department of Fish and Game, National Marine Fisheries Service, U.S. Fish and Wildlife Service, State Lands Commission, and Regional Water Quality Control Board regarding the pier demolition/replacement. If these agencies determine that prohibition of pile driving activities is not warranted, then there would be no time restrictions on pile driving. The applicant shall comply with specific monitoring requirements established by these and other agencies to avoid impacts on fisheries.

c. New pilings shall be constructed of pre-stressed concrete, plastic, or steel (that has not been treated with anti-biofouling material), or by wooden pilings treated with materials approved by the Regional Water Quality Control Board that would not substantially affect biologic resources. This measure would, over time, result in additional increases in fill in the Bay, but is recommended by the Corps of Engineers.

d. All seeds and straw material shall be certified weed free by the California Department of Food and Agriculture (CDFA) seed laboratory. All gravel and fill material used during project construction and maintenance shall be certified weed free by the County Agriculture Commissioner's Office. The removal site for all fill materials shall be examined for the presence of noxious weeds by the local County Agriculture Commissioner. Material transported between counties (if any) shall be approved by the local County Agriculture Commissioner in the county receiving the materials.

e. Landscaping on the site shall conform to California Native Plant Society guidelines. Table IV.G-2 in the Final EIR presents a list of species that should not be used for project landscaping.

H. GEOLOGY AND SEISMICITY

1. Environmental Concerns

Project facilities could be damaged or destroyed by seismic activity. Significant damage could occur to the buildings and pier developed as part of the Project. In addition, Project facilities could incur significant damage as a result of underlying soil properties. Damage to Project facilities could occur as a result of foundation failure due to settlement of soils and/or fills, or damage from expansive or corrosive soils.

2. Findings

As described in the Final EIR, the City finds that the following mitigation measures will avoid or reduce geology and seismicity effects associated with the Project to a less than significant level:

a. The project sponsor shall implement the recommendations and guidelines contained in site-specific geologic and geotechnical investigation required as part of final project design.

b. All facilities shall be engineered and constructed to meet the specifications in the most recent version of the Uniform Building Code (currently 1994) for Seismic Zone 4. In particular, piers shall be constructed and engineered based on specifications from American Association of State Highway and Transportation Officials (AASHTO).

c. Prior to project approval, the City shall require a geological report prepared by a registered geologist, a certified engineering geologist, or a registered engineer with expertise in seismic engineering. This report shall consider, describe and analyze the following: geologic conditions, including soil, sediment, and rock types and characteristics, in addition to structural features such as bedding, joints, and faults; evidence of past or potential liquefaction conditions, or other types of ground failure, related to seismic shaking; potential effects on the site because of fault rupture; and any other information that might affect the proposed development, such as the information called for in Division of Mines and Geology Notes 44 and 49. The report shall recommend mitigation measures for any potential impacts and shall outline alternative solutions. The report shall express a professional opinion as to whether the project can be designed so that it will neither be subject to nor contribute to significant geological instability throughout the life span of the project.

d. The City shall require that all new parapets, signs and other building ornamentation are constructed to withstand seismic shaking.

e. The project sponsor shall adhere to all recommendations of the existing and future geotechnical reports.

f. The project sponsor shall prepare a project-specific geotechnical report as part of final design. This geotechnical investigation would build on the existing soils investigation to determine the presence and characteristics of potentially compressible soils on the site, the engineering properties of the foundation materials at the site, the depth and thickness of soil layers, and the depth(s) of the water table(s).

g. All fill shall be selected, placed, compacted and inspected in accordance to plans and specifications prepared by a licensed civil engineer.

h. Replace with Non-Expansive Soils. Expansive soils shall be excavated and replaced with non-expansive materials. (Typical pipeline construction involves use of granular materials for bedding and backfill and thereby replacing any expansive soils and mitigating the potential hazard.) The required depth of over excavation should be specified by a registered civil engineer based on project facilities and soil conditions.

i. Treat Expansive Soils. Expansive soils shall be treated in place by mixing them with lime. Lime-treatment alters the chemical composition of the expansive clay materials such that the soil becomes non-expansive.

j. A site specific soil corrosion survey shall be conducted. This will define the need for

and location of corrosion protection for utilities piles and foundations. Utilities may be protected by the use of insulating couplings, or galvanic or impressed current cathodic protection. Foundations and piles may require special coatings to reduce corrosion potential.

I. WATER QUALITY

1. Environmental Concerns

Project construction activities, the operation of building, fixed docks, and pier facilities, the operation of floating boat slips, and the supplying of potable water to the vessels using the floating boat slips have the potential to adversely affect water quality within the project site and adjoining areas of Humboldt Bay.

2. Findings

As described in the Final EIR, the City finds that the following mitigation measures will avoid or reduce water quality effects associated with the Project to a less than significant level:

a. The project sponsor shall control bank erosion during and after construction. Further erosion of the bank on the project site shall be controlled during demolition and construction of new facilities. A shoreline erosion control structure suitable for the site shall be used. The shoreline erosion control material will be engineered and designed to provide bank protection for the design life of the project. For this location in Humboldt Bay rock slope protection using the appropriate size and type of material or bulkheads have been successfully employed as a more permanent form of shoreline erosion control. Placement of new shoreline erosion structure will have some water quality impacts but just as for the piling removal and replacement these impacts will be very short-term and temporary. Any shoreline erosion control structure is subject to the permits from the same agencies listed in Table IV.G-1 of the Final EIR or as otherwise indicated in this document.

Temporary shoreline erosion control that shall be used at the site during demolition and construction include use of silt curtains placed along the toe of the slope, leaving the existing degraded rock slope protection in place, not parking heavy equipment close to the bank, and staging the demolition and debris removal equipment such that no further degradation of the existing bank occurs.

The shoreline erosion control material shall be placed at the site following demolition of the existing structures. Placement of the engineered upland fill can precede the placement of the shoreline erosion control if the engineered fill will be placed so as to not erode off the site into bay waters during and after construction.

b. The project sponsor shall control use of hazardous materials on-site. Implement Mitigation Measure "F" under Geology and Seismicity, which addresses inspection of subsurface excavation by a registered geologist, certified engineering geologist, or registered engineer. This same inspection can be used to determine the presence or absence of any newly exposed sources of hazardous material such as buried pipelines, underground storage tanks, grease and oil waste pits, or other historical infrastructure that could pose a hazard to water quality via surface water runoff or contamination to groundwater and seepage to the bay.

Hazardous materials encountered during demolition of existing structures shall be controlled on-site and disposed of in the manner applicable to the particular hazardous material encountered. This includes, for example, any as yet identified asbestos coated materials and buried underground storage tanks that may be present at the site.

c. The project sponsor shall control the use of materials used in maintenance activities. The site manager for the built facility shall keep a listing of all hazardous material used on-site by building and dock maintenance personnel. The location of cleaning materials and any other hazardous materials at the site shall be controlled to prevent unauthorized use.

Whenever practicable, the use of non-hazardous or biodegradable materials for cleaning will be employed. Alternatives to the use of detergents and solvents for dock maintenance will be considered including pressure washing.

d. The project sponsor shall control solid waste generated by operation of the site. Commercial and residential solid waste will be disposed of in containers sized to adequately handle the volume of waste generated at the facility. Recreational solid waste generated at the public access pier and boardwalk shall necessitate use of well-placed waste receptacles of the appropriate size for the waste generated at the site. Special consideration will be required for public events that would attract larger numbers of persons to the site.

e. The project sponsor shall clearly post on-site, and include in rental agreements, the water quality regulations for boats docking at the facility. Informational signage shall be posted at the boat slip facility to advise users of the location of fuel stations, MSD pump-outs, bilge water pump-outs, and include the jurisdiction of the USCG and fines for discharge of oil, fuels, or sanitary wastes. Rental agreements/owner agreements shall include a section addressing the same information posted at the site and include suggestions for best management practices for controlling pollution from boating activity. Transient vessels and guest vessels using the facility shall be informed of the same information.

f. The project sponsor shall develop and implement a spill emergency response plan. Facility operator shall have an emergency response plan on file with the USCG, CDFG, and the City of Eureka Fire Department. Facility owner shall file as-built drawings to the City of Eureka Fire Department and CDFG, if required, detailing the location of emergency response equipment, including fire extinguishers, fire hoses, and oil spill containment equipment. Emergency response equipment shall include a first-aid and safety kit, booms, and absorbent pads in a quantity to contain a spill from the largest vessel using the facility. Facility tenants shall be provided with information regarding spill prevention and control. Emergency contact phone numbers shall be posted and be clearly visible.

g. The project sponsor shall control solid waste discharge from vessels. Solid waste generated by berthed vessels will be disposed of in containers sized to adequately handle the volume of waste generated by the boat slips. Provide for removal on a regular basis of any floatable solid waste that becomes trapped between the floating docks.

h. The project sponsor shall provide daily management of the floating boat docks. The building manager shall provide for the daily management of the facility. Twenty-four hour emergency contact shall be available.

i. The project sponsor shall install backflow devices in all water lines supplying potable water.

II. POTENTIAL IMPACTS NOT MITIGATED TO A LESS THAN SIGNIFICANT LEVEL OR AVOIDED

The City makes the findings listed below with respect to the identified impacts, and finds that, while the mitigation measures described will lessen the potentially significant effects, all of the potential effects cannot be reduced to a level that is less than significant. These mitigation measures were identified and discussed, or are derived directly from measures which were identified and discussed, in the Final EIR. The City hereby adopts and incorporates as part of the project all mitigation measures set forth in these Findings and in the Final EIR.

A. TRAFFIC, CIRCULATION, AND PARKING

1. Environmental Concerns

The Project would increase the demand for parking while not providing for parking or complying with existing City parking requirements.

2. Findings

The City finds that the following mitigation measures will reduce the impacts associated with parking demand, but not to a less than significant level:

- a. Create off-site parking or designate existing off-site parking areas as short term (i.e., two hours or less).
- b. Construct an off-site parking structure and/or close streets for the purpose of creating additional parking.

The City finds that the implementation of the mitigation measures outlined above will not avoid or reduce impacts associated with increase in demand for parking to a less than significant level. This is considered to be a significant and unavoidable impact.

III. OTHER IMPACTS ARE NOT SIGNIFICANT

Other potential impact subject areas, including those covered in the discussion in the "Initial Study Checklist," are addressed by the Final EIR. The City finds that other potential impacts, including those in the "Initial Study Checklist," do not have significant effects on the environment. No mitigation measures are required for these other considerations.

IV. ALTERNATIVES

The Final EIR evaluates the potential environmental consequences of a range of alternatives, including alternative development arrangements at the project site.

The "no project" alternative would temporarily retain the project site in its current condition, making this alternative the "environmentally superior alternative" required to be identified by CEQA. The City finds that "no project" is not feasible for the project site, since the site is designated for development in existing land use documents, and because the "no project" alternative will not produce the public benefits which will result from any of the development alternatives.

The Non-Coastal Dependent Alternative discussed in the Final EIR also would result in the increase in the demand for parking without providing an adequate parking supply. Therefore, the significant impacts identified for the proposed project also would occur under this alternative.

The Adequate Parking Alternative discussed in the Final EIR would require that adequate parking be provided on-site and that the building design be reconfigured, which would result in buildings of greater height or buildings that have a smaller amount of available square footage. This alternative would avoid the significant unavoidable impacts of the Project associated with the increase in parking demand.

V. STATEMENT OF OVERRIDING CONSIDERATIONS NEEDED

Because the Final EIR identifies project impacts which cannot be avoided completely or mitigated to a level that is demonstrably less than significant, the City finds that a Statement of Overriding Considerations is adopted for this project, pursuant to section 15093 of the CEQA Guidelines.

ATTACHMENT "B"

STATEMENT OF OVERRIDING CONSIDERATIONS

The City has balanced the benefits of the proposed project against the unavoidable or unmitigable impacts associated with the project. The City has determined that the benefits identified in this Statement outweigh the project's unavoidable or unmitigable impacts, making the impacts acceptable. The City adopts this Statement pursuant to the requirements of section 15093 of the State CEQA Guidelines.

I. SOME EFFECTS MAY NOT BE FULLY MITIGATED

A Final Environmental Impact Report (EIR) has been prepared by the City of Eureka (City) for the Eureka Fisherman's Wharf Project which would construct a mixed-use development located on the water side of First Street between D and F Streets in downtown Eureka. A Statement of Findings has been prepared, reviewed, and adopted for this EIR. Among the findings was the finding that not all of the environmental consequences of the proposed project may be capable of being mitigated to a level that is less than significant. Potential impacts within the subject areas identified below may not all be reduced to less than significant levels, even though the City adopted mitigation measures in each subject area that reduced impacts below the levels that would occur without mitigation.

1. Construction of a mixed-use development would result in an increase in parking demand without an adequate parking supply.

In reviewing the potential impacts of the proposed project the City identified one concern for development in the project area and elsewhere in the City which transcend the concerns for this project alone: increase in demand for parking as a result of the mixed-use development.

II. SPECIFIC BENEFITS FROM THE PROPOSED PROJECT

The Project is expected to provide the following specific benefits to the City and to the project area:

1. The Project would result in the development of residential, retail, and office uses at the project site.
2. The Project would complement the existing and planned land uses in the Core Area of Eureka.
3. The Project would provide water-related recreational facilities along the waterfront.

III. PROJECT APPROVAL NOTWITHSTANDING ADVERSE EFFECTS

Because of the very real benefits identified above for the proposed project and for the City as a whole, the City hereby finds that the identified benefits outweigh the identified adverse impacts, and the City further finds that the project's unavoidable adverse effects are acceptable in the context of decision-making for this project.

IV. DISPOSITION OF THIS STATEMENT

This Statement of Overriding Considerations shall be included in the project record, and shall be filed with the Notice of Determination for the project.

41 4 46

Eureka Waterfront Partners
Attachment H

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PLANNING COMMISSION, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. December 14, 1998.

SUBJECT: AGENDA ITEM #D.4 - PUBLIC HEARING: File No. V-8-97/C-3-97/SD-3-98
- Applicant: Eureka Waterfront Partners - Project Location: The project site is approximately 1.25 acres and is located in Eureka between "D" and "F" Streets, and between First Street and Humboldt Bay (APN's: 001-054-24, -28, -29, -31). Project Description: A parking Variance, Conditional Use permit, and Subdivision for Eureka Waterfront Partners. The project includes demolition of the Fisherman's Warehouse Building, and the construction of two buildings; Building "A" is a 54,490 square foot two-story structure with the first floor proposed to contain retail/restaurant uses, including an information center, a seafood market, an oyster bar and a 100-seat theater with a wraparound screen. In addition, the first floor will include eleven private parking garages, each with tandem parking for two vehicles. The eleven private garages are for the eleven condominiums proposed for the second floor of Building "A". Building "B" is a 30,900 square foot three-story building. The ground floor will be used for retail uses, and the second and third floors will be used for offices.

The project requires approval of several discretionary permits. These permits include: a Parking Variance, Conditional Use Permit, and Final Subdivision Map which are acted upon by the Planning Commission; a Sign Permit, Architectural and Site Plan Review which are acted upon by the Design Review Committee; and a Coastal Development Permit which is acted on by the City Council. The three permits being requested to be acted upon by the Planning Commission are:

A Parking Variance to allow eleven tandem parking spaces to be counted towards the total off-street parking required for the project. And, a Parking Variance to allow, for the whole project, a total of 22 off-street parking spaces, all located in eleven private garages, where the Eureka Municipal Code requires that (approximately) 200 off-street parking spaces be provided.

A Conditional Use Permit (pursuant to Eureka Municipal Code Section 156.072 (D)) to allow a food store (seafood market), a theater/auditorium within a building (100-seat theater with a wraparound screen), residential condominiums, non-visitor serving retail uses, and offices in the Commercial Waterfront zone.

A Final Subdivision Map to create eleven condominiums as shown on the Second Floor Plan prepared by the John Ash Group (reference project no. 9542, dated 2/19/97, Sheet no. A.3). Each condominium is approximately 25'-5½" wide by 81' long, and consists of an approximately 2,000 square foot main floor and an approximately 500 square foot loft space.

PLANNING COMMISSION MINUTE ORDER
EUREKA WATERFRONT PARTNERS/V-8-97/C-3-97/SD-3-98
DECEMBER 14, 1998

EACH ACTION WILL BE VOTED UPON SEPARATELY FOR CLARIFICATION.
STAFF RECOMMENDATION #2.

ACTION: Commissioner Dennis moved, and Commissioner Shoffner seconded to adopt the findings for approval and approve a **Parking Variance** (V-8-97) to allow eleven tandem parking spaces to be counted towards the required parking for the eleven residential condominiums in Building "A", resulting in a total of 22 parking spaces for the residential use of Building "A", *with an amendment to not establish a precedent*. The Eureka Municipal Code requires 16 spaces for the eleven residential condominiums.

AYES: COMMISSIONERS: DENNIS, EDMONDS, PENFOLD, SHOFFNER, SPENCER
NOES: COMMISSIONERS: NONE
ABSENT: COMMISSIONERS: NONE

MOTION PASSED BY A UNANIMOUS VOTE.

I, Kevin R. Hamblin, Executive Secretary of the Planning Commission, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said Planning Commission as it now appears in record in the office of Community Development.

KEVIN R. HAMBLIN

By: Melinda Petersen
Melinda Petersen, Administrative Secretary

KRH:mp

PLANNING COMMISSION, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. December 14, 1998.

SUBJECT: AGENDA ITEM #D.4 - PUBLIC HEARING: File No. V-8-97/C-3-97/SD-3-98
- Applicant: Eureka Waterfront Partners - Project Location: The project site is approximately 1.25 acres and is located in Eureka between "D" and "F" Streets, and between First Street and Humboldt Bay (APN's: 001-054-24, -28, -29, -31). Project Description: A parking Variance, Conditional Use permit, and Subdivision for Eureka Waterfront Partners. The project includes demolition of the Fisherman's Warehouse Building, and the construction of two buildings; Building "A" is a 54,490 square foot two-story structure with the first floor proposed to contain retail/restaurant uses, including an information center, a seafood market, an oyster bar and a 100-seat theater with a wraparound screen. In addition, the first floor will include eleven private parking garages, each with tandem parking for two vehicles. The eleven private garages are for the eleven condominiums proposed for the second floor of Building "A". Building "B" is a 30,900 square foot three-story building. The ground floor will be used for retail uses, and the second and third floors will be used for offices.

The project requires approval of several discretionary permits. These permits include: a Parking Variance, Conditional Use Permit, and Final Subdivision Map which are acted upon by the Planning Commission; a Sign Permit, Architectural and Site Plan Review which are acted upon by the Design Review Committee; and a Coastal Development Permit which is acted on by the City Council. The three permits being requested to be acted upon by the Planning Commission are:

A Parking Variance to allow eleven tandem parking spaces to be counted towards the total off-street parking required for the project. And, a Parking Variance to allow, for the whole project, a total of 22 off-street parking spaces, all located in eleven private garages, where the Eureka Municipal Code requires that (approximately) 200 off-street parking spaces be provided.

A Conditional Use Permit (pursuant to Eureka Municipal Code Section 156.072 (D)) to allow a food store (seafood market), a theater/auditorium within a building (100-seat theater with a wraparound screen), residential condominiums, non-visitor serving retail uses, and offices in the Commercial Waterfront zone.

A Final Subdivision Map to create eleven condominiums as shown on the Second Floor Plan prepared by the John Ash Group (reference project no. 9542, dated 2/19/97, Sheet no. A.3). Each condominium is approximately 25'-5½" wide by 81' long, and consists of an approximately 2,000 square foot main floor and an approximately 500 square foot loft space.

PLANNING COMMISSION MINUTE ORDER
EUREKA WATERFRONT PARTNERS/V-8-97/C-3-97/SD-3-98
DECEMBER 14, 1998

EACH ACTION WILL BE VOTED UPON SEPARATELY FOR CLARIFICATION.
STAFF RECOMMENDATION #3.

ACTION: Commissioner Shoffner moved, and Commissioner Penfold seconded to adopt the findings for approval and approve, subject to the conditions of approval below, a Parking Variance (V-8-97) to allow the applicant to develop uses in Building "A" such that the parking calculation for all such uses when combined shall not exceed 78 parking spaces. The parking variance shall be conditioned upon the applicant developing to the maximum extent feasible, private parking in the area designated for Building "B".

Conditions of Approval

1. The applicant shall construct, in conformance with the parking lot standards, and to the maximum extent feasible, a private parking lot on the area designated on the site plans for Building "B".
2. The applicant shall adhere to, or complete as necessary all mitigation measures proposed for the project in the certified EIR.

AYES: COMMISSIONERS: DENNIS, EDMONDS, PENFOLD, SHOFFNER, SPENCER
NOES: COMMISSIONERS: NONE
ABSENT: COMMISSIONERS: NONE

MOTION PASSED BY A UNANIMOUS VOTE.

I, Kevin R. Hamblin, Executive Secretary of the Planning Commission, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said Planning Commission as it now appears in record in the office of Community Development.

KEVIN R. HAMBLIN

By: Melinda Petersen
Melinda Petersen, Administrative Secretary

KRH:mp

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§ 154.043 AMENDMENTS TO APPROVED TENTATIVE MAP.

(A) Minor changes in the tentative map may be approved by the Department of Community Development upon application by the subdivider or on its own initiative, provided:

- (1) No lots, units, or building sites are added.
- (2) Such changes are consistent with the intent and spirit of the original tentative map approval.
- (3) There are no resulting violations of this code of ordinances.

(B) Any revision shall be approved by the Director of Community Development and the Director of Public Works. The amendment shall be indicated on the approved map and certified by the Director of Community Development and the Director of Public Works.

(C) Amendments of the tentative map other than minor amendments shall be presented to the Planning Commission for approval. Processing shall be in accordance with §§ 154.039(B) and 150.040 of this chapter.

(D) Any approved amendment shall not alter the expiration date of the tentative map.

(E) Amendments to an approved tentative map for a proposed subdivision located in the coastal zone shall require a coastal development permit, as prescribed in Chapter 156 of this title.

('63 Code, § 10-4.402.9) (Ord. 416-C.S., passed 12-6-84) Penalty, see § 150.999

EXHIBIT NO. 9**APPLICATION NO.**
A-1-EUR-01-029**EUREKA WATERFRONT
PARTNERS****EXCERPTS, EUREKA
MUNI. CODE (1 of 16)**

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§ 155.115 PURPOSES.

In order to alleviate progressively or to prevent traffic congestion and shortage of curb spaces, off-street parking facilities shall be provided incidental to new uses and major alterations and enlargements of existing uses. The number of parking spaces prescribed in this subchapter or to be prescribed by the Planning Commission shall be in proportion to the need for such facilities created by the particular type of land use. Off-street parking areas shall be laid out in a manner that will ensure their usefulness, protect the public safety, and where appropriate, insulate surrounding land uses from their impact.

('63 Code, § 10-5.1501) (Ord. 80-C.S., passed 10-16-66)

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§ 155.116 BASIC REQUIREMENTS.

(A) At the time of initial occupancy, major alteration, or enlargement of a site, or of completion of construction of a structure or of a major alteration or enlargement of a structure, there shall be provided off-street parking facilities for automobiles in accord with the schedule of off-street parking space requirements prescribed in § 155.117 of this subchapter. For the purposes of this section, the terms **MAJOR ALTERATION** or **ENLARGEMENT** shall mean a change of use or an addition which would increase the number of parking spaces required by not less than 10% of the total number required. The number of parking spaces provided for a major alterations or enlargement of a site or structure shall be in addition to the number existing prior to the alteration or enlargement unless the preexisting number is greater than the number prescribed in § 155.117 of this subchapter, in which instance the number in excess of the prescribed minimum shall be counted in calculating the number provided to serve the major alteration or enlargement.

(B) If, in the application of the requirements of this subchapter, a fractional number is obtained, one parking space shall be provided for a fraction of one-half or more, and no parking space shall be required for a fraction of less than one-half.

(C) For a use not specified in § 155.117 of this subchapter, the same number of off-street parking spaces shall be provided as is required for the most similar specified use as determined by the Director of Planning.

(D) The facilities required by these requirements represent the minimum that will be required by the various land use types. It shall be the responsibility of the developer, owner or operator of any specific use to provide adequate off-street parking even though such parking is in excess of the minimum requirements set forth in these requirements.

('63 Code, § 10-5.1502) (Ord. 80-C.S., passed 10-16-66; Am. Ord. 480-C.S., passed 2-18-89)

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§ 155.117 SCHEDULE OF OFF-STREET PARKING SPACE REQUIREMENTS.**(A) *Dwellings and lodgings.***

(1) *One-family dwellings.* Two spaces, one of which is located in a garage or carport, for each dwelling unit; provided that in an OR or C District there shall be one space in a garage or carport for each dwelling unit.

(2) *All other dwellings.* One space for each dwelling unit, plus one additional space for each two dwelling units except in an OR or C District.

(3) *Motels, hotels, lodging houses, and private clubs providing sleeping accommodations.* One space for each guest room or for each two beds, whichever is greater, plus one space for each two employees.

(4) *Trailer parks.* One space for each unit, plus one additional space for each three units, none of which shall occupy the area designated for access drives.

(5) *"Bed and breakfast inns."* One space for each guest room or for each two beds, whichever is greater.

(B) *Commercial and industrial uses.*

(1) *Retail sales and service.* One space for every 300 square feet of gross floor area.

(2) *Nurseries, garden shops and large product retail sales and service such as furniture, household appliances, machinery, new and used automobiles, trucks, recreational vehicles.* One space for every 500 square feet of gross floor area.

(3) *Offices and business services such as administrative and business offices, professional offices and services, securities and financial brokerage offices, professional offices and services, securities and financial brokerage services, banks and savings and loan offices.* One space for every 300 square feet of gross floor area.

(4) *Medical and dental offices such as chiropractors, dentists.*

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doctors, optometrists and similar professions. One space for every 200 square feet of gross floor area.

(5) *Restaurants, bars, soda fountains, cafes and other establishments for the sale and consumption on the premises of food or beverages.* One space for every 200 square feet of gross floor area.

(6) *Manufacturing plants and other industrial uses.* One space for every 500 square feet of gross floor area.

(7) *Warehousing and distribution.* One space for every 1,000 square feet of gross floor area.

(C) *Places of assembly and public uses.*

(1) *Auditoriums, churches, private clubs, lodge halls, community centers, mortuaries, sports arenas, stadiums, theaters, auction establishments, and other places of public assembly, including church, school, and college auditoriums.* One space for each six seats, or one space for each 60 square feet of floor area usable for seating if seats are not fixed in all facilities in which simultaneous use improbable as determined by the Director of Community Development. Where division (D) of this subchapter requires a greater number of spaces on the site of a church, school, or college auditorium, that section shall apply, and the requirements of this section shall be waived.

(2) *Bowling alleys and pool halls.* Five spaces for each alley and two spaces for each billiard table.

(3) *Dance halls.* One space for each 50 square feet of gross floor area used for dancing.

(4) *Hospitals and charitable and religious institutions providing sleeping accommodations.* Two spaces for each three beds, one space for each two employees, and one space for each staff doctor.

(5) *Libraries, museums, art galleries, and similar uses.* One space for each 600 square feet of gross floor area, and one space for each two employees.

(6) *Post offices.* One space for each 1,000 square feet of gross floor area, and one space for each two employees.

(7) *Cemeteries, columbariums, and crematories.* One space for each two employees, plus the number of additional spaces prescribed by the Director of Community Development.

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(8) *Public buildings and grounds other than schools and administrative offices.* One space for each two employees, plus the number of additional spaces prescribed by the Director of Community Development.

(9) *Public utility structures and installations.* One space for each two employees on the maximum shift, plus the number of additional spaces prescribed by the Director of Community Development.

(10) *Bus depots, railroad stations and yards, airports and heliports, and other transportation and terminal facilities.* One space for each two employees, plus the number of additional spaces prescribed by the Director of Community Development.

(11) *Nursing homes and sanitariums.* One space for each four beds, one space for each two employees, and one space for each staff doctor.

(D) *Educational facilities.*

(1) *Schools and colleges, including public, parochial, and private elementary and high schools, kindergartens, and nursery schools.* One space for each employee, including teachers and administrators, and one space for each four students in grade 10 or above. Where subsection (C)(1) of this section requires a greater number of spaces on the site of a school or college, that division shall apply, and the requirements of this section shall be waived.

(2) *Business, professional, trade, art, craft, music, and dancing schools and colleges.* One space for each employees, including teachers and administrators, and one additional space for each two students 16 years or older.

(E) *Parking facilities for the physically handicapped.*

(1) Facilities accommodating the general public, including but not limited to auditoriums, theaters, restaurants, hotels, motels, stadiums, retail establishments, medical offices and office buildings, shall provide parking spaces for the physically handicapped in accordance with the following schedule:

<i>Total Number of Parking Spaces</i>	<i>Number of Handicapped Parking Spaces Required</i>
1 - 5	0
6 - 40	1

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41 - 80	2
81 - 120	3
121 - 160	4
161 - 300	5
301 - 400	6
401 - 500	7
Over 500	1 for each 200 additional spaces provided

(2) Handicapped parking spaces shall be permanently signed with the international symbol of accessibility.

(F) *Compact car provisions.*

(1) Compact car spaces may be utilized in meeting the above parking requirements.

(2) No compact car spaces shall be allowed in parking areas containing less than 10 parking spaces.

(3) In lots where compact car spaces are permitted, up to 25% of all spaces in the lot may be compact car spaces.

(4) Compact car spaces, when allowed, shall be visibly marked with signs and shall be clustered in one section of the parking area.

('63 Code, § 10-5.1503) (Ord. 80-C.S., passed 10-16-66; Am. Ord. 126-C.S., passed 8-23-69; Am. Ord. 300-C.S., passed 11-7-78; Am. Ord. 340-C.S., passed 7-7-81; Am. Ord. 480-C.S., passed 2-18-89; Am. Ord. 513-C.S., passed 3-25-90) Penalty, see § 150.999

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§ 155.118 STANDARDS FOR OFF-STREET PARKING FACILITIES.

All off-street parking facilities, whether provided in compliance with § 155.036 of this subchapter or not, shall conform with the regulations prescribed in § 155.036 of this chapter and with the following standards:

(A) The minimum off-street parking dimensions for standard parking spaces prescribed in the following table, except that a parking space required to be located on a carport shall be not less than 20 feet in length and 10 feet in width:

Descript ion of Dimensio n	Parking Angle (Degrees)								
	0	20	30	40	45	50	60	70	80
Parking space width, perpendi cular to angle	8'6 "	8'6 "	8'6"	8'6 "	8'6 "	8'6 "	8'6 "	8'6 "	8'6 "
Parking space dimensio n, perpendi cular to aisle	8'6 "	14'6 "	16'10 "	18'8 "	19'5 "	20'	20'8 "	20'9 "	20'12 "
Parking space dimensio n, parallel to aisle	23'	24'8 "	17'	13'2 "	12'	11'1 "	9'10 "	9'	8'6 "
Aisle width	12'	11'	11'	12'	13'6 "	12'6 "	18'6 "	19'6 "	24'

(B) Handicapped parking spaces shall be at least 14 feet wide and 19 feet long. The width shall be measured perpendicular and the length parallel to the parking angle.

8 of 16.

(C) Compact spaces, when allowed, pursuant to § 155.117(F) of this subchapter not less than 7½ feet wide and 16 feet long.

(D) Sufficient aisle space for readily turning and maneuvering vehicles shall be on the site, except that no more than two parking spaces per site may be located that necessitate backing a vehicle across a property line abutting a street. Alleys may be used for maneuvering.

(E) Each parking space shall have unobstructed access from a street or alley, aisle or drive connecting with a street or alley without moving another vehicle.

(F) Entrances from and exits to streets and alleys shall be provided at locations approved by the Director of Public Works.

(G) The parking area, aisles, and access drives shall be paved so as to provide a dustless surface and shall be so graded as to dispose of surface water without creating a hazard to private or public properties, streets or alleys.

(H) Bumper rails shall be provided at locations prescribed by the Director of Public Development where needed for safety or to protect property.

(I) If the parking area is illuminated, lighting shall be deflected away from sites so as to cause no annoying glare.

(J) No repair work or servicing of vehicles shall be conducted on a parking area.

(K) No off-street parking space provided in compliance with § 155.117 of this subchapter shall be located in a required front yard or in a required side yard on the corner of a corner lot, and not more than two spaces per site shall be located so as to necessitate use of a required front yard or a required side yard on the street side yard of a corner lot for backing or turning.

(L) In R Districts parking of vehicles other than automobiles shall be regulated by the provisions of this chapter.

(M) No off-street parking space shall be located on a portion of a site required to be landscaped with plant materials.

(63 Code, § 10-5.1504) (Ord. 80-C.S., passed 10-16-66; Am. Ord. 480-C.S., passed 10-16-66; Am. Ord. 589-C.S., passed 2-21-95) Penalty, see § 150.999

9216

Eureka, California Code of Ordinances

TITLE XV: LAND USAGE

CHAPTER 155: ZONING REGULATIONS

Search: Search[Search Online Library](#)[Search Current Code](#)[Document](#)[Previous Page](#)[Next Page](#)[Table of Contents](#)[Synchronize Contents](#)[Frames](#)[Help](#)[Disclaimer](#)[Home](#)**§ 155.119 LOCATION OF OFF-STREET PARKING FACILITIES.**

(A) In an F, A, R, OR, CP, M, or S District, the off-street parking facilities prescribed in § 155.117 of this subchapter shall be located on the same site as the use for which the spaces are required or on an adjoining site or a site separated only by an alley from the use for which the spaces are required, provided the site of the parking facilities complies with all the requirements of this chapter for the location of parking facilities.

(B) In an HM, CN, CC, CW, CS, or P District, a use permit may be granted to permit the off-street parking facilities prescribed in § 155.117 of this subchapter to be separated if located within 300 feet of the use for which the spaces are required, measured by the shortest route or pedestrian access, provided the site of the parking facilities complies with all the requirements of this chapter for the location of parking facilities.

(C) When off-street parking facilities are provided, in compliance with the requirements of this subchapter, on a site other than the site on which the use to be served by the parking facilities is located, an indenture shall be recorded in the office of the County Recorder designating the off-street parking facility and the use to be served, with legal descriptions of all sites involved, and certifying the off-street parking facility shall not be used for any other purpose unless the restriction is removed by resolution of the Planning Commission, which resolution shall be approved by the Council. An attested copy of the recorded indenture shall be filed with the Director of Community Development. Upon submission of satisfactory evidence that other off-street parking facilities have been provided in compliance with the requirements of this subchapter, or that the use has ceased or has been altered so as no longer to require the off-street parking facility, the Commission shall by resolution remove the restriction.

('63 Code, § 10-5.1505) (Ord. 80-C.S., passed 10-16-66; Am. Ord. 480-C.S., passed 2-18-89; Am. Ord. 589-C.S., passed 2-21-95)

10916

Eureka, California Code of Ordinances

TITLE XV: LAND USAGE

CHAPTER 155: ZONING REGULATIONS

Search: [Search Online Library](#)[Search Current Code](#)[Document](#)[Previous Page](#)[Next Page](#)[Table of Contents](#)[Synchronize Contents](#)[Frames](#)[Help](#)[Disclaimer](#)[Home](#)**§ 155.120 ADDITIONAL REQUIREMENTS AND EXCEPTIONS.**

(A) *More than one use on a site.* If more than one use is located on a site, the number of parking spaces provided shall be equal to the sum of the requirements prescribed in this subchapter for each use.

(B) *Off-street parking facilities to serve one use.* Off-street parking facilities for one use shall not be considered as providing required off-street parking facilities for any other use.

(C) *Reduction of off-street parking facilities.* No off-street parking facility shall be reduced in capacity or in area without sufficient additional capacity or additional area being provided to comply with the regulations of this subchapter.

('63 Code, § 10-5.1506) (Ord. 80-C.S., passed 10-16-66) Penalty, see § 150.999

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Eureka, California Code of Ordinances

TITLE XV: LAND USAGE

CHAPTER 155: ZONING REGULATIONS

Search: [Search Online Library](#)[Search Current Code](#)[Document](#)[Previous Page](#)[Next Page](#)[Table of Contents](#)[Synchronize Contents](#)[Frames](#)[Help](#)[Disclaimer](#)[Home](#)**§ 155.121 EXEMPTIONS FOR SITES IN PARKING ASSESSMENT DISTRICTS.**

In a Municipal Parking Assessment District, only the uses listed in § 155.117(A) of this subchapter shall be subject to off-street parking facilities requirements, and only one space per dwelling or lodging unit or trailer space shall be required.

('63 Code, § 10-5.1507) (Ord. 80-C.S., passed 10-16-66)

12416

Eureka, California Code of Ordinances

TITLE XV: LAND USAGE

CHAPTER 155: ZONING REGULATIONS

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No existing use of land or structure shall be deemed to be nonconforming solely because of the lack of off-street parking facilities prescribed in this subchapter, provided that facilities being used for off-street parking on October 16, 1966, shall not be reduced in capacity to less than the number of spaces prescribed in this subchapter or reduced in area to less than the minimum standards prescribed in this subchapter.

('63 Code, § 10-5.1508) (Ord. 80-C.S., passed 10-16-66) Penalty, see § 150.999

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Eureka, California Code of Ordinances

TITLE XV: LAND USAGE

CHAPTER 155: ZONING REGULATIONS

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§ 155.123 IN LIEU PAYMENTS.

In a CN, CC or CW District, or in an OR District when that district is adjacent to a CN, CC, CW, or CS District, in lieu of providing parking facilities required by the provisions of this subchapter, the requirements may be satisfied by payment to the city, prior to the issuance of a zoning permit, of an amount per parking space, prescribed by the Council, for each parking space required by this subchapter but not provided. The payment shall be deposited with the city in a special fund and shall be used exclusively for the purpose of acquiring and developing off-street facilities located, insofar as practical, in the vicinity of the use for which the payment was made. ('63 Code, § 10-5.1509) (Ord. 80-C.S., passed 10-16-66; Am. Ord. 529-C.S., passed 6-20-91)

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Search:

Eureka, California Code of Ordinances

TITLE XV: LAND USAGE

CHAPTER 155: ZONING REGULATIONS

[Search Online Library](#)[Search Current Code](#)[Document](#)[Previous Page](#)[Next Page](#)[Table of Contents](#)[Synchronize Contents](#)[Frames](#)[Help](#)[Disclaimer](#)[Home](#)**§ 155.316 FINDINGS; CRITERIA FOR GRANTING VARIANCE.**

The Planning Commission or Director of Community Development may grant a variance to a regulation prescribed by this chapter with respect to fences, walls, hedges, screening or landscaping; site area; height of structures; or distances between structures, courts or usable open space as the variance was applied for, or in modified form, if on the basis of the application and the evidence submitted, the Commission or the Director of Community Development makes findings of fact that establish the following:

(A) That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity; and,

(B) That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district, and one of the following findings:

(1) That the strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this chapter;

(2) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties classified in the same zoning district; or,

(3) That the strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.

(C) In the coastal zone granting of variances is consistent with and implements the certified local coastal program, and that the granting of such variances does not reduce or in any way adversely affect the requirements to protect coastal resources as specified in the zones included in this chapter, and that the variance implements the purposes of the zones adopted in implementation of the local coastal program.

('63 Code, § 10-5.2507.1) (Ord. 503-C.S., passed 12-9-89; Am. Ord.

15 & 16

514-C.S., passed 3-25-90)

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CITY OF EUREKA

531 K Street • Eureka, California 95501-1146
fax (707) 441-4138 • email: tyson@

CITY MANAGER

February 14, 2002

James Baskins
California Coastal Commission
P.O. Box 4908
Eureka, CA 95502-4908

RECEIVED

FEB 14 2002

CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO. 10

APPLICATION NO.
A-1-EUR-01-029

REVIEW AGENCY
CORRESPONDENCE
(1 of 26)

RE: Coastal Development Permit Appeal No. A-1-EUR-01-029 for "Eureka Pier" Commercial-Residential Complex, Eureka Waterfront Area, City of Eureka, Humboldt County California

Dear Mr. Baskins:

I have been asked by Dolores Vellutini to respond to a number of the questions raised in your letter dated January 29, 2002, regarding the Eureka Pier Project. It is our understanding that the following information, along with the data provided by the applicant, will enable you to prepare the necessary findings for the Commission's review of this project at their March, 2002 meeting.

Details of Parking In-Lieu Fee Program. In general, the City of Eureka zoning regulations allows off-street parking requirements to be fully and/or in part satisfied by the payment of an in-lieu fee. The payment of a parking in-lieu fee is deposited into a special revenue fund of the City and is used exclusively for the purpose of acquiring and developing off-street parking facilities in the vicinity of the project for which the payment was made.

At their January 15, 2002 City Council meeting, the City Council approved the establishment of a Waterfront Parking Reserve and the deposit of \$150,000 into the Fund. The purpose of the Fund is to provide future funding for a waterfront parking facility which would: 1) benefit the newly constructed Waterfront Plaza and Boardwalk; 2) provide improved coastal access in the area; and 3) increase parking opportunities for the planned private developments occurring along the City's waterfront.

These deposited funds along with future public and private funding would be used to construct a waterfront parking facility which would benefit the Eureka Pier project, as well as other public and private coastal access projects. While the exact location of the surface parking lot(s) is unknown at this time, in most likelihood public parking would be constructed on the City's waterfront between "C" and "H" Streets. The City anticipates that up to ten private property owners may financially participate in the construction of the public parking along the City's waterfront through the payment of in-lieu fees.

The City's municipal code allows the City Council from time-to-time to prescribe the in-lieu amount per parking space. Based upon past public discussion and study of the issue (attachments), the City Council has established the parking in-lieu amount at \$7,000 per space. The future use of the reserved funds requires the approvals by the Eureka Redevelopment Advisory Board, as well as the Eureka City Council. The parking reserve funds would be accounted for through the City's audited Comprehensive Annual Financial Report and annual budgeting process.

Effect of Eagle House Parking Variance. The public parking lot immediately behind the Eagle House at First and "C" Streets is not promised, indentured or encumbered in any way to the Eagle House. The City Council in 1986 granted a parking variance to David Lipscomb to allow the conversion of a restaurant to an 88-seat theater, the installation of a 48-seat theater balcony and a bed and breakfast hotel. The variance did not require the encumbering of the City parking lot adjacent to the Eagle House, nor was the existence of the City parking lot adjacent to the Eagle House listed as a finding for granting the variance.


Page 2

Coastal Development Permit Appeal No. A-1-EUR-01-029 for "Eureka Pier"
Commercial-Residential Complex, Eureka Waterfront Area, City of Eureka, Humboldt County, California

At the time the Eagle House was granted the parking variance, it included a 105-seat Eagle Crest restaurant; a 75-seat Buen Gusto restaurant; a 1-hour photo shop; an antique store; an 840 square foot dining room; as well as the 48-seat theater balcony and the 88-seat theater. To my knowledge all of these uses have either terminated or changed drastically, reducing the parking requirements for the Eagle House.

It is my hope the above responses will assist you in the processing of the appeal of the City's Coastal Development Permit for the "Eureka Pier" project. Should you have any questions regarding the above information, please contact me at 441-4144.

Sincerely,


David W. Tyson
City Manager

CC: Mayor and City Council
John Woolley Supervisor, Humboldt County Board of Supervisors
Dolores Vellutini, Eureka Waterfront Partners
Kevin Hamblin, Community Development Director

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AGENDA SUMMARY

**RE: Waterfront and Coastal Access
Parking**

For Agenda Date: January 15, 2002

Agenda Item No.:

RECOMMENDATION:

Reserve \$150,000 from Eureka Redevelopment Agency to provide funding for a future waterfront parking facility which would: 1) benefit the new Waterfront Plaza and Boardwalk; 2) improved coastal access in the area; and 3) increase parking opportunities for the planned private developments along the City's waterfront.

SUMMARY OF THE ISSUE:

The City Council will recall that there has been a private challenge to State Coastal Commission of the 44-space parking variance provided by the City of Eureka to the Eureka Waterfront Partners (EWP) for their private development project. In an attempt to satisfy this challenge the City and Coastal Commission Staff have been working on a solution that would meet the needs of the Commission, while allowing the private development project to move forward without an additional financial burden.

An ingredient of the solution to this challenge is the approval by the City's Parking Place Commission of a 20-space parking agreement with EWP for parking spaces located on the City parking lot at First and "C" Streets. In order to meet the balance of the Eureka Municipal Code required spaces, the Coastal Commission staff has suggested that the City deposit a dollar amount equivalent to the payment of parking-in-lieu fees (approximately \$150,000) into a waterfront parking reserve. These funds would be used in the future to construct a waterfront parking facility which would benefit the EWP project, as well as other public and private coastal access projects.

FISCAL IMPACT:

Reserve \$150,000 of Eureka Redevelopment Agency funds into a Waterfront Parking Reserve Fund. These monies would not be expended until such time as the City's Redevelopment Advisory Board provides direction to the Eureka Redevelopment Agency Board on the use of these funds.

CM SIGN: _____
David W. Tyson, City Manager

REVIEWED BY:	DATE:	INITIALS:
---------------------	--------------	------------------

City Attorney
Comm. Dev.

COUNCIL ACTION:

Ordinance No.

Resolution No.

City of Eureka

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CITY COUNCIL, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of January 15, 2001.

SUBJECT: WATERFRONT AND COASTAL ACCESS PARKING.

RECEIVED

JAN 17 2002

ACTION:

City Manager Tyson provided a report.

CALIFORNIA
COASTAL COMMISSION
NORTH COAST AREA

The following individuals addressed the Council regarding this item:

Paul Augustine Jr. read a communication from Leo Sears, and spoke on his own behalf.

John Ash

Council reserved \$150,000 from Eureka Redevelopment Agency to provide funding for a future waterfront parking facility which would 1) benefit the new Waterfront Plaza and Boardwalk; 2) improve coastal access in the area; and 3) increase parking opportunities for the planned private developments along the City's waterfront.

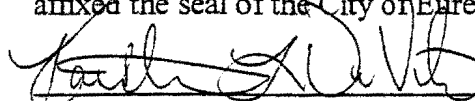
Adopted on motion by Councilmember MCKELLAR, seconded by Councilmember KERRIGAN, and the following vote:

AYES: HUNTER MEEKS, BASS-JACKSON, MCKELLAR, KERRIGAN, ARKLEY
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, KATHLEEN L. DEVITA, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal of the City of Eureka on January 16, 2001.



KATHLEEN L. DEVITA
CITY CLERK

Originating Dept. City Manager

Agenda Item 12

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AGENDA BILL Business of the Eureka City/Redevelopment Agency

For Agenda of August 4, 1992 Item No. 24
 Closing Date July 28, 1992 Date Submitted July 27, 1992
 Originating Department Community Development By Kevin Hamblin/Sid Hughes

TITLE: A request by Rory Hanson for payment of fees in-lieu of providing parking facilities for 3 off-street parking spaces at 305 K Street.

RECOMMENDATION: Establish in-lieu parking fees at \$7,000 per space consistent with past Council action regarding in-lieu parking fee requests.

BACKGROUND: The applicant wishes to restore and convert a residence to offices in the "OR-AR" District at the southeast corner of K and 3rd Streets. Development would include the replacement of an addition onto the rear of an existing building, and the restoration of a carriage house to the rear of the property. The resulting required parking is 7 spaces, 4 of which will be provided on the site. A letter has been submitted requesting in-lieu fees be accepted for the remaining 3 spaces.

Clearance by Impacted Departments (send copies to each):

[x] ACM Date 7/27/92 By TWC
 [x] BD Date 7/27/92 By SEP
 [x] CA Date 7/27/92 By DT/AC
 [x] RA Date 7/27/92 By TWC
 [x] ENG Date 7/27/92 By MA
 [x] FD Date 7/27/92 By VC
 [x] FIN Date 7/28/92 By DT

Current Budget Amount _____ Account # _____

Fiscal Impact of Recommendations: None.

Supporting Documentation:

	Needed	Attached		Needed	Attached
Agreement	_____	_____	City Attorney Opinion	_____	_____
Resolution	_____	_____	Board/Commission Rpt	_____	_____
Ordinance	_____	_____	Budget Supplemental	_____	_____
Policy Memo	_____	_____	Other: <u>letter, plan</u>	_____	<u>x</u>

Copies of Item should be mailed to: [x] prior to meeting [] after meeting
Rory Hanson Kash Boodjeh
307 N Street P.O. Box 881
Eureka, CA 95501 Arcata, CA 95521

Approved for Agenda: [Signature] 7-30-92
 City Manager Date

COUNCIL ACTION: Agree rec.

Date 8/4/92 Ordinance No _____ Resolution # _____ Executed by Mayor _____

APPLICABLE REGULATIONS:

Section 10-5.1503.2(c) of the Eureka Municipal Code (E.M.C.) indicates that offices require parking at a ratio of 1 space for every 300 square feet of gross floor area. There are 2,088 square feet involved in the office use and, therefore, a total of 7 parking spaces are required.

Section 10-5.1509, E.M.C., allows the payment of in-lieu parking fees in the "OR" District when that district is adjacent to a CN, CC, CW, or CS District. In this case, the OR District is adjacent to the CC and CS Districts. Consequently, the project would qualify for in-lieu parking fee consideration.

The section further indicates that the parking requirements "may be satisfied by the payment to the City, prior to the issuance of a zoning permit, of an amount per parking space, prescribed by the Council, for each parking space required...but not provided."

ANALYSIS:

Two recent in-lieu parking fee requests received by the City were reviewed. In 1989, the Council authorized in-lieu parking fees for the American Exchange Hotel at 322-324 1st Street at \$7,000 per space. In 1990, the same fee amount was considered for a project at 2950 E Street, the Trueman Vroman/Henderson Center Building. In both cases the amount of the fees in-lieu of parking were based on the realistic costs of providing parking spaces as analyzed in the parking study prepared by Winzler and Kelly Engineering in September 1987, and the actual construction costs for City parking lots recently completed in Henderson Center and at Commercial Street and Waterfront Drive. Although the traffic study was done several years ago, staff believes that costs have not changed substantially due to irresolute economic change.

SUPPORT MATERIAL:

Plot plan

Sid Hughes
Planning Technician
July 27, 1992

Kevin Hamblin
Director of Community Development
July 27, 1992

AGENDA BILL Business of the Eureka City Council/Redevelopment Agency

For Agenda Of January 15, 1991
 Closing Date January 8, 1991
 Originating Department Community Development

Item No. 7
 Date Submitted 1/8/91
 By Kevin Hamblin

TITLE: Request by Mark Carter to pay in-lieu parking fees for the development of the third floor of the Carter Hotel at 301 "L" Street.

RECOMMENDATION:

Council provide direction

BACKGROUND: This item came before the Council in June 1990. Staff's recommendation at that time was to approve the in-lieu fee request and to set the fees at \$7,000 per space. The applicant however, pulled this item from consideration, and no action was taken by the Council. It is Staff's understanding that Mr. Carter has contacted Council members and requested that this item be set back on Council's agenda for consideration.

Mr. Mark Carter, owner of Carter Hotel, proposes to develop the third floor of the Hotel into 8 guest rooms, a laundry room, and a mechanical room. In accordance with Section 10-5.1503.1 (c) of the Eureka Municipal Code, the development will require additional off-street parking. At the present time the hotel parcel is totally developed with building and existing parking and Mr. Carter has requested that he be allowed to pay in-lieu fees for the additional parking spaces required by the code for the additional development.

In 1985, Mr. Carter developed the site with a 20 room bed and breakfast hotel on two floors. The required off-street parking at that time was 25 spaces. Twelve spaces were provided on site, and the remaining 13 required spaces were paid for by in-lieu parking fees. The City Council determined that the in-lieu payment for the parking spaces not provided at that time would be \$25,000 and this amount was contributed to the project by the City as part of the Redevelopment Agency's contribution.

At the present time, Mr. Carter has provided, or paid in-lieu fees for 25 spaces. The Municipal Code requires that one off-street (See Attached Sheets)

Clearance by Impacted Departments (send copies to each impacted department):

[X] ACM Date <u>1/9/91</u> By <u>TWC</u>	[X] RA Date <u>1/9/91</u> By <u>TWC</u>
[X] BD Date <u>1/9/91</u> By <u>BED</u>	[X] CA Date <u>1/9/91</u> By <u>DET</u>
[X] FIN Date <u>1/9/91</u> By <u>DWT</u>	

Current Budget Amount _____ Account # _____

Supporting Documentation:

	Needed Attached		Needed Attached
Agreement	_____	City Attorney Opinion	_____
Resolution	_____	Board/Commission Report	_____ X
Ordinance	_____ X	Budget Supplemental	_____
Policy Memo	_____	Other:	_____

Copies of Item should be mailed to: [X] Prior to Meeting [] After Meeting

Mark Carter
 301 "L" Street
 Eureka, CA 95501

Approved for Agenda: D. O. R. Tolson 1/10/91
 City Manager Date

Council Action: Granted in lieu parking fees for 4 spaces @ \$7000 /space.

Date: 1/9/91 Ordinance No _____ Resolution No _____ Executed by Mayor _____

7426

parking space be provided for each guest room, plus one additional space for each two employees. The hotel currently has 20 guest rooms. The owner is proposing an additional 8 guest rooms, and has indicated that there are only 3 employees at the hotel. This would bring the total required off-street parking spaces to 29 (four more than what has been paid for or provided).

APPLICABLE REGULATIONS

Section 10-5.1509 of the Municipal Code indicates that in an "OR" district within 200 feet of a "CN", "CC", or "CW" District, in-lieu of providing parking facilities required by the code, that the requirements may be satisfied by payment to the City, prior to the issuance of a zoning permit, of an amount per parking space, prescribed by the City Council, for each parking space required but not provided. The section continues indicating that the in-lieu parking fees shall be deposited in a special fund to be used for developing off-street parking facilities. The section also indicates that the Council may decline to accept the payment of fees in-lieu of providing parking facilities.

ANALYSIS

As indicated previously, this item came before the Council on June 6, 1990. The item however was pulled from the agenda, and no action was taken.

Based on this application, the Council initiated discussion regarding the City's regulations relating to in-lieu parking fees. That action resulted in the Council requesting recommendations from the Planning Commission. The Commission considered this item at their August 13, 1990 meeting and made 8 recommendations to the Council regarding in-lieu and remote parking. At their September 6, 1990 meeting, the Council considered the recommendations. The Council adopted the Planning Commission's recommendations, but referred back to their questions regarding their recommendations on the Council's discretionary approval of in-lieu parking fees, and the appropriateness of in-lieu parking fees in "OR" districts.

Recommendation #8 that was adopted by the Council states:

That projects that are currently underway not be placed on hold or moratorium with regard to remote parking or in-lieu parking fees, during the discussion and final resolution of any changes in the City's parking regulations.

Ultimately, the Council referred to the Planning Commission proposed findings relating to in-lieu parking fees and a proposal

8 of 26

to reduce the area in which in-lieu fees are allowed. The Carter Hotel is located in the area which was recommended by the council to be eliminated from in-lieu parking fee eligibility.

The Planning Commission is due to hear this recommendation at their January 14, 1991 meeting. At this present time there is not change in the City's regulations since the request was initially made. Any change will be enacted by the Council after the Planning Commission's public hearing and report to the City Council.

In a sense, the Council has indicated that the present discussions regarding in-lie parking fees should not affect or serve as a moratorium on interim projects. The most recent indication of the Council however, is a clear proposal to limit the area in which in-lieu fees are eligible, excluding the are where the Carter Hotel is located.

COUNCIL ACTION POSSIBLE OPTIONS:

- A. Table any action on this request until culmination of the Council's recommendation to the Planning Commission proposing findings relating to in-lieu parking fees, and limiting the area eligible for in-lieu parking fees.
- B. Approve the request for the payment of fees in-lieu of providing 4 off-street parking spaces, and set the fees at \$7,000 per space, consistent with recent Council action.
- C. Deny the request.

SUPPORT MATERIAL

- A. Agenda Bill of June 6, 1990
- B. Planning Commission's recommendations re: in-lieu parking fees adopted August 13, 1990
- C. Council proposed amendment to in-lieu fee regulations, adopting findings and limiting the eligible area, approved by the Council on December 4, 1990.

Kevin Hamblin
Director of Community Development
1/8/91

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AGENDA BILL Business of the Eureka City Council/Redevelopment Agency

For Agenda Of June 6, 1990
 Closing Date May 29, 1990
 Originating Department Community Development

Item No. 11
 Date Submitted 5/29/90
 By Kevin Hamblin

TITLE: In-lieu parking fee determination for the development of the third floor of the Carter Hotel at 301 "L" Street.

RECOMMENDATION:

Establish in-lieu parking fees at \$7,000 per space.

BACKGROUND:

Mr. Mark Carter, owner of the Carter Hotel, proposes to develop the third floor of the Hotel into 8 guest rooms, a laundry room, and a mechanical room. In accordance with section 10-5.1503.1 (c) of the Eureka Municipal Code, the development will require additional off-street parking. At the present time the hotel parcel is totally developed with building and existing parking and Mr. Carter has requested that he be allowed to pay in-lieu fees for the additional parking spaces required by the code for the additional development.

Clearance by Impacted Departments (send copies to each impacted department):

[X] AS Date <u>4-25-90</u> By <u>DNT</u>	[X] PW Date <u>4-31-90</u> By <u>JD</u>
[] CD Date _____ By _____	[X] FD Date <u>4-25-90</u> By <u>DMC</u>
[] PD Date _____ By _____	[X] CA Date <u>4-24-90</u> By <u>D.P.</u>
[X] RA Date <u>4-24-90</u> By <u>DT</u>	[] Other Date _____ By _____
[X] ACM Date <u>4-24-90</u> By <u>TC</u>	[X] BD Date <u>4-24-90</u> By <u>BD</u>

Fiscal Impact:

Expenditure (\$) _____
 New Appropriation (\$) _____
 New Revenue (\$) 28,000

Budget Amount (\$) _____
 Account # _____
 Account # 83-3624-000-000

Supporting Documentation:

	Needed	Attached		Needed	Attached
Agreement	_____	_____	City Attorney Opinion	_____	_____
Resolution	_____	_____	Board/Commission Report	_____	_____
Ordinance	_____	_____	Budget Supplemental	_____	_____
Policy Memo	_____	_____	Other: _____	_____	_____

Copies of Item should be mailed to: [X] Prior to Meeting [] After Meeting
 Mark Carter _____

Approved for Agenda: _____

David R. Tully
 City Manager

5/31/90
 Date

List Under: [] Consent Calendar [] Reports [] Oral/Written Communications
 [] Public Hearings [] Study Session [] Ordinances/Resolutions

Council Action: _____

Date _____ Ordinance No _____ Resolution No _____ Executed by Mayor _____

10 of 26

In 1985 Mr. Carter developed this site with a 20 room bed and breakfast hotel on two floors. The required off-street parking at that time was 25 spaces. Twelve spaces were provided on site, and the remaining 13 required spaces were paid for by in-lieu parking fees. The City Council determined that the in-lieu payment for the parking spaces not provided at that time would be \$25,000 and this amount was contributed to the project by the City as part of the Redevelopment Agency's contribution.

APPLICABLE REGULATIONS

Section 10-5.1509 of the Municipal Code indicates that in an "OR" district within 200 feet of a "CN", "CC", or "CW" District, in-lieu of providing parking facilities required by the code, that the requirements may be satisfied by payment to the City, prior to the issuance of a zoning permit, of an amount per parking space, prescribed by the City Council, for each parking space required but not provided. The section continues indicating that the in-lieu parking fees shall be deposited in a special fund to be used for developing off-street parking facilities. The section also indicates that the Council may decline to accept the payment of fees in-lieu of providing parking facilities.

ANALYSIS

In April 1989 the City Council discussed in-lieu parking fees in connection with the American Exchange Hotel. City staff at that time recommended that the Council base in-lieu parking fees on the realistic costs of providing parking spaces. Based on a review of the parking study prepared by Winzler and Kelly (September 1987) and the actual construction costs for the City parking lots recently completed in Henderson Center and at Commercial and Waterfront Drive, staff recommended that in-lieu parking fees be set at \$7,000 a space. The Council agreed and set in-lieu parking fees associated with the American Exchange Hotel at \$7,000 a space.

The \$7,000 fee was recommended as a compromise between the cost of surface and parking structure lots. Staff feels that this figure accurately represents an estimated cost of property acquisition and construction for each parking space which is not provided by the developer.

At the present time. Mr. Carter has provided, or paid in-lieu fees for 25 spaces. The Municipal Code requires that one off-street parking space be provided for each guest room, plus one additional space for each two employees. The Hotel currently has 20 guest rooms. The owner is proposing an additional 8 guest rooms, and has indicated that there are only 3 employees at the hotel. This would bring the total required off-street parking spaces to 29 (four more than what has been paid for or provided).

11 of 22

AGENDA BILL - 301 "L" Street

April 20, 1990

Page 3

The required off-street parking spaces are computed according to the use of the property. The Hotel was, originally permitted as a bed and breakfast hotel only. Recently however, the hotel has served the general public as a restaurant. There has been no off-street parking paid nor provided for a restaurant use. The use of the building as a restaurant would require additional off-street parking as well as the approval of a Conditional Use Permit by the Planning Commission. The owner has indicated by letter to the file that he will comply with the previous zoning permit as well as this request by serving only guests of the hotel.

Kevin Hamblin

Director of Community Development

4/20/90

12926

RECOMMENDATIONS TO THE COUNCIL

After reviewing these specific areas, the Planning Commission moved, August 13, 1990, to recommend to the City Council;

- 1) That in order to accomplish the goals of the City's Redevelopment, Core Area, and General Plans, and to encourage downtown and old town redevelopment and rehabilitation that the option of providing remote parking and fees in-lieu of providing parking facilities remain within the Eureka Municipal Code.
- 2) That the option of fees in-lieu of parking are appropriate in the City's "OR" Districts which are immediately adjacent to the Commercial Districts, as currently provided in order to promote rehabilitation and redevelopment projects in these areas.
- 3) That the requirement of indenturing remote parking to the use for which it is provided should continue as a guarantee that the remote parking will remain available to fulfill the off-street parking requirements of the City.
- 4) That current standards and requirements with regard to the off-street parking requirements of the City in addressing new construction, as well as changes in use of existing buildings, are adequate and appropriate.
- 5) That the City Council render the off-street parking section of the zoning regulations back to the Planning Commission to amend the language within the code regarding the following subjects:
 - A. To allievate any ambiguity in the area where the payment of fees in-lieu of providing the required parking is allowed.
 - B. To outline specifically the requirements for being eligible to pay in-lieu parking fees, and
 - C. To eliminate the discretionary action of the City Council's ability to deny the payment of the in-lieu parking fees, allowing the payment of in-lieu fees to become a ministerial decision.
- 6) That the actual fees for in-lieu parking continue to be set by the City Council, and that they be reviewed and amended from time to time to reflect the actual costs of purchasing property, constructing and maintaining off-street parking facilities.
- 7) That concentrated effort be made to utilize fees collected by the City in-lieu of providing parking to locate and construct centralized, landscaped, public parking in the proximity of those businesses which paid in-lieu parking fees.
- 8) That projects that are currently underway not be placed on hold or moritorium with regard to remote parking or in-lieu parking fees, during the discussion and final resolution of any changes in the City's parking regulations.

SUPPORT MATERIAL

- A. Planning Commission Minute Order
- B. Planning Commission Staff Report

8/24/90

Kevin Hamblin, Director of Community Development

13 of 24

AN ORDINANCE AMENDING EUREKA MUNICIPAL
CODE SECTION 10-5.1509 AND ADDING SECTION 10-5.1511
RELATING TO IN LIEU PARKING FEES

Be it Ordained by the Council of the City of Eureka as follows:

SECTION 1. Section 10-5.1509 of Chapter 5, Title 10 of the Eureka Municipal Code are amended to read as follows:

Sec. 10-5.1509 In Lieu payments

In a CN, CA or CW District, or in an OR District when the development or project is within 200 feet of a CN, CC, or CW District, in-lieu of providing parking facilities required by the provisions of this article, the requirements may be satisfied by payment to the City, prior to the issuance of a zoning permit, of an amount per parking space, prescribed by the Council, for each parking space required by this article but not provided. The payment shall be deposited with the City in a special fund and shall be used exclusively for the purpose of acquiring and developing off-street facilities located, insofar as practical, in the vicinity of the use for which the payment was made. The Council may decline to accept payment in lieu of providing parking facilities.

In determining whether to accept the payment of fees in-lieu of providing off-street parking facilities, the Council shall review statements by the applicant, drawings or plans submitted therewith and shall receive pertinent evidence and information concerning the payment of in-lieu parking fees, particularly with respect to the findings prescribed in Section 10-5.1511 of this article.

SECTION 2. Section 10-5.1511 is hereby added to the Eureka Municipal Code and shall read as follows:

The City Council may approve the payment of fees in-lieu of providing required off-street parking facilities as prescribed by this chapter, if on the basis of the application and the evidence submitted, the Council makes findings of fact that establish the following:

- (a) That the development for which in-lieu parking fees is located within the area prescribed by this chapter as being eligible for in-lieu parking fees.
- (b) That approval of the in-lieu parking fees will not substantially impact the availability of street curb parking, or traffic congestion in the are of the development.
- (c) That in-lieu parking fees are required to allow the conversion or expansion of an existing building to a use

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allowed within the zoning district in which it is located.

- (d) That there is undeveloped land within the are of the development requesting the payment of in-lieu fees suitable for the development of public parking facilities.

Passed, approved and adopted by the City Council of the City of Eureka, County of Humboldt, State of California, on the _____ day of _____, 1990, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

MAYOR PRO TEM OF THE CITY OF EUREKA

The above and foregoing ordinance was submitted to me on the _____ day of _____, 1990, and I hereby approve the same.

MAYOR OF THE CITY OF EUREKA

ATTEST:

NAOMI ABBOTT, CITY CLERK

APPROVED AS TO FORM:

APPROVED AS TO ADMINISTRATION:

CITY ATTORNEY

CITY MANAGER

15 of 22

SUPPLEMENT TO
DRAFT
DOWNTOWN EUREKA PARKING STRUCTURE
FEASIBILITY STUDY

September 4, 1987

Prepared for:

City of Eureka
Department of Public Works
531 K Street
Eureka, CA 95501

Prepared by:

Winzler & Kelly, Consulting Engineers
633 Third Street
P.O. Box 1345
Eureka, CA 95501

Conrad Associates
1401 Lakeside, Suite 801
Lakeside Plaza
Oakland, CA 94612

SUPPLEMENT TO DRAFT REPORT

A. Introduction

This supplement was prepared at staff's request to provide the City Council with a summary of Parking Place Commission activities relating to the draft report and of information developed since the draft report was submitted. All of this information will be included in the final report, in addition to any information developed through the City Council's consideration of the draft report.

B. Parking Place Commission Activities

The Parking Place Commission held three meetings in August 1987 at which the draft report was the dominant topic. The first meeting was a study session held on the afternoon of Monday, August 10, at which the commission discussed the draft report among itself, staff, and consultant.

A regular meeting was held in the afternoon of the following day, and public comment was solicited from those in attendance. Several business and property owners voiced their strong support for additional parking, though concern was also expressed about the potentially large assessments that could be levied against benefitting properties. Participation of the Redevelopment Agency in funding was urged. The Commission scheduled another meeting for the afternoon of the following Tuesday, August 18, to continue its deliberations and to receive additional public comment.

At that meeting, very strong support was again voiced by the public for additional parking and Redevelopment Agency participation. The Commission adopted a motion to accept the consultant's recommendation for three parking facilities and to convey to the City Council the public's strong urging that the Redevelopment Agency offer substantial financial participation.

C. Errata

1. Page S-1, fifth paragraph. The correct number of new parking stalls is 286, not 284.

2. Page 2-10, block 40. The number of off-street spaces available is 0, not 17. This error may necessitate other, minor revisions to the report.

3. Table 2-1. There are no 10-hour on-street meters. The eight listed are actually 2-hour meters.

Table 1. Comparison of Occupancy Between
the Core Area (Voorhees) and Focus Area (Winzler & Kelly),
March, 1-2 p.m.

Type of Parking	Occupancy (%)	
	Core Area ¹	Focus Area ²
On-Street Metered	68	70
On-Street Non-Metered	82	82
Public Lots	75	97
Private Lot for Private Use	71	59
Private Lot for Public Use	<u>66</u>	<u>67</u>
All Types	72	71

¹ From Voorhees report, Table 2.

² From Winzler & Kelly draft report, Table 2-4 and Table 2-7.

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blocks for employees and 2.75 blocks for shoppers, while Winzler & Kelly reported 2 blocks for each group. Insufficient data are available to determine if the difference between 2.75 and 2 is statistically significant, though the consultant sees no reason to expect that shoppers are walking shorter distances in 1987 than they were in 1979.

E. Miscellaneous Comments from Staff

1. Why provide for peak parking demand?

Because of the major importance of peak shopping periods to annual retail revenue, it is important to provide convenient parking during the peak period. This is especially true where convenient alternatives to downtown shopping exist in the form of shopping malls, where parking is provided for peak demand.

2. Why is phasing of bond issues and construction not desirable?

Phasing is possible, but the initial debt would have to be retired by a subsequent bond issue, making it more difficult and costly to experience the assessment and bond-issuing procedures more than once. If phasing is attempted, the number and location of parking facilities desired beyond the initial phase should be anticipated at the outset.

3. The cost of the proposed parking lot may be underestimated.

Public Works staff indicated that the City's construction cost for Old Town parking lots is approximately \$2,500 per space, exclusive of land. Winzler & Kelly's estimate was for a lot with efficient parking and no special amenities, similar to city lots other than those on First Street. Using \$2,500 per space, the 44-space lot proposed would cost approximately \$245,000, including land, compared to \$180,000 estimated in the draft report. The amount of contingency allowed in the cost estimates in the draft report is sufficient to cover such an alternative design.

4. The north side of First Street is not within the existing parking assessment district.

Winzler & Kelly's suggestion is for a new assessment district to be formed for the purpose of financing any new parking facilities. This suggestion was made by bond counsel as a means of obtaining a more favorable bond issue. If a new assessment district is formed, the boundary could include north of First Street. However, properties located outside of the existing parking assessment district have been subject to in-lieu parking fees, so this should be accounted for in an assessment formula that would affect such properties.

5. What would be the effect of parking meter removal?

After the draft report to the City was prepared, Winzler & Kelly obtained information from the City indicating that net revenue to the City was approximately \$61,000 per year from meters, or approximately \$63 per space annually. Prior to receiving that information, the consultant's understanding was that net revenue from meters was nil and that their function was to help regulate parking rather than to provide net income to the City. The meter revenue now reported by the City is sufficient to cover operation and maintenance expenses of unattended garages.

Because of the significant net income that meters reportedly provide and because shoppers and employees did not express a strong aversion to paying for metered parking, it is recommended that existing meters be kept and that new spaces also be metered. The shopper questionnaire also suggested that meter fees could be increased significantly. Meters could be removed at a later time if it was discovered that meters were detrimental to business or that net revenue was much less than anticipated, though operating and maintenance costs would have to be paid from other funds.

In addition to paying for operating and maintenance costs, and thus obviating the need to generate such revenues independently, the enforcement of meter utilization would provide a security presence in new facilities, eliminating the need for a separate security expense. City staff estimated that an independent security effort would require approximately one person-year, which might be satisfied by part-time employees.

6. What are current lease rates for spaces?

The consultant is aware of lease rates varying widely in the range of roughly \$10 to \$35 per month. A long-term meter costing 50¢ per day yields \$10 per month if used 20 days.

7. How will the Bayshore Mall affect parking demand downtown?

The effect that the new mall will have on the demand for parking downtown is not accurately quantifiable. One possible effect is that the mall will draw sufficient patronage away from downtown to reduce the parking occupancy significantly and eliminate the need for additional parking facilities. The more inconvenient parking is downtown, the more likely is this potential effect. A second potential effect is that the mall will draw patronage from downtown, but not sufficiently to significantly reduce parking occupancies. A third potential effect is that, if the mall attracts shoppers from outside of the

greater Eureka area, downtown may draw enough of that patronage to at least offset that lost directly to the mall, in which case parking occupancy downtown would remain unchanged or worsen. The more convenient parking is downtown, the greater will be the likelihood that downtown will capture a portion of any outside traffic attracted to the mall.

8. Compare published walking distances to those occurring in downtown Eureka.

Average walking distances by city size are displayed in Table 2. The greater Eureka area has a population of roughly 40,000, and the length of the blocks in downtown Eureka is 300 feet between street centers. Thus, the walking distance of 2 blocks reported by shoppers, employees, and residents in downtown is equivalent to approximately 600 feet, which is substantially greater than the distances reported in Table 2 for the 25,000 to 50,000 population group.

9. Compare downtown parking supply and occupancy with published data.

Using data provided in the ITE handbook (see source for Table 2, Figure 10.20 and Table 10-46), the average central business district (CBD) parking supply in urban areas of 40,000 population varies from approximately 4,170 spaces to 4,800 spaces. The parking supply in the downtown Eureka Study Area is approximately 3,515 spaces, and the Focus Area has approximately 2,087 spaces, substantially fewer than those of average CBDs in the same population group.

The consultant is aware of limited data on parking occupancy rates. The ITE handbook (Table 10-51) provides data on seven major U.S. cities ranging in population from 845,237 to 7,032,938. In those cities, the "peak" downtown occupancy rates (time not specified) ranged from 74% to 91%, with an average of 82%. The peak occupancy on December 10, 1986, was 71% in the Study Area and 80% in the Focus Area, and the peak occupancy on March 16, 1987, was 62% in the Study Area and 71% in the Focus Area. The comparability of the published data with the Eureka data is uncertain.

10. Discuss the alternative concept of building parking lots in downtown at the sites of vacant buildings.

It was suggested that, rather than constructing the facilities as proposed in the draft report, surface lots could be constructed throughout downtown at the locations of vacant buildings. The buildings would be razed and parking lots constructed in their place.

Table 2. Average Walking Distance by
City Size in the United States

Population Group of Urbanized Area	<u>Distance Walked, by Trip Purpose (feet)*</u>			
	Shopping	Personal Business	Work	Other
10,000-25,000	200	200	270	190
25,000-50,000	280	240	400	210
50,000-100,000	350	290	410	260
100,000-250,000	470	390	500	340
250,000-500,000	570	450	670	380
500,000-1,000,000	560	590	650	500

*From place parked to destination.

Source: "Parking Principles," Highway Research Board Special Report No. 125, Washington, D.C., Highway Research Board, 1971, p. 15. Cited in Transportation and Traffic Engineering Handbook, 2nd ed., Institute of Transportation Engineers, Ed.: N.S. Homburger, Prentice-Hall, Inc., 1982, p. 301.

224 24

Such a program could offer very convenient parking, and it could eliminate the unsightliness of vacant buildings. The main disadvantage is that, at present property values, the cost per space would be greater than for parking structures. Also, the adjacent, remaining exterior building walls would need cosmetic treatment at significant cost.



CITY OF EUREKA

CITY MANAGER

531 K Street • Eureka, California 95501-1146 • (707) 441-4144
fax (707) 441-4138 • email: tyson@eurekaweb.com

October 12, 2001

James Baskins
California Coastal Commission
P.O. Box 4908
Eureka, CA 95502-4908

RECEIVED
OCT 15 2001
CALIFORNIA
COASTAL COMMISSION

RE: Eureka Pier Project

Dear Mr. Baskins:

This letter is to inform the Coastal Commission of the Eureka Parking Place Commission's action to approve Dolores Vellutini's request to assign twenty parking spaces at the public parking lot located at the corner of "C" and First Streets in Eureka. These spaces will be used for "employee only" parking for the Eureka Pier Project located on the City's waterfront.

Should you have any questions regarding this matter, please contact me at 441-4144.

Sincerely,

David W. Tyson
City Manager

CC: Mayor and City Council
Director of Community Development

dwt

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CITY OF EUREKA

531 K Street • Eureka, California 95501-1146

September 6, 2001

Mr. Dwight E. Sanders, Chief
Division of Environmental Planning & Management
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

Re: Application of Eureka Waterfront Partners, LLC for Humboldt Bay Harbor District Permit

Dear Mr. Sanders:

Thank you for providing the City of Eureka a copy of the letter dated August 29, 2001, to Mr. Roy Curless, Board of Commissioners, Humboldt Bay Harbor, Recreation and Conservation District. This letter is to clarify errors occurring on the above referenced permit application and answering your concerns. The application of Eureka Waterfront Partners listed incorrect Assessor Parcel Numbers for the location of their project. The project's location consists of Assessor Parcel Numbers 001-054-024, 028, 029, and 031 (Assessor Parcel Map enclosed). The project will be upland of the "Tidelands Settlement Agreement Line" thus, outside of California State Lands Commission jurisdiction.

Again, thank you for the opportunity to provide this clarification. Should you or anyone on State Lands staff have any questions or need additional information, please do not hesitate to call me at (707) 441-4207.

Sincerely,

David S. McGinty
Director of Community Services

enclosure:

cc: Grace Kato, CSLC
David W. Tyson, City Manager
David Hull, HBHRCD

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NOV 23 2001

CALIFORNIA
COASTAL COMMISSION

COMMUNITY SERVICES DEPARTMENT • (707) 441-4203 Fax (707) 441-4202

Environmental Programs
Harbor/Marina

Property Management
Recreation

Solid Waste
Wastewater Treatment

Water Treatment
Zoo

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PROJECT LOCATION

Corrected Continuation of D-5 if Extended

U S Bulkhead Line

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FIRST

SECOND

SEE PAGE 27

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February 14, 2002

Coastal Commission Members
North Coast District Office
California Coastal Commission
710 E Street, Suite 200
Eureka, CA 95501

RECEIVED

FEB 14 2002

CALIFORNIA
COASTAL COMMISSION

Re: Coastal Development Permit No. 1-99-079 and Coastal Development Permit
Appeal No. A-1-EUR-01-029 for Eureka Pier Commercial-Residential Complex, Eureka
Waterfront Area, City of Eureka, Humboldt County California.

Dear Coastal Commission Members,

Attached please find the following letters from community member for the Eureka Pier Project
referenced above.

1. Letter from Hank Pierson
2. Letter from Connie Miller
3. Letter from Michael Yanke

Respectfully yours
Eureka Pier, LLC

John Ash,
Principal Architect

Cc: David Tyson, Kevin Hamblin

EXHIBIT NO. 11
APPLICATION NO. A-1-EUR-01-029
GENERAL
CORRESPONDENCE (1 of 32)

Dolores Vellutini, Managing Partner, John Ash, Principal Architect, Joe Vellutini, Leasing
Eureka Pier, LLC, 426 First St., Eureka, CA 95501, 707/445-8997, fax: 707/442-7981
Email: for Dolores: dmy@eurekapiers.com for John: jash@johnash.com for Joe: coj65@aol.com

From: Hank Pierson [sailorhank1@home.com]
Sent: Friday, February 08, 2002 2:48 PM
To: bmerrill@coastal.ca.gov
Subject: FW: Eureka Pier Support

Mr. Bob Merrill
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

Feb. 8, 2002

Re: Coastal Development Permit No. 1-99-079 and Coastal Development Permit Appeal No. A-1-EUR-01-029 for "Eureka Pier" Commercial-Residential Complex, Eureka Waterfront Area, City of Eureka, Humboldt County California

Dear Mr. Merrill,

I have been a resident of Eureka since birth in 1937.

Being a sailor, I have viewed the bay from all angles hoping someday our water front could become an asset; a place people will want to visit. When we travel, my wife and I almost always choose locations on the water.

This project will provide a launch site for paddlers who will be able to rent and launch boats for bay explorations. Restaurants will provide sail up and board walk availability. Currently, we can sail to Gill's On The Bay.

Dolores Vellutini is a proven capable developer and is putting her money where her mouth is. Everyone wishes something could be done to help our economy. Commissions and Committees have studied this to death.

This is a good project. It will be a major asset to the city, tourism and locals alike.

My wife and I support this project and believe that the parking and storm water run off appeals have been adequately addressed.

We strongly urge The Commission to move the project forward.

We feel it is time to act,

Please approve this development.

Hank Pierson

2 of 32

From: CKMILLER21@aol.com
Sent: Sunday, February 10, 2002 1:00 PM
To: jash@johnash.com
Subject: letter of support

Connie Miller ~ 1716 Hayes Street ~ Eureka ~ California, 95501

Mr. Bob Merrill
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

RE: Coastal Development Permit No. 1-99-079 and Coastal Development Permit Appeal No. A-1-EUR-01-029 for "Eureka Pier" Commercial-Residential Complex, Eureka Waterfront Area, City of Eureka, Humboldt County California

Dear Mr. Merrill,

This letter is in support of the above mentioned commercial residential project. As a former member of the Eureka City Council and a 32 year resident of the City of Eureka, I am well aware of the benefits of this project. This project can help fuel the momentum Eureka finally has fired up with the completion of our beautiful new marina project and our enchanting boardwalk. Delores has long been a catalyst for historic preservation and redevelopment in our beautiful City and brings even more expertise in partnership with her husband historic preservation architect John Ash.

The citizens of Eureka and our tourist guests are now able to return to our wonderful historic waterfront. But now we need to move forward with commercial and residential development in a timely manner to encourage others waiting in the wings to see if Eureka is really finally moving forward. This can be the beginning of our economic renaissance and our return to our historic roots.

I urge the Coastal Commission's support of this most valuable lynch-pin project.

Sincerely yours,

Connie Miller
former member Eureka City Council

3 of 32

From: MYanke@aol.com
Sent: Friday, February 08, 2002 7:27 PM
To: bmerrill@coastal.ca.gov
Subject: "Eureka Pier" Commercial-Residential Complex

2635 H Street
Eureka, California

95501-4401

February 8, 2002

Mr. Robert Merrill
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, California 95501-1865

Re: Eureka Pier Project
Coastal Development
99-079

Permit No.1-
and Appeal No. A-1-EUR-
01-029 Eureka Waterfront Area

Dear Mr. Merrill,

In 1970, following my tour of duty in Viet Nam as a platoon leader with the U.S. Army, I moved to Eureka to attend Humboldt State University to obtain a Masters Degree in Sociology. My wife and I initially rented a residence. During this time, we learned to love and appreciate many of the wonderful natural features of this County. The beaches, rivers and mountains were easily accessible for us to stroll, hike, swim, have cook-outs and enjoy many other family fun times.

In 1972, I was offered and accepted a probation officer position in Merced County. Approximately six months later, the Humboldt County Probation Department offered me the same position and my family and I moved back to Eureka. We purchased a home and again began enjoying the natural wonders of the area. However, this time, I realized that I was missing one of the potentially great features of Humboldt County, namely, Humboldt Bay. The waterfront area of Eureka was cluttered with old dilapidated buildings and access to the water was very limited. More than a wonderment of beauty, the bay was an eye sore to be avoided. We enjoyed the Madket and touring the bay, but this seemed to beg the question: "What is wrong with this picture?" The development of the Woodley Island Marina was a very positive endeavor and the construction of the Adorni Center was another helpful addition to the bay area. Still, there was no development to attract locals nor tourist to the waterfront area and the pleasures such a natural setting could provide.

More recently, there has been great progress by the city of Eureka to develop the Old Town and waterfront areas. Eureka Main Street has done a wonderful job with making the Old Town area a better place to visit. The Arts Alive program has also brought new life to the area. Most notable, the construction of the Boardwalk speaks to Eureka's new focus and desire to capitalize on its inherent attributes.

For a number of years, Dolores Vellutini has been in the process of developing a retail, office and condominium structure, on the waterfront, which would continue the City's forward progress toward a citizen friendly community. Ms. Vellutini's project will add a restaurant and retail stores to

4 of 32

our Old Town area, will provide easy access to the bay for canoes and kayaks, will provide residences for families to further gentrify the area. The benefits of this project are enormous, both financially for entrepreneurs and the City as well as aesthetically for the people's sense of well being.

I worked as a probation officer for twenty-seven years before retiring. I have seen many uses and abuses of our waterfront area. Ms. Vellutini's project is one of the finest projects to grace the waterfront. I request the Coastal Commission to whole heartily support her efforts and make her project a reality in the near future.

Thank you for your time in considering this request.

Sincerely,

Michael Yanke



CITY OF EUREKA

531 K Street • Eureka, California 95501-1146 • (707) 441-4200

MAYOR

February 11, 2002

Mr. Bob Merrill
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

RECEIVED

FEB 13 2002

CALIFORNIA
COASTAL COMMISSION

Re: Coast Development Permit #1-99-079 and Coastal Development Permit Appeal # A-1-EUR-01-029 for "Eureka Pier" Commercial - Residential Complex, Eureka Waterfront area, City of Eureka, Humboldt County, California.

Dear Mr. Merrill,

I am writing to thank you, your staff and the Coastal Commission for your assistance over the years in this City's efforts to reclaim it's decaying waterfront from the detritus left behind by the declining Industrial Age. Eureka, long separated from it's beautiful waterfront, just celebrated the opening of our spectacular waterfront plaza and its long awaited Boardwalk, revealing the wonders of our bay to this city on a daily basis, once again. But this is just the beginning.

As Mayor of Eureka, I am so pleased that the "Eureka Pier project" is before the Commission. As a small town, we are so fortunate to have the Vellutini family building a project that will bring life, authenticity and sustainability to our waterfront Boardwalk. Dolores, long known for her tireless dedication to preserving Eureka's historic fabric for future generations, as well as her commitment to the Arts and Culture of this community, has partnered with her husband, John Ash, an award winning Historic Preservation Architect, to create the perfect team for our long awaited waterfront development. This extraordinary team, along with your staff, our city staff and their Eureka neighbors have come up with many creative solutions to make this project a success. Together, we have addressed all of the parking requirements, storm water runoff issues and improved the project as well.

I encourage the Coastal Commission to approve this project as presented and enable the long desired return to our waterfront of people, living, working and playing at this City's edge; Eureka's very beginnings, as a vibrant Victorian Seaport.

Sincerely,

Nancy Flemming
Mayor
City of Eureka.

6 of 32

Connie Miller ~ 1716 Hayes Street ~ Eureka ~ California, 95501

Mr. Bob Merrill
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

RECEIVED

FEB 13 2002

CALIFORNIA
COASTAL COMMISSION

RE: Coastal Development Permit No. 1-99-079 and Coastal Development Permit Appeal No. A-1-EUR-01-029 for "Eureka Pier" Commercial-Residential Complex, Eureka Waterfront Area, City of Eureka, Humboldt County California

Dear Mr. Merrill,

This letter is in support of the above mentioned commercial residential project. As a former member of the Eureka City Council and a 32 year resident of the City of Eureka, I am well aware of the benefits of this project. This project can help fuel the momentum Eureka finally has fired up with the completion of our beautiful new marina project and our enchanting boardwalk. Delores has long been a catalyst for historic preservation and redevelopment in our beautiful City and brings even more expertise in partnership with her husband historic preservation architect John Ash.

The citizens of Eureka and our tourist guests are now able to return to our wonderful historic waterfront. But now we need to move forward with commercial and residential development in a timely manner to encourage others waiting in the wings to see if Eureka is really finally moving forward. This can be the beginning of our economic renaissance and our return to our historic roots.

I urge the Coastal Commission's support of this most valuable lynch-pin project.

Sincerely yours,

Connie Miller

Connie Miller
former member Eureka City Council

7932

WESTFALL
STEVEDORE COMPANY
722 WEST WASHINGTON STREET
P.O. BOX 2001
EUREKA, CALIFORNIA 95502

February 11, 2002

RECEIVED

FEB 13 2002

Mr. Bob Merrill
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

CALIFORNIA
COASTAL COMMISSION

Dear Mr. Merrill:

I am writing in support of the Eureka Pier Project.

My family and I moved back to Eureka in 1950, and shortly thereafter, met Dolores Vellutini. Over the years I have had the pleasure of serving with her on several non-profit community boards. She is highly intelligent, honest, reasonable, dedicated, and compassionate. She personifies the term lady. Her project is urgently needed for the revival of our waterfront.

If I may be of further assistance in this matter please let me know.

Sincerely,

Leslie M. Westfall
Leslie M. Westfall

LMW/llm

8 of 32



WINZLER & KELLY
CONSULTING ENGINEERS

Ref: Eka.Indirect

February 11, 2002

Mr. Bob Merrill
California Coastal Commission
North Coast District Office
710 E. Street, Suite 200
Eureka, CA 95501-1865

RECEIVED

FEB 13 2002

CALIFORNIA
COASTAL COMMISSION

**Re: Eureka Pier Project
California Coastal Commission Approval**

Dear Mr. Merrill:

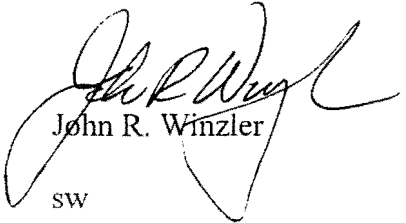
I am addressing this letter to you in support of the Eureka Pier Project which is before the California Coastal Commission in terms of securing a Coastal Development Permit.

I have lived the majority of my life in Humboldt County and have maintained a professional business officed in Eureka for over 50 years. During most of this time frame I have witnessed the continued demise of the Eureka Waterfront, specifically the commercial activities that used to flourish on the waterfront.

The Eureka Pier Project, as proposed by Dolores Velluntini and John Ash, will provide a much needed start for the revival of commercial development along the periphery of the bay. This type of development will not only improve the quality of life for our community but also attract and retain tourist so that they also can participate in the wonderful waterfront environment of our area.

Dolores Velluntini has actively pursued bringing this project to fruition for over seven years. The City of Eureka has studied the project extensively and has approved and endorses the project. It is time that the Coastal Development Permit be granted and I urge the Coastal Commission to approve the Eureka Pier Project.

Sincerely,
WINZLER & KELLY


John R. Winzler

SW

▼ Creative Solutions For Over 50 Years ▼

633 Third Street, Eureka, CA 95501-0417
tel 707.443.8326 fax 707.444.8330
www.w-and-k.com

9 4 32



PACIFIC AFFILIATES, INC.
A CONSULTING ENGINEERING GROUP

DAVID L. SCHNEIDER - RCE 27285

990 W. WATERFRONT DRIVE • EUREKA • CA • 95501 PH: (707) 445-3001 • FAX: (707) 445-3003

November 19, 2001

Mr. Dave Tyson
Eureka City Manager
531 'K' Street
Eureka, CA 95501

Re: Boardwalk Project
Mean Higher High Water Line

Dear Mr. Tyson:

As per your request, we have surveyed the mean high water line (Elev. 6.4 MLLW datum and 6.01 City of Eureka datum) throughout the Boardwalk Revitalization Project. This line on the most part is under the structure with the exception of a portion west of 'F' Street and at the easterly end of the project. The line also approximates the top of bank as best determined. Attached is a plan map of the Boardwalk Project showing the line. The upland ground area behind this line varies in elevation from 10' - 12' MLLW.

If we can be of further assistance, please contact me.

Sincerely,


David L. Schneider
Principal

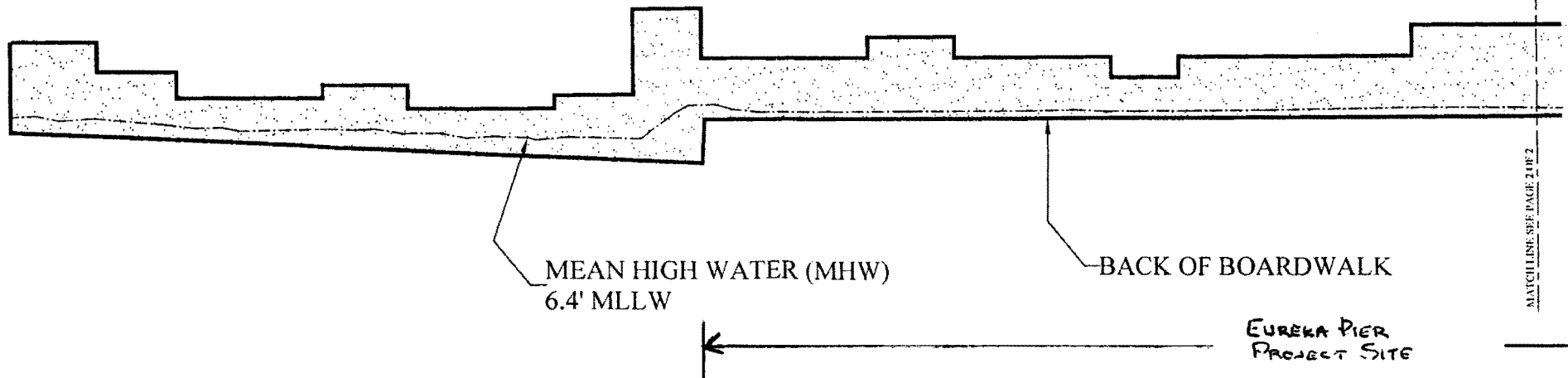
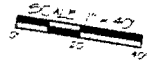
DLS/gs

Enclosure

Cc: #01-825 ✓

10432

HUMBOLDT BAY



PAGE 1 OF 2

INNER CHANNEL DOCK AND
BOARDWALK REVITALIZATION

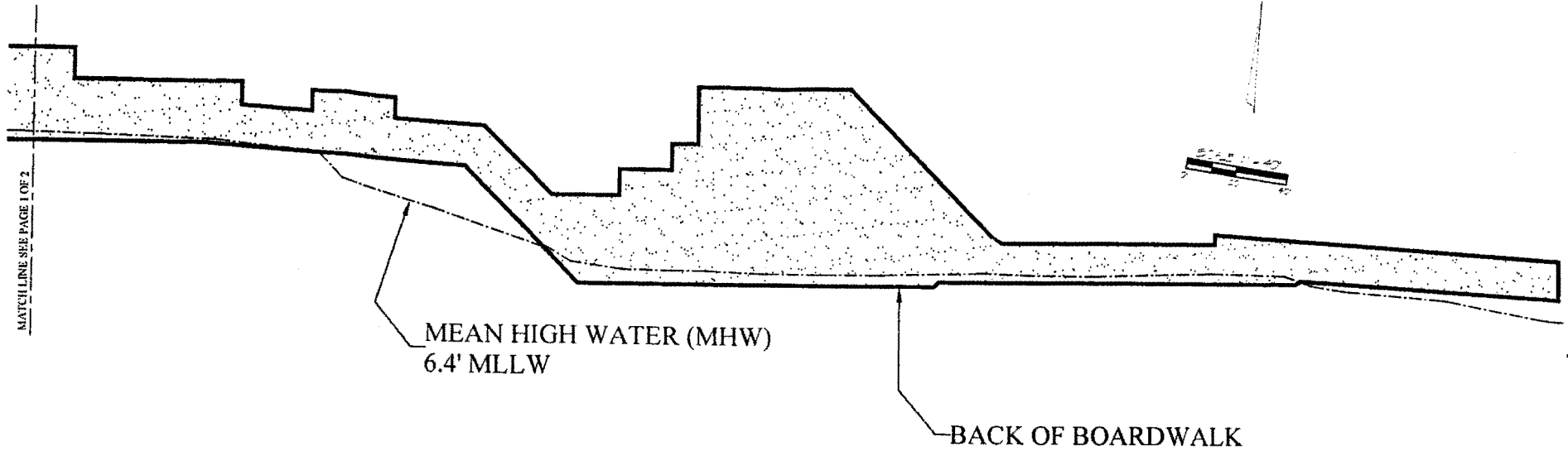
MEAN HIGH WATER LINE



PACIFIC AFFILIATES, INC
A CONSULTING ENGINEERING GROUP

990 WEST WATERFRONT DRIVE
EUREKA, CA 95501
(707) 445-3001

HUMBOLDT BAY



EUREKA PIER
PROJECT SITE →

PAGE 2 OF 2

INNER CHANNEL DOCK AND
BOARDWALK REVITALIZATION

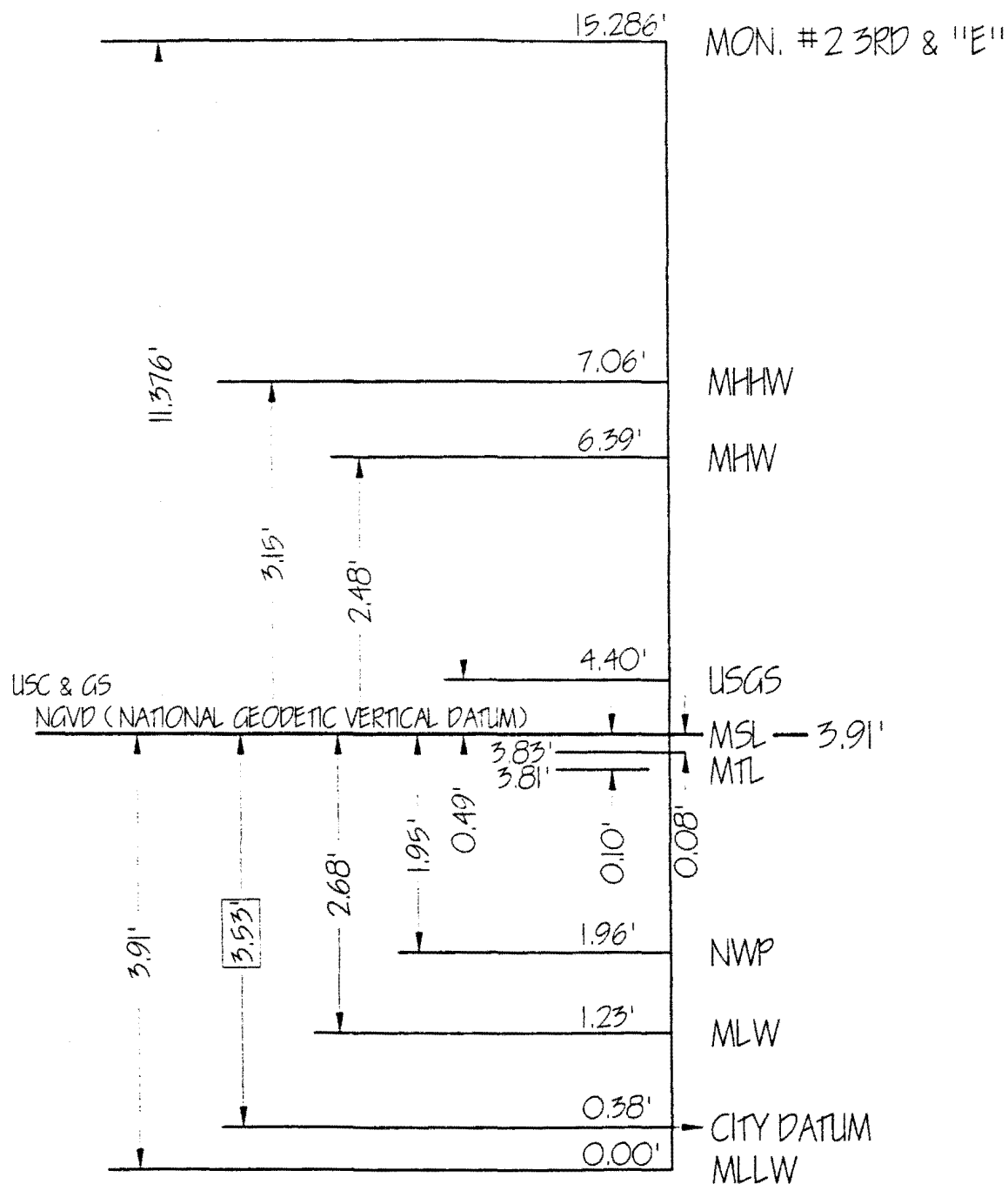
MEAN HIGH WATER LINE



PACIFIC AFFILIATES, INC
A CONSULTING ENGINEERING GROUP
990 WEST WATERFRONT DRIVE
EUREKA, CA 95501
(707) 445-3001

RELATION BETWEEN DATUMS

BASED ON N.G.S (U.S.C. & GS) DATUM 1929 ADJ.



PACIFIC AFFILIATES, INC.
A CONSULTING ENGINEERING GROUP
990 WEST WATERFRONT DRIVE
EUREKA, CA 95501
(707) 445-3001

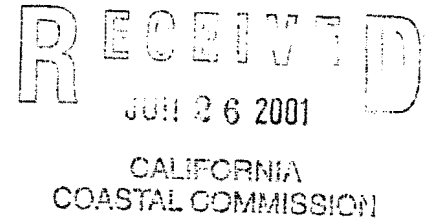
13 of 32

Globe Imports Ltd., Inc.
P.O. Box 952, Eureka, CA 95502

June 25, 2001

Jim Baskin, Coastal Program Analyst
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501

Agenda Number: W18A
Application Number: A-1-EUR-01-029
Globe Imports Ltd., Inc.
Position: **Opposed to Project**



Re: Public Hearing of New Appeal on Permit # **A-1-EUR-01-029**

Dear Mr. Baskin,

We strongly object to the action taken by the City Council of Eureka, California, on April 17, 2001, which approved an Administrative Amendment to Coastal Development Permit number CDP-03-97. Our letter of opposition addressed to the City Council dated April 13, 2001 is attached hereto as Exhibit A, and incorporated herein by reference. The Administrative Amendment approved by the City Council of Eureka allows the applicant, Eureka Waterfront Partners, significant and controversial design changes to their project. The project now differs dramatically from the intent of the originally permitted design. The result will negatively impact the core waterfront area of Eureka.

Since 1962 we have been devoted retailers and real estate developers in the waterfront business community. Our position is based upon our experience and familiarity with the vicinity. We are interested in the responsible development of our beloved waterfront. We respectfully submit that this project must not go forward as designed.

Please carefully consider the issues presented below relating to the proposed Eureka Waterfront Partners project. Combined, they form the basis of our opposition.

1. Parking Variance and Deficit Issues

A parking variance was issued as part of the the original coastal development permit issued by the City Council on March 24, 1999, requiring that the construction of the two planned buildings occur in a two-step process. The second building could proceed to construction **only** after all of the required parking was provided for both buildings.

The approved Administrative Amendment mentioned above allows for the construction of two **redesigned** buildings without having to provide for a parking deficit of approximately 40 parking spaces. The Amendment also allows that this shortfall will **never** have to be provided for by the applicant. We submit that this action will have a gross negative impact on an area which already suffers from overcrowded parking.

Success of this new development will come at an expense. Lack of adequate parking will suffocate existing businesses in the area. Furthermore, this action is patently unfair to property owners in the vicinity who have had to provide parking for their developments as required by City ordinance. Letters from merchants in the vicinity who are also concerned about these parking issues are attached hereto as Exhibits B thru F, and incorporated herein by reference.

14 of 32

Both the original permit and the amended project design reflect parking spaces along a strip of property that we claim a prescriptive easement. The City of Eureka was notified of this claim in a letter to David Tyson, City Manager, dated November 16, 1999. A copy of this letter is attached hereto as Exhibit G and incorporated herein by reference. The applicant does not have the right to construct the proposed parking spaces in this area. This would short the project an additional eight parking spaces!

2. Parking Location Issues

The 1977 City of Eureka General Plan states that "Parking should not be located directly adjacent to the water's edge." However, the parking for this project is planned over the bank at the edge of the bay and adjoining the new Waterfront Boardwalk. We believe that this conflicts directly with the City's General Plan and possibly with the policies of the California Coastal Act.

3. Building Scale and Design Issues

The 1996 City of Eureka General Plan states in section 1.D.1 that "The City shall retain the historic waterfront building scale, building form, and general character in waterfront revitalization and development..." The original design of this project emulated previous historical fisheries buildings. The amendment allows a new design that does not conform with these guidelines. In addition, the overall height and building placement creates a huge concern for us as it blocks our air and view easements and will cast a permanent shadow on our buildings as well as on the City Boardwalk.

We are also concerned that the proposed glass enclosed bridge between the two redesigned buildings will block the existing view corridors to the north and south.

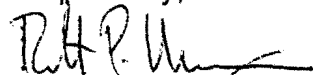
4. Public Access Issues

Public access will be diminished by project design. The historical two block alley access along the waterfront between "D" and "F" Streets will be vanquished if the proposed building and parking placement is allowed. Public access will also be directly affected by the parking deficit outlined above in Section 1. Visitors to the waterfront will simply not be able to find adequate accessible parking facilities.

In Conclusion:

Globe Imports Limited Incorporated requests that the California Coastal Commission carefully consider the issues that we have presented pertaining to this appeal. Thank you for your dedication to the responsible development of California's coastline.

Respectfully,



Robert P. Maxon
Vice President

cc: California Coastal Commissioners and Staff

13² of 32

BRADFORD C FLOYD

Attorney at Law

937 Sixth Street

Eureka, California 95501

Telephone (707) 445 9754

Facsimile (707) 443 9280

Email: lawfloyd@northcoast.com

April 13, 2001

Eureka City Council Members
Jack McKellar, Chris Kerrigan,
Cherie Arkley, Maxine Hunter Meeks,
and Virginia Bass-Jackson
531 K Street
Eureka, CA 95501

EXHIBIT A

Dear Council Members:

I am writing this letter for a two-fold purpose. The first purpose is to submit a complaint regarding the procedure followed at the City Council meeting on April 3, 2001, during the public hearings. The second purpose is to address the issues I intended to address at that hearing but was prevented due to the "3-minute" rule imposed by Mayor Flemming.

A. The 3-Minute Rule Imposed During the Public Hearings:

Upon arriving at the Council Meeting on April 3, 2001, I picked up and reviewed the Agenda. The Agenda did not mention under the caption "Public Hearings" that the 3-minute rule would be applicable. This was only addressed under the caption "Closed Session" on page 1 of the Agenda and under "Public Comment" on page 3 of the Agenda. I was under the assumption, based on the printed Agenda, that the "3-minute" rule was not applying to the Public Hearings. Obviously, I was wrong.

The "3-minute" rule, as Mayor Flemming applied it at the City Council Meeting, is patently unfair to persons that have property interests at-risk due to a proposed action such as we have in this case. My client, Globe Properties, the owner of properties immediately adjacent to the Eureka Pier Project, will be significantly impacted by the actions taken by this Council, for good or for bad, in a very real and permanent manner.

Globe Properties is not just an interested citizen that wants to be heard. Globe Properties has a huge monetary interest at stake. By Mayor Flemming allowing the

Eureka City Council Members
April 13, 2001
Page Two

applicant sufficient time (in excess of ten minutes) to address the Council and then imposing the "3-minute" rule on neighboring property owners that will be detrimentally affected by the proposed amendment, is unfair. At the Council Meeting my clients were denied the right to due process. The Council was only able to fully hear one side of the argument. I was denied the right, on behalf of my client, to make an adequate record in the event of future legal actions.

In the future I would request that the Council reconsider this "3-minute" rule to allow all parties adequate time to address the Council. This is especially true if the person addressing the Council has a property interest at stake.

B. Arguments Against Applicant's Proposed Amendments:

The Eureka Municipal Code requires building owners outside the parking assessment district to provide off-street parking facility. The purpose of this requirement is stated in Eureka Municipal Code Section 155.115 as follows:

"In order to alleviate progressively or to prevent traffic congestion and shortage of curb spaces, off-street parking facilities shall be provided incidental to new uses and major alterations and enlargements of existing usesments."

Municipal Code Section 155.116 defines the terms "major alteration and enlargement". It states:

"For the purposes of this section, the terms major alteration or enlargement shall mean a change of use or an addition which would increase the number of parking spaces required by not less than ten percent of the total number required."

The amendment requested for the Eureka Pier Project obviously comes within the provisions of Municipal Code Sections 155.115 and 155.116. This is not a minor amendment. This amendment, if approved, will have an enormous impact on adjacent buildings and an enormous impact on parking in Old Town.

At the Public Hearing Kevin Hamblin suggested to the Council that the amendment presented to the Council at the Public Hearing would be minor or trivial in nature as it was in accord with the previous actions taken by the Council on March 24, 1999, when the Coastal Development Permit was approved and issued. Globe Properties does not agree with Mr. Hamblin's position.

The new amendment submitted to the City by applicant at the Public Hearing is major and significant as set forth below:

1.a. The original permit issued by the City Council on March 24, 1999, required that construction of the two buildings occur in a two-step process. Phase One allowed the construction of a two-story building, 54,490 square feet in size, so long as said building did not require more than 78 total off-street parking spaces. Applicant was only required to provide 34 of the 78 parking spaces during Phase One creating a shortfall of 44 spaces. This variance granted by the Council to applicant was opposed by numerous persons, including Globe Properties and the Maxons. The second building, or Phase Two, could proceed only after all the required parking was provided for both buildings.

b. The proposed amendment before the Council requests the construction of both buildings with a shortfall of approximately 31 off-street parking spaces. The applicant will never have to make these spaces up as required in the original permit. This is a significant change and will have a huge impact on the Old Town area which already suffers from overcrowded parking.

2.a. The original permit issued by the Council on March 24, 1999, permitted the construction of a two-story building during Phase One which was 40 feet in height.

b. The proposed amendment now before the Council requests the construction of two three-story buildings which are 44 feet in height, not including the ridge tops which extend another 4 to 6 feet. Obviously, this creates a huge concern for the Maxons as it blocks their air and view

easements and will cast a permanent shadow on their buildings as well as on the boardwalk.

3.a. The original permit approved by the City Council on March 24, 1999, allowed for the construction of a building that did not require more than 78 total off street parking spaces.

b. The proposed amendment now before the Council involves the construction of two buildings that will require, pursuant to the Eureka Municipal Code, 111 off-street parking spaces. Again, this will have an significant impact on the already overburdened parking problem in Old Town, especially in the vicinity of the properties owned by Globe Properties.

4.a. As stated above, the original permit issued by the City Council on March 24, 1999, allowed the construction of both Phases only after all the required parking was provided for.

b. The proposed amendment now before the Council does not ever make up the shortfall. This will have a huge affect on the other Waterfront projects that are heading for or are currently in the permit process. Is the Council going to allow these other projects similar parking variances? If so, what ultimate impact will this have on the parking problem that already exists in Old Town? On the other hand, if the Council is going to require the other property owners to comply with the Eureka Municipal Code off-street parking requirements, this puts these property owners at a gross disadvantage to the applicant. In other words, the Council needs to step back and look at the development of the Waterfront as a planned development rather than isolating it to an individual project.

5. Both the original permit and the proposed amendment reflect parking spaces along a strip of property the Maxons claim a prescriptive easement. This is the strip of property located immediately behind the "Globe Import" building. Globe Properties has continuously used this strip of property to access its loading docks since 1969. The City of Eureka was notified of Globe Properties' claim in a letter to David Tyson dated November 16, 1999. A copy of this letter is attached hereto as Exhibit A

Eureka City Council Members
April 13, 2001
Page Five

and incorporated herein by reference. Applicant does not have the right to construct the proposed parking spaces in this area. This would short the project an additional eight parking spaces.

C. Proposed Solutions:

In spite of the above-described problems that Globe Properties sees with the proposed amendment, Globe Properties is in favor of applicant going forward with the project at this site. However, before the Council should approve this matter, one of two events need to occur. First, applicant should further scale the project back to meet the parking standards required by the City of Eureka, without variance. Or, the Council needs to address the parking issue in this area of Old Town before approving such a project. A multi-level parking garage in close proximity to applicant's building site would be essential. Monies for a multi-level parking structure could be raised through the Parking Assessment District and through other various resources available to the City. However, until such a structure is under construction, to allow the proposed amendment would be getting the cart before the horse and would have a disastrous effect on the parking problem which already exists in this area.

D. Miscellaneous Issues:

At the hearing of April 3, 2001, Mr. Ash, by statements he made, led the City Council to believe that a group of property owners are secretly meeting to try and stop this project. This is a mischaracterization by Mr. Ash. Robert Maxon on behalf of Globe Properties contacted Mr. Ash and asked to meet with him regarding the proposed project. However, Mr. Ash did not have the time nor the inclination to meet with Mr. Maxon.

The latest set of blueprints submitted by Mr. Ash on this project have been modified, in large part, by inaccurate pencil drawings. Before the Council makes any decisions regarding this project, Mr. Ash should be required to submit blueprints to the City Council that accurately reflect the project he is now proposing. For instance, it was impossible for me to calculate the square footage of these buildings as the pencil drawings on the blueprints are not to scale.

20432

Eureka City Council Members
April 13, 2001
Page Six

E. Conclusion:

Based on the foregoing, Globe Properties request the Council deny the applicant's proposed amendment until such time as applicant scales back the project and provides adequate parking. In the alternative, we request the Council delay its decision on this project until the City can acquire additional parking to alleviate the parking problem that currently afflicts Old Town.

Sincerely,

Bradford C Floyd

BCF:sh

D:\DATA\Word_Pex_Data\90\MISCELLANEOUS\Mason Council\SH lit.rpt

21232

BRADFORD C FLOYD

Attorney at Law

937 Sixth Street

Eureka, California 95501

Telephone (707) 445-9754

Facsimile (707) 443 9280

Email: lawfloyd@northcoast.com

November 16, 1999

Eureka City Hall
Attn: David Tyson, Assistant City Manager
531 "K" Street
Eureka, CA 95501

Re: Property Rights of Robert Maxon, Bob Maxon, and Barbara Maxon

Dear Mr. Tyson:

This letter is to inform you that I have been retained by Robert Maxon, Bob Maxon, and Barbara Maxon, dba Globe Imports.

As you know, my clients own real property and improvements located on First Street between "E" and "F" Streets, Eureka, California. This property is commonly known as 65 "E" Street in Eureka. The A.P. Nos. are 1-054-18 and 1-054-33. My clients have been continuous owners of this real property since 1969.

As you are also aware, there is a freight door located at the rear (north end) of the above-described property that my clients have used since 1969. This freight door is accessed by traveling over and across a strip of real property described as A.P. No. 001-054-28. This strip of property is approximately 30 feet wide and 110 feet long. I will refer to this property as the "subject property" through out this letter.

The subject property is now owned by the City of Eureka and was formerly owned by the Fisherman's Building, Inc., a California corporation, prior to April of 1989. The Fisherman's Building, Inc. quitclaimed the subject property to Humboldt Boardwalk Corporation, a California corporation, in April of 1989. The City of Eureka obtained the subject property from the Humboldt Boardwalk Corporation on February 20, 1996.

Since 1969, my clients have continuously and without interruption or permission used the subject property for ingress and egress to access their freight door and for parking a vehicle in front of the freight door. They meet all the elements of an easement by prescription and have, in my opinion, obtained an easement by prescription within the parameters set forth above.

EXHIBIT A

22432

During the City's ownership of the subject property, the City has recognized the Maxons prescriptive rights of ingress and egress to access the freight door and for parking in front of the freight door. For instance, in 1996, the building north of Globe Imports blew down and shortly thereafter the remnants of that building were removed from the site. After completion of the salvage job, Dave McGinty, a City representative, consulted the Maxons regarding the placement of a protective fence around the property the demolished building sat on as well as fencing around the subject property. The Maxons insisted on access to their freight door and a locked gate was installed by the City, and the Maxons were presented with a key to allow them free access to the freight door. This is just one of many examples where the City and its predecessors in interest recognize that my clients had acquired rights over the subject property years ago.

It has now come to my attention that the City is considering turning the subject property into a parking lot. My clients are not opposed to this plan so long as the City takes steps to assure my clients that they will be able to access their freight door 24 hours a day, 365 days a year. My clients have always been able to drive motor vehicles over the subject property for the purpose of loading or unloading freight and general accessibility to the subject property through the freight door. They have also used the subject property for parking in front of the freight door.

Obviously, there are a number of different ways my clients' rights could be protected by the City should the City's plan to turn the subject property into a parking lot.

After you have had an opportunity to review this letter, please contact me so we can discuss the issues raised in this letter. It is my hope that we can have an amicable resolution of what could become an expensive dispute.

Sincerely,

Bradford C Floyd

BCF:hu

cc: Robert, Bob, and Barbara Maxon
Gary Boughton, City Planner
Kevin Hamblin, Community Development Dept.

Mark and Bonnie Jones
202 Ponderosa Court
Eureka, CA 95503

April 13, 2001

Eureka City Council Members
Jack McKellar, Cherie Arkley,
Virginia Bass-Jackson, Chris Kerrigan,
And Maxine Hunter Meeks
531 K Street
Eureka, CA 95501

EXHIBIT B

Subject: Coastal Development Permit Amendment
Eureka Waterfront Partners

Dear Council Members,

This correspondence is regarding several issues, which I attempted to address at the public hearing April 3, 2001. Unfortunately, I returned home that evening without conveying my complete opinion to the Council Members due to the three-minute rule, an interruption by Mayor Flemming, and my lack of skill as a public speaker. Please carefully consider these issues regarding the proposed Eureka Waterfront Partner project:

1. Parking Variances:

The City of Eureka has developed a pattern of granting parking variances to projects in the Old Town / Waterfront area recently. These variances are being granted regardless of the cumulative parking problems created and without a long-term plan or solution by the Public Works Department, other than "Ideas" or informal studies. (Credit is given for restriping H and I Streets) This current system of granting variances on a project by project basis while neglecting to plan for future parking accommodations in the Old Town/ Waterfront districts is "shortsighted" and is creating hardships for existing property owners.

2. Parking Districts and In-Lieu Fees

Several recent developments have already received parking variances when in reality, City staff had the ordinances and ability already in place to assess in-lieu parking fees for the shortage of spaces required by these projects. This creates several problem scenarios..... First, what about areas such as Henderson Center where property owners are required to pay in-lieu fees for shortage of spaces? Are some parts of Eureka (or people) favored over others regarding parking issues? Secondly, When the City does not assess the in-lieu parking fee it is costing the taxpayer double for parking spaces/lots when constructed by the City, once for fees uncollected and once for the hard construction costs. Is this sound financial practice? The taxpayer should be aware of this activity. Also, the City cannot expect to solve future parking problems by establishing a "parking assessment" or tax of some type when it is shirking financial obligations at present. Thirdly, What kind of precedent, or message, is sent to proposed development? We saw an example of this April 3, 2001. The proposed development asked for unreasonable parking concessions because..... the afore mentioned pattern in Item #1. A final scenario is also problematic. What about the numerous Redevelopment projects completed in the last 20 years where private

24 of 32

developers and property owners have complied with the parking ordinances by providing physical parking spaces or paying fees? Is the City tossing out the laws and guidelines in-lieu of how a proposed project "feels" or the personal merits or demerits of an applicant ?? Continuity of implementing the parking ordinances is important to our community. Equity and fairness are synonymous with this idea.

3. Eureka Waterfront Partner Project

As Old Town property owners, we have waited ten years for the type of redevelopment activity currently underway on the waterfront. These projects will stabilize and hopefully increase everyone's personal investment in Old Town. My abbreviated remarks at the April 3, 2001 public hearing were not intended to place obstacles in the developer's path. The City of Eureka needs waterfront development such as the proposed project. However, I firmly believe that there is currently a lack of "focus" regarding this proposed project. The design seems to continually change in a reactive mode. Please bring to the community a "complete package" which includes good design, adequate parking, etc. The City is offering generous assistance for this project and as a "partner" is responsible for watching out for the neighboring property owners interests and needs. This includes the parking issue. As a taxpayer and neighbor, I can't help but wonder - why is the City of Eureka offering redevelopment assistance in the form of constructing a boardwalk, demolishing a large structure, assisting with environmental studies, construction of public improvements, favorable land acquisition terms, and yet places the burden of inadequate parking on neighbors? Surely there are enough resources for the applicant to pay in-lieu parking fees, as a minimum requirement. ????

4. The Jones Property - 322/324 First Street

This letter is also a petition to Council Members to consider the resulting effects of granting additional parking variances within this neighborhood. We own eleven residential units and one commercial unit at 322/324 First Street. The development occurred ten years ago. A parking variance was not in the City staff vocabulary at that time. Subsequently, we paid the in-lieu parking fees required to receive City approvals. The historical parking situation has been very tedious during the last ten years, which also affects the rental history and return on investment for our property. Not only has the City "pocketed" in-lieu parking fees for our project, (I don't recollect any parking space construction in the immediate area), it is now proposed that neighbors and ourselves compete with 33 (minimum) additional cars due to current City policy. You may also add to this total the unknown number of cars (tourists, locals, etc) seeking parking spaces while enjoying the new boardwalk or other potential waterfront improvements. This will have a huge financial impact on our personal investment in Old Town. Our residential tenants cannot park 2-3 blocks away when returning from the grocery store, errands, etc. Would you? At your residence? We do not meet in "secret" to stop Redevelopment projects but formally submit this letter requesting careful consideration when you vote April 17, 2001. Our vision for Old Town and investment is at risk.

Sincerely,

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DUNAWAY INVESTMENTS
P.O. BOX 1212
EUREKA, CA 95502

March 16, 2001

Mr Kevin R. Hamblin, AICP
Director of Community Development
City of Eureka
531 K Street
Eureka, CA 95501-1146

EXHIBIT C

RE: Administrative Amendment to Coastal Development Permit
No. CDF-07-98

Dear Mr. Hamblin:

I object to the above-referenced amendment because the proposed changes in the project would result in substantial impacts to local parking and to pedestrian access to the Boardwalk.

The above referenced Coastal Development Permit was approved in two phases. Phase one would have required 16 parking spaces for residential uses and 76 spaces for other uses. Of these, the residential requirement was met by providing private parking garages, and a 42-space parking lot was proposed for other uses. There would have been a net 34 space deficit.

Phase two, to be built on the parking lot, would have raised the total parking requirement to 200 spaces. However, Phase Two was "conditioned on the development of adequate parking," according to the staff report submitted in support of the Coastal Development Permit at the public hearing held December 1, 1998. This document further defined "adequate parking" to mean "all required parking."

Given the above requirements, the maximum parking impact for the whole project would never have exceeded a deficit of 34 spaces; were it built out completely, there would have been no parking deficit. In contrast, the proposed amendment would permit two buildings that would together require at least 130 parking spaces, of which 66 would be provided on site. That leaves a deficit of 64 spaces, 30 more than before.

Furthermore, the proposed amendment states that 16 of the spaces would be reserved for residential use, leaving 50 spaces for other uses which require 122 spaces. Twelve of those 50 spaces would be constructed over existing tidelands, in contradiction of the Coastal Act. Were the Coastal Commission to approve such construction, it would most likely place restrictions on the use of those 12 spaces. It is therefore possible that only 38 spaces would be available toward a requirement of 122, a deficit of 84 spaces. This is a 147% increase in the parking deficit.

When the above calculations are taken into consideration, it is difficult to understand how this amendment would reduce "impacts to parking in the general area." I submit that the

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proposed amendment would result in substantial impact to parking in the vicinity.

My second objection is that the change in design to the proposed street in front of the buildings would preclude communication with the parking lot to be developed on our parcel to the east. The City's Boardwalk project will redesign F Street north of First in order to encourage pedestrian use. However, the Dunaway and Sicard parcels will still need to use the street for access. If egress is provided for to the west of the Dunaway parcel, F Street could be one-way north of First Street, limiting traffic congestion and encouraging pedestrian circulation. The way the Eureka Pier project is configured in the proposed amendment, F Street would have to be two-way.

I believe it is essential that any development be designed to limit deleterious impacts on the neighbors. When city-owned land is involved, there is no excuse for allowing a project that will severely impact parking in an entire neighborhood.

Sincerely,

Kerry Rasmussen

Kerry Rasmussen
Manager

cc: California Coastal Commission

C.C. O'Brien Cree
Eileen Henderson
334 2nd Street
Eureka, Ca 95501

April 17, 2001

Eureka City Council Members
Jack McKellar, Cherie Arkley,
Virginia Bass Jackson, Chris Kerrigan,
and Maxine Hunter Meeks
531 K Street
Eureka, Ca 95501

EXHIBIT D

RE: PUBLIC PARKING ISSUE

Dear Council Members,

On behalf of some of the employees that work in the Old Town/Downtown district, we feel that the projects proposed are very exciting for our area. However, a very big concern for a lot of us is parking. We already have a major problem occurring during business hours. The renovation of the Vance Hotel, while quite beautiful, has only increased the problem. While we are all very enthusiastic about the improvements and growth of our Old Town, there needs to be some consideration given to where everyone is supposed to park. Parking in this area already creates a problem for many of our local patrons and our tourists.

We hope that you will consider the negative impact on existing and new businesses if there is a lack of parking and not enough consideration for new parking to be added.

Sincerely,

C.C. O'Brien Cree

C.C. O'Brien Cree

Eileen Henderson

Eileen Henderson

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• GRAYSTONE •
Jewelers

March 29, 2001

Maxine Hunter Meeks
531 K Street
Eureka, CA 95501

EXHIBIT E

Dear Ms. Meeks,

I have owned Graystone Jewelers since 1984, always located in the Dunaway Building on the corner of 2nd and F Streets. We have been busy since November with plans for our new Graystone location in the old Globe building at 1st and E streets... hopefully up and running by the 4th of July.

It has come to our attention that the Eureka Waterfront Partners are requesting to greatly reduce their parking with its amended project. As I understand it, they will have over 10 times the retail/office/residential that we will have with the new Graystone space but are asking that they provide less than three times the parking that we were required to supply.

I would respectfully request that if we are required to provide the number of spaces for our relatively low-traffic business that the Eureka Waterfront Partners provide at least the same percentage for their clients and tenants. One of our foremost reasons for moving was to avoid the heavy parking pressure that has developed in the Old Town area over the years. To allow a large development such as this to provide less parking than what was required of us is not equitable.

We appreciate your time...

Jody Rusconi
Owner

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• Diamonds Beyond Your Expectations •

R *Rendezvous* *Music & Vending*

March 16, 2001

Kevin R. Hamblin, AICP
Director of Community Development
City of Eureka
531 K Street
Eureka, CA 95501

EXHIBIT F

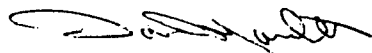
Re: Administrative Immaterial Amendment to Coastal Development
Permit No. CDP-07-98 Issued March 8, 2001

Dear Mr. Hamblin:

I want to go on record as concurring with the letter from Bradford C. Floyd dated March 15, 2001 regarding the Maxon family position on the Eureka Pier project.

I think it is great the Eureka waterfront is being developed and I do not object to the Eureka Pier project. I do object to the parking variance they are requesting. I would not object to a variance of a few parking spaces, but I think a variance of 51% is excessive. The parking situation in Old Town is getting worse and allowing projects without adequate parking will only compound the parking problem.

Sincerely,



Dan Marchetti

DM/ss

Attorney at Law
937 Sixth Street
Eureka, California 95501
Telephone (707) 443-9154
Facsimile (707) 443-9280
Email: lawfloyd@northeast.com

**Eureka City Hall
Attn: David Tyson, Assistant City Manager
531 "K" Street
Eureka, CA 95501**

Re: Property Rights of Robert Maxon, Bob Maxon, and Barbara Maxon

This letter is to inform you that I have been retained by Robert Maxon, Bob Maxon, and Barbara Maxon, dba Globe Imports.

As you know, my clients own real property and improvements located on First Street between "E" and "F" Streets, Eureka, California. This property is commonly known as 65 "E" Street in Eureka. The A.P. Nos. are 1-054-18 and 1-054-33. My clients have been continuous owners of this real property since 1969.

As you are also aware, there is a freight door located at the rear (north end) of the above-described property that my clients have used since 1969. This freight door is accessed by traveling over and across a strip of real property described as A.P. No. 001-054-28. This strip of property is approximately 30 feet wide and 110 feet long. I will refer to this property as the "subject property" through out this letter.

The subject property is now owned by the City of Eureka and was formerly owned by the Fisherman's Building, Inc., a California corporation, prior to April of 1989. The Fisherman's Building, Inc. quitclaimed the subject property to Humboldt Boardwalk Corporation, a California corporation, in April of 1989. The City of Eureka obtained the subject property from the Humboldt Boardwalk Corporation on February 20, 1996.

Since 1969, my clients have continuously and without interruption or permission used the subject property for ingress and egress to access their freight door and for parking a vehicle in front of the freight door. They meet all the elements of an easement by prescription and have, in my opinion, obtained an easement by prescription within the parameters set forth above.

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During the City's ownership of the subject property, the City has recognized the Maxons prescriptive rights of ingress and egress to access the freight door and for parking in front of the freight door. For instance, in 1996, the building north of Globe Imports blew down and shortly thereafter the remnants of that building were removed from the site. After completion of the salvage job, Dave McGinty, a City representative, consulted the Maxons regarding the placement of a protective fence around the property the demolished building sat on as well as fencing around the subject property. The Maxons insisted on access to their freight door and a locked gate was installed by the City, and the Maxons were presented with a key to allow them free access to the freight door. This is just one of many examples where the City and its predecessors in interest recognize that my clients had acquired rights over the subject property years ago.

It has now come to my attention that the City is considering turning the subject property into a parking lot. My clients are not opposed to this plan so long as the City takes steps to assure my clients that they will be able to access their freight door 24 hours a day, 365 days a year. My clients have always been able to drive motor vehicles over the subject property for the purpose of loading or unloading freight and general accessibility to the subject property through the freight door. They have also used the subject property for parking in front of the freight door.

Obviously, there are a number of different ways my clients' rights could be protected by the City should the City's plan to turn the subject property into a parking lot.

After you have had an opportunity to review this letter, please contact me so we can discuss the issues raised in this letter. It is my hope that we can have an amicable resolution of what could become an expensive dispute.

Sincerely,

Bradford C Floyd

BCF:hu

cc: Robert, Bob, and Barbara Maxon
Gary Boughton, City Planner
Kevin Hamblin, Community Development Dept.