

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA
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| Filed: | May 23, 1996 |
| 49th Day: | July 11, 1996 |
| 180th Day: | November 19, 1996 |
| Staff: | Robert Merrill |
| Staff Report: | July 26, 1996 |
| Hearing Date: | August 15, 1996 |
| Commission Action: | |

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: **1-92-127-A**

APPLICANT: **CITY OF ARCATA**

PROJECT LOCATION: At the Arcata Marsh and Wildlife Sanctuary, off of South "G" Street, Arcata, Humboldt County (APN 503-241-01 & 503-241-16)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Develop a marsh interpretive center by (1) constructing a 1,540-square-foot interpretive center building, (2) gravel a 20,000-square-foot parking area, (3) installing a 400-square-foot floating boardwalk, (4) replacing a culverted slough crossing with a 360-square-foot bridge, (5) improving pedestrian access trails, and (6) converting a 400-square-foot upland area to wetland for wetland fill mitigation.

DESCRIPTION OF AMENDMENT: Substitute the creation of an 800-square-foot portion of a freshwater pond for the creation of 800 square feet of salt marsh habitat originally required as mitigation

OTHER APPROVALS REQUIRED: None

SUBSTANTIVE FILE DOCUMENTS: City of Arcata LCP

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission approve the amendment request. The application involves creating a new 19,250-square-foot storm water wetland and crediting an 800-square-foot portion of the new wetland habitat as the required mitigation for the fill impacts associated with the originally approved project, the development of an interpretive center at the Arcata Marsh and Wildlife Sanctuary. The proposed wetland will be constructed in an upland area and should greatly enhance habitat values in adjacent environmentally sensitive habitat areas. Crediting 800 square feet of the new wetland as the required mitigation for the interpretive center will minimize the adverse environmental effects of the fill associated with the original project and will provide at least comparable or greater mitigation value as the mitigation currently required by the permit. Staff believes that as conditioned to require the City to implement its mitigation proposal, the project is consistent with the Coastal Act.

STAFF NOTES:

1. Acceptance of Amendment Request for Filing.

Section 13166 of the Regulations states that the Executive Director shall reject an amendment request if it lessens or avoids the intent of the approved permit unless the applicant presents newly discovered material information which he or she could not with reasonable diligence, have discovered and produced before the permit was granted.

The Commission granted Permit No. 1-92-127 on August 14, 1992, to the City of Arcata for development of an interpretive center at the Arcata Marsh and Wildlife Sanctuary off of South "G" Street (see Attachment 1). The sanctuary was developed as an innovative way to provide sewage treatment by creating new wetland habitat and utilizing the natural capacity of with newly created wetlands to treat the waste water. As a result, the sanctuary is both an effective means of addressing the City's sewage disposal needs and an important new wetland habitat. With development of the Arcata marsh and Wildlife Sanctuary, the City has become an international model of appropriate and successful waste water reuse and wetland enhancement technologies. The interpretive center was developed to receive visitors from around the world and provide a place from which to conduct tours of the marsh and provide interpretive information on the history and processes of the sanctuary.

The Commission approved the project as part of the Consent Calendar with a total of three special conditions designed to address the wetland fill impacts of the project. Although the Interpretive Center building itself was proposed to be built in an upland location, a small amount of wetland fill, approximately 760 square feet, was proposed for constructing a short bridge over Butchers Slough, a saltwater/brackish wetland, to provide access to the site of the new interpretive center, and for installing a floating boardwalk within a freshwater marsh and pond. The floating boardwalk was intended to

allow students and others a unique vantage point from which to study the freshwater marsh environment of the pond. The City proposed to offset the 360 square feet of fill for the proposed bridge by removing a culverted earthen crossing of the slough that the bridge was designed to replace, and proposed to mitigate the 400 square feet of wetland fill associated with the boardwalk, by expanding the wetlands along Butcher Slough by a similar amount by removing existing wooden bulkheads and excavating back the banks of the existing slough channel, and planting cordgrass in the affected area. The Commission determined that these wetland fill mitigations would be consistent with the Coastal Act provided that the proposed wetland restoration along Butcher Slough was expanded to 800 square feet to allow for a mitigation ratio of 2:1 for the boardwalk project.

The specific conditions imposed included: (1) a condition requiring the submittal of a revised wetland mitigation plan providing for the creation of a total of 800 square feet of new wetland adjacent to Butcher Slough instead of the 400 square feet proposed by the City (Special Condition No. 1); (2) the submittal of annual monitoring reports for the three years following completion of the wetlands restoration work (Special Condition No. 2); and (3) the submittal of any necessary amendment to the permit for corrective actions in the event the monitoring revealed the habitat restoration work has not achieved specified success criteria (Special Condition No. 3).

After issuance of the permit, the City determined that it needed to retain the the culverted earthen crossing of the slough for use in locating necessary utility lines for the Interpretive Center building. As a result, the planned mitigation site was no longer available for use.

As an alternative way of meeting its mitigation obligations, the City now proposes in its amendment request to construct a 19,250-square-foot freshwater marsh in an upland area just north of the Interpretive Center parking lot, a few hundred feet away from the location of the original site that was planned for mitigation. The proposed marsh has been designed large enough to both provide 800 square feet of new wetland to mitigate for the fill from the boardwalk approved in Coastal Development Permit No. 1-92-127, as well as provide additional new wetland area to mitigate for another wetland fill projects proposed by the City outside the coastal zone under the jurisdiction of the U.S. Army Corps of Engineers. The new freshwater marsh is also intended to serve as a surface runoff treatment facility. The marsh will receive storm water runoff from South G Street and an adjacent development to the north and treat the runoff biologically by filtering out pollutants and absorbing them as the runoff water passes through the marsh vegetation that will grow in the marsh.

The proposed amendment would be consistent with the intent of Coastal Development Permit No. 1-92-127 to mitigate for the impacts to wetlands caused by the improvements associated with the Interpretive Center development in that (1) the new mitigation proposal would provide even greater overall wetland habitat benefits than the mitigation required by the permit by making the mitigation part of a much larger new 19,250-square-foot wetland that will

be more desirable to wildlife, and (2) the wetland will have the added benefit of improving habitat values of the overall Sanctuary area by providing treatment of surface runoff from the surrounding area. Therefore, the Executive Director determined that the amendment would not result in a lessening or avoidance of the intent of the approved permit and accepted the amendment request for processing.

2. Commission Jurisdiction.

The project site is within the Commission's retained coastal development permit jurisdiction. Thus, the standard of review for the proposed amendment is the consistency of the project, as amended, with the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions:

The Commission hereby approves the amendment to the coastal development permit, subject to the conditions below, on the grounds that the development with the proposed amendment is consistent with the requirements of Chapter 3 of the California Coastal Act of 1976, is consistent with the provisions of the City of Arcata Local Coastal Program, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions: See attached.

III. Special Conditions:

1. Implementation of Wetlands Restoration Proposal.

The applicant shall implement the wetlands restoration proposal described in the applicant's application for Coastal Development Permit Amendment No. 1-92-127-A, as modified and supplemented by subsequent correspondence with attached exhibits received from the applicant dated May 23, 1996.

A. Schedule. Construction of the wetland shall be completed by August 31, of 1997, and the proposed planting of vegetation shall be completed by December 31, 1997.

- B. Monitoring Reports. By October 1st of each of the three full years after completion of the wetlands restoration work, the permittee shall submit for the review and approval of the Executive Director a monitoring report prepared by a qualified biologist containing an assessment of the condition of the planted wetland vegetation, and, if necessary, discussing likely reasons why any of the planted materials may have died or are in poor condition, and recommend any necessary corrective actions to achieve a 90% rate of coverage by wetland plants in the area to be planted.
- C. Remedial Action. The permittee shall be fully responsible for any failure to meet the success standards of the mitigation plan. Upon a determination by the Executive Director after review of the required monitoring reports that the standards have not been achieved, the permittee shall submit a corrective action plan prepared by a qualified biologist for the review and approval of the Executive Director that prescribes remedial measures that can reasonably be expected to achieve the success standards of the permit. The corrective action plan shall also prescribe a new monitoring and remediation program to ensure the success of the remediation measures in achieving the success standards. Upon approval of the corrective action plan, the permittee shall apply to the Commission for any necessary amendment to this permit for the corrective actions and shall immediately implement the plan after any necessary approvals have been obtained. If the permittee does not agree that remediation is necessary or objects to any conditions imposed by the Executive Director for approval of the corrective action plan, the matter may be set for hearing and disposition by the Commission.

The above special condition supercedes and replaces Special Conditions 1, 2, and 3 of the original permit.

IV. Findings and Declarations:

The Commission hereby finds and declares:

1. Original Permit

The Commission granted Coastal Development Permit No. 1-92-127 to the City of Arcata on August 14, 1992 for development of a marsh interpretive center at the Arcata Marsh and Wildlife Sanctuary off of South "G" Street in Arcata (See Exhibits 1-3). A copy of the staff recommendation for the original project is attached as Attachment 1.

The City's innovative sewage treatment facility was one of the first to successfully utilize the natural capacity of wetlands to treat waste water to both effectively address the City's sewage disposal needs and to expand and enhance wetland habitat. The City has become an international model of appropriate and successful waste water reuse and wetland enhancement technologies. As a result, the Arcata Marsh and Wildlife Sanctuary receives a

lot of visitors from around the world and there is a need for an interpretive center from which to begin tours of the marsh and provide general information on the history and processes of the sanctuary.

The improvements authorized by Coastal Development Permit No. 1-92-127 include: (1) a 20-foot-high 1,540-square-foot main building, (2) an approximately 20,000 square-foot graveled parking area, (3) trail improvements which include the replacement of a culverted slough crossing with a 360-square-foot bridge over Butcher Slough to provide better access to the interpretive center from the proposed parking area and to enhance nature study at the Sanctuary, (4) a 400-square-foot floating boardwalk to extend 50 feet out into an existing pond on the site, and (5) the creation of approximately 400-square-feet of new wetland area adjacent to Butcher Slough to mitigate for the wetland fill associated with the new boardwalk (see Exhibits 4). The new wetlands were to be created by removing existing wooden bulkheads and excavating back the banks of the existing slough channel, and planting cordgrass in the affected area.

The permit was granted with a total of three special conditions, all relating to wetlands restoration mitigation that was to be provided as mitigation for the wetland fill impacts of the proposed project. The special conditions included: (1) a condition requiring the submittal, prior to issuance of the permit, of a revised wetland mitigation plan providing for the creation of a total of 800 square feet of new wetland adjacent to Butcher Slough instead of the 400 square feet proposed by the City (Special Condition No. 1); (2) the submittal of annual monitoring reports for the three years following completion of the wetlands restoration work (Special Condition No. 2); and (3) the submittal of any necessary amendment to the permit for corrective actions in the event the monitoring reveals the habitat restoration work has not achieved specified success criteria (Special Condition No. 3).

The City submitted the revised wetland restoration plan required by Special Condition No. 1 at about the same time that the Commission voted to approve the project at its August 14, 1992 Commission meeting. With approval of the project and approval of the revised wetlands restoration plan, the Executive Director issued Coastal Development Permit No. 1-92-127 on August 17, 1996.

2. Current Amendment Request.

After the original permit had been issued, the City discovered that changes needed to be made to the project that would make it impossible to provide the particular wetlands restoration mitigation that had been proposed by the City and approved by the Executive Director. In the process of preparing final plans, the City determined that the only practical way to extend water, sewer, and other utility lines to the proposed Interpretive Center would be to extend them from South "G" Street across Butcher Slough via a conduit buried within the earthen slough crossing that the City had originally proposed to remove and replace with a 360-square-foot bridge. The City considered burying the utility lines underneath the slough itself, but to do so would have resulted

in more disturbance to the wetland habitat around the slough and would have been less desirable from design and maintenance standpoints. As the proposed wetlands restoration mitigation site was located in and around the site of the earthen slough crossing, once the decision was made to retain the earthen slough crossing the mitigation could not be performed where it was originally planned, and the City decided to develop a new mitigation proposal.

The new mitigation proposal developed by the City involves creating a new 19,250-square-foot storm water wetland and crediting an 800-square-foot portion of the new wetland habitat as the required mitigation for the fill impacts associated with development of the Marsh Interpretive Center pursuant to Permit No. 1-92-127-A (See Exhibits 5-7).

The proposed freshwater marsh would be located in an upland area just north of the Interpretive Center parking lot, several hundred feet away from the location of the original site that was planned for mitigation. The site lies between South "G" Street and the former channel of Butcher Slough. The proposed marsh is intended to both provide additional habitat for wildlife at the Arcata Marsh and Wildlife Sanctuary and to serve as a surface runoff treatment facility. The marsh will receive storm water runoff from South G Street and an adjacent development to the north and treat the runoff biologically by filtering out pollutants and absorbing them as the runoff water passes through the marsh vegetation that will grow in the marsh.

The proposed storm water wetland site is currently an old industrial site with compacted soils. The vegetation growing on the site consists of a variety of non-wetland species, with the exception of the vegetation growing along the former channel of Butcher Slough, which is still influenced by tidal action to some degree. A salt/brackish water habitat grows along the slough and is dominated by *Triglochin maritimum*, *Deschampsia cespitosa* ssp. *holciformis* and *cares* sp. This area is considered to an environmentally sensitive habitat area.

The proposed storm water wetland will be created outside of the salt/brackish water habitat area in the upland portion of the site. The new wetland will be 280 feet in length with widths that vary from 100 feet to 30 feet. The wetland will be sloped gradually to a two foot depth around the perimeter and to a four foot depth in the center. The perimeter area down to two foot depth will be planted with emergent vegetation and the deeper center portion of the pond will be an open water zone. Approximately 104 cubic yards of the material excavated to create the pond will be used to create a 1,400-square-foot island in the center that is intended to provide roosting and nesting habitat for birds that is protected from land-based predators. The remaining 537 cubic yards of material excavated to create the pond is proposed to be hauled to an approved landfill site. The remaining upland area around the site is proposed to be vegetated with native trees and shrubs.

The wetland will be connected hydrologically with the current Butcher Slough via a riser pipe that empties into the old Butcher Slough channel which in turn, drains through a tide gate into the current channel of Butcher Slough. The riser pipe will be designed to retain water in the new pond and better ensure the growth of wetland vegetation by only allowing water to drain from the new pond when it reaches a certain minimum depth. The project also includes creating a rock-lined emergency spillway between the new pond and the old Butcher Slough channel to prevent flooding during periods of exceptional storm events when the runoff entering the pond from the surrounding area exceeds the capacity of the pond and the capacity of the riser pipe to drain the excess water.

The project also includes installing an educational display on storm water treatment wetlands in an upland area adjacent to the south side of the pond. The display will consist of a free-standing wooden information kiosk as shown in Exhibit 8.

The City proposed to monitor the hydrology and wetland vegetation planted at the site for three years to insure that the wetland vegetation is established. If plants die during the monitoring time period, the City will replace the plants so that there is at least 90 percent coverage by wetland plants in the areas that will be planted.

The City believes that the creation of the new wetland, the establishment of wetland vegetation in the marsh itself, and the revegetation of the adjacent upland site with native trees and shrubs will do much to improve wildlife habitat values on this site. Shapiro (1980) states that fresh water marsh habitat in the Humboldt Bay area may provide habitat for 18 species of mammals, 11 species of amphibians and reptiles, and 42 species of birds. The creation of this wetland should provide additional habitat for the Arcata marsh and Wildlife Sanctuary's existing species.

In addition to providing 800 square feet of freshwater wetland mitigation to mitigate for the wetland fill impacts associated with the Marsh Interpretive Center project, the City intends that 3,896 square feet of the the proposed fresh water wetland serve as mitigation required by the Army Corps of Engineers and the California Department of Fish & Game for a wetland fill project performed outside of the coastal zone along Janes Creek. The approximately 15,000-square-foot remainder of the proposed wetland not apportioned to provide mitigation for either the Marsh Interpretive Center project approved by Coastal Development Permit No. 1-92-127 or the project outside the coastal zone along Janes Creek is not targeted as mitigation for any particular project at this time.

The amendment request seeks two basic changes to Coastal Development Permit No. 1-92-127. First, the amendment would modify the special conditions of the permit in a manner that would substitute crediting an 800-square-foot portion of the new storm water treatment wetland for the 800-square feet of salt marsh habitat creation currently required by the permit. Second, the amendment

would modify the project description to (a) delete the previously proposed creation of salt marsh habitat adjacent to Butchers Slough, (b) delete the previously proposed replacement of the earthen culverted crossing with a bridge, and (c) add the development of the new 19,250-square-foot freshwater wetland as described above.

3. Adequacy of New Mitigation Proposal

The City proposes that an 800-square-foot portion of the new freshwater wetland substitute for the 800-square feet of salt water/brackish habitat that was required to be created by the conditions of the original permit. The original mitigation requirement was designed to mitigate for the wetland fill impacts associated with the development of a 400-square-foot floating boardwalk over an existing freshwater marsh. The Commission imposed the requirement for mitigation to make the project, as conditioned, consistent with Section 30233 of the Coastal Act.

Section 30233 of the Coastal Act provides as follows, in applicable part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

...

(8) Nature study, aquaculture, or similar resource dependent activities.

The above policy sets forth a three part test for all projects involving the filling of wetlands. These are:

- a. that the project is limited to one of the eight specific uses listed above.
- b. that the project has no feasible less environmentally damaging alternative; and
- c. that feasible mitigation measures have been provided to minimize adverse environmental effects.

The Commission required the 800 square feet of saltwater/brackish wetland mitigation to bring the project into conformance with the last test, that feasible mitigation measures be provided to minimize adverse environmental effects. The City proposed as part of its application to mitigate for the impacts of the boardwalk (now constructed) by expanding the existing saltwater/brackish wetlands along Butcher Slough by 400 square feet by removing existing wooden bulkheads and excavating back the banks of the existing slough channel, and planting cordgrass in the affected area. This mitigation would have amounted to a mitigation ratio of 1:1 replacement for wetlands lost through the project. Because of the complexity involved in recreating marsh habitat, the Commission has frequently required mitigation for the loss of marsh habitat at a ratio of greater than 1:1 to ensure a greater chance of success that the wetland habitat values lost due to the wetland fill will be reestablished through the mitigation. In the case of the City's project, the environmental documents prepared for the project specifically indicated that expanding the mitigation area to 800 square would be feasible and desirable. Based on these factors, the Commission found that restoration of the full 800-square-foot area would provide appropriate mitigation that would satisfy the mitigation requirements of Section 30233 of the Coastal Act as it would be feasible to provide and would minimize the adverse environmental effects of the fill.

To approve the proposed change in the mitigation requirements of the permit now proposed by the City in its amendment request, the Commission must determine whether the new mitigation proposal would also satisfy the mitigation requirements of Section 30233.

For several reasons, the proposal developed by the City to creating a new 19,250-square-foot storm water wetland and crediting an 800-square-foot portion of the new wetland habitat as the required mitigation for the previously proposed and constructed boardwalk would minimize the adverse environmental effects of the fill. The new wetland to be created will be a freshwater wetland very similar to the fresh water wetland adversely affected by the boardwalk fill. The new wetland is designed to accommodate the same species of vegetation and wildlife that inhabit the pond where the boardwalk was constructed. Thus the mitigation proposal would provide in-kind habitat replacement, consistent with past actions of the Commission to require whenever feasible, in-kind mitigation. The Commission notes that in this respect, the new mitigation proposal is more appropriate than the originally mitigation requirement as the mitigation originally required would have created out-of-kind saltwater/brackish wetland habitat along the tidally-influenced old channel of Butcher Slough. In addition, the new mitigation proposal provides mitigation at a ratio of 2:1, the same ratio that the original mitigation would have. This ratio should assure that even if the planned wetland restoration is only half as successful in establishing as much marsh vegetation as proposed, overall habitat values created will still be commensurate with the habitat values lost due to the impacts of the boardwalk fill. Furthermore, the fact that the 800 square feet of wetlands creation to be credited as mitigation for the Interpretive Center project is actually only

a small part of a much larger 19,250-square-foot wetland creation project should help maximize the habitat value of the mitigation. Wildlife is more likely to utilize a large wetland habitat area than a small isolated habitat. Moreover, the fact that the new wetland will serve as a storm water treatment wetland and thus help reduce pollutant loadings from surface runoff of the surrounding area should also help enhance habitat values throughout the extensive wetland system in the surrounding area.

The proposed wetland creation is a feasible mitigation proposal in several respects. First, with respect to the financial feasibility of carrying out the project, the City has already applied for and has received funds from the Environmental Enhancement and Mitigation Program to perform the wetlands creation work. Second with respect to the feasibility of the mitigation proposal in attaining its habitat restoration goals, the Commission notes that the City has successfully created similar fresh water habitat in the immediate area as part of the development of the Arcata Marsh and Wildlife Sanctuary. In addition, the fact that the proposed mitigation site occupies a site that previously contained wetlands before being diked off and filled suggests that conditions may be more suitable to reestablish wetlands in this location than in other possible sites that have always been upland.

Therefore, for all of the above reasons, the Commission finds that the City's proposal to credit an 800-square-foot portion of the new freshwater wetland as mitigation for the Marsh Interpretive Center boardwalk would provide feasible mitigation that would minimize the adverse environmental effects of the fill associated with the boardwalk fill, and is thus consistent with the mitigation requirements of Section 30233 of the Coastal Act.

To ensure that the mitigation proposal is implemented successfully within a reasonable period of time, however, the Commission attaches Special Condition No. 1. The condition requires that construction of the wetland be completed by August of 1997 and that the proposed planting of wetland vegetation be completed by the end of December of that year. The City hopes to commence and complete construction in the summer of 1996, but to allow for unforeseen delays that might interrupt the ability of the City to perform all the excavation work during the dry season of 1996, the condition allows for construction to be completed during the following dry season. Planting of wetland vegetation is generally more successful when performed during the rainy season, so the condition requires that the planting be completed during the winter following completion of the excavation work. To ensure the success of the mitigation work, Special Condition No. 1 also requires the submittal of monitoring reports for the review and approval of the Executive Director prepared by a qualified biologist for each of the first three years after the mitigation work has been completed. Finally, to ensure that an orderly process is followed in the event that remediation becomes necessary, Special Condition No. 1 requires that upon determination of the Executive Director after a review of the applicant's monitoring reports that the success standards for the mitigation have not been achieved, the permittee must prepare and submit a corrective action plan to the Executive Director. Upon approval of the plan, the permittee is directed to apply to the Commission for any necessary

amendment to this permit for the corrective actions and to immediately implement the corrective action plan after any necessary approvals have been obtained. The condition also provides for Commission consideration of any disagreement between the permittee and the Executive Director over the contents of the corrective action plan or even the need for preparation of a corrective action plan.

The Commission finds that as conditioned to require implementation of the wetlands restoration plan proposed in the application for Amendment No. 1-92-127-A, the proposed project, as amended, is consistent with Section 30233 of the Coastal Act.

4. Environmentally Sensitive Habitat

Section 30240 of the Coastal Act states the following:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The proposed freshwater wetland will be constructed in an upland area that does not support any environmentally sensitive habitat. However, the wetland site is located adjacent to a salt water/brackish habitat area associated with the former channel of Butcher Slough that is considered to be environmentally sensitive. As a development located adjacent to an environmentally sensitive habitat area, the Commission must determine that the proposed freshwater wetland will not significantly degrade the ESHA and will be compatible with the continuance of the habitat.

As proposed, the freshwater wetland will only enhance habitat values associated with the ESHA along the old Butcher Slough channel. The new pond will serve to buffer the channel habitat from the urban development to the east. In addition, many of the species of wildlife that utilize the channel habitat will also be able to use the freshwater wetland habitat. Thus, the proposed wetland will enhance the value of the channel habitat to wildlife.

Therefore, the Commission finds that the proposed project, as amended, is consistent with Section 30240 of the Coastal Act as the proposed creation of a freshwater wetland will not adversely affect Environmentally Sensitive Habitat and will be compatible with the continuance of the habitat.

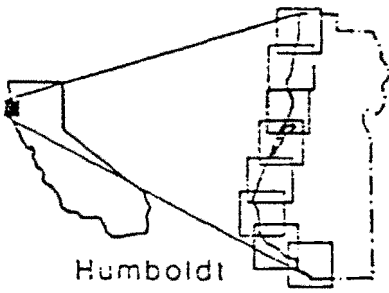
5. California Environmental Quality Act (CEQA).

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 conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment. As discussed above, the proposed amendment will not have any significant adverse impact on coastal resources or on the environment in general, within the meaning of CEQA.

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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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.



Humboldt

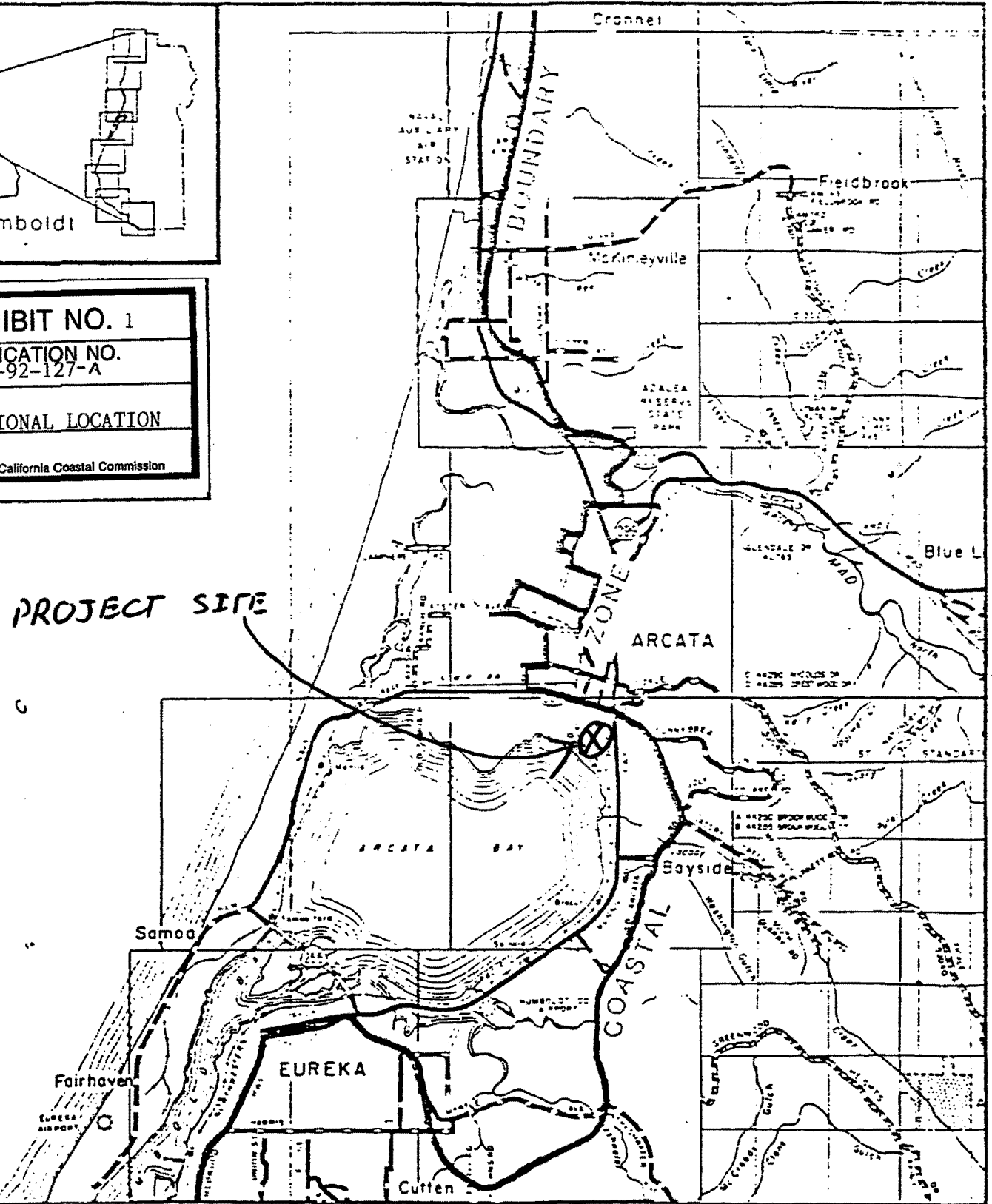
EXHIBIT NO. 1

APPLICATION NO.
1-92-127-A

REGIONAL LOCATION

California Coastal Commission

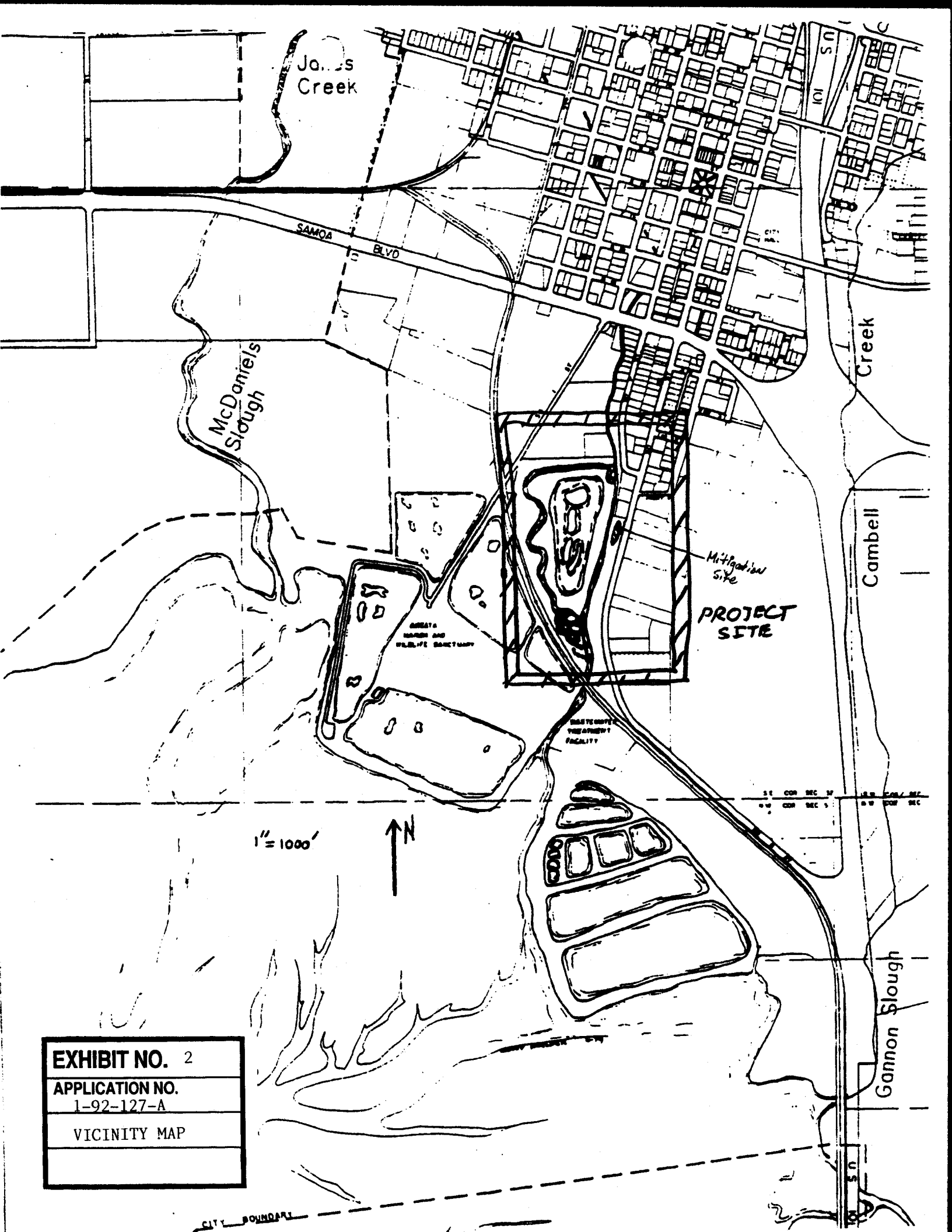
PROJECT SITE



California Coastal Commission

LOCATION MAP





James Creek

SAMOA BLVD

McDaniels Slough

Creek

Cambell

Mitigation Site

PROJECT SITE

AREA UNDER THE FUTURE BRIDGE

WASTEWATER TREATMENT FACILITY

| | | | | | |
|----|-----|--------|----|-----|--------|
| SE | CON | SEC 17 | SW | CON | SEC 18 |
| NE | CON | SEC 15 | NW | CON | SEC 16 |

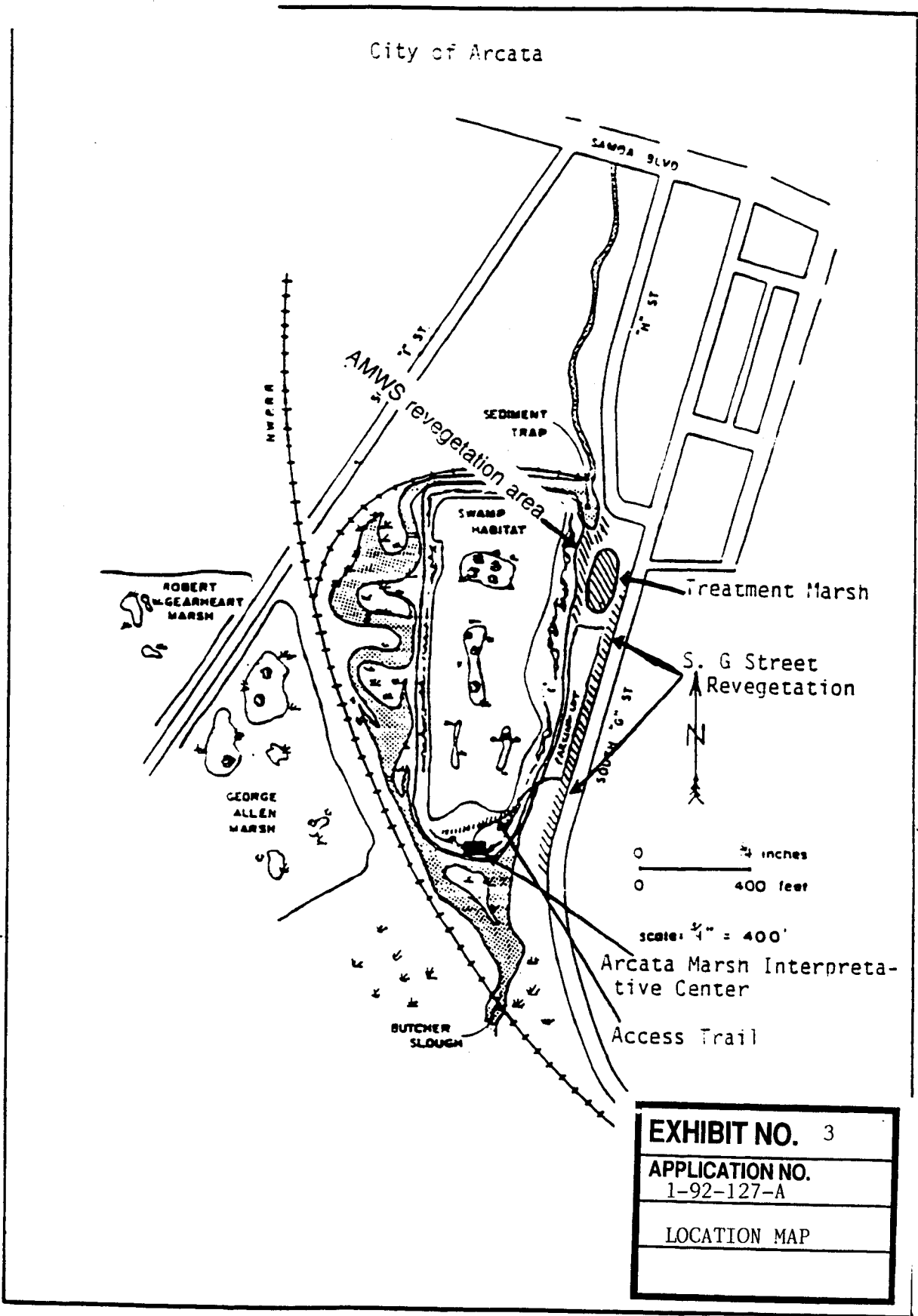
1" = 1000'



Gannon Slough

| |
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| EXHIBIT NO. 2 |
| APPLICATION NO. 1-92-127-A |
| VICINITY MAP |

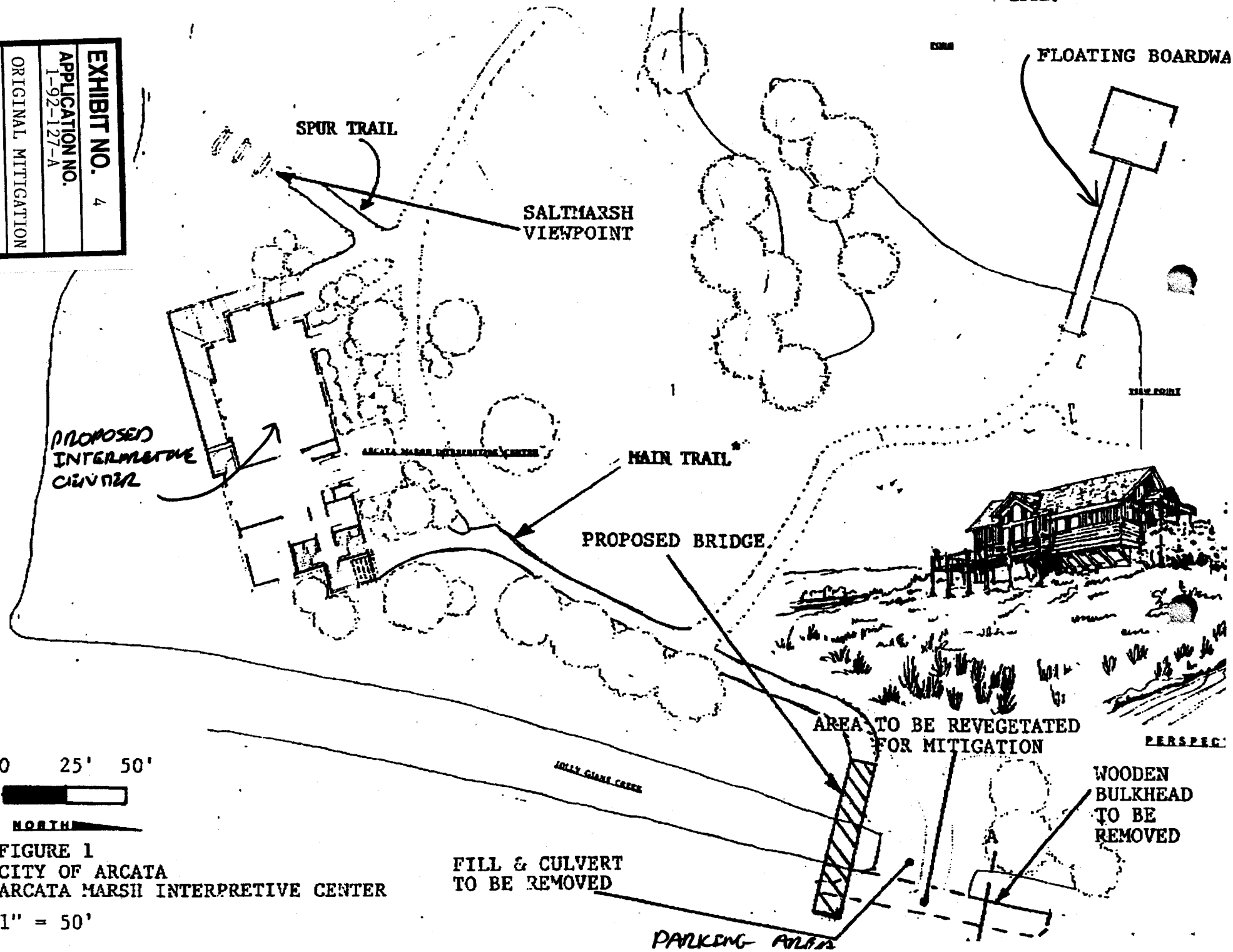
CITY BOUNDARY



South G Street/Arcata Marsh and Wildlife Sanctuary Enhancement Project Location

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| EXHIBIT NO. | 3 |
| APPLICATION NO. | 1-92-127-A |
| LOCATION MAP | |

| | |
|-------------------------------------|------------|
| EXHIBIT NO. | 4 |
| APPLICATION NO. | 1-92-127-A |
| ORIGINAL MITIGATION LOCATION | |



0 25' 50'

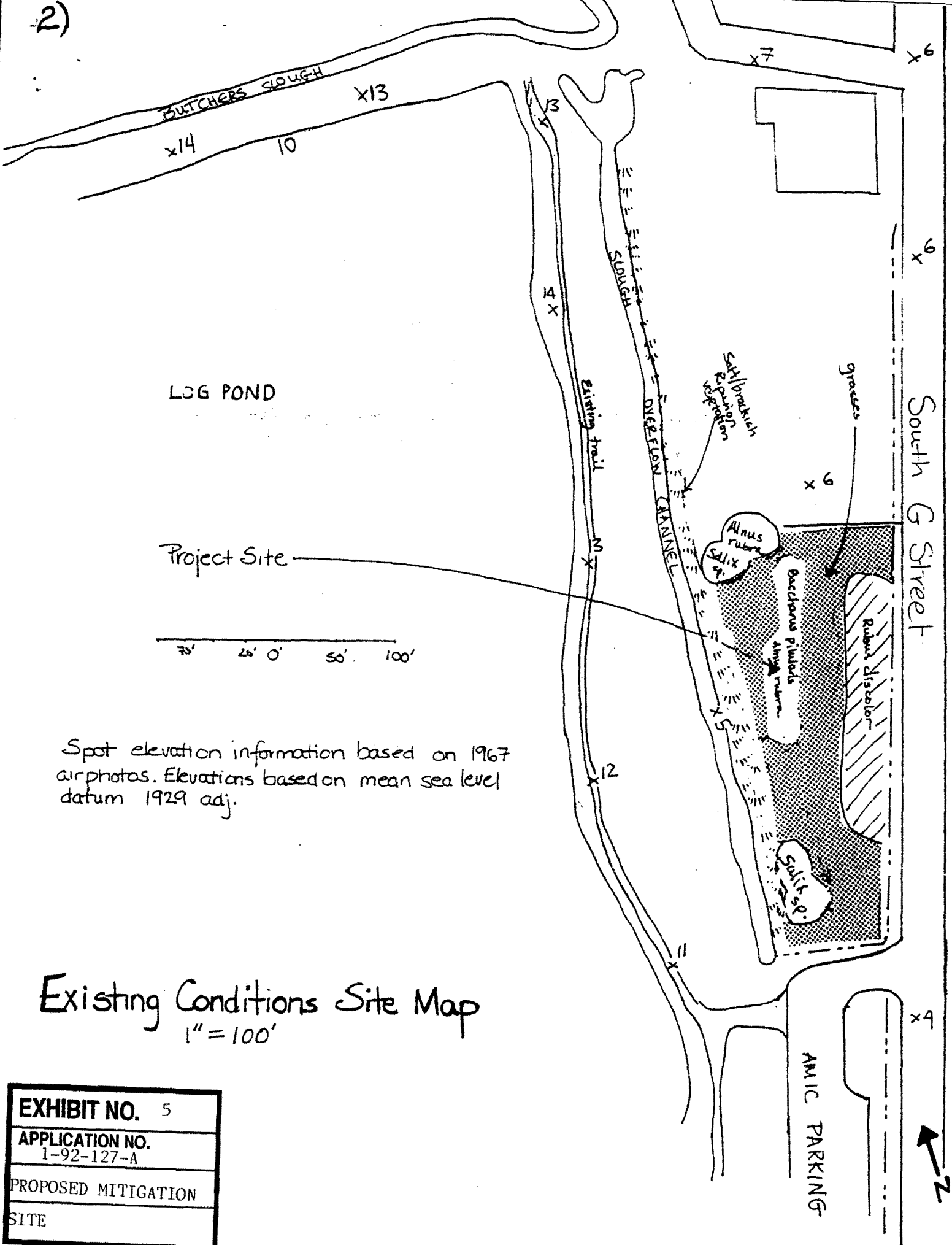


NORTH

FIGURE 1
CITY OF ARCATA
ARCATA MARSH INTERPRETIVE CENTER

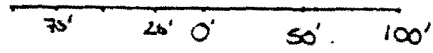
1" = 50'

2)



LOG POND

Project Site



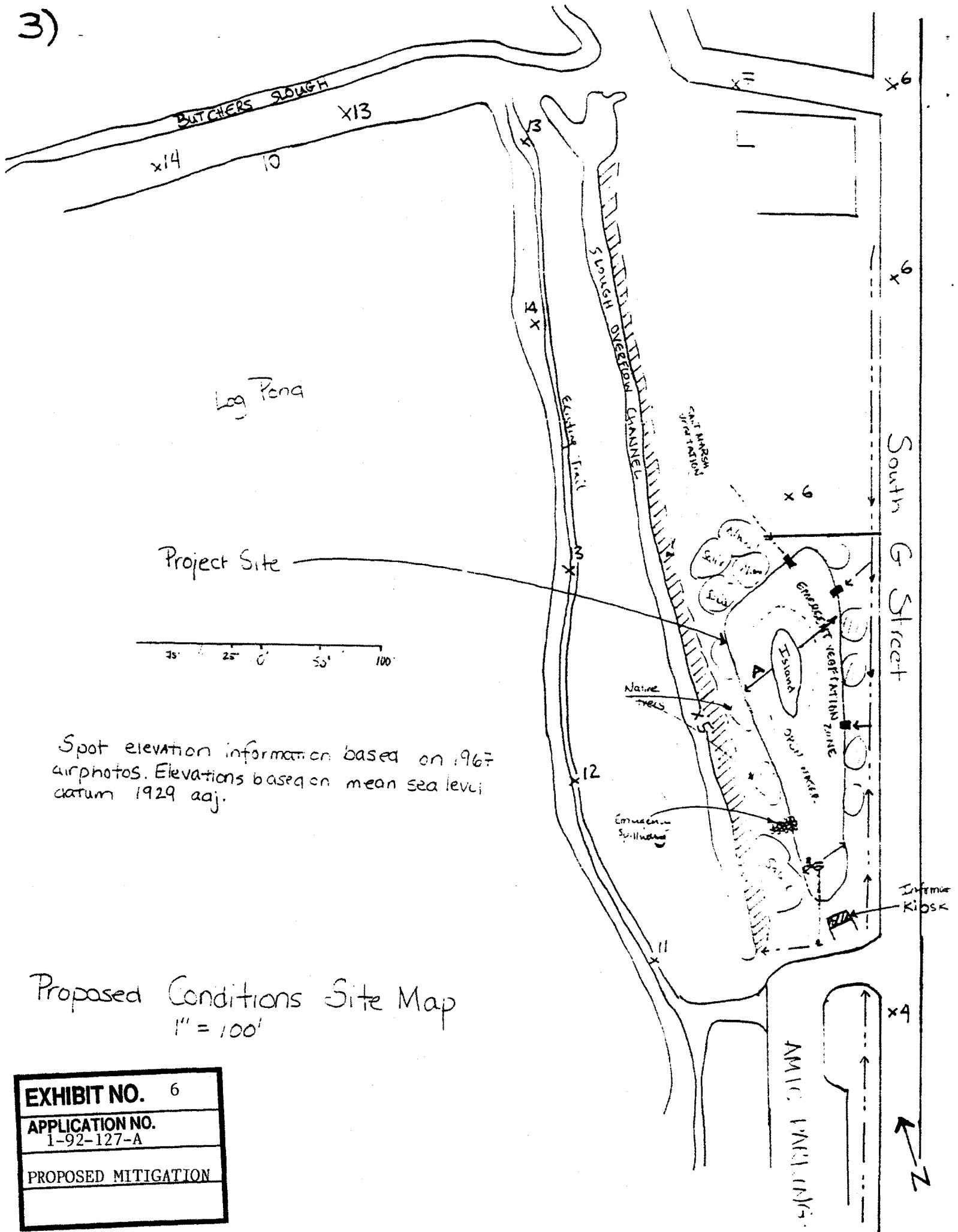
Spot elevation information based on 1967
 airphotos. Elevations based on mean sea level
 datum 1929 adj.

Existing Conditions Site Map

1" = 100'

| | |
|----------------------------|------------|
| EXHIBIT NO. | 5 |
| APPLICATION NO. | 1-92-127-A |
| PROPOSED MITIGATION | |
| SITE | |

3)

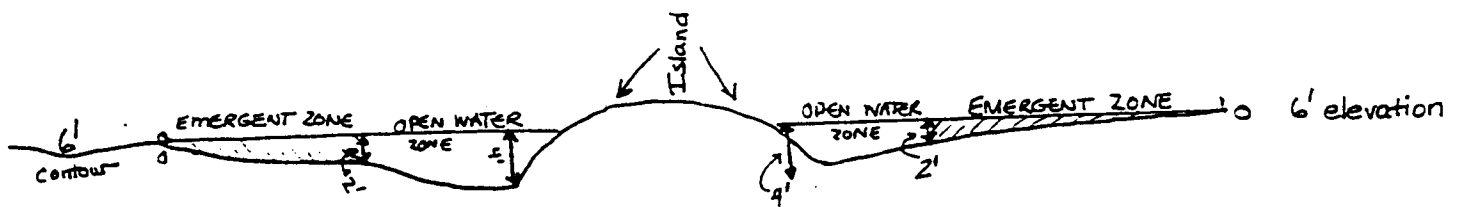


Spot elevation information based on 1967 airphotos. Elevations based on mean sea level; datum 1929 aaj.

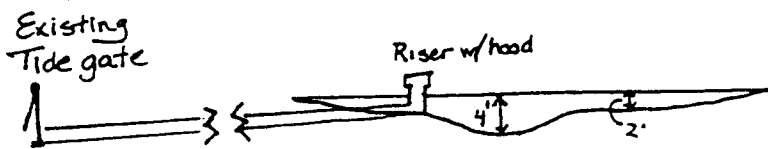
Proposed Conditions Site Map
 1" = 100'

| | |
|----------------------------|------------|
| EXHIBIT NO. | 6 |
| APPLICATION NO. | 1-92-127-A |
| PROPOSED MITIGATION | |

4) CROSS SECTIONS



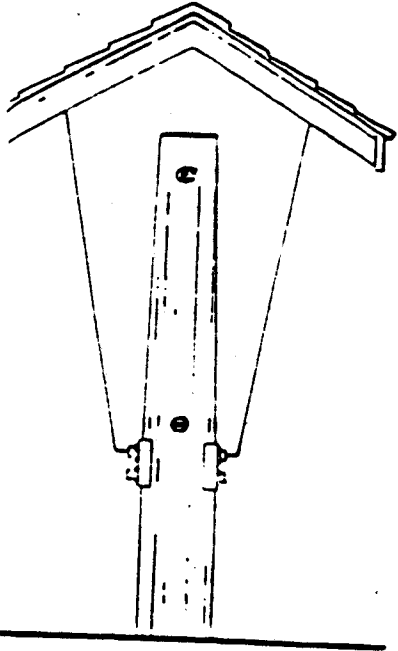
Section A 1" = 20'



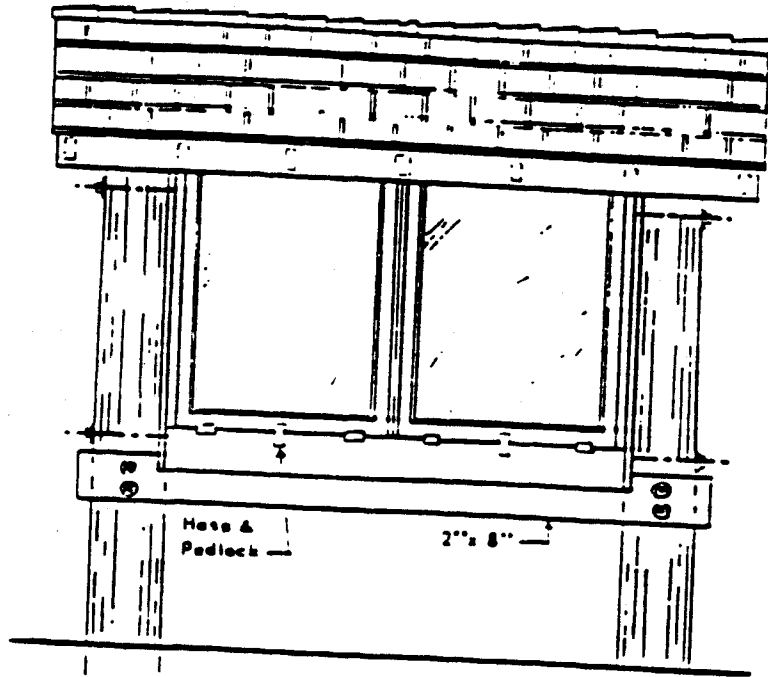
Section B 1" = 20'

| | |
|------------------------|------------|
| EXHIBIT NO. | 7 |
| APPLICATION NO. | 1-92-127-A |
| PROPOSED WETLAND | |
| CROSS-SECTIONS | |

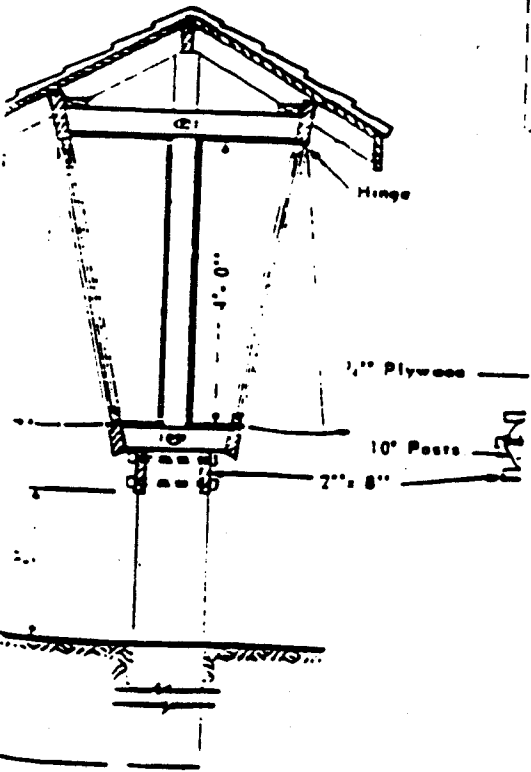
Stormwater Educational Display Schematic



END ELEVATION



SIDE ELEVATION



SECTION

| |
|--------------------------------------|
| EXHIBIT NO. 8 |
| APPLICATION NO. 1-92-127-A |
| EDUCATIONAL DISPLAY |
| |

CALIFORNIA COASTAL COMMISSION
NORTH COAST AREA
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
(415) 904-5260

F5h



Filed: July 22, 1992
49th Day: September 9, 1992
180th Day: January 18, 1993
Staff: Robert Merrill
Staff Report: July 31, 1992
Hearing Date: August 14, 1992
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 1-92-127

APPLICANT: CITY OF ARCATA

PROJECT LOCATION: At the Arcata Marsh and Wildlife Sanctuary, next to the former log pond off of South "G" Street, Arcata, Humboldt County (APN 503-241-01 & 503-241-16)

PROJECT DESCRIPTION: Develop a marsh interpretive center by (1) constructing a 1,540 square foot interpretive center building, (2) gravel a 20,000-square-foot parking area, (3) install a 400-square-foot floating boardwalk, (4) replace a culverted slough crossing with a 360-square-foot bridge, (5) improve pedestrian access trails, and (6) convert a 400-square-foot upland area to wetland for wetland fill mitigation.

Proposed Building
Coverage: 1,540 square feet
Parking spaces: 41
Ht abv fin grade: 20 feet
Plan designation: Coastal Natural Resource Protection, Public Facility (C-NRP;P-F)
Zoning: Coastal Natural Resource Protection, Public Facility (C-NRP;P-F)

LOCAL APPROVALS RECEIVED: City of Arcata City Council Certification of Environmental Impact Report on January 15, 1992

SUBSTANTIVE FILE DOCUMENTS: City of Arcata LCP; Coastal Development Permit No. 1-84-156

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following

| |
|------------------------|
| EXHIBIT NO. |
| APPLICATION NO. |
| ATTACHMENT NO. 1 |
| |

I. Approval with Conditions.

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions. (See Attached)

III. Special Conditions.

1. Wetlands Mitigation Plan

PRIOR TO ISSUANCE, the applicant shall submit for the review and approval of the Executive Director a revised wetland mitigation plan showing that 800 square feet of new wetland area, as opposed to the 400 square feet proposed by the applicant, will be created adjacent to Butcher Slough.

2. Monitoring Reports

By October 1st of each of the three full years after completion of the wetlands restoration work, the permittee shall submit for the review and approval of the Executive Director a monitoring report prepared by a qualified biologist approved by the Executive Director, containing an assessment of the condition of the planted cordgrass and salt marsh vegetation, and, if necessary, discussing likely reasons why any of the planted materials may have died or are in poor condition, and recommend any necessary corrective actions to achieve at least a 90% rate of coverage of the marsh plain by cordgrass and an 80% survival rate for the planted cordgrass.

3. Remedial Action

Within 30 days of approval of each monitoring report by the Executive Director, the permittee shall apply to the Commission for any necessary amendment to this permit for the corrective actions identified in the report, and shall complete such actions within 60 days of approval of any such amendment or within 60 days of approval of the monitoring report if no amendment is necessary.

IV. Findings and Declarations

The Commission hereby finds and declares:

1. Project and Site Description

The City of Arcata proposes to develop a marsh interpretive center at the Arcata Marsh and Wildlife Sanctuary. The specific site is an upland area adjacent to the former log pond off of South "G" Street, in Arcata (see Exhibits 1-5).

The City's innovative sewage treatment facility was one of the first to successfully utilize the natural capacity of wetlands to treat wastewater to both effectively address the City's sewage disposal needs and to expand and enhance wetland habitat. The City has become an international model of appropriate and successful wastewater reuse and wetland enhancement technologies. As a result, the Arcata Marsh and Wildlife Sanctuary receives a lot of visitors from around the world and there is a need for an interpretive center from which to begin tours of the marsh and provide general information on the history and processes of the sanctuary.

The proposed improvements include a (1) 20-foot high 1,540-square-foot main building, (2) an approximately 20,000 square-foot graveled parking area, (3) trail improvements which include the replacement of a culverted slough crossing with a 360-square-foot bridge over Butcher Slough to provide better access to the interpretive center from the proposed parking area and to enhance nature study at the Sanctuary, (4) a 400-square-foot floating boardwalk to extend 50 feet out into an existing pond on the site, and (5) the creation of approximately 400-square-feet of new wetland area adjacent to Butcher Slough to mitigate for the wetland fill associated with the new boardwalk (see Exhibits 5-8). The new wetlands would be created by removing existing wooden bulkheads and excavating back the banks of the existing slough channel, and planting cordgrass in the affected area (see Exhibit 8).

The interpretive center will be built on the site of a former lumber mill, and portions of the old mill foundations that still remain will be utilized in the new building. The site is on the southern dike of a former 9-acre log pond at an elevation of about 11-14 feet above mean sea level, making it 7-10 feet above most of the surrounding land. The location provides views of most of the components of the Arcata Marsh Wildlife Sanctuary, including saltmarsh, freshwater marsh, the wastewater treatment plant, oxidation ponds, wastewater aquaculture facility, and Humboldt Bay. In 1985/86, much of the project vicinity was enhanced for wildlife habitat and improved for public access use as part of the Butcher's Slough Wetland Restoration Project. The Commission granted Coastal Development Permit No. 1-84-156 and a subsequent amendment for the project. A large part of the project involved recontouring the old log pond and restoring it to marsh. In addition, Butcher Slough which flows through the site and connects Jolly Giant Creek with Arcata Bay, was rerouted and restored to expand wetland habitat. The project also included the development of an existing trail network on the site.

2. Fill in Wetlands

The proposed project involves the placement of fill in coastal waters. The Coastal Act defines fill as including "earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area." The proposed floating boardwalk and the replacement bridge over Butcher's Slough both include fill. The boardwalk will cover approximately 400 square feet of created freshwater marsh. The purpose of this structure is to allow hikers and students a unique vantage point from within a freshwater marsh. The new 360-square-foot bridge will take the place of an an existing culverted slough crossing.

Several sections of the Coastal Act address the placement of fill in coastal waters and the protection of environmentally sensitive habitat. Section 30231 of the Coastal Act provides as follows, in applicable part:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes...shall be maintained and, where feasible, restored...

Section 30233 of the Coastal Act provides as follows, in applicable part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

Coastal Act Section 30233(a) sets forth a three part test for all projects involving the filling of wetlands. These are:

- a. that the project has no feasible less environmentally damaging alternative;
- b. that feasible mitigation measures have been provided to minimize adverse environmental effects; and
- c. that the project is limited to one of the eight specific uses listed above.

These policies set forth a number of different limitations on what projects may be allowed in wetland areas. The first limitation has to do with the uses to be made of the wetlands. Under Section 30233(a), fill in coastal waters may be placed for only eight different uses, one of which is nature study. A primary purpose of the Arcata Marsh Interpretive Center is to help educate students and the general public about the natural values of the various wetlands habitats that exist at the Arcata Marsh Sanctuary. As an essential element of the project to provide access to the interpretive center building, the 360-square-foot bridge over Butcher's Slough is a part of this nature study use. As noted previously, the specific purpose of the boardwalk is to allow students and others a unique vantage point from which to study the freshwater marsh environment of the pond. Therefore, the Commission finds

that the purpose of the fill is consistent with subsection (8) of Section 30233, which allows fill for nature study, aquaculture, or similar resource dependent activities.

A second test established by Section 30233 is whether the proposed project is the least environmentally damaging feasible alternative. There appears to be no other alternative to the proposed access bridge that would be less environmentally damaging. Visitors to the interpretive center will have to cross Butcher's Slough to get to the main building. A culverted crossing of the slough similar to the existing culverted crossing could be utilized but this alternative results in far more solid fill in the slough and eliminates the opportunities to increase the net amount of salt marsh that the bridge project will provide by restoring areas previously covered by fill for the old crossing. An alternative to the boardwalk would be to provide viewing areas for nature study along the dike, but this alternative could not provide the kind of close-up perspective that a boardwalk right on top of the water can provide. Constructing the nature study facility as a boardwalk, rather than as a solid fill, and limiting its size to the 8-foot-wide by 50-foot-long facility proposed minimizes its impacts. Therefore, the Commission finds that the proposed project involves the least environmentally damaging alternative.

The third fill test established by Section 30233 is whether feasible mitigation measures have been provided to minimize adverse environmental effects. As noted previously, a total of 400 square feet of fill will be placed in the freshwater marsh pond for a boardwalk and a total of 360 square feet of fill will be placed for the access bridge. In net however, the project will result in no net increase of fill.

No net increase results because of the project design and because of wetland fill mitigation included in the project. The fill for the access bridge results in no net fill because the bridge will replace an existing culverted slough crossing. The culverted crossing and its fill will be removed and salt marsh restored when the new bridge is completed.

To mitigate for the impacts of the 400 square feet of wetland fill associated with the boardwalk, the City proposes to expand the wetlands by 400 square feet along Butcher Slough by removing existing wooden bulkheads and excavating back the banks of the existing slough channel, and planting cordgrass in the affected area. This mitigation amounts to a ratio of 1:1 replacement for wetlands lost through the project. Because of the scarcity of freshwater marsh habitat in the coastal zone, the Commission has frequently required mitigation for loss of such habitat at a ratio of greater than 1:1. In this case, environmental review indicated that a mitigation area of 800 square feet could be feasibly created. Restoration of the full 800-square-foot area would provide a mitigation ratio of 2:1 for the boardwalk project, and the Commission finds that it is appropriate to require such mitigation in this case.

The Commission finds that these mitigation measures are feasible and will minimize the adverse environmental effects of the fill. Replacing the culverted crossing with a bridge is a feasible option that will improve habitat values by increasing vegetated area and water surface area. The expansion of Butcher's Slough wetlands by 800 square feet, as required by Condition No. 1, is similar to work the City performed along a much larger extent of Butcher Slough as part of the 1985/86 Butcher Slough Restoration Project. The success of that project demonstrates that site conditions are conducive to successful restoration. The mitigation will be provided on-site and will build on the habitat restoration and enhancements previously performed by the City.

To ensure the success of the mitigation work, however, the Commission attaches Special Condition No. 2, which requires the submittal of monitoring reports for the review and approval of the Executive Director prepared by a qualified biologist for each of the first three years after the mitigation work has been completed. Condition No. 3 also requires the City to take any needed remedial measures identified in the monitoring reports and apply to the Commission for any needed permit amendment to authorize such work.

The Commission finds that as conditioned to require additional mitigation, plus monitoring and remedial action if necessary to ensure the success of the proposed wetland and mitigation measures, the proposed project is consistent with Section 30233 of the Coastal Act in that the proposed fill is for an allowable use, there are no feasible less environmentally damaging alternatives, and that feasible mitigation measures have been provided to minimize adverse environmental effects.

3. Public Access.

Sections 30210, 30211, and 30212 require that maximum public access be provided, that new development not interfere with the public's right of access to the sea, and that public access from the nearest public roadway to the shoreline be provided in new development.

Under the Coastal Act, Butcher's Slough is considered an arm of the sea. Therefore, the project site which is on and adjacent to the slough is considered to be located between the first public road and the sea.

The proposed project will greatly enhance public access at the project site. The main purpose of the Marsh Interpretive Center is to facilitate the study and appreciation of the coastal wetlands in the project area. Thus, use of the facility itself would enhance the public access user's experience. More directly, the project will enhance public access by the proposed trail improvements. These trail improvements will make use of existing trails easier, especially for the handicapped, and will provide new areas to walk such as out on to the proposed boardwalk. Therefore, the Commission finds that the proposed project is consistent with the public access policies of the Coastal Act.

1-92-127

CITY OF ARCATA

Page 8

4. City of Arcata LCP.

The City of Arcata LCP designates and zones the project site for Coastal Natural Resource Protection, Public Facility (C-NRP;P-F). This designation and zoning allows for the proposed interpretive center use. Therefore, the project is consistent with the City of Arcata Certified Local Coastal Program.

5. California Environmental Quality Act (CEQA).

As conditioned to include mitigation, monitoring of the proposed wetland mitigation measures, additional wetland and remedial action if necessary to ensure the success of the mitigation, the project will not have a significant adverse effect on the environment, as defined by CEQA. The lead agency for the project, the City of Arcata, certified an Environmental Impact Report for the project on January 15, 1992.

RSM/ltc.
3364p

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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

