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Filed: April 30, 2001
49th Day: June 18, 2001
Staff: Tiffany S. Tauber
Staff Report: May 31, 2001
Hearing Date: June 14, 2001
Commission Action:

STAFF REPORT: APPEALSUBSTANTIAL ISSUE

LOCAL GOVERNMENT: County of Humboldt

DECISION: Approval with Conditions

APPEAL NO.: **A-1-HUM-01-022**

APPLICANT: **Humboldt Area Foundation**

PROJECT LOCATION: At the northwest corner of the intersection of Indianola Road with Indianola Cut-Off, on property known as 373 Indianola Road approximately 0.4 miles southeast of Highway 101 and Humboldt Bay, midway between Arcata and Eureka, Humboldt County. (APN 402-031-29)

PROJECT DESCRIPTION: A two year extension of an approved Coastal Development Permit for the construction of (1) a 6,390-square-foot, 33-foot-high office building to house public meeting facilities, support office staff, and a research library, (2) a 65-stall paved parking lot; (3) an unimproved foot path to connect the existing facility to the proposed new facility; (4) excavation of approximately 800 cubic yards of soil, and

placement of 820 cubic yards of material for building pad and parking areas; (5) construction of on-site drainage facilities; and (6) construction of off-site drainage facilities on an adjacent parcel and in the Indianola Road right of way.

APPELLANTS:

- (1) John Perrott, representing Save the Public's Lynn Vietor Nature Preserve (Appellant A)
- (2) Charles Thomas (Appellant B)

SUBSTANTIVE FILE:
DOCUMENTS

- (1) Humboldt County File No. CDP-99-23, and
- (2) Humboldt County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

1. **SUMMARY OF STAFF RECOMMENDATION: NO SUBSTANTIAL ISSUE**

The staff recommends that the Commission, after public hearing, determine that NO substantial issue exists with respect to the grounds on which the appeal has been filed. These grounds include alleged project inconsistencies with provisions of Humboldt County's certified LCP pertaining to (1) eligibility to apply for permits, (2) visual resources, (3) recreation, (4) compatibility with zoning, (5) environmentally sensitive habitat, (5) wetland restoration, (6) minimizing vehicle miles and energy consumption, (7) locating public facilities, (8) traffic, and (9) required findings for approving a permit extension. The appellants have not raised any substantial issue of inconsistency of the local approval with the certified LCP.

Humboldt County approved a two-year extension of a coastal development permit for the construction of (1) a 6,390-square-foot, 33-foot-high office building to house public meeting facilities, office staff, and a research library, (2) a 65-stall paved parking lot; (3) an unimproved foot path to connect the existing facility to the proposed new facility; (4) excavation of approximately 800 cubic yards of soil, and placement of 820 cubic yards of material for building pad and parking areas; (5) construction of on-site drainage facilities; and (6) construction of off-site drainage facilities on an adjacent parcel and in the Indianola Road right of way.

The project is located at the northwest corner of the intersection of Indianola Road with Indianola Cut-Off, on property known as 373 Indianola Road approximately 0.4 miles southeast of Highway 101 and Humboldt Bay, midway between Arcata and Eureka in Humboldt County. The site is located among primarily rural residential development, much of which is minimally visible due to the tall, dense vegetation present in the area. Adjacent to the site to the north and northeast are agricultural grazing lands set against a backdrop of forested hills that comprises the majority of the viewshed as seen from Highway 101.

Two separate appeals were filed by (1) John Perrott representing Save the Public's Lynn Vietor Nature Preserve (Appellant A) and (2) Charles Thomas (Appellant B). The appeals raise invalid grounds and several valid grounds for appeal as summarized below.

Appellant A raises two invalid grounds for appeal in that these contentions do not allege an inconsistency of the local approval with the certified LCP including (1) protection of an architecturally significant structure, and (2) the County's compliance with CEQA requirements. Although the certified LUP and the Coastal Act address the protection of archaeological and paleontological resources, neither the LCP nor the Coastal Act specifically address protection of historic or architecturally significant structures. Thus, this contention is not a valid ground for appeal because the contention does not allege an inconsistency of the local approval with the certified LCP. Similarly, the CEQA contention does not allege an inconsistency of the local approval with the certified LCP.

The appellants also raise several valid grounds for appeal that involve alleged inconsistencies with the certified LCP. Staff notes that the appellants raise numerous contentions about the underlying consistency of the project as approved with the policies of the certified LCP without referring to any changes to the development since issuance of the coastal development permit or referring to any specific findings that were made when the permit was granted that can no longer be made to approve the permit extension. Whether or not the appellant alleges that circumstances have changed since the granting of the original permit, staff has evaluated all of the various contentions raised by the appellants and has determined that none of these contentions raise a substantial issue of conformance of the local approval with the certified LCP.

The primary issues raised by the appellants include the project's inconsistency with LCP policies regarding (1) eligibility to apply for permits, (2) visual resources, (3) recreation resources, (4) consistency with the zoning designations, and (5) required findings for approving a permit extension. In addition, the appellants raise contentions that allege project inconsistency with LCP policies that do not apply to the approved development or setting including, (6) environmentally sensitive habitat, (7) wetland restoration, (8) minimizing vehicle miles and energy consumption, (9) locating public facilities where they do not overburden one site, and (10) traffic.

First, Appellant A contends that the County acted inconsistent with Section A315-6 of the Coastal Zoning Code regarding persons who are eligible to apply for a permit and requires that an eligible applicant be the property owner or an authorized agent of the owner. The appellant contends that the Humboldt Area Foundation (Foundation) is not eligible to apply for development permits. The appellant asserts that the subject site was established as a public nature preserve by the founder of the Foundation in her will and that the County acted on the permit application without knowing that the Foundation was the trustee of the property and not the owner of the property. This issue has been at the center of recent legal disputes between the appellant and the Foundation and was addressed by the Humboldt County Superior Court in 1994 and 1999. The Court ruled that the Foundation is the sole trustee and that the appellant and his siblings have no right or interest in the Trust. Thus, the County's determination that the Foundation could apply for a coastal permit as the authorized agent of the property owner

pursuant to Section A315-6 of the Coastal Zoning Code is based on a high degree of legal support. Thus, staff believes there is no substantial issue raised by the alleged ineligibility of the Foundation to apply for development permits.

Secondly, the appellants contend that the project as approved is inconsistent with LUP Section 3.40 policies regarding protection of visual resources. The appellants contend that the development would not be visually compatible with or subordinate to the character of the surrounding area and would be visible from public roads, including Highway 101. Furthermore, Appellant B contends that the grading associated with the development would not maintain the natural topography of the area.

The subject site is barely visible from Highway 101 due to the intervening distance, tall vegetation, and several residential structures, and due to its location at the base of a hillside. The building and parking area would be visible from public roads including Indianola Cutoff and Indianola Road. However, the approved project has been sited and designed to be visually unobtrusive. The building is proposed to be situated against the base of the hillside so as to not project above the ridge or tree line and was designed to be consistent with the rural residences in the area. Furthermore, the County's approval was conditioned to require a landscaping plan to screen the development from the public roads and to require monitoring and maintenance to ensure that the landscaping remains healthy and in place. The applicant has prepared a schematic landscaping plan showing extensive planting around the perimeter of the parking area and around the building that would screen the development from the public roads. In addition, the project does not involve the removal of the mature vegetation including tall fir and redwood trees along the hillside that provide a backdrop to the development. The project involves 800 cubic yards of excavation and placement of 820 cubic yards of material primarily to facilitate construction of a building pad at the base of the hillside. The limits of grading are along the edge of the slope and would not result in a significant change to the topography of the site. Thus, staff believes no substantial issue is raised with regard to conformance with the visual resource policies of the LCP.

Thirdly, the appellants contend that the subject site is a popular visitor destination point and that the project as approved is inconsistent with policies of LUP Section 3.27 pertaining to low-cost visitor serving recreation. The appellants contend that the approved development would interfere with the public's ability to use and enjoy the Lynn Vietor Nature Preserve at the site and that recreational use of the site should be given priority over the proposed commercial-like development. The Lynn Vietor Nature Preserve (Preserve) was created in the will of the founder of the Humboldt Area Foundation and does provide recreation opportunities to the public. The proposed development is sited at the southwesterly portion of the site at the base of the forested hillside below the public trail. The approved development would not encroach upon or eliminate the existing public trail through or around the forest. Furthermore, the development would not change or preclude the public's ability to access or use the site for recreational purposes. While the subject site provides spectacular trails for public use, the Lynn Vietor Nature Preserve is not recognized as a coastal recreation area, or as a coastal access point in the certified LCP. The subject site does not provide access to or along the coast, as the site is located nearly half a mile

inland from Humboldt Bay on the east side of Highway 101. Therefore, staff believes the contention regarding recreation raises no substantial issue.

Fourth, the appellant contends that the project as approved is inconsistent with Zoning Code section A313-17 because the approved development is located in an area zoned Rural Residential Agriculture (RRA) and the appellant contends that the approved development would not be compatible with the rural residential and agricultural uses of the area. The Coastal Zoning Ordinance allows for "Civic Use Types" as a conditionally permitted use in the Rural Residential Agricultural zone which provides for educational and cultural uses of importance to the public. Furthermore, Community Assembly is designated as a conditionally permitted use in the Rural Residential Agriculture zone which encompasses "activities typically performed by, or at...*private non-profit clubs...meeting halls.*" The County determined that the approved project which provides meeting facilities, a research library, and public services by a private nonprofit organization is consistent with the conditional uses in the RRA zone. The County processed a conditional use permit accordingly. Therefore, staff believes the contention regarding conformance with the zoning designation raises no substantial issue.

Fifth, Appellant A contends that the approved project is inconsistent with Zoning Code Section A315-24 that requires that to approve an extension of a development permit, the County must find that the development has not changed for which the permit was originally granted and the findings that were made when the project was originally approved can still be made. Appellant A contends that the County acted on the original permit without knowing or acknowledging that the Humboldt Area Foundation were the trustees of the property and not the owners, and that the subject site was a public nature preserve. The appellant implies that this information was not previously disclosed and therefore constitutes a change in the development that causes the approval of the permit extension to be inconsistent with the requirements of Zoning Code Section A315-24.

As discussed above, the appellant's contentions regarding the ownership of the property and the Foundation's ability to develop the site have been settled through legal measures. The Lynn Vietor Nature Preserve is available to the public, but no part of the preserve has ever been transferred to public ownership. Moreover, the nature preserve is not designated in the certified LCP, which was standard of review for the County's approval of the development. The staff believes that the question of the Foundation as owner versus trustee does not constitute a change to the development for which the permit was granted, or require a change to the findings that were made when the permit was originally granted. Therefore, staff believes the contention regarding recreation raises no substantial issue. Therefore, staff believes the contention regarding required findings for approving a permit extension raises no substantial issue.

In addition to the five (5) contentions outlined above, the appellants raise several contentions that allege inconsistency of the local approval with LCP policies that do not apply to the approved development or project setting including, (6) environmentally sensitive habitat, (7) wetland restoration, (8) minimizing vehicle miles and energy consumption, (9) locating public facilities where they do not overburden one site, and (10) traffic.

The project area is part of a former orchard for which there is no evidence that rare or endangered species or other sensitive habitat areas are present. As there are no wetlands present on the site and no wetlands that would be affected by the approved development, wetland restoration or mitigation is not a component of the subject development. In addition, the approved development is centrally located midway between Arcata and Eureka and would be located adjacent to the Foundation's existing facilities. Therefore, staff believes that the location of the approved project does not result in requiring excessive vehicle miles or energy consumption. Furthermore, there are no other facilities similar to the approved development in the area that would result in overcrowding or overuse of the area. Lastly, as the LUP policy referenced by the appellant pertains to required findings for approving recreational development and as the approved project is not recreational development, the traffic-related policy referenced by the appellant does not apply to the subject project.

For all of the above reasons, staff recommends the Commission find that the appeal raises no substantial issue of consistency with the certified LCP. The Motion to adopt the Staff Recommendation of No Substantial Issue is found on Page 7.

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 certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within one hundred feet of a wetland or stream or 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 and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The Commission has jurisdiction over this appeal under Public Resources Code section 30603 which provides that the Commission has jurisdiction over "an action taken by a local

government on a coastal development permit application" that fits into one of the categories enumerated in section 30603. The County's decision to extend the permit constitutes "an action" under section 30603. Furthermore, the Commission has jurisdiction over the County's action under subsection (a)(4) of section 30603 because the County's action extends the development that is not listed as a principal permitted use in the County's LCP. Accordingly, the grounds for appeal may include an allegation that the development does not conform to the certified LCP.

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. If the Commission were to conduct a de novo hearing on the appeal, because the proposed development is not between the first road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellants 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

Two separate appeals were filed. Both appellants filed their appeals to the Commission in a timely manner on April 30, 2001 within 10 working days after receiving notice of final local action on April 16, 2001 (Exhibit Nos. 8, 9, & 10).

I. MOTION, STAFF RECOMMENDATION, AND RESOLUTION

MOTION: I move that the Commission determine that Appeal No. A-1-HUM-01-022 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

STAFF RECOMMENDATION ON NO SUBSTANTIAL ISSUE:

Staff recommends a YES vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will

become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-1-HUM-01-022 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 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. BACKGROUND

The Humboldt Area Foundation (Foundation) is a nonprofit, philanthropic agency that supports a variety of community programs and provides community services including grants, nonprofit training, library resources and meeting facilities for Humboldt County and North Coast residents and organizations. The Foundation was founded in 1972 by Vera Perrott Vietor. The existing Foundation facilities are located in the former Vietor residence among the 14-acre Lynn Vietor Nature Preserve that was established by the founder in her will. Since its creation, the Foundation has continued to grow its assets and expand its services to the community. As a result of its continued growth, the Foundation has been planning to expand its facilities and office space, which is the development that is the subject of this appeal.

In October 1998, the applicant applied to the County for a coastal development permit, conditional use permit, and special permit for the construction of expanded meeting and office facilities including a new 6,390-square-foot building, 65-stall parking lot, drainage improvements, and a foot path to connect the new facilities with the existing facilities. The Humboldt County Planning Commission adopted a Mitigated Negative Declaration and approved the permits on May 10, 1999. Following approval of the original permits, one of the appellants, John Perrott - the nephew of Vera Perrott Vietor - filed a lawsuit against the Foundation challenging the use of its charitable assets. Mr. Perrott challenged, in part, that developing the site for expanded office facilities breached the conditions of his aunt's will that require maintaining the property as a public nature preserve. In February, 2001, the Humboldt County Superior Court dismissed the lawsuits and determined that the approved project did not breach the conditions of the will and "in no way despoils the property." The Judgement of the Humboldt County Superior Court was unanimously upheld by the Court of Appeal for the First Appellate. The California Supreme Court subsequently denied the Petition for Review.

As a result of the project delays caused by legal disputes, the applicant applied for a permit extension, which was done in a timely manner. The permit extension was approved by the Humboldt County Planning Commission on January 18, 2001 and is the subject of this appeal.

John Perrott (Appellant A) appealed the permit extension approval to the Humboldt County Board of Supervisors and the appeal was denied at the Board hearing on March 27, 2001. Both appellants filed their appeals to the Commission in a timely manner on April 30, 2001, the last day of the appeal period, within 10 working days after receiving notice of final local action by the Board of Supervisors.

B. APPELLANTS' CONTENTIONS

The Commission received two appeals of the County of Humboldt's decision to approve the permit extension. The appeals were filed by: (1) John Perrott, representing Save the Public's Lynn Vietor Nature Preserve (Appellant A), and (2) Charles Thomas (Appellant B).

The permit extension is for the construction of: 1) a 6,390 square-foot, 33-foot-high, office building to house public meeting facilities, support office staff, and a research library; 2) a 65-stall paved parking lot to service the new building; 3) a foot path to connect the existing facility to the new facility; 4) excavation of approximately 800 cubic yards of soil, and placement of 820 cubic yards of material for building pad and parking areas; 5) construction of on-site drainage facilities; and 6) construction of off-site drainage facilities on adjacent parcel and in the Indianola Road right of way. The property is currently developed with a 21-stall parking lot and a 3,200-square-foot building that is currently being used as the Foundation's main office, research library, and conference rooms. The site is located in the Indianola area on the north side of Indianola Road at the northeast corner of the intersection of Indianola Road with Indianola Cutoff on the property known as 373 Indianola Road.

Both Appellant A and Appellant B raise contentions alleging inconsistency of the local action with the County's LCP policies regarding visual resources and low cost visitor-serving recreation. In addition, Appellant A raises contentions alleging inconsistency of the local action with the County's LCP policies regarding eligibility to apply for development permits, compatibility with the zoning designations, wetland restoration, minimizing vehicle miles and energy consumption, locating public facilities, environmentally sensitive habitat areas, and traffic. The appellants' contentions are summarized below. The full text of Appellant B's contentions is included as Exhibit No. 10. Due to the length of Appellant A's contentions, only excerpts from the submitted appeal text are included as Exhibit No 9.

1. Applicant is not eligible to apply for development permits

Appellant A contends that the County acted inconsistent with application procedures in the LCP regarding persons who are eligible to apply for a permit. Appellant A contends that the Humboldt Area Foundation (Foundation) is not eligible to apply for development permits. The appellant asserts that the subject site was established as a public nature preserve by the founder of the Foundation in her will and that the County acted on the permit application without knowing that the Foundation was the trustee of the property and not the owner of the property. The appellant further contends that as a public nature preserve, the public, and not the Humboldt Area Foundation, are the owners of the property.

2. Project inconsistency with LCP visual resource protection policies

The appellants contend that the project as approved is inconsistent with LUP policies regarding protection of visual resources. The appellants contend that the development would not be visually compatible with the character of the surrounding area. The appellants contend that the development would be visible from public roads including Indianola Cutoff, Indianola Road, and Highway 101. The appellants further contend that the County's approval is inconsistent with LCP policies that require new development in coastal scenic areas that is visible from Highway 101 to be subordinate to the character of the designated area. Furthermore, the appellants contend that the grading associated with the development would not maintain the natural topography of the area.

3. Project inconsistency with LCP recreation policies

The appellants contend that the subject site is a popular visitor destination point for recreational use in the Indianola area and would not be protected. The appellants contend that the project as approved is inconsistent with LUP policies pertaining to low-cost visitor serving recreation. The appellants contend that development would interfere with the Lynn Vietor Nature Preserve that the appellants consider to be a low-cost visitor serving recreation destination. The appellants contend that the approved project is not consistent with LUP policies requiring protection of lower cost visitor and recreational facilities and requiring that upland areas necessary to support coastal recreational uses be reserved for such uses, where feasible.

Additionally, the appellants contend that the approved development is inconsistent with LUP policies that require the use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation be given priority over other types of development including general commercial development. The appellants contend that the approved development would interfere with the public's ability to use and enjoy the Lynn Vietor Nature Preserve at the site and that recreational use of the site should be given priority over the proposed commercial-like development.

4. Project inconsistency with zoning designations

The appellant contends that the project as approved is inconsistent with Zoning Code section A313-17 because the approved development is not consistent with the zoning of the subject site. The subject site is zoned Rural Residential Agriculture and the appellant contends that the approved development would not be compatible with the rural residential and agricultural uses of the area.

5. Project inconsistency with LCP environmentally sensitive habitat area policies

Appellant A contends that the approved project is inconsistent with LUP policies pertaining to the protection of environmentally sensitive habitat areas. The appellant contends that the project

site should be considered an environmentally sensitive habitat area and should be protected as such.

6. Project inconsistency with wetland restoration policies

Appellant A contends that the site is suitable for wetland restoration and should be used to create wetlands and a wetland "mitigation bank" rather than for the construction of the approved development and cites LUP Policy 3.30(B)(5)(a) pertaining to wetland restoration. This policy encourages "mitigation banking" to facilitate projects that are permitted under Section 30233 of the Coastal Act.

7. Project inconsistency with minimizing vehicle miles and energy consumption

Appellant A contends that the approved project is inconsistent with the LUP Policy 3.50(B) that incorporates Section 30253(4) of the Coastal Act and requires that new development minimize energy consumption and vehicle miles traveled. The appellant contends that the development should be located in an urban area as opposed to a rural area which would minimize vehicle miles and energy consumption.

8. Project inconsistency with locating public facilities including parking

Appellant A contends that the approved project is inconsistent with Section 3.40 of the LUP that requires public facilities, including parking, to be distributed throughout an area to prevent overcrowding or overuse of any one area.

9. Project inconsistency with traffic requirements

Appellant A contends that the approved project is inconsistent with LUP Section 3.27(B)(2) pertaining to traffic requirements for recreational development. The applicant contends that the vicinity of the development already experiences traffic problems and the approved development would exacerbate those problems.

10. Inconsistency with required findings for approval of a permit extension

Appellant A contends that the County acted on the original permit without knowing or acknowledging that the Humboldt Area Foundation are the trustees of the property and not the owners and that the subject site was a public nature preserve. The appellant implies that this information was not previously disclosed and therefore constitutes a change in the development that causes the approval of the permit extension to be inconsistent with the requirements of Zoning Code Section A315-24.

C. LOCAL GOVERNMENT ACTION

On January 23, 2001 the Humboldt County Planning Division of the Planning and Building Department issued a Notice of Final Action (Exhibit No. 8) approving an extension of Coastal Development Permit No. CDP-98-23X (Humboldt Area Foundation). The Planning

Commission's approval of the permit extension was appealed to the Board of Supervisors by Appellant A and the appeal was denied by the Board of Supervisors at the hearing of March 27, 2001. Appellant B testified against granting the extension at the Board hearing. A Notice of Final Action of the Board's denial of the appeal was received by Commission staff on April 16, 2001.

The permit extension was appealed to the Coastal Commission in a timely manner by both appellants on April 30, 2001, within 10-working days after receipt by the Commission of the Notice of Final Local Action. Appellant A originally submitted his appeal on April 17, 2001 and staff requested a copy of the local record on that date. On April 30, 2001, the last day of the appeal period, Appellant A withdrew his original appeal and replaced it with a revised version. Appellant B also submitted his appeal on April 30, 2001. A copy of the local record was received on May 2, 2001.

The subject development was originally approved by the Humboldt County Planning Commission with several special conditions (Exhibit No. 8). The conditions of the original approval did not change with approval of the permit extension. The conditions include twelve (12) conditions that must be satisfied prior to issuance of the building permit, seven (7) conditions that must be satisfied prior to occupancy of the building, and eight (8) conditions that are on-going requirements for the life of the project. The conditions that are most relevant to the contentions raised in the appeal are Condition Nos. (B)(11), (C)(6), (D)(2-3), (D)(7). Condition No. (B)(11) requires the applicant, prior to issuance of the building permit, to submit a Landscaping Plan for review and approval by the Planning Director that includes a written maintenance plan. Condition No. (C)(6) requires the applicant to submit photos verifying implementation of the approved Landscaping Plan to the Planning Division for review and approval. Condition No. (D)(2) requires that the landscaping be developed in accordance with the approved Landscaping Plan. Condition No. (D)(7) requires the applicant to submit to the Planning Division for review and approval, annual monitoring reports that address the health and condition of the plantings for three years after the installation of the plant materials. The other conditions imposed by the County in the original permit include conditions relating to services, traffic, drainage improvements, acknowledgement of agricultural activities in the area, and permit fees.

The Planning Commission approved the permit extension based on findings that the development for which the permit was granted has not changed and that the findings that were made when the permit was granted can still be made.

D. PROJECT SETTING AND DESCRIPTION

Project Setting

The project site is located approximately 0.4 miles southeast of Highway 101 and Humboldt Bay mid-way between Eureka and Arcata at the intersection of Indianola Cutoff and Indianola Road (Exhibit Nos. 1-3). Indianola Cutoff is a main throughway that connects Highway 101 to Old

Arcata Road, an alternate route between Arcata and Eureka. The site is bordered on the south by Indianola Road and Indianola Cutoff and on the west by a private lane.

The site is located among primarily rural residential development, much of which is minimally visible due to the tall, dense vegetation present in the area. Adjacent to the site to the north and northeast are agricultural grazing lands set against a backdrop of forested hills that comprises the majority of the viewshed as seen from Highway 101. At the northwest intersection of Highway 101 and Indianola Cutoff is a medical services building and an old, vacant movie theater. At the southeast intersection of Indianola Cutoff and Old Arcata Road is a large car body repair shop.

The Humboldt Area Foundation is proposing to construct a building to house public meeting facilities, office staff, and a research library and a parking area to serve the building. The Foundation property consists of three contiguous parcels totaling 16.38 acres. The existing Foundation office and the proposed project are located on the largest of the three parcels, with an area of 11.27 acres. The proposed project is located on 1.4 acres situated on the lower, southerly portion of the property, approximately 400 feet from the existing facilities. The upper portion of the site is comprised of dense second growth redwood forest that slopes to the southwest toward Indianola Cutoff. The lower portion of the site was formerly an orchard and is more openly comprised of fruit trees, shrubs, grasses and several mature fir and redwood trees.

The existing facilities of the Foundation are located on the upper portion of the property. The existing development consists of a driveway, a 21-space paved parking area, and a two-story, 3,200-square-foot structure that was formally the home of the Foundation's founder and has been converted to the Foundation's office and conference facilities. The existing facilities are not visible from Indianola Road, Indianola Cutoff, or Highway 101, as they are set up on a hill among the dense redwood forest. The proposed site for the new development is visible at the intersection of Indianola Cutoff and Indianola Road. The site is minimally visible, if at all, from Highway 101 and Humboldt Bay due to the intervening distance (approximately 0.4 miles), residences, tall vegetation, and its location at the base of a hill. A strip of Humboldt Bay, as viewed across the intervening Highway 101, is visible from the site.

The Foundation maintains a nature trail on the 16-acre forested property that is available for use by the general public, neighborhood residents and visitors to the Foundation's facilities. The Foundation has installed an electric gate at the driveway entrance to the existing facilities to inhibit unpermitted overnight camping at the site and prevent vehicle access to the facility when the site is closed. However, informal parking areas are located outside of the gate to allow public day-use of the grounds during the Foundation's off-hours when the gate is down.

Project Description

The proposed project subject to this appeal involves a two-year extension of an approved Coastal Development Permit for the construction of additional Humboldt Area Foundation meeting facilities. The project includes (1) a 6,390-square-foot (4,020-square-foot footprint), 33-foot-high office building; (2) a 65-stall paved parking lot; (3) a foot path to connect the existing

facility to the proposed new facility; (4) excavation of approximately 800 cubic yards of soil, and placement of 820 cubic yards of material for building pad and parking areas; (5) construction of on-site drainage facilities; and (6) construction of off-site drainage facilities on an adjacent parcel and in the Indianola Road right of way (Exhibits Nos. 4-7).

E. 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.

1. Appellant's Contentions That Are Not Valid Grounds for Appeal

The appellant raises contentions that are not valid grounds for appeal. As discussed below, the contentions raised regarding protection of the architecturally significant residence on the site and the adequacy of the CEQA documentation do not allege the local approval's inconsistency with policies and standards of the certified LCP and thus are not potentially valid grounds for appeal pursuant to Section 30603(b)(1) of the Coastal Act.

a. Architecturally significant residence should be protected

The appellant contends that the subject site is the location of an "architecturally significant" residence that was designed by architect John Yeon in 1940. This structure was originally the residence of the founder of the Humboldt Area Foundation and has since been converted to the Foundation's current offices and conference rooms. The appellant submitted extensive information on the history of this structure and the architect who designed it with his appeal. The appellant contends that the residence and the site should be made into a "National Historic/Heritage site."

The development that is the subject of this appeal does not include the existing structure. The approved building site is located approximately 400 feet away from the existing residence. Thus, the appellant has not alleged an inconsistency of the local approval with the certified LCP. Furthermore, the appellant does not cite a specific LCP policy among this submitted information that they feel the County's actions did not conform with in this regard. Although the certified LUP and the Coastal Act address the protection of archaeological and paleontological resources, neither the LCP nor the Coastal Act specifically address protection of historic or architecturally significant structures. Thus, the Commission finds that this contention is not a valid ground for appeal because it does not allege an inconsistency of the local approval with the certified LCP.

b. California Environmental Quality Act documentation is inadequate

The appellant contends that an Environmental Impact Report (EIR) should have been prepared because the subject property is a public nature preserve and was not recognized as such in the County's preparation of CEQA documents. The appellant contends that the County made inappropriate findings in its approval of the permit extension on the basis, in part, that no new evidence regarding the original environmental analysis has arisen since the approval of the original project that would warrant additional CEQA review. The appellant contends that the County did not acknowledge or was not aware that the site was a nature preserve and that the project applicant was the trustee and not the owner of the property. The appellant contends that this constitutes new information and warrants preparation of an Environmental Impact Report.

The appellant does not cite a specific LCP policy that they feel the County's actions did not conform with in this regard. The concerns raised by the appellant do not allege an inconsistency of the local approval with the certified LCP, but rather, the appellant comments that the Mitigated Negative Declaration that was prepared and adopted with the approval of the original project is insufficient to comply with CEQA. Thus, because the contention does not allege an inconsistency of the local approval with the certified LCP, the Commission finds that this contention is not a valid ground for appeal.

2. Appellants' Contentions That Are Valid Grounds for Appeal

A number of contentions raised in the appeal present valid grounds for appeal in that they allege the local approval's inconsistency with policies of the certified LCP.

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." (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. 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;
2. The extent and scope of the development as approved or denied by the local government;

3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. 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 the development as approved by the County raises no substantial issue.

A central contention of this appeal is that the County's decision to grant a permit time extension is inconsistent with the criteria for granting an extension found in Coastal Zoning Code Section A315-24. These criteria are that (1) the development has not changed that for which the permit or variance was granted; and (2) the findings made when the permit was granted can still be made. The appellants raise numerous contentions about the underlying consistency of the project as approved with the policies of the certified LCP without referring to any changes in circumstances since issuance of the coastal development permit. Whether or not the appellant alleges that circumstances have changed since the granting of the original permit, the Commission has evaluated all of the various contentions raised by the appellants concerning the inconsistency of the project with the certified LCP and has determined that none of these contentions raise a substantial issue of conformance of the local approval with the certified LCP. This is because the Commission agrees with the County that the development has not changed and the findings that originally were made when the permit was first granted can still be made. Contentions relating to the originally approved project are discussed below prior to the discussion of the contention alleging that the County's decision to grant the time extension is inconsistent with the criteria in the Coastal Zoning Code for granting such an extension.

a. **Applicant is not eligible to apply for development permits**

Appellant A contends that the Humboldt Area Foundation is not eligible to apply for development permits. The appellant contends that the subject site was set aside as a public nature preserve by the founder of the Foundation in her will. The appellant contends that the County acted on the permit application without knowing that the Foundation was the trustee of the property and not the owner of the property. The appellant contends that as a public nature preserve, the public, and not the Humboldt Area Foundation, are the owners of the property. The appellant contends that the County acted inconsistent with application procedures in the LCP regarding persons who are eligible to apply for a permit.

LCP Policies

Zoning Code section A315-6 pertaining to Application Procedures states in applicable part:

(a) Eligible Applicants. *The following persons are eligible to apply for a permit or variance;*

- (1) *The property owner, or owners;*
- (2) *An authorized agent of the property owner or owners.*

Discussion: Pursuant to the will of the Foundation's founder, the grounds of the property have been made available to the public as a kind of park that she wanted to be known as the "Lynn Viotor Nature Preserve" after her late husband. The grounds are identified at the site as the Lynn Viotor Nature Preserve, but no part of the property has ever been transferred to public ownership. According to the property ownership information contained in the local record, the listed owner of the entire property is the Humboldt Area Foundation Trust.

Appellant A contends that the applicant (Foundation) does not have the legal standing to apply for permits and that the County acted inconsistent with the application procedures in the LCP because the Foundation is the trustee of the property and not the owner as required by Zoning Code section A315-6. This issue has been the subject of extensive legal actions between the applicant and Appellant A. The appellant states:

"HAF presented themselves to Planning as if they were the 'OWNERS' of the property, being careful not to divulge that HAF were in fact only the 'TRUSTEES'. The trustees with a solemn fiduciary responsibility to guard the 14.3 acre site of their proposed construction 'native and unspoiled', not to even introduce a 'picnic table' as per the 1972 will of Vera's Perrott Viotor, creating the public nature preserve. Thus the whole permitting process was fraudulent as the HAF's submission and flawed in that Humboldt Planning went along with the chicanery, not finding out the true nature of the property and applicant."

The appellant also raised this issue in his appeal of the permit extension to the Board of Supervisors before appealing to the Commission. Prior to his appeal to the Board of Supervisors and the Commission, the appellant brought this issue to the courts and the decisions are summarized in a letter in the record to the Board of Supervisors from the applicant's representative dated March 19, 2001 (Exhibit No. 11). The letter states:

"First, and as noted by the Humboldt County Director of Planning and Building in his Memorandum to the Board of March 7, 2001, the Trustee of record is, as a matter of law, the proper legal decision maker with respect to all land development matters for Trust property. See probate Code sections 16226-16233. Moreover, in the present case the Foundation is both the sole Trustee of the real property in question (pursuant to an Order of the Humboldt County Superior Court dated December 7, 1994) as well as the sole beneficiary of the Trust upon which that real property is held (pursuant to a Judgement of Preliminary Distribution of the Humboldt County Superior Court in the Estate of Vera Perrott Viotor dated May 1, 1974.) As such, the

Foundation is the only person or party with any legal or equitable interest in the real property in question.”

“Second, and as follows from the above, Mr. Perrott has no legal interest whatsoever in the trust property. In this regard, Mr. Perrott and his siblings filed various petitions in the Humboldt County Superior Court in 1999 alleging that they had an interest in the trust property in question. Judge Michael Brown of the Humboldt Superior Court dismissed these Petitions, finding that Mr. Perrott and his siblings “have no right or interest in the Trust and, therefore, lack standing to object to the Trustees’ administration of the Trust.” Judge Brown’s decision was unanimously upheld by the California Court of Appeal for the First Appellate District and, on February 14, 2001, the California Supreme Court denied Mr. Perrott’s Petition for Review. As such, the determination that Mr. Perrott has no interest in the real property in question is now final and binding.”

Technically, the owner of the property is the Humboldt Area Foundation Trust rather than the Humboldt Area Foundation itself. Therefore, to conform with Section A315-6 of the Coastal Zoning Code, the Foundation would have to be determined to be an authorized agent of the property owner, the Trust. The County staff report on the extension of the coastal development permit states that the Humboldt Area Foundation is a “trusteeship” which, according to Webster’s Dictionary, is a “person to whom property is legally committed to be administered for the benefit of a beneficiary (as a person or a charitable organization).” The report indicates it is the County’s practice to consider the Trustee of Record to be the lawful decision maker in regards to all land development matters. The question then becomes whether the Foundation is the sole trustee, or whether other parties such as Mr. Perrott are trustees as well. If other parties are trustees as well there is question as to whether the other trustees have greater authority to act on behalf of the Trust than the Humboldt Area Foundation. As discussed in the applicant’s letter of March 19, 2001, this issue has been addressed by the Humboldt County Superior Court in 1994 and 1999. The Court ruled that the Foundation is the sole trustee and that Mr. Perrott and his siblings have no right or interest in the Trust. Thus, the County’s determination that the Foundation could apply for a coastal permit as the authorized agent of the property owner pursuant to Section A315-6 of the Coastal Zoning Code is based on a high degree of legal support. Thus, there is no substantial issue raised that the Foundation is not an authorized agent of the property owner. Therefore, the Commission finds that the appeal of the local approval raises no substantial issue with regard to the provisions of the LCP policies that define an eligible applicant.

b. Project consistency with LCP visual resource protection policies

The appellants contend that the County’s approval is inconsistent with LCP policies pertaining to the protection of visual resources. These policies are listed below.

LCP policies

The LUP specifically incorporates Sections 30251 and 30253 of the Coastal Act as policies of the LUP. These sections state the following:

*** 30251. *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

*** 30253. *New development shall:*

Where appropriate, protect special communities and neighborhoods, which, because of their unique characteristics, are popular visitor destination points for recreational uses.

LUP Policy 3.40 states in applicable part:

A. *PLANNED USES*

...

B. *DEVELOPMENT POLICIES*

1. *Physical Scale and Visual Compatibility*

No development shall be approved that is not compatible with the physical scale of development as designated in the Area Plan and zoning for the subject parcel; and the following criteria shall be determinative in establishing the compatibility of the proposed development;

a. *For proposed development that is not the principal permitted use, or that is outside an urban limit and for other than detached residential, agricultural uses, or forestry activities, that the proposed development is compatible with the principal permitted use, and, in addition is either:*

(1) *No greater in height or bulk than is permitted for the principal use, and is otherwise compatible with the styles and visible materials of existing development or land forms in the immediate neighborhood, where such development is visible from the nearest public road.*

(2) *Where the project cannot feasibly conform to paragraph 1, and no other more feasible location exists, that the exterior design, and landscaping be subject to a public hearing, and shall be approved only when:*

(a) *There is no less environmentally damaging alternative location.*

- (b) *The proposed exterior design, and landscaping are sufficient to assure compatibility with the physical scale established by the surrounding development.*

2. *Protection of Natural Landforms and Features*

Natural contours, including slope, visible contours of hilltops and treelines, bluffs and rock outcroppings, shall suffer the minimum feasible disturbance compatible with development of any permitted use, and the following standards shall at a minimum secure this objective:

- a. *Under any permitted alteration of natural landforms during construction, mineral extraction or other approved development, the topography shall be restored to as close to natural contours as possible, and the area planted with attractive vegetation common to the region.*
- b. *In permitted development, land form alteration for access roads and public utilities shall be minimized by running hillside roads and utility corridors along natural contours where feasible, and the optional waiving on minimum street width requirements, where proposed development densities or use of one-way circulation patterns make this consistent with public safety, in order that necessary hillside roads may be as narrow as possible.*

3. *Coastal Scenic Area*

In the Coastal Scenic Area designated in the Area Plan Map (Indianola area), it is the intent of these regulations that all developments visible from Highway 101 be subordinate to the character of the designated area, and the following uniform standards shall apply to all development within said area, in addition to other applicable policies of this plan:

- a. *New industrial and public facility development shall be limited to:*
- (1) *Temporary storage of materials and equipment for the purpose of road and utility repair or improvement provided that this is necessary to the repair or improvement, and no feasible site for storage of equipment of material is available outside such area.*
- (2) *Underground utilities, telephone lines, and above-ground lines consistent with Sections 3.14 and 3.26 (Industrial/Electrical Transmission Lines).*
- b. *All permitted development shall be subject to the following standards for siting and design except for structures integral to agricultural use and*

timberland management subject to CDF requirements for special treatment areas.

- (1) Siding and roofing materials shall not be of reflective materials, excepting glass and corrugated roofing. Solar collectors for on-site use shall be permitted and exempt from this standard.*
- (2) The highest point of a structure shall not exceed 30' vertically measured from the highest point of the foundation, nor 40' from the lowest point of the foundation.*
- (3) Exterior lighting shall be shielded so that it is not directed beyond the boundaries of the property.*
- (4) Vegetation clearing for new development shall be minimized. New development on ridgelines shall be sited adjacent to existing major vegetation, prohibiting removal of tree masses which might destroy the ridgeline silhouette, and limiting the height of structures so that they maintain present ridgeline silhouettes.*
- (5) Timber harvests and activities related to timber management exempt from CDF regulations shall conform to timber harvesting visual standards for Special Treatment Areas.*

4. Coastal View Areas

In Coastal View Areas as designated in the Area Plan, it is the intent of these regulations that no development shall block coastal views to the detriment of the public; and the following uniform standards and conditions shall apply to all development other than agricultural development and timberland management subject to CDF regulations for special treatment areas in said areas, and to specified developments in Coastal Scenic Areas, in addition to standards identified in the Area Plans:

- a. No off-premise signs shall be permitted; and on-premise signs to a total area of 40 square feet shall be permitted.*
- b. Where the principle permitted use is residential a development may be approved subject to the standards of this document only on the following conditions:*
 - (1) The development is not visible from the road or would not block any part of the view; or*

- (2) *Where the development cannot be sited to prevent blocking any part of the view, that its height does not exceed 20 feet nor its width, perpendicular to the line of view, exceed 40 feet, and that it is set back from the road at least 60 feet and from property lines vertical to the road at least 30 feet; and*
- c. *Where the principle permitted use is commercial or industrial, the proposal shall include a detailed plan for exterior design of all structures and signs, and this plan shall be the subject of public hearings at which the following findings shall be made:*
- (1) *That the development does not block any part of the view to the coast or coastal waterways as viewed from public roads in a vehicle.*
 - (2) *That the exterior design, lighting and landscaping combine to render the overall appearance compatible with the natural setting as seen from the road.*
 - (3) *That no development, other than landscaping, signs, utilities, wells, fences, and a driveway for access to the public road where required, be located within 50 feet of the public road.*
 - (4) *That all feasible steps have been taken to minimize the visibility of parking areas from the public road.*
 - (5) *Exterior lighting shall be shielded so that it is not directed beyond the boundaries of the parcel.*
- d. *Uses other than those defined in a through c of this section including those proposed by public agencies, shall be subject to the requirements of Section c in so far as these are relevant.*
- e. *Where feasible, new and existing utilities should be underground.*

Discussion: The appellants contend that the project as approved is inconsistent with Humboldt Bay Area Plan (HBAP) Policy 3.40 that sets forth policies regarding protection of visual resources. The appellants assert that the local approval is inconsistent with the above cited LCP policies in five main respects. First, the appellants contend that the development would not be visually compatible with the character of the surrounding area. Secondly, the appellants contend that the development, mainly the parking area, would be visible from public roads including Indianola Cutoff and Indianola Road. The appellant also asserts that the development would be visible from Highway 101, and that the development would not be subordinate to the area as

required in coastal scenic areas. Thirdly, the appellants contend that the grading associated with the development would not maintain the natural topography of the area, inconsistent with LUP Policy 3.40. Fourth, the appellants contend that the local approval is inconsistent with the provisions of LUP Policy 3.40(B)(4)(c)(4) which require that all feasible steps be taken to minimize the visibility of parking areas from public roads. Lastly, the appellant contends that development in the coastal scenic area is limited to development for temporary storage purposes.

Compatible with and subordinate to the character of the area

Humboldt Bay Area Plan section 3.40 incorporates Coastal Act Sections 30251 and 30253 as policies of the LUP regarding the protection of visual resources. As stated above, the LCP requires that permitted development be sited and designed to protect public views to and along the ocean and scenic coastal areas, and to be visually compatible with the character of the surrounding area. The appellants assert that the approved 6,390-square-foot building (4,020-square-foot footprint) and 65-stall parking area would be incompatible with the surrounding character of the area that is largely defined by its rural, low-density development and by the subject site itself that is largely undeveloped forest land and open space. Appellant A raises contentions regarding this issue throughout his appeal. Some of his contentions are quoted below:

“No part of the proposed HAF building project, an ugly barn like 6,300 square foot building and 65 slot parking lot is ‘compatible with the natural setting,’ and is all highly visible from the Indianola Cutoff Road. To destroy the natural setting is not compatible with the ‘natural setting.’

“The ‘principal use’ as per the 1972 will of Vera Perrott Vietor is as the public’s Nature Preserve, or a predominately redwood forest on a 14.3 acre hillock with stunning views of Humboldt Bay, all in a rural-agricultural setting. ...The proposed HAF building and 65 slot parking lot will destroy 10% of the public’s Nature Preserve and is ‘very visible’ from the Indianola Cutoff road, and but a quarter mile east of US 101, the main artery of the North Coast.”

“The ‘development’ proposed is on the main secondary road, the Indianola Cutoff, is in full view from the road and the construction (destruction) will not only cut off the view, it will ‘destroy it’, the view and the public’s Nature Preserve.”

Specifically, the appellants contend that the development would be visible from public roads including Indianola Road and Indianola Cutoff, the public roads adjacent to the site. The Indianola area is designated in the Humboldt Bay Area Plan as a Coastal Scenic Area. The appellants contend that the development would be visible from Highway 101 and cite LUP Policy 3.40(B)(3) which requires development in the Coastal Scenic Areas that is visible from Highway 101 be subordinate to the character of the designated area. The appellant contends that the development would be visible from Highway 101 and would not be subordinate to the character of the area as required by LUP Policy 3.40(B)(3). LUP Policy 3.40(B)(3) also sets forth development standards pertaining to construction materials, building height, exterior lighting, and vegetation removal.

The site is located approximately 0.4 miles inland from Highway 101 and Humboldt Bay. A large area of agricultural grazing land set against a background of forested hills comprises the majority of the viewshed between the Highway and the development site. The subject site is barely visible from Highway 101 due to the intervening distance, tall vegetation, and several residential structures, and due to its location at the base of the hillside. The building and parking area would be visible from Indianola Cutoff and Indianola Road. However, the approved project has been sited and designed to be visually unobtrusive. The building is proposed to be situated against the base of a hillside so as to not project above the ridge or tree line (Exhibit No. 4 & 7). The building that the appellant refers to as "barn-like" was designed to be consistent with the rural residences in the area and to be compatible with the design of the Foundation's existing building at the upper portion of the site. The building is designed to include horizontal lap siding and shingle roofing similar to surrounding rural residences and to be set into the hillside with a backdrop tall, dense vegetation. Furthermore, the County's approval was conditioned to require a landscaping plan to screen the development from the public roads and to require monitoring and maintenance to ensure that the landscaping remains healthy and in place. The applicant has prepared a schematic landscaping plan showing extensive planting around the perimeter of the parking area and around the building that would screen the development from the public roads (Exhibit No. 6). In addition, the project does not involve the removal of the mature vegetation including tall fir and redwood trees along the hillside that provides a backdrop to the development.

The appellant also contends that the scale of the approved development is not compatible with the character of the area and cites LUP Policy 3.40(B)(1) which sets forth policies regarding physical scale and visual compatibility and requires that development be compatible with the physical scale of development as designated in the Area Plan and Coastal Zoning Ordinance for the site. LUP Policy 3.40(B)(1)(a) establishes criteria for development that is not the principal permitted use, or that is outside of the urban limit. LUP Policy 3.40(B)(1)(a) applies to the development because it is not a principal permitted use and it is located outside of the urban limit. The criteria require that the development either be (1) no greater in height or bulk than is permitted of the principal use, and is otherwise compatible with the styles and visible materials of existing development or land forms in the immediate neighborhood, where such development is visible from the nearest public road; or (2) when the development does not conform with the requirements of (1) above, that (a) there is no less environmentally damaging alternative; and (b) the proposed exterior design and landscaping are sufficient to assure compatibility with the physical scale of surrounding development.

The County found that the development is consistent with the development standards for the zone and coastal scenic areas relating to height and bulk, setbacks, building materials, height, and exterior lighting. The Rural Residential Agriculture zoning designation specifies a 35-foot height limit and a maximum ground coverage of 35%. The height of the approved development is 25-feet-high from the highest point of the foundation and 33-feet-high from the lowest point of the foundation. The approved development encompasses 1.4 acres of the 11.27 acre parcel which is far less than the 35% allowable ground coverage. The County also required the

applicant to submit a Neighborhood Design survey to ensure similar and compatible materials for the proposed building. The County determined that:

“The survey indicates that there are a number of contemporary residences with horizontal lap siding, shingle roofing. A review of the applicant’s elevation indicates that the proposed structure will be compatible with the styles and visible materials in the immediate neighborhood. The 6,000 square foot building will be substantially larger than residential uses in the area. The County found that due to the placement of the structure against the natural vegetation of the forested hillside to the north, the scale of the building will remain subordinate to the character of the area.”

In approving the permit extension, the County found that the applicable design standards for which the original approval was evaluated have not changed. The appellants have not provided any evidence or new information that would suggest that the findings for the project could no longer be made to approve the permit extension.

Although a determination of whether a development is compatible or subordinate with the character of its area is a subjective judgement that may vary from person to person, the County’s findings point to many factors supporting such a determination including conformity to the zoning district development standards, the proposed buildings compatibility of the horizontal lap siding, shingle roofing with residences in the area, and the placement of the structures. The significance of the coastal resource affected by the project on appeal is not great. As noted above, the area is only barely visible from Highway 101, the only non-local road in the vicinity, and would not block views to and along the coast. As the significance of the coastal resource is not great, the issue of whether the development is compatible or subordinate with the character of the area raises primarily a local issue, and not an issue of regional or statewide significance. Therefore, the Commission finds that the local approval does not raise a substantial issue of consistency with the provisions of LUP Policy 3.40(B)(1), 3.40(B)(3), and Section 30251 of the Coastal Act (incorporated into the LUP) that require development in the area to be compatible and subordinate to the character of the area.

Topography shall be restored to natural contours as much as possible

Appellant B contends that the development involves grading that would not maintain the natural topography of the site as much as possible as required by LUP Policy 3.40(B)(2)(a). LUP Policy 3.40(2) requires that disturbance to natural contours, including slope, visible contours of hilltops and treelines, bluffs and rock outcroppings be minimized. This policy requires that disturbance to these land forms be minimized by restoring the topography as close to natural contours as possible and by planting the area with attractive vegetation common to the region.

The local approval involves excavating approximately 800 cubic yards of material and placing approximately 820 cubic yards of engineered material to create a building pad for the structure and the parking area. The parking and building site is located in a relatively flat area at the base of a gently sloping hill. The project has been sited and designed to minimize the amount of disturbance required by locating the project in the flat area and by siting the building against the

base of the hill. The approved excavation is primarily to facilitate the construction of the building against the base of the hillside as much as possible and to facilitate drainage improvements, rather than to change the elevation or topography of the site. The County states,

“A review of the applicant’s Site Drainage and Grading Plan indicates that the proposed grading will ensure that site drainage is directed to proposed drainage facilities. After the grading activities the site will be substantially restored to its original elevations. A review of the plot plan indicates that proposed access road and utilities will run along natural contours as much as possible.”

The grading plan submitted by the applicant shows the limits of site grading to be near the base of the hillside. The approved excavation and placement of material would not result in an alteration of the contour of the existing hillside (Exhibit No. 5). In addition, the mature vegetation including redwood and fir trees would be retained along the hillside, thereby maintaining the existing tree line. Furthermore, as discussed above, the County conditioned the permit to require a landscaping plan at the site. The applicant has prepared a schematic landscaping plan showing extensive planting around the perimeter of the parking area and around the building utilizing primarily native vegetation (Exhibit No. 6). Thus, the approved grading and associated development would not result in significant landform alteration and the local approval does not raise a substantial issue of conformance to LUP Policy 3.40(B)(2).

Minimize visibility of parking areas

The appellants also cite LUP Policy 3.40(B)(4)(c)(4) which requires that all feasible steps be taken to minimize the visibility of parking areas from public roads. However, this policy refers to development standards for areas designated as Coastal Viewing Areas. The subject site is within a Coastal Scenic Area, which is a different designation than a Coastal Viewing Area and has separate development standards under LUP Policy 3.40(B)(3). Although the proposed development is not within a Coastal Viewing Area as designated by the LCP, the site is located approximately 0.4 miles from Humboldt Bay and would not block public views to the coast consistent with the development standards for areas designated as Coastal Viewing Areas. The designated Coastal Viewing Areas in the vicinity of the site are located on the west side of Highway 101. The subject site is located on the east side of Highway 101 inland from any designated Coastal Viewing Areas. Therefore, the Commission finds that the local approval does not raise a substantial issue of conformance with LUP Policy 3.40(B)(4)(c)(4).

Industrial development in coastal scenic areas is limited to temporary storage

Appellant B also references 3.40 (B)(3)(a) which requires that new industrial and public facility development within coastal scenic areas be limited to temporary storage of materials and equipment for the purpose of road and utility repair or improvement. The appellant references this policy as it relates to industrial development and contends that the approved development is inconsistent with this policy because it is not for storage. The approved development is for a building and parking area that is considered a civic use type, not an industrial use type.

Therefore, in the context raised by the appellant, the policy does not apply to the approved development.

The Commission notes however, that although the appellant does not reference it, this policy also applies to public facilities. Public facilities as referenced in this policy are not defined in the LUP. The Commission recognizes that as described previously, the approved development is for facilities that would support the operation of the Foundation and includes meeting facilities and a research library for the public. The Foundation is a public serving organization, but itself is a private entity. Therefore, it is unclear whether the approved development would constitute a "public facility" as contemplated by LUP Policy 3.40(B)(3)(a). If the approved development were to be characterized as a public facility, the approval raises an issue of consistency with LUP Policy 3.40(B)(3)(a). However, the Commission finds that the issue of the project's consistency with this policy is not substantial. As discussed previously, the significance of the visual resource affected by the decision to grant the permit extension is not great. The site is only barely visible from Highway 101 and will be largely screened from local roads by landscaping. Therefore, the Commission finds that the project does not raise a substantial issue with regard to consistency with policies regarding the types of development allowed in coastal scenic areas.

Conclusion

In approving the permit extension, the County found that the originally approved project has not changed and that all of the findings that were made to approve the original permit can still be made. The appellants have not provided any evidence that the findings regarding protection of visual resources that were made for approval of the original permit can no longer be made for approval of the permit extension or that circumstances have changed since the original permit was granted.

The Commission finds that the visual impact from the approved project would not result in a significant impact on coastal resources and is not an issue of statewide significance because the approved development does not affect public views to or along the coast. Therefore, the Commission finds that no substantial issue is raised with regard to consistency of the local approval with the provisions of LUP Policy 3.40 pertaining to the protection of visual resources.

c. Project inconsistency with LCP recreation policies

The appellants contend that the project as approved is inconsistent with LUP Section 3.27, which incorporates Section 30213, 30222, and 30223 of the Coastal Act pertaining to low-cost visitor serving recreation. The appellants contend that development would interfere with the Lynn Vietor Nature Preserve which the appellants consider to be a low-cost visitor serving recreation destination. The appellants also contend that the approved development is not consistent with LUP policy 3.40 which incorporates Coastal Act section 30253. Section 30253 requires that new development, where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor serving destination points for recreational uses.

LCP policies

Humboldt Bay Area Plan Policy 3.27 incorporates Coastal Act section 30213 in part, and sections 30222 and 30223 regarding low cost visitor serving and coastal recreation. These policies state in applicable part:

*** 30213. *(Part) Lower cost visitor and recreational facilities... shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

*** 30222. *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

*** 30223. *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Humboldt Area Plan section 3.40 incorporates Section 30253 of the Coastal Act. This policy states in part:

*** 30253. *New development shall:*

Where appropriate, protect special communities and neighborhoods, which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Discussion: The policies of LUP Section 3.27 require that lower cost visitor and recreational facilities be protected, encouraged, and where feasible, provided and that upland areas necessary to support coastal recreational uses be reserved for such uses, where feasible. Additionally, LUP Section 3.27 requires that the use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation have priority over other types of development including general commercial development. The appellants contend that the approved development is inconsistent with LUP Section 3.27 and 3.40 because the development would interfere with the public's ability to use and enjoy the Lynn Vietor Nature Preserve at the site and that recreational use of the site should be given priority over the proposed commercial-like development.

The Lynn Vietor Nature Preserve (Preserve) was created in the will of the founder of the Humboldt Area Foundation and does provide recreation opportunities to the public. The Foundation maintains nature trails throughout the 16-acre forested property and encourages daytime use of the trails by the general public, neighborhood residents, and visitors to the Foundation's facilities. The nature preserve is a popular public recreation destination for hiking, bird watching, and meditating. The Foundation installed an electric gate at the entrance to the existing facilities to inhibit vehicular access and unpermitted camping when the facilities are

closed. However, informal parking areas are located outside of the gate to allow continued public day-use of the trails during the Foundation's off-hours when the gate is down. Appellant A contends that the development would not protect the community of Indianola and the public's ability to use and enjoy the site and states:

"The Nature Preserve stands out as a sparkling Gem in the special community known as Indianola. The Nature Preserve has been a destination primarily for nature lovers – not for business meetings. HAF's project would significantly and irreparably change the nature and scope of activities and use of the property, opposite of those for which its was created as the Nature Preserve..."

The appellants contend that the approved development is inconsistent with LUP Section 3.27 because commercial recreation is given priority over commercial development on private lands that are suitable for visitor-serving commercial recreational facilities.

The proposed development is sited at the southwesterly portion of the site at the base of the forested hillside below the trails. The approved development would not encroach upon or eliminate the existing public trails through or around the forest. Furthermore, the development would not change or preclude the public's ability to access or use the site for recreational purposes. Moreover, while the subject site provides spectacular trails for public use, the Lynn Vietor Nature Preserve is not recognized as a coastal recreation area, or as a coastal access point in the certified LCP. The subject site does not provide access to or along the coast, as the site is located nearly half a mile inland from Humboldt Bay on the east side of Highway 101. Additionally, the site is not planned or zoned for commercial recreation, but rather is planned and zoned for rural residential development. The County determined that the proposed expansion of the Foundation's office and meeting facilities are a conditionally permitted use in the rural residential zone and the County processed a conditional use permit accordingly. Although the Preserve is not recognized in the LCP as a low cost visitor serving recreational facility, the approved development continues to protect and encourage public use of the existing trails.

The approved development would not interfere with the public's use of existing recreational facilities available to them. Furthermore, the site is not planned or zoned for commercial recreation and the Lynn Vietor Nature Preserve is not designated as a recreation or access location in the LCP. Thus, there is a high degree of factual support for the County's decision that the development is consistent with the recreation policies of the certified LCP. The appellants have not provided any evidence that the findings regarding consistency of the project with LCP recreation provisions can no longer be made for approval of the permit extension or that circumstances have changed since the original permit was granted. The Commission therefore concludes that the appeal raises no substantial issue with respect to conformance of the local approval with LCP provisions pertaining to recreation and access.

d. Project inconsistency with plan and zoning designations

Appellant A contends that the project as approved is inconsistent with Zoning Code section A313-17 because the approved development is not consistent with the zoning of the subject site. The appellant contends that the approved development would not be compatible with the rural residential and agricultural uses of the area.

LCP policies

Zoning Code section A313-17 states in applicable part:

RA RURAL RESIDENTIAL AGRICULTURAL ZONE

A. Principal Permitted Uses.

- (1) *Residential Use Types*
Single Family Residential
- (2) *Agricultural Use Types*
General Agriculture
- (3) *Civic Use Types*
Minor Utilities

B. Conditionally Permitted Uses. The following use types are permitted pursuant to the Development Permit procedures in Chapter 5 of this Division:

- (1) *Residential Use Types*
Guest House
- (2) *Civic Use Types*
Essential Services
Community Assembly
Public Recreation and Open Space
Solid Waste Disposal; subject to the Solid Waste Disposal Regulations
Oil and Gas Pipelines; subject to the Oil and Gas Pipeline Regulations
Major Electrical Distribution Lines; subject to ...
Minor Generation and Distribution Facilities

...

Discussion: The subject site is designated in the Humboldt Bay Area Plan as Rural Residential (RR) and is zoned Rural Residential Agriculture (RA) with a 2.5-acre minimum lot size. The appellant contends that the County's approval is inconsistent with the zoning designation of the

site. The appellant contends that the approved office building and parking area would not be consistent with the rural residential agriculture zone. The appellant states:

“...there is scant mention in the Planning Staff Report of the restrictive zoning, RA 2.5, i.e. agriculture has preference and ‘where allowed’ (very restrictive) residences are to have 2.5 minimum acreage. The plan being reviewed would bring HAF parking slots to 92. Hypothetically, zoning would allow five homes on the 14.3 acre property ...At 2.5 cars per residence, this would allow or result in a population of only 13 vehicles as juxtaposed against HAF being allowed 92...”

The Foundation property consists of three contiguous parcels totaling 16.38 acres. The existing Foundation office and the proposed project are located on the largest of the three parcels, with an area of 11.27 acres. The approved project is located on 1.4 acres situated on the lower, southerly portion of the property, approximately 400 feet from the existing facilities. The upper portion of the property is currently developed with a driveway, a 21-space paved parking area, and a two-story, 3,200-square-foot structure that was formally the home of the Humboldt Area Foundation’s founder and has been converted to the Foundation’s office and conference facilities. As noted above, the approved project involves the construction of a new building to house HAF staff, public meeting facilities, and a research library. The approved development also includes a parking area to serve the new building containing 65 new parking spaces.

The Coastal Zoning Ordinance allows for “Civic Use Types” as a conditionally permitted use in the Residential Agricultural zone. Zoning Code section A313-6(a) provides a general description of civic use types and states: “*Civic Use Types include the performance the performance of utility, education, recreational, cultural, medical, protective, governmental and similar uses of importance to the public.*” Furthermore, Community Assembly is designated as a conditionally permitted use in the Rural Residential Agriculture zone. Zoning Code section A313-6(d) defines the community assembly use type to include “*activities typically performed by, or at...private non-profit clubs...meeting halls.*”

The County determined that the approved development is consistent with the civic use type designated in the LCP for the RRA zone because the project involves the expansion of the Humboldt Area Foundation, which is a local community-based, non-profit philanthropic entity. The County found that the approved development would provide public meeting facilities and educational and cultural opportunities to the public, consistent with the community assembly definition in the LCP. Accordingly, the County processed a conditional use permit for the development. With regard to parking, Section A313-17 does not specify any particular parking requirements for the Rural Residential Agriculture zoning district.

The Commission finds that the project does not set a negative precedent for future interpretations of the LCP in that the County’s approval did not result in approving development in a zone where it is not designated as an allowable use. The appellants have not provided any evidence that the findings regarding consistency of the project with planning and zoning designations can no longer be made for approval of the permit extension or that circumstances have changed since the original permit was granted. The Commission therefore concludes that the appeal raises no

substantial issue with respect to consistency of the local approval with the allowable uses designated in the LCP.

e. **Project inconsistency with ESHA policies**

Appellant A contends that the project as approved is inconsistent with Humboldt Bay Area Plan (HBAP) Policy 3.30 pertaining to the protection of environmentally sensitive habitat areas. The appellant contends that the project site is sensitive natural habitat and should be protected.

LCP Policies

LUP Policy 3.30 states in applicable part:

(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.

Discussion: Humboldt Bay Area Plan Policy 3.30 incorporates Coastal Act section 30240 and requires that environmentally sensitive habitat areas (ESHA) be protected against any significant disruption of habitat values, and only uses dependent on such resources are allowed within the ESHA. LUP Policy 3.30 further requires that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade such areas and shall be compatible with the continuance of the ESHA. Appellant A contends that the site is an environmentally sensitive habitat area that should be protected. The appellant states:

“First Mother Nature, then the Vietors ‘created’ a nature sanctuary (habitat) when they moved to the Indianola site in 1940. Now 60 years later, it is officially the public’s Lynn Vietor Nature Preserve. Based on the mandates of the public’s California 1972 Proposition 20, HAF should not be allowed to abrogate their fiduciary responsibility to guard this ‘environmentally sensitive habitat.’ The 14.3 acres is the home of many animals, bedding ground for deer, with a wide variety of bird life and nesting sites. The areas, having mostly redwoods, could well be the nesting site for spotted owls or marbled murrelets.”

The Humboldt County LCP defines environmentally sensitive habitat in Zoning Code section A312-10 as follows:

Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments including:

- Areas of special Biological Significance as identified by the State Water Resources Control Board;
- Rare and endangered species listed in section 670.2 or 670.5, Title 14, California Administrative Code; or Title 50, Code of Federal Regulations section 17.11 or 17.12 pursuant to the Federal Endangered Species Act as rare, threatened, or endangered;
- All coastal wetlands or lagoons;
- Tidepools and near-shore reefs;
- Sea caves, islets and offshore rocks;
- Kelp beds;
- Indigenous dune plant habitat;
- Federally designated wilderness and primitive areas;
- Rivers, creeks, and associated riparian habitats; and
- Rookeries for herons and egrets.

As noted previously, the approved development is located on 1.4 acres of the 16-acre property and is situated on the southerly corner, approximately 400 feet downhill from the existing facilities and dense second growth redwood forest. The site is at the base of the hill and was formerly an orchard with fruit trees on the lower portion and mature fir and redwood trees on the upper portion. The County indicates in its staff report that the Department of Fish and Game did not identify any wetlands or other biological resources within the project site that would constitute an environmentally sensitive habitat area. The project involves the removal of several fruit trees, fir trees, shrubs, and grasses, none of which have been identified as being environmentally sensitive. The development does not involve the removal of redwoods, or removal of mature fir trees in the project vicinity. The site does provide habitat and grazing for deer, which are not considered an environmentally sensitive species.

There is no evidence that spotted owls, marbled murrelets, or other sensitive species are present at the site as the appellant suggests nor has the appellant provided any new or additional information to demonstrate the presence of these or other sensitive species. The site undoubtedly provides habitat for many upland and forest plant and animal species, but the site does not constitute an environmentally sensitive habitat area as defined by the LCP.

The appellant has not provided any new information or evidence of changed circumstances to demonstrate that the project site constitutes an environmentally sensitive habitat area as defined in the LCP. The County found the original project to be consistent with LUP Policy 3.30 and there is no new information to suggest that the findings cannot still be made to approve the permit extension.

The Commission finds that the significance of the coastal resource affected by the decision is not great. As discussed above, the affected area is part of a former orchard for which there is no evidence that there are rare or endangered species or other sensitive habitat present. Although marbled murrelets and spotted owls are federally listed endangered species, the redwoods the appellant suggests could be habitat are not affected by the project. Furthermore, there is no evidence that these species are even present within the redwood forest on the property.

Thus, there is a high degree of factual support for the County's decision that the development is consistent with the recreation policies of the certified LCP. The Commission therefore concludes that the appeal raises no substantial issue with respect to conformance of the local approval with LCP provisions pertaining to protection of environmentally sensitive habitat areas.

f. **Project inconsistency with wetland restoration policies**

Appellant A contends that the approved project is inconsistent with wetland restoration policies in LUP Section 3.30. The appellant contends that the site should be considered for wetland restoration and wetland mitigation banking rather than for construction of the approved development.

LCP Policies

LUP Policy 3.30(5)(a) states in applicable part:

A. PLANNED USES

...

B. DEVELOPMENT POLICIES

...

5. **Wetland Restoration**

- a. *Wetland Restoration Study Areas - The County has identified several areas that qualify as potential wetland restoration areas; these areas are shown on the Resource Protection Maps' (pages 3-138 through 3-147).*

Their designations as "wetland restoration study areas" are not intended to indicate that agriculture is an undesirable use in these locations, but that use as a restoration site is feasible. For the South Bay areas so designated, restoration is anticipated, consistent with the Humboldt Bay National Wildlife Management Plan. For the Mad River Slough and Freshwater Creek/Eureka Slough areas, the designation is used to indicate opportunities for wetland restoration, particularly as mitigation sites. For the spruce Point/South Broadway area, the designation is used to indicate that the site merits investigation as a degraded wetland as discussed in Subsection b. "Degraded Wetlands" below.

Wetland restoration projects should take place only when there is a willing seller, and where the project will not interfere with adjacent agricultural operations.

In wetland restoration projects not specifically required by Section 30607.1 of the Coastal Act, it is the policy of the County to encourage "mitigation banking" to facilitate projects permitted under

Section 30233 of the Coastal Act.

...

Discussion: Appellant A contends that the site is suitable for wetland restoration and should be used to create wetlands and a wetland "mitigation bank" rather than for the construction of the approved development and cites LUP Policy 3.30(B)(5)(a) pertaining to wetland restoration. This policy encourages wetland restoration projects and "mitigation banking" to facilitate projects that are permitted under Section 30233 of the Coastal Act. In his discussion of this issue the appellant states,

"The Nature Preserve should be put into 'mitigation banking' as 'encouraged' by County policy, i.e. identified as a site for an up to 1.4 acre pond or wetland, in the low southwest corner, fairly open meadow that is now slated for destruction by HAF's currently proposed building..."

"Rather than building within and paving over 10% of the public's Nature Preserve, the 'low' south west corner, the only open portion (the rest is redwood forest) could and should be designated as an 'alternate' wetland site. Then install a pond to augment the existing hillock and forested nature preserve, vs. the Nature Preserve's trustees HAF despoiling it by building within and paving over the preserve. The topography, the sloping SW corner makes this easy with a 'corner of property' dike."

There are no wetlands present on the site and no wetlands that would be affected by the approved development. Thus, there is no impact to wetlands from the approved development that would warrant the need for requiring wetland restoration or mitigation. The portion of LUP Policy 3.30(B)(a) cited by the appellant follows the related portion of the policy that states that wetland restoration projects should take place only when there is a willing seller, and where the project will not interfere with adjacent agricultural operations. There is no indication that the Foundation is interested in selling the property for the purpose of wetland restoration. On the contrary, the Foundation is interested in constructing the approved project at the site that does not involve wetland restoration or creating a wetland mitigation bank. Furthermore, the LUP Policy 3.30(B)(a) cited by the appellant only *encourages* rather than mandates mitigation banking and only to facilitate projects permitted under Section 30233 of the Coastal Act. The approved project is not a project that was permitted under Section 30233 which involve filling, diking, or dredging in coastal wetlands because as noted above, the project site does not contain any wetlands. The site is also not one of the Wetland Restoration Study Areas referred to in Policy 3.30(5)(a).

The appellants have not provided any evidence that the findings regarding consistency of the project with LCP wetland provisions can no longer be made for approval of the permit extension or that circumstances have changed since the original permit was granted. Therefore, the Commission finds that no substantial issue is raised with regard to the local approval's consistency with wetland restoration policies of the certified LCP.

g. Project inconsistency with vehicle miles and energy consumption

Appellant A contends that the approved project is inconsistent with Section 30253(4) of the Coastal Act which has been incorporated into Section 3.50 of the LUP and requires that new development minimize energy consumption and vehicle miles traveled. LUP Section 3.50 that incorporates Coastal Act Section 30253(4) states in applicable part:

LCP Policies

3.50 ACCESS

A. *PLANNED USES*

...

B. *DEVELOPMENT POLICIES*

...

***** 30253(4) *New development shall minimize energy consumption and vehicle miles traveled.***

...

Discussion: The LUP incorporates Section 30253(4) of the Coastal Act that requires new development to minimize energy consumption and vehicle miles traveled. The appellant contends that the approved development should be located in a more urban area as opposed to the rural site where it is proposed to be constructed. The appellant states,

“The answer to HAF’s desire to ‘expand physically’ finding themselves ‘temporarily’ in a Public Nature preserve, is to move offsite. This should be a more urban area, not overloading a rural low density population area. This would result in energy consumption savings, and minimize vehicle miles traveled (and the need to destroy a nature preserve to then park the vehicles within it).”

This policy is cited in the LUP under recreation policies with the intent that recreational facilities should be located near the populations that would be most utilizing those recreation areas, thereby minimizing the travel distance required. The approved development would be located mid-way between two civic centers, Eureka and Arcata and would be located at the same site as the Foundation’s existing facilities. The appellant contends that the development should be located in one of these more urban areas rather than in the rural area in between. However, the Foundation has existing facilities at the site that would remain in use in addition to the approved development that is intended to expand upon the existing development. Locating the new facilities at the same site as the existing facilities would consolidate the Foundation’s offices such that trips between the two would be minimized. The likely alternative urban locations suggested by the appellant would be to the north in Arcata, or to the south in Eureka. Either urban location would separate the Foundation’s facilities in a manner that would arguably increase the number of trips required by the Foundation’s staff and the public utilizing the Foundation’s services. As approved, the facilities are centrally located and would not increase, but rather may actually minimize vehicle miles and energy consumption by consolidating the

facilities. Furthermore, the applicant proposed to develop a carpooling program, which was incorporated as a condition of the County's approval of the development. Carpooling to and from the site will also help minimize the amount of vehicle miles traveled and energy consumed.

The appellants have not provided any evidence that the findings regarding consistency of the project with LCP vehicle and energy consumption provisions can no longer be made for approval of the permit extension or that circumstances have changed since the original permit was granted. Therefore, the Commission finds that no substantial issue is raised with regard to the project's consistency with LCP policies pertaining to minimizing vehicle miles and energy consumption.

h. Project's inconsistency with locating public facilities, including parking areas

Appellant A contends that the approved project is inconsistent with Section 3.40 of the LUP pertaining to recreation that incorporates Section 30212.5 of the Coastal Act. Section 30212.5 requires that public facilities, including parking, be distributed throughout an area to prevent overcrowding or overuse of any one area.

LUP Policies

LUP Section 3.50 incorporates Coastal Act Section 30212.5 and states as follows:

3.50 ACCESS

A. PLANNED USES

...

B. DEVELOPMENT POLICIES

...

***** 30212.5.** *Wherever appropriate and feasible, public facilities, including parking areas or facilities shall be distributed throughout an area so as to mitigate against the impacts, social or otherwise, of overcrowding or overuse by the public of any one single area.*

Discussion: The LUP incorporates Coastal Act section 30212.5 into the public access provisions and requires that wherever appropriate and feasible, public facilities and public parking areas should be distributed to prevent overcrowding and overuse by the public in any one particular area. The intent of the policy as it relates to public access is to prevent excessive concentration of public facilities in areas of public access that would result in overburdening the area. The appellant cites this policy and states:

"HAF by their plan will have 92 total parking slots within the 14.3 acre public Nature Preserve whereas if it was residential...only five homes would be allowed on the 14.3 acres...At 2.5 cars per home, 13 cars as contrasted to 92 parking slots that HAF seeks...This 'paving over' despoliation is occurring within the limits of the public's Lynn Vietor Nature Preserve, 10% of which will be obliterated by the ugly barn like office building and 65 parking slots. But none of these slots are for visitors to the nature preserve. They are all for 'non-nature-preserve' visitors to

HAF's 'commercial' (even if non-profit) facilities. As a nature preserve, parking should be outside the 'preserve', visitors would walk in. Instead, HAF is planning to attract a different clientele, unappreciative garbage, and noise creating 'visitors' with no interest in the nature preserve, but irreparably destroying its 'natural' ambience..."

It is not clear from the appellant's discussion of this issue why the appellant believes the approved project is inconsistent with this policy. The referenced policy pertains to access to and along the coast. The project site is not located between the first public road and the sea and does not provide any public access to or along the coast. Nonetheless, the Commission finds that there are no other facilities similar to the approved development in the area that would result in overcrowding or overuse of the area. The appellant contends that none of the parking slots proposed by the approved development are for visitors to the nature preserve. However, there is no indication that the public would not be able to park in the parking area whether they visit the facilities for recreational day-use, or to do business with the Foundation. The appellants have not provided any evidence that the findings regarding consistency of the project with LCP public facility and parking provisions can no longer be made for approval of the permit extension or that circumstances have changed since the original permit was granted.

The Commission finds that no substantial issue is raised with regard to the local action's consistency with LCP policies pertaining to access and distributing public facilities and parking to prevent overcrowding of an area.

i. **Project's inconsistency with traffic requirements**

The appellant contends that the approved project is inconsistent with LUP Section 3.27(B)(2) pertaining to traffic requirements for recreational development. The applicant contends that the vicinity of the development already experiences traffic problems and the approved development would increase those problems.

LCP Policies

LUP Section 3.27(B) states in applicable part:

3.27 RECREATION

...

A. PLANNED USES

...

B. FINDINGS FOR PERMITTING OF RECREATIONAL FACILITIES

Public or private recreational facilities and visitor-serving facilities shall be permitted pursuant to criteria of Section 3.13 of this chapter only where the following findings are made by the Planning Commission:

1. *The proposed development includes adequate on-site services for water, waste disposal, parking and other facilities necessary to serve the proposed use.*

2. *The proposed development would not create traffic flows detrimental to agricultural or forestry uses in the Planning Area; except that where the proposal includes a showing that such adverse impacts will be mitigated through road improvements or other means within two years of project approval, the development shall be approved;*
3. *No location within an Urban Limit Area is more feasible.*
4. *The development does not constitute conversion of agricultural or timber lands inconsistent with the requirements of this chapter.*
5. *In the case of visitor serving facilities, that an established recreational use exists in the immediate area, or will be provided by the development, for which the visitor-serving facility is appropriate commercial service.*

Discussion: LUP Policy 3.27 sets forth policies pertaining to recreational development. Appellant A cites LUP Policy 3.27(B)(2) that pertains to required findings for permitting recreational facilities. LUP Policy 3.27(B)(2) requires that new public or private recreational and visitor-serving facilities not create traffic flows detrimental to agricultural or forestry uses in the area. The appellant contends that the project site is located in an area with already poor traffic conditions and that the approved development would exacerbate these traffic problems. The appellant states,

“The intersection at 101 some quarter of a mile west of the site is one of the most dangerous in the County... Travelling south (Arcata to Eureka) to turn into the Indianola roads, south bound traffic often fills the left turn lan[e]... This is an extremely dangerous intersection. HAF with their 92 parking slots can only exacerbate this problem... HAF should relocate their ‘expansion’ offsite, to an urban area, with slower traffic and traffic lights, etc. and not worsen such extreme traffic problems...”

LUP Policy 3.27(B)(2) referenced by the appellant sets forth required findings for permitting recreational development. The approved project is a civic use development and is not recreational development. Therefore, the policy cited by the appellant does not apply to the approved project. Nonetheless, the Commission notes that the County addressed traffic related issues in its approval of the project.

The intersection of Highway 101 and Indianola Cutoff is dangerous because as the appellant notes, turning onto Indianola Cutoff from southbound Hwy 101 requires crossing on-coming traffic. Likewise, turning southbound from Indianola Cutoff also requires crossing on-coming northbound traffic. The need to improve this intersection has been recognized by involved local agencies before and unrelated to the approval of this project and future modifications are being planned.

The County addressed the traffic concerns associated with potential impacts from the approved project. The County required preparation of a traffic study and attached conditions that would mitigate project impacts to a level of insignificance. The County attached conditions requiring that (1) a carpooling program be developed by the Foundation, (2) use of conference facilities be scheduled so as not to begin or end during the peak traffic hours of 5 p.m. to 6 p.m. Monday through Friday, and (3) meeting announcements identify Old Arcata Road as an alternative route to the facility. The conditions also require that the applicant submit an annual letter to the Planning Division demonstrating conformance with the traffic-related conditions until such time that the applicant submits a letter from the California Department of Transportation (Caltrans) certifying that the current substandard Level of Service conditions at the intersection are no longer present. The County determined that the approved project as mitigated would not result in a significant impact to traffic in the area and Caltrans concurred with this determination.

The appellants have not provided any evidence that the findings regarding consistency of the project with LCP recreational provisions can no longer be made for approval of the permit extension or that circumstances have changed since the original permit was granted. Therefore the Commission finds that no substantial issue is raised with regard to the local approval's consistency with LUP Section 3.27(B)(2) as the local approval does not involve a recreational development.

j. Project inconsistency with required findings for approving a permit extension

Appellant A contends that the County's decision to grant a permit time extension is inconsistent with the criteria for granting an extension found in Coastal Zoning Code Section A315-24. These criteria are that (1) the development has not changed that for which the permit or variance was granted; and (2) the findings made when the permit was granted can still be made.

LCP Policies

Zoning Code section A315-24 sets forth the required findings that must be made for approving an extension of a development permit.

Zoning Code section A315-24 states:

EXTENSION OF AN APPROVAL OF A DEVELOPMENT PERMIT OR VARIANCE

- (a) *The period within which construction or use in reliance on a development permit or variance must begin may be extended by order of the Hearing Officer, at any time within 90 days prior to the expiration date as originally established. An application for such an extension shall be made on the prescribed form and filed with the Planning Department. The fee established by the Board of Supervisors for an extension shall be paid at the time of application.*

(b) Any number of extensions may be granted, but for no more than a total of two years. Extensions may be granted by the Hearing Officer if the following findings are made:

- (1) The development has not changed that for which the permit or variance was granted;
and*
- (2) The findings made when the permit or variance was granted can still be made.*

Discussion: Zoning Code Section A315-24 requires that to approve an extension of a development permit, the County must find that the development has not changed for which the permit was originally granted and the findings that were made when the project was originally approved can still be made. Appellant A contends that the County acted on the original permit without knowing or acknowledging that the Humboldt Area Foundation were the trustees of the property and not the owners and that the subject site was a public nature preserve. The appellant implies that this information was not previously disclosed and therefore constitutes a change in the development that causes the approval of the permit extension to be inconsistent with the requirements of Zoning Code Section A315-24. The appellant states:

“HAF is currently applying for an extension of their expired fatally flawed 1998 building permit. That ‘permit extension’ has been provisionally approved by both Planning (18 Jan 01) and the Board of Supervisors (27 March 01). But this was on the seriously flawed basis (2001 staff report) that ‘it is just an extension’ and ‘nothing has changed.’ This completely ignores Vera’s heirs exposure in public hearings and correspondence of the fraudulent nature of HAF’s applications (1994 and 1998). That is with HAF pretending to be the owners of the property. With HAF duplicitously concealing from authorities that HAF is in fact something quite different. The trustees of the property (post 1994) with the solemn fiduciary responsibility to protect, not destroy, the public’s Lynn Vietor Nature Preserve, and that the property is held in trust (owned) by the public.”

The County found that the findings and conditions under which the project was originally approved have not changed for the following reasons:

1. The parcel’s zoning has not changed;
2. The General Plan Land Use Designation has not changed;
3. The applicable design standards for which the project was evaluated, have not changed;
4. All other standards and requirements to which the project is subject and as administered by other departments or agencies have not changed; and
5. A Mitigated Negative Declaration was adopted effective with the approval of the original project and no new evidence has arisen to indicate that additional review under the California Environmental Quality Act (CEQA) is necessary.

The Humboldt County Planning Commission approved the permit extension and the Board of Supervisors denied the appeal of the extension on the basis that the required findings stated above could be made. In the appeal at the local level, the Board of Supervisors found that the

appellant did not provide evidence to suggest that the required findings for approving the permit extension could not be made.

As discussed in Sections (E)(2)(a) and (E)(2)(b) of the findings above, the appellant's contentions regarding the ownership of the property and the Foundation's ability to develop the site have been settled through legal measures. Furthermore, the Lynn Vietor Nature Preserve is available to the public, but no part of the preserve has ever been transferred to public ownership. Moreover, the nature preserve is not designated in the certified LCP, which was standard of review for the County's approval of the development. The Commission finds that the question of the Foundation as owner versus trustee does not constitute a change to the development for which the permit was granted, or require a change to the findings that were made when the permit was originally granted.

The Commission further notes that the appellants raise numerous contentions about the underlying consistency of the project as approved with the policies of the certified LCP without referring to any changes to the development since issuance of the coastal development permit or referring to any specific findings that were made when the permit was granted that can no longer be made to approve the permit extension. Whether or not the appellant alleges that circumstances have changed since the granting of the original permit, the Commission has evaluated all of the various contentions raised by the appellants concerning the inconsistency of the project with the certified LCP and has determined that none of these contentions raise a substantial issue of conformance of the local approval as approved with the certified LCP. This is because the Commission agrees with the County that the development has not changed and the findings originally made by the County when the permit was first granted can still be made.

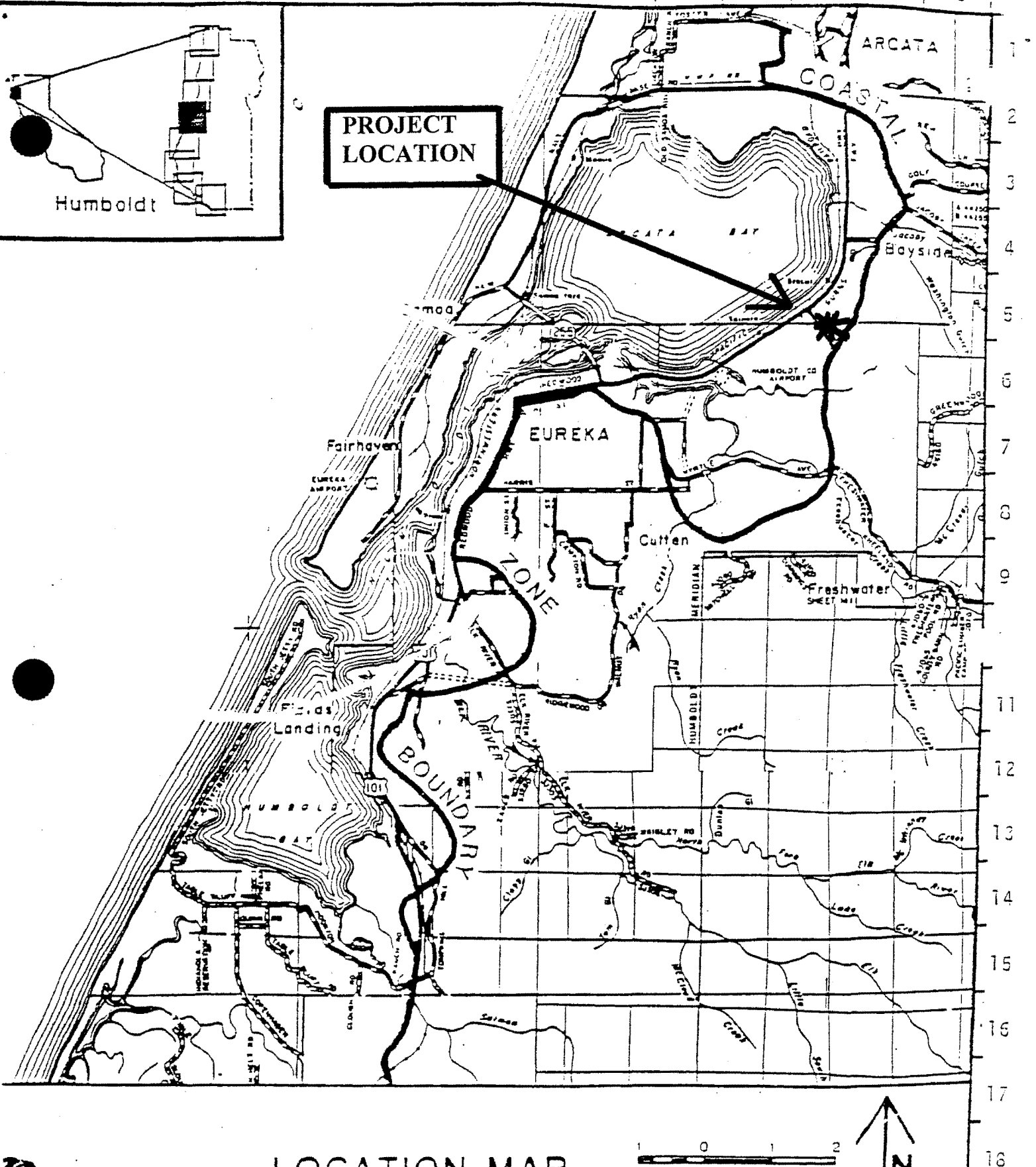
Conclusion

The Commission finds that, for the reasons stated above, that the appeal raises no substantial issue with respect to conformance of the approved project with the certified LCP.

EXHIBITS:

1. Regional Location
2. Vicinity Location
3. Site Location
4. Site Plan
5. Grading and Drainage Plan
6. Landscaping Plan
7. Elevations
8. Notice of Final Action and County Staff Report
9. Appeal to Commission (Perrott), April 30, 2001
10. Appeal to Commission (Thomas), April 30, 2001
11. Applicant's Letter Regarding Ownership
12. Applicant's Correspondence





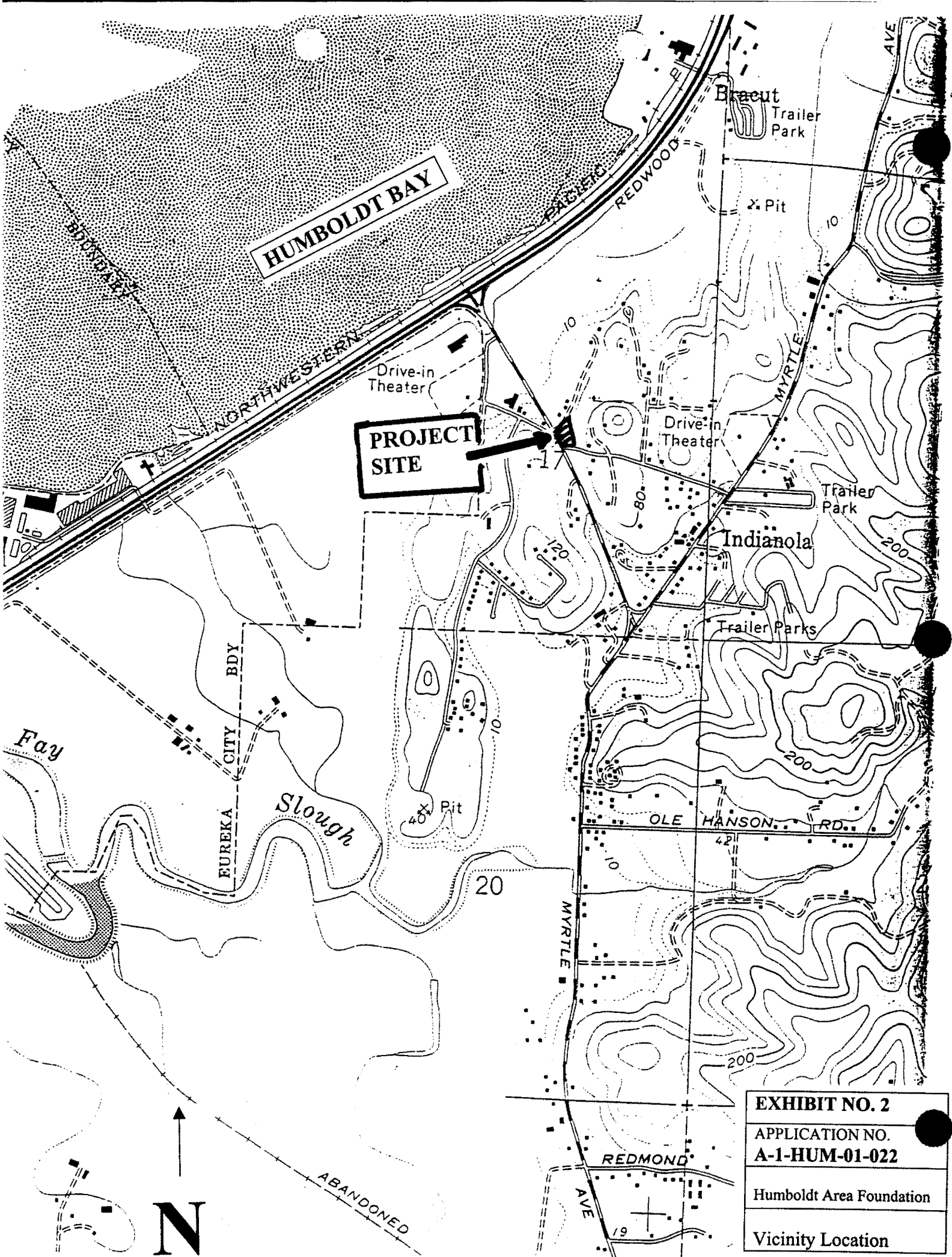
California Coastal Commission

LOCATION MAP



County of Humboldt

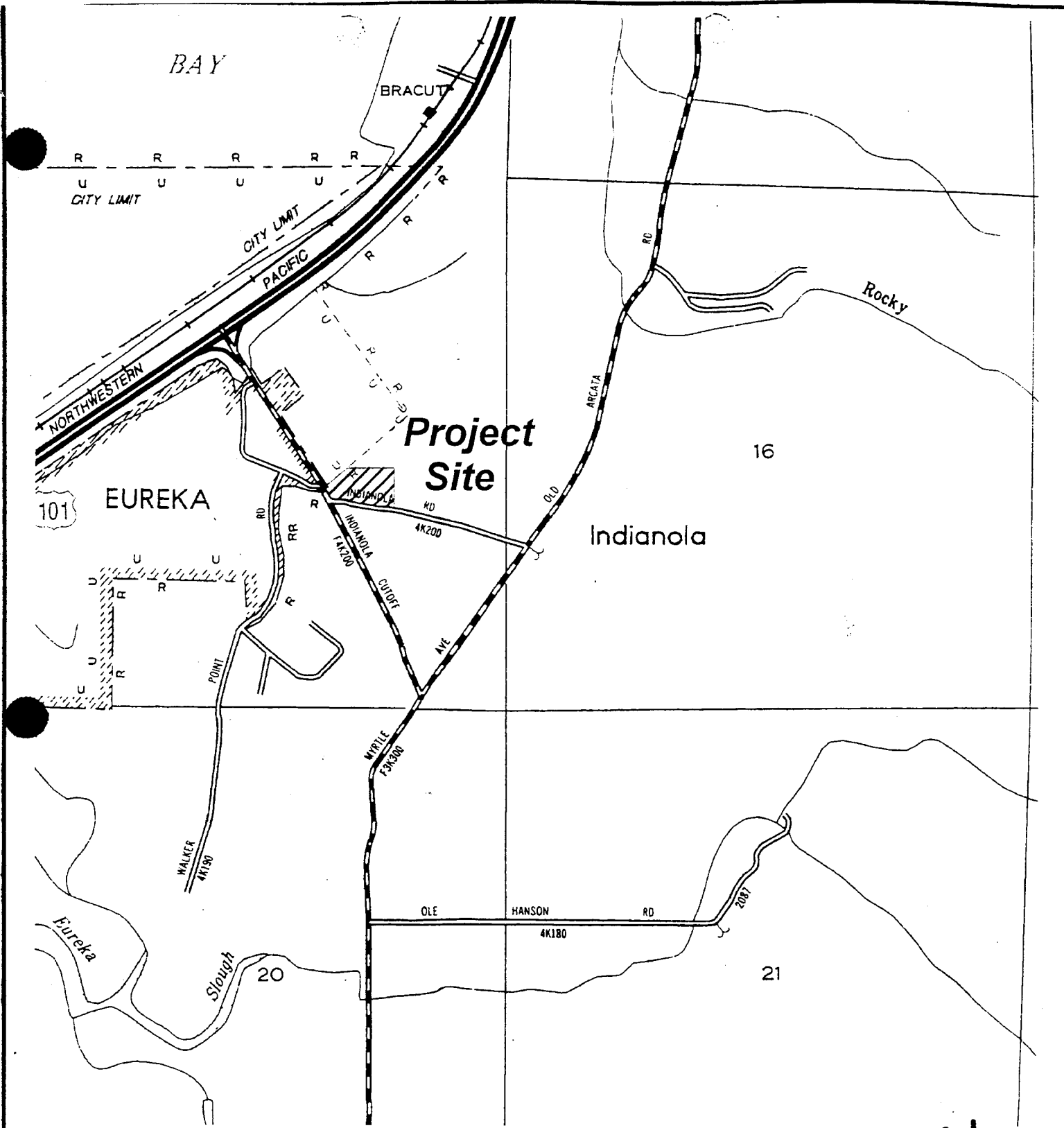
EXHIBIT NO. 1
APPLICATION NO. A-1-HUM-01-022
Humboldt Area Foundation
— Regional Location



HUMBOLDT BAY

PROJECT SITE

EXHIBIT NO. 2
APPLICATION NO. A-1-HUM-01-022
Humboldt Area Foundation
Vicinity Location



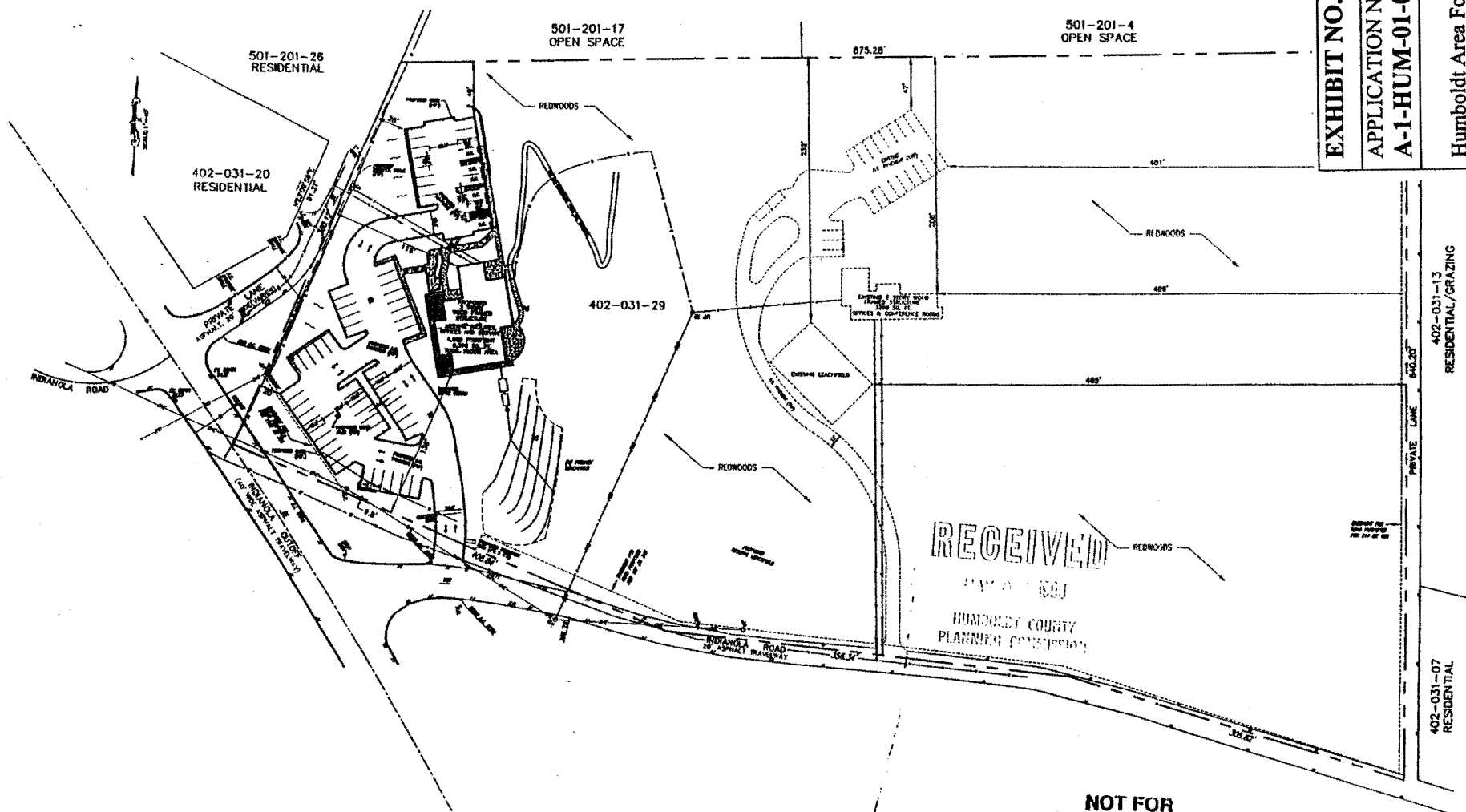
Proposed Humboldt Area Foundation
Conditional Use, Coastal Development and Special Permits
Indianola Area CUP-98-07/CDP-98-23/SP-98-21
 APN: 402-031-29
 Section 17, T5N R1E, H.B.&M.

LOCATION MAP



EXHIBIT NO. 3
APPLICATION NO. A-1-HUM-01-022
Humboldt Area Foundation
Site Location

EXHIBIT NO. 4
APPLICATION NO.
A-1-HUM-01-022
 Humboldt Area Foundation
 Site Plan



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 MAY 11 1999
 HUMBOLDT COUNTY
 PLANNING COMMISSION

**NOT FOR
 CONSTRUCTION**

SE
 SPONER ENGINEERING &
 CONSTRUCTION MANAGEMENT, INC.
 1000 W. BROADWAY, SUITE 110, HUMBOLDT, CA 99901
 (707) 431-1111 FAX (707) 431-1112

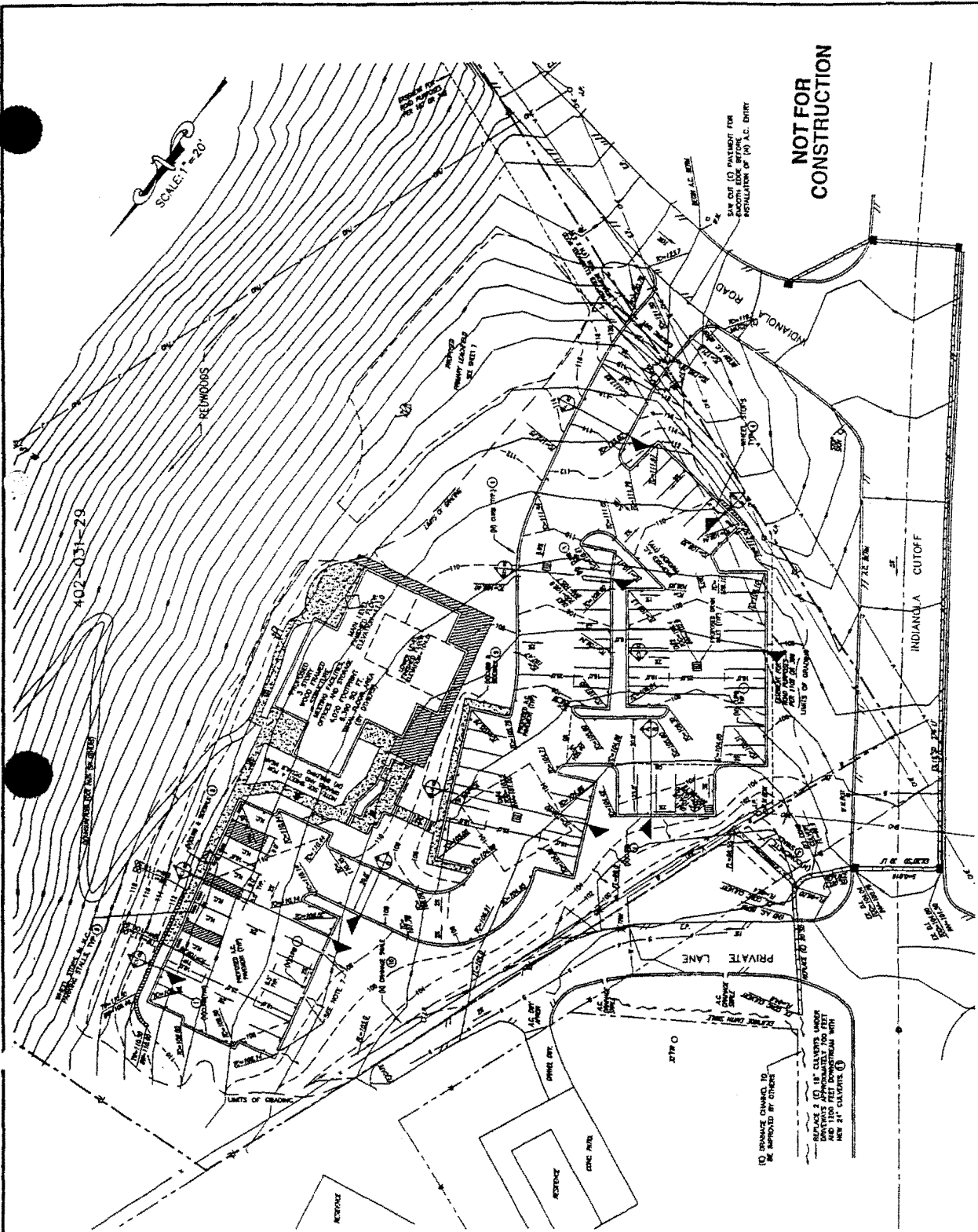
Drawn by: **J. ROHN**
 Checked by: **P. GUTIERREZ**
 Title: **T. KELLY**

PREPARED FOR:
HUMBOLDT AREA FOUNDATION

PLOT PLAN
 A.P.N.: 402-031-29

Plot No: **98411-S7**
 Date: **APRIL 14, 1999**

Scale: **1"**
 Sheet No: **98411**
 Total Sheets: **7 OF 9**



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CONSTRUCTION

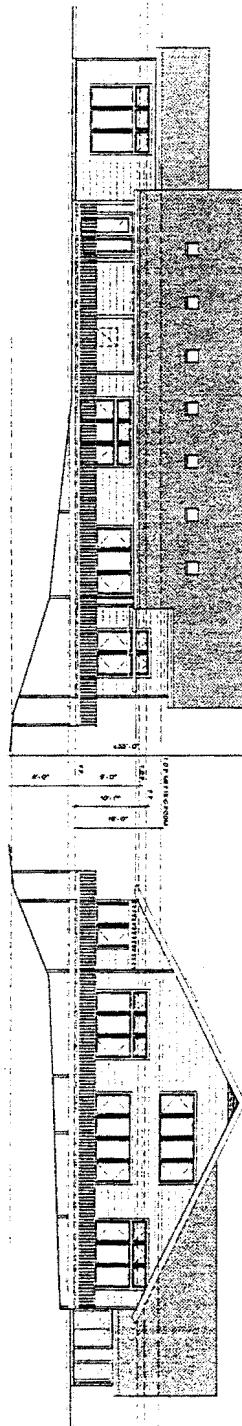
PROJECT NO.	98411-33	DATE	APRIL 16, 1999
PROJECT NAME	HUMBOLDT AREA FOUNDATION	SCALE	1" = 20'
SHEET NO.	3 OF 9	DESIGNER	P. GUTIERREZ
DATE	APRIL 16, 1999	CHECKER	P. GUTIERREZ
PROJECT NO.	98411-33	DATE	APRIL 16, 1999

SITE GRADING AND DRAINAGE PLAN
A.P.N.: 402-031-29

HUMBOLDT AREA FOUNDATION
PREPARED FOR:
P. GUTIERREZ
15AFL11

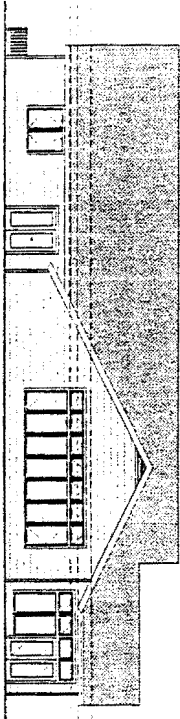
EXHIBIT NO. 5
APPLICATION NO. A-1-HUM-01-022
Humboldt Area Foundation
Grading & Drainage Plan

- NOTES**
1. THE EXISTING SURVEY FOR THIS TRACT WAS PERFORMED BY THE HUMBOLDT AREA FOUNDATION IN 1976 AND 1977.
 2. THE EXISTING SURVEY FOR THIS TRACT WAS PERFORMED BY THE HUMBOLDT AREA FOUNDATION IN 1976 AND 1977.
 3. THE EXISTING SURVEY FOR THIS TRACT WAS PERFORMED BY THE HUMBOLDT AREA FOUNDATION IN 1976 AND 1977.
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 8. THE EXISTING SURVEY FOR THIS TRACT WAS PERFORMED BY THE HUMBOLDT AREA FOUNDATION IN 1976 AND 1977.
 9. THE EXISTING SURVEY FOR THIS TRACT WAS PERFORMED BY THE HUMBOLDT AREA FOUNDATION IN 1976 AND 1977.
 10. THE EXISTING SURVEY FOR THIS TRACT WAS PERFORMED BY THE HUMBOLDT AREA FOUNDATION IN 1976 AND 1977.
- EARTHWORK QUANTITIES**
- THE EARTHWORK QUANTITIES SHOWN ON THIS PLAN ARE BASED ON THE ASSUMPTION THAT THE EXISTING SURFACE IS AS SHOWN AND THAT THE PROPOSED SURFACE IS AS SHOWN. THE QUANTITIES ARE FOR THE ENTIRE PROJECT AND DO NOT TAKE INTO ACCOUNT ANY VARIATIONS IN THE EXISTING SURFACE OR ANY CHANGES IN THE PROPOSED SURFACE THAT MAY OCCUR DURING CONSTRUCTION.

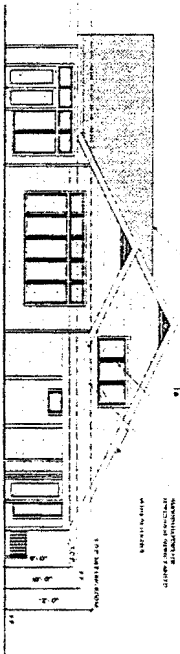


WEST ELEVATION
SCALE 1/8" = 1'-0"

SOUTH ELEVATION
SCALE 1/8" = 1'-0"



EAST ELEVATION
SCALE 1/8" = 1'-0"



NORTH ELEVATION
SCALE 1/8" = 1'-0"

NOT FOR
CONSTRUCTION

EXHIBIT NO. 7

APPLICATION NO.
A-1-HUM-01-022

Humboldt Area Foundation

Elevations

EXTERIOR
ELEVATION

HUMBOLDT AREA FOUNDATION

INDIANOLA RD., CA

K. BOODJEHARI
ARCHITECTURE AND P.
P.O. BOX 581 ARCATO CA

3

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APR 16 2001

AGENDA ITEM NO. J-1

CALIFORNIA
COASTAL COMMISSION COUNTY OF HUMBOLDT

For Meeting of March 27, 2001

DATE: March 7, 2001

TO: Board of Supervisors

FROM: *[Signature]*
Kirk A. Girard, Director of Planning and Building

SUBJECT: Humboldt Area Foundation Extension Appeal, Indianola Area. Case No.
CDP-98-23A / CUP-98-07A / SP-98-21A; FILE NO. APN: 402-031-29.

RECOMMENDATION

That the Board of Supervisors:

1. Open the public hearing and receive the staff report and public comment; and
2. Uphold the Planning Commission's decision and deny the appeal, and
3. Direct the Clerk of the Board to give notice of the decision to the applicant and any other interested party.

Prepared by: *[Signature]*
Steve Werner
Supervising Planner

CAO Approval: *[Signature]*

REVIEW: Auditor County Counsel *[Signature]* Personnel Risk Manager Other

TYPE OF ITEM: Consent Departmental Public Hearing Other
cc: Applicant Agent Appellant

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon the motion of Supervisor NEELY
seconded by Supervisor SMITH
and unanimously carried by those members present,
the Board hereby adopts the recommended action
contained in this report.

pc: Community Development
Applicant
Agent
Appellant

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APR 16 2001

HUMBOLDT COUNTY
PLANNING COMMISSION

Dated: MAR 27 2001
Lora Canzoneri, Clerk of the Board

by: *[Signature]*

EXHIBIT NO. 8
(page 1 of 22)
APPLICATION NO.
A-1-HUM-01-022
Humboldt Area Foundation
Notice of Final Action &
County Staff Report

DISCUSSION

In October of 1998, the Humboldt Area Foundation submitted an application the Planning Division requesting a Conditional Use Permit, a Coastal Development Permit and a Special Permit (hereinafter "permits") to expand the existing facilities located on the property near the Indianola Cut-Off between Eureka and Arcata. The development would be located downhill from the existing foundation office (former Vietor residence) near the intersection of Indianola Road and Indianola Cut-Off and would include a new building for offices, meeting space and a research library ($\pm 6,390$ square feet in size and $\pm 33'$ in height), a 65-stall parking lot, a foot path to link the new facilities with the existing, and construction of drainage facilities, both on- and off-site. A Staff Report was written, referrals circulated, the neighborhood noticed and an environmental document drafted. A Public Hearing was held on May 20, 1999 before the Planning Commission where the permits were granted subject to the recommended conditions of approval. The permits were valid for 12 months but could be extended upon proper application. A timely 2-year extension request was filed with the Department on October 20, 2000.

The Planning Commission's January 18, 2001 action to grant the requested extension was appealed by John R. Perrott. The appeal was timely filed and the appellant requests that your Board deny the extension for the reasons stated in the Letter of Appeal (See Attachment 1).

Subsequent to the original permit approval, certain members of the family of Vera Perrott Vietor, who established the Humboldt Area Foundation (HAF) in 1972, challenged in court whether the current HAF board as Trustee has the right under the terms of the will to change the landscape, buildings and uses of the property in the manner proposed. This interpretation of the terms of the will is a civil matter and not an issue within your Board's jurisdiction. However, the appeal does raise the issue of whether the HAF can act as applicant for this project. The HAF is a "trusteeship" which, according to Webster's Dictionary, is a "*person to whom property is legally committed to be administered for the benefit of a beneficiary (as a person or a charitable organization)*". It is the Department's practice to consider the Trustee of Record to be the lawful decision maker in regards to all land development matters.

The Planning Commission was able to approve the HAF's application for an extension because it could make all of the required extension findings and the request was submitted in a timely manner. The findings for extension are: 1) the parcel's zoning for which a conformance finding was made has not changed; 2) the General Plan designation for which a land use conformance finding was made has not changed; 3) the design of the project as it was originally reviewed has not changed; 4) the agencies and departments to which the project was originally referred and referred to again as part of the extension process have all recommended approval or conditional approval; and 5) no new evidence regarding the original environmental analysis has arisen which would require additional CEQA review. A Mitigated Negative Declaration was adopted with the approval of the project in May of 1999. The evidence to support the required findings is contained in Attachment 3.

The appellant has not raised any substantive issues relative to the application for extension itself. The concerns relate to civil matters over which the Board does not have jurisdiction. Consequently, staff recommends that your Board uphold the Planning Commission's decision to approve the extension application and deny the appeal.

HUMBOLDT AREA FOUNDATION STAFF REPORT

Required Findings:

Section A315-24 of the Humboldt County Code Coastal Zoning Regulations establishes the authority of the hearing officer to extend a coastal development permit, conditional use permit and special permit when it can be found that the the findings and conditions of the original permits have not changed significantly.

Recommendation:

The findings and conditions of the original project have not changed significantly based on the following analysis.

Staff Analysis:

The project before you is the two year extension of approved Conditional Use, Coastal Development and Special Permits (CUP-98-07/CDP-98-23/SP-98-21) for the expansion of the Humboldt Area Foundation meeting facilities and office building on APN 402-031-29. The Foundation is proposing to construct: 1) a $\pm 6,390$ square foot building, ± 33 feet in height, to house public meeting facilities, support office staff, and a research library; 2) a 65-stall paved parking lot to service the new building; 3) a foot path to connect the existing facility to the new facility; 4) excavation of approximately 800 cubic yards of soil, and placement of 820 cubic yards of fill for building pad and parking areas; 5) the construction of on-site drainage facilities; and 6) the construction of off-site drainage facilities on APN 501-201-26, and in the Indianola Road right of way. The property is currently developed with a $\pm 3,200$ square foot building that is currently being used as the Foundation's main office, research library, and conference rooms, housing 10 regular employees, and a 21-stall parking lot. Also a Special Permit for design review of the proposed building. The project is located in the Coastal Zone. **Note: this extension, if approved, will expire on October 22, 2002.**

The Planning Department has circulated requests for input relative to the extension petition and has received no comments against the petition being granted. It is staff's opinion that the findings and conditions under which the project was approved have not changed significantly because:

1. The parcel's zoning, Rural Residential Agricultural - 2.5 acre minimum lot size with Manufactured Home, Design Review and Flood Hazard Area combining zones (RA-2.5-M/D,F), for which a conformance finding was made, has not changed.

2. The General Plan Land Use Designation, Rural Residential (RR), for which a consistency finding was made, has not changed.
3. The applicable design standards, for which the project was evaluated, have not changed.
4. All other standards and requirements to which the project is subject and as administered by other departments or agencies have not changed
5. A Mitigated Negative Declaration was adopted effective with the approval of the original project. No new evidence has arisen to indicate that additional review under the California Environmental Quality Act (CEQA) is necessary.

Referral agencies have recommended approval of the extension. Copies of these responses are on file in the Planning Division.

Attachments

- #1 Vicinity, Zoning and Assessor's Parcel Maps
- #2 Conditions of Approval - Exhibits "A" and "B" (where applicable)
- #3 Original Project Staff Report
- #4 Tentative Map/Plot Plan (If blue-line print, may be a separate enclosure)

AGENDA ITEM TRANSMITTAL

TO: Humboldt County Planning Commission

FROM: Kirk Girard, Director of Planning and Building

MEETING DATE: May 20, 1999	AGENDA ITEM: Public Hearing APPLICATION TYPE: Conditional Use Permit, Coastal Development Permit, & Special Permit	CONTACT: Michelle Nielsen
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Before you is the following:

PROJECT: Conditional Use Permit and Coastal Development Permit for the expansion of the Humboldt Area Foundation meeting facilities and office building on APN 402-031-29. The Foundation is proposing to construct 1) a \pm 6,390 square foot building, \pm 33 feet in height, to house public meeting facilities, support office staff, and a research library; 2) a 65-stall paved parking lot to service the new building; 3) a foot path to connect the existing facility to the new facility; 4) excavation of approximately 800 cubic yards of soil, and placement of 820 cubic yards of fill for building pad and parking areas; 5) the construction of on-site drainage facilities; and 6) the construction of off-site drainage facilities on APN 501-201-26, and in the Indianola Road right of way. The property is currently developed with a \pm 3,200 square foot building that is currently being used as the Foundation's main office, research library, and conference rooms, housing 10 regular employees, and a 21-stall parking lot. Also a Special Permit for design review of the proposed building. The project is located in the Coastal Zone.

PROJECT LOCATION: The project site is located in Humboldt County, in the Indianola area, on the north side of Indianola Road, at the intersection of Indianola Road with Indianola Cut-Off, on the property known as 373 Indianola Road.

PRESENT PLAN DESIGNATIONS: Rural Residential (RR); Humboldt Bay Area Plan. Density: one unit per 2.5 acres.

PRESENT ZONING: Rural Residential Agricultural - 2.5 acre minimum lot size - manufactured homes allowed with Design Review and Flood Hazard Area combining zones (RA-2.5-M/D,F).

ASSESSOR PARCEL NUMBERS: 402-031-29 and 501-201-26

APPLICANT/OWNER(S)

Humboldt Area Foundation
PO Box 99
Bayside, CA 95524
Phone: 707-442-2993
Fax: 707-442-3811

OWNER

Jim & Margo Fassio
461 Indianola Road
Box 310
Bayside, CA 95524

AGENT

Spencer Engineering
Attn.: T. Scott Kelly
1933 Central Avenue, Suite C
McKinleyville, CA 95519
Phone: 707-839-4336
Fax: 707-839-4012

ENVIRONMENTAL REVIEW:

Review required per the State CEQA Guidelines.

STATE APPEAL STATUS:

Appealable to the California Coastal Commission.

MAJOR ISSUES

Traffic at the intersection of Highway 101 and Indianola Road

EXECUTIVE SUMMARY

Humboldt Area Foundation

Conditional Use Permit, Coastal Development Permit, & Special Permit
Case Nos.: CUP-98-07/CDP-28-97/SP-98-21; File No.: APN 402-031-29

The Humboldt Area Foundation (the Foundation) is proposing to construct a 6,389 square foot building to house public meeting facilities, support office staff, and include a research library on their parcel adjacent to Indianola Road. The proposed facility is to be located on APN 402-031-29, which is approximately 11.27 acres in size, and will be developed on 1.4 acres situated on the southerly portion of the property. The new building will augment the Foundation's existing 3,200 sq. ft. facility on the same property. The proposed 6,389 square foot building will include: 1) two separate meeting rooms with capacities of 50 and 25 people; 2) initial office space for seven staff members, who are to be transferred from the current building; expandable to 12 in the future; 3) an 830 square foot research library; 4) basement and storage area; and 5) appurtenant drainage and parking facilities to replace existing off-site drainage facilities that are silt-clogged, and are not sufficiently sized to handle 100-year storm water runoff.

The major issue associated with this project is the current substandard Level of Service conditions at the intersection of U.S. 101 and Indianola Cutoff. There have already been three traffic studies for this area which document the substandard conditions, in particular during the "peak traffic hour" between 5 and 6 PM. The applicant also prepared a traffic study which concluded that: *"the project will not significantly reduce the Level of Service...nor will the project significantly increase the recommended storage length of the deceleration lane... Considering that the proportional increase in traffic volume...is relatively small, responsibility for future improvements to the intersection should not fall on the project proponent."* The Department of Transportation indicated in writing that it agrees with the applicant's traffic report recommendations. As a result, the Department views the project impact on traffic at this intersection to be "not cumulatively considerable" and a Mitigated Negative Declaration was prepared and circulated.

The Foundation, in an effort to further reduce the project's contribution to the existing traffic conditions, has included in its Plan of Operation an offer to develop a carpooling program for its employees and patrons, and to not schedule meetings at the facility to begin or end during peak traffic hour, 5:00 PM to 6:00 PM, Monday through Friday. The Department concurs with these proposals, and to memorialize these commitments has incorporated the applicant's offers in the Recommended Conditions of Approval (Attachment 1).

Based on the on-site inspection, a review of Planning Division reference sources, and comments from all involved referral agencies, the Department believes that the applicant has submitted evidence in support of making all of the required findings for approving the proposed Conditional Use Permit, Coastal Development Permit, and Special Permit.

STAFF RECOMMENDATIONS:

1. Describe the application as a Public Hearing Item;
2. Allow staff to present the project;
3. Open the public hearing;
4. Make the following motion to approve the application:

"I move to adopt the Mitigated Negative Declaration in Attachment 3, and make all of the required findings, based on evidence in the staff report, and approve the application as described in the Agenda Item Transmittal and subject to the recommended conditions in Attachment 1."

ALTERNATIVES:

Your Planning Commission could find that project as proposed, and mitigated has not reduced environmental impacts (e.g. to biological resources, transportation/circulation, water resources, etc.) to a level of insignificance, and direct the applicant to prepare an Environmental Impact Report.

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 99-42**

MAKING THE REQUIRED FINDINGS FOR CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND CONDITIONALLY APPROVING THE HUMBOLDT AREA FOUNDATION CONDITIONAL USE PERMIT, COASTAL DEVELOPMENT PERMIT AND SPECIAL PERMIT APPLICATION: CASE NOS. CUP-98-07/CDP-98-23/SP-98-21; File No.: APN 402-031-29

WHEREAS, Humboldt Area Foundation submitted an application and evidence in support of approving a Conditional Use Permit, Coastal Development Permit, and Special Permit for the expansion of the Foundation's meeting facilities and office building on APN 402-031-29 as shown on the approved plot plan.

WHEREAS, the County Planning Division has reviewed the submitted application and evidence and has referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, the project is subject to environmental review pursuant to of the California Environmental Quality Act (CEQA); and

WHEREAS, the County Planning Division prepared a draft Mitigated Negative Declaration included in Attachment 3; and

WHEREAS, Attachment 2 in the Planning Division staff report includes evidence in support of making all of the required findings for approving the Conditional Use Permit, Coastal Development Permit, and Special Permit for the proposed project (Case Nos. CUP-98-07/CDP-98-23/SP-98-21);

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

1. The Planning Commission approves the proposed Mitigated Negative Declaration and Mitigation Monitoring Report in Attachment 3 as required by Section 15074(b) of the CEQA Guidelines, and finds that there is no substantial evidence that the proposed project will have a significant effect on the environment.
2. The Planning Commission further makes the findings in Attachment 2 of the Planning Division staff report for Case Nos. CUP-98-07/CDP-98-23/SP-98-21, based on the submitted evidence.
3. The Planning Commission approves the Conditional Use Permit, Coastal Development Permit, and Special Permit applied for as recommended and conditioned in Attachment 1 and Attachment 2 for Case Nos. CUP-98-07/CDP-98-23/SP-98-21.

Adopted after review and consideration of all the evidence on May 20, 1999

The motion was made by Joe Rice and seconded by Marv Gearheart

AYES: Commissioners: Blvther, Emad, Gearheart, Hanger, Rice and Garrett Smith

NOES: Commissioners: None

ABSTAIN: Commissioners: None

ABSENT: Commissioners: Jeffrey C. Smith

I, Kirk Girard, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

Kirk Girard, Director of Planning and Building . . . By: _____
Yvette Tucker

Last Day to Appeal to the Board of Supervisors: June 4, 1999, 5:00 P.M.

**ATTACHMENT 1
CONDITIONS OF APPROVAL**

APPROVAL OF THE CONDITIONAL USE PERMIT, COASTAL DEVELOPMENT PERMIT, AND SPECIAL PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS:

A. The Following Conditions Must Be Satisfied Prior To Issuance Of The Grading Permit:

1. The applicant shall apply for and obtain an approved Grading Permit. Contact the Building Inspection Division (707) 445-7245 for more information regarding this requirement.
2. The applicant shall submit an Erosion Control Plan meeting the specifications of the Hydraulics Report, dated March 2, 1999, to the Building Inspection Division for review and approval.

B. The Following Conditions Must Be Satisfied Prior To Issuance Of The Building Permit:

1. The applicant shall submit plans prepared by a State of California licensed engineer. This requirement shall be administered by the Building Inspection Division.
2. The plot plan submitted for the Building Permit shall clearly show that the proposed monument sign is either 1) located outside the 20 foot front yard setback; or 2) is three (3) feet or less in height. The proposed sign shall be constructed in accordance with the approved Building Permit plot plan.
3. The applicant must obtain an approved sewage disposal system permit from the Division of Environmental Health.
4. The intersection of the access road for the project with Indianola Road (Co. Rd. No. 4K200) shall be constructed in conformance with the standards for a private road intersection, as illustrated in CalTrans standards. The road shall be paved with asphalt concrete for a minimum of the first 50 feet from the edge of the County road. The access opening must conform to Humboldt County Code Section 341 regarding visibility. An encroachment permit must be obtained by the owner/applicant prior to the start of any work on this condition.
5. A traffic control device shall be installed to the satisfaction of the Department of Public Works.
6. The applicant shall submit a revised Hydraulics Report addressing Item 3 of the Department Public Works Land Use Division's memo dated May 5, 1999, for review and approval.
7. The tentative drainage plans proposed to connect to the project's outflow into a County drainage facility. Any work within the County right of way as a result of this project will require an encroachment permit from the Department of Public Works **prior to the start of construction.** The encroachment permit submittal must include engineered drainage improvement plans for any work within the County right of way. The plans must show the location of all public utilities. Prior to final approval of the drainage improvements, the Department of Public Works will require a set of reproducible "as-built" improvement plans for any facilities constructed within the right of way.
8. The applicant shall reimburse the Department of Public Works for all costs associated with the Department's administration and inspection associated with this project.
9. The applicant shall submit a letter from the Humboldt No. 1 Fire Protection District to the Planning Division stating that the requirements stated in their memo dated November 9, 1998, have been satisfied. and the project meets their requirements.
10. The owner(s) of the parcel shall execute and file the statement titled "Notice and Acknowledgment Regarding Agricultural Activities in Humboldt County" as required by Section 316.2-4 of the Humboldt County Code. A copy of the required form will be provided in the final approval packet.

11. The applicant shall submit a Landscaping Plan for review and approval by the Planning Director. This plan shall include all of the following information:
 - a) Scientific and common name and location of existing and proposed trees, shrubs, and/or ground cover. To the extent feasible, native plants shall be used.
 - b) Identify lawn and impervious surface areas.
 - c) Container sizes for proposed plant materials.
 - d) Total numbers of each plant.
 - e) Method of irrigation.
 - f) Written maintenance plan, including the replacement of dead or dying plant material.
12. A review fee for Conformance with Conditions as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$95.00) shall be paid to the County Planning and Building Department, 3015 "H" Street, Eureka. This fee is a deposit, and if actual review costs exceed this amount, additional fees will be billed at the County's current burdened hourly rate.

C. The Following Conditions Must Be Satisfied Prior To Occupancy Of The Building:

1. Water service shall be extended to the facility to the specifications of the City of Eureka. The City of Eureka shall submit a letter to the Planning and Building Department that the project conforms to this requirement.
2. The applicant shall develop off-street parking facilities (65 spaces) as shown on the approved Plot Plan.
3. The applicant shall install an oil-water separator pursuant to the Hydraulics Report, dated March 2, 1999.
4. The applicant shall develop a vegetative drainage swale pursuant to the Hydraulics Report, dated March 2, 1999.
5. The applicant shall install new, and/or replace existing, culverts pursuant to the Hydraulics Report, dated March 2, 1999. The applicant shall fully reimburse the Department of Public Works for costs incurred for any associated site inspections.
6. The applicant shall submit photos verifying implementation of the approved Landscaping Plan to the Planning Division for review and approval.
7. The applicant shall submit a copy of the carpooling program to the Planning Division for review and approval.

D. Ongoing Requirements/Development Restrictions Which Must Be Satisfied For The Life Of The Project:

1. Exterior light shall be developed and maintained in accordance with the Plan of Operation contained in Attachment 4. The lighting shall be shielded so it is not directed beyond the property boundaries.
2. Landscaping shall be developed and maintained in accordance with the approved landscaping plan (as required by condition D.6 above).
3. The facility shall be developed, operated, regulated, and maintained in conformance with the approved Plot Plan, Landscaping Plan, and Plan of Operation.
4. Conference facility use shall be scheduled so as **not** to begin or end during the peak traffic hour, 5 P.M. to 6 P.M., Monday through Friday.
5. Meeting announcements shall identify Old Arcata Road as an alternative route to the facility.
6. The applicant shall submit a letter self-certifying conformance with conditions D.4 and D.5 annually to the Planning Division. Release from this requirement shall be given at the time the applicant submits a letter

from the Department of Transportation certifying that the current substandard Level of Service conditions at the intersection of U.S. 101 and Indianola Cutoff are no longer present.

7. The applicant shall submit annual monitoring reports for three years after the installation of the plant materials to the Planning Division for review and approval. These reports shall address the health and condition of the plantings.
8. In exercising this permit the applicant agrees to hold the County of Humboldt harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.

Informational Notes:

1. If buried archaeological or historical resources are encountered during construction activities, the contractor on-site shall call all work in the immediate area to halt temporarily, and a qualified archaeologist is to be contacted to evaluate the materials. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, dietary bone, and human burials. If human burial is found during construction, state law requires that the County Coroner be contacted immediately. If the remains are found to be those of a Native American, the California Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains. The applicant is ultimately responsible for ensuring compliance with this condition.
2. Applicant is responsible for receiving all necessary permits and/or approvals from other state and local agencies.
3. This permit shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"); except where construction under a valid building permit or use in reliance on the permit has commenced prior to such anniversary date. The period within which construction or use must be commenced may be extended as provided by §A315-24 of the Humboldt County Code.
4. Any fill material removed from the site shall be placed on an approved location. "Approved location" means that documentation is provided to the Planning Director showing that the property owner(s) receiving the fill material have consented to its placement and that any required grading permit(s) and/or Coastal Development Permit(s) and/or Conditional Use Permit(s) have been secured from the appropriate jurisdiction(s).

ATTACHMENT 2**Staff Analysis of the Evidence Supporting the Required Findings**

Required Findings: To approve this project, the Planning Commission must determine that the applicants have submitted evidence in support of making **all** of the following required findings.

Required Findings for Conditional Use Permit and Coastal Development Permit

The Appendix to Title III, Division 1, §A315-14 of the H.C.C. specifies the findings that must be made to grant the Conditional Use Permit, and Coastal Development Permit. Basically, the Hearing Officer may grant the Conditional Use Permit and Coastal Development Permit if, on the basis of the application, investigation and submitted evidence, the following findings are made:

1. The proposed development is in conformance with the General Plan; and
2. That the use is consistent with the purposes of the zone in which the site is located; and
3. The proposed development conforms with all applicable standards and requirements of these regulations; and
4. That the proposed location of the use and conditions under which it may 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.
5. The Appendix to Title III, Division 1, §A315-16 of the H.C.C. specifies that in addition to the required findings specified in Title III, Division 1, §A315-14 of the H.C.C., the Hearing Officer may approve or conditionally approve an application for a Conditional Use Permit and Coastal Development Permit only if the following Supplemental Findings are made.

Coastal Scenic Areas

- a) The project is sited and designed to be subordinate to the character of the setting.
6. Finally, the California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA.
- a) The project either is categorically or statutorily exempt; or
 - b) There is no substantial evidence that the project will have a significant effect on the environment or any potential impacts have been mitigated to a level of insignificance and a negative declaration has been prepared pursuant to Section 15070 of the CEQA Guidelines; or
 - c) An negative declaration has been prepared and all significant environmental effects have been eliminated or mitigated to a level of insignificance, or the required findings in Section 15091 of the CEQA Guidelines are made.

Staff Analysis:

Conditional Use Permit and Coastal Development Permit

1. **General Plan Consistency:** The following section identifies the evidence which supports finding that the proposed project is in conformance with all applicable policies and standards in found in the Humboldt Bay Area Plan (HBAP).

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Summary of Evidence
Hazards, §3.17(B) <i>et seq.</i> , HBAP: Minimize risks to life and property in areas of high geologic, flood, and fire hazard for new development.		
<i>Geologic:</i>	New development shall be consistent with the adopted Humboldt County Safety and Seismic Safety element of the General Plan.	A review of the Geologic Map indicates the project is located in area of low instability. Pursuant to Geologic Hazards Matrix, the requirement for a soils-geologic report is discretionary. According to the Building Inspection Division's comments, a soils report will required at the time of application for building permit if the proposed structure is three stories. That office did not identify specific site or soil conditions that would adversely affect suitability of the proposed building site; therefore, a soils-geologic report is not required at this time.
<i>Tsunami:</i>	Limits the types of new development permitted below the 100-year tsunami run-up elevation.	According to the <u>Tsunami Predictions for the West Coast</u> , the 100- and 500-year tsunami run up elevations are 10.5 feet, and +19 feet, respectively. According to USGS mapping, the project site is at an elevation of approximately 40 feet or more, which is well above the 100- and 500-year tsunami run up elevations.
<i>Flood:</i>	No critical facilities should be permitted within the 100 year flood plain.	According to the FEMA Flood Insurance Rate Map (060060 780C, effective February 8, 1999), the project site is located in flood zone "C". Flood zone "C" is defined as areas of minimal flooding.
<i>Fire:</i>	Implementation of recognized fire protection practices.	The project site has a low fire hazard rating according to the General Plan Flooding and Fire Hazard map. The Humboldt Fire Protection District has commented that an automatic fire sprinkler system is required for the proposed structure, and water storage tank and pressure pump will also be required. The project has been accordingly conditioned in Attachment 1.

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Summary of Evidence
Archaeological and Paleontological Resources, §3.18 HBAP	Where development would adversely impact archaeological resources, reasonable mitigation measures should be required.	The Natural Resource Division of the Department of Public Works recommended no further study because: 1) there are no known sites; 2) the closest sites are ½ mile or more away, and are located near surface water sources and sloughs, neither of which are present on the project site; and 3) the site was originally covered by spruce forest.
Public Services - Rural, §3.22B.1 HBAP	Extensive rural public service systems, such as sewer and water, shall not be developed.	The provisions of §3.22 (HBAP) do <u>not</u> apply because the project will not involve development of a <u>new or extended</u> public service system. Rather, additional capacity will be added, i.e., installation of new water lines, to meet the increase water demands from the new building, e.g., irrigation, domestic water consumption, fire systems, etc. The City of Eureka has been providing water service to the Foundation's existing facility since the 1980s. The additional capacity proposed to be added does not constitute a new or extended service pursuant to Section 56133 of the Government Code. Moreover, because the existing facility has provided water service from the City before January 1, 1994, approval from the Local Agency Formation Commission is not required.
Public Services - Rural, §3.22B.2 HBAP, Extension of Urban Limit	Requires extension of Urban Limit under specified conditions where: 1) area is zoned for use other than agriculture and timber is contiguous to the urban limit, and >50% of parcels are developed, and water service has been extended to the area	<p>The provisions of §3.22 (HBAP) do <u>not</u> apply because pursuant to Section 56133 Government Code, new or extended water services are not being provided by the City of Eureka; rather, additional capacity will be added to meet the increase water demands from the new building, i.e., irrigation, domestic water consumption, fire systems. property is not contiguous to the urban limit.</p> <p>The parcels are located within the Sphere of Influence for the City of Eureka. Extension of the Urban Limit may be appropriate if and when the area is annexed into the City of Eureka.</p>

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Summary of Evidence
Natural Resource Protection, §3.30 HBAP	Protection of environmentally sensitive habitat areas from any significant disruption of habitat values.	The Department of Fish and Game did not identify any wetlands or other biological resources within the project site. The applicant is proposing to install an oil-water separator, thorough which much of the stormwater runoff will pass before discharging off-site. The applicant is also proposing to develop a vegetative swale through which the remainder of the stormwater runoff will pass over before discharging off-site. Prior to construction, the applicant has proposed to prepare a Erosion Control Plan that will detail implementation measures for control erosion and siltation generated by ground disturbing activities. The Department believes that these mitigation measures will reduce potential biological resource impacts to a level of insignificance. See Attachments 3 and 4 for more detailed information.
Visual Resource Protection, §3.40 HBAP: Consideration and protection of the scenic and visual quality of coastal areas.		
<i>Physical Scale & Visual Compatibility</i>	Compatible with the principle permitted use. No greater in height or bulk than is permitted for the permitted use. Compatible with the styles and visible materials in the immediate neighborhood.	The Department has found that the project to be a compatible use in the Rural Residential (RA) zoning District (see section 2, "Zoning Compliance" below). The project conforms with the RA development standards regulating height, lot coverage, setbacks. According the applicant's submitted Neighborhood Design Survey, there are a number of contemporary residences, with horizontal lap siding, shingle roofing. A review of the applicant's elevation indicates that the proposed structure will be compatible with the styles and visible materials in the immediate neighborhood. The 6,000 square foot building will be substantially larger than neighboring residential uses. However, due to the placement of the structure against the natural vegetation of the forested hillside to the north, the scale of the building will remain subordinate to the character of the area.

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Summary of Evidence
<i>Protection of Natural Landforms</i>	<p>Minimize disturbance of natural landforms and features.</p> <p>Restore topography as close to natural contours as possible, and plant with vegetation common in the region.</p> <p>Run hillside roads and utility corridors along natural contours where feasible.</p>	<p>The structure will be located at the bottom of the slope, and in close proximity to existing improvements on Indianola Cutoff. The existing mature fir and redwoods trees at the base of the slope will be retained. The applicant is proposing to generously landscape, with native plant materials, the two sides of the project most visible to passers-by. The project does involve excavation of 800 cubic yards of soil material, and placement of approximately 820 cubic yards of fill for building pad and parking areas. A review of the applicant's Site Drainage and Grading Plan indicates that the proposed grading will ensure that site drainage is directed to proposed drainage facilities. After the grading activities the site will be substantially restore to its original elevations. A review of the plot plan indicates that proposed access road and utilities will run along natural contours as much as is possible.</p>
<i>Coastal Scenic:</i>	<p>Siding and roofing materials shall not be of reflective materials.</p>	<p>According to the applicant's elevations, the roofing will be of concrete flat tile, and the siding will be of painted smooth hardiplank siding.</p>
	<p>Highest point of structure measured from highest point of foundation shall not exceed 30 feet.</p> <p>Highest point of structure measured from lowest point of foundation shall not exceed 40 feet.</p>	<p>Structure will be ±25 feet measured from highest point of the foundation; and ±33 feet measured from the lowest point of foundation.</p>
	<p>Shield exterior lighting.</p>	<p>According to the Plan of Operation, approximately eight site and parking lot lights are planned for the facility. The site lighting will be kept low and shielded to minimize off-site illumination. Moreover, the two sides of the facility closest adjoining properties will be generously landscaped. The Department believes that project's proposed exterior lighting will be compatible with the surrounding setting.</p>
	<p>Minimize vegetation clearing.</p>	<p>According to the Plan of Operation, the applicant will be retaining the existing mature fir and redwood trees on the site.</p>

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Summary of Evidence
Rural Residential, §4.10(A) HBAP (RR)	To allow residential use of rural lands not permanently designated for resource protection and not suitable for rural community neighborhood development. Principal Use: residential. Conditional Uses: production of food, fiber, or plants.	The Humboldt Bay Area Plan does not define "civic service facilities", but §A313-6(a) of the Coastal Zone Regulations provides a general description of civic use types, which include "the performance of utility, education, recreational, cultural, medical, protective, governmental, and similar uses of importance to the public" (emphasis added). For the purposes of this interpretation, the term "civic service facilities" will adopt the civic use type description above. The Department finds the project consistent with the Rural Residential plan designation because it involves the construction and operation of a facility which will provide educational and cultural opportunities to the public.

2. **Zoning Compliance:** The following discussion identifies the evidence which supports the finding that the proposed use is consistent with the purposes of the zone in which the site is located.

Zoning Section	Summary of Applicable Requirement	Summary of Evidence
Rural Residential (RA)		
<i>Principal & Conditionally Permitted Uses: §A313-27(A)(B)</i>	The RA zone allows Community Assembly as a conditional permitted use. Pursuant to § A313-6(d) H.C.C., the Community Assembly use type includes "activities typically performed by, or at,...private non-profit clubs...meeting halls."	The project is for the expansion of the Humboldt Area Foundation, a local community-based non-profit philanthropic entity, meeting facilities and office space for Foundation staff. The Department finds the project is encompassed by this use type.

3. **Compliance with the applicable regulations:** The following table identifies the evidence which supports finding that the proposed project conforms with all applicable standards and requirements of the Humboldt County Coastal Zoning Regulations and structure standards.

Zoning Section	Summary of Applicable Requirement	Summary of Evidence
Rural Residential (RA), §A313-17(C) H.C.C.		
<i>Minimum Lot Size:</i>	2.5 acres	+10 acres in size.
<i>Yard Setbacks:</i>		
<i>Front</i>	20 feet min.	South: >100 feet
<i>Rear</i>	30 feet min.	North: >100 feet
<i>Interior Side</i>	30 feet min.	West: >100 feet

Zoning Section	Summary of Applicable Requirement	Summary of Evidence
<i>Exterior Side</i>	20 feet min.	East: >200 feet
<i>Structure Height:</i>	35 feet max.	±33 feet
Design Review (D) Combining Zone, §A314-57(e) et seq. H.C.C.		
<i>Protection of Natural Land Forms:</i>	Minimize alterations caused by cutting, filling, grading, or clearing.	The project does involve the excavation of 800 cubic yards of material for the building pad and parking lot.
<i>Exterior Lighting:</i>	Compatible with surrounding setting.	According to the Plan of Operation, approximately eight site and parking lot lights are planned for the facility. The site lighting will be kept low and shielded to minimize off-site illumination. Moreover, the two sides of the facility closest adjoining properties will be generously landscaped. The Department believes that project's proposed exterior lighting will be compatible with the surrounding setting.
<i>Visual Impact:</i>	Screen new development.	See Landscaping Plan included in Attachment 4. The applicant is proposing to generously landscape the two sides of the project that will be most visible to passers-by on Highway 101, and Indianola Cutoff. The Department believes with the implementation of the Landscaping Plan, the development will be adequately screened.
<i>Utilities:</i>	Underground new utilities.	No new overhead utilities are proposed to be added; the new utilities will be underground.
<i>Setbacks:</i>	Protect scenic and visual qualities.	The proposed setbacks exceed the standards specified in §A313-17(C)(4).
<i>Off-premise Signs:</i>	Compatible with surrounding setting.	No off premises signs proposed. However, one appurtenant sign will be sited at the new entrance for the facility. The monument sign will be constructed of wood and will measure 4 foot high, and 8 foot wide. The sign face will be illuminated by ground-mounted lights. The Department finds no evidence indicating that the sign will be incompatible with the surrounding setting.
Flood Hazard Areas (F) Combining Zone, §314-59(d) and (e) H.C.C.		
<i>Development in 100-Year Floodway and Floodplain:</i>	Limits the type of new development permitted below the 100-year floodway and floodplain.	According to the FEMA Flood Insurance Rate Map (060060 780C, effective February 8, 1999), the project site is located in flood zone "C". Flood zone "C" is defined as areas of minimal flooding.

Zoning Section	Summary of Applicable Requirement	Summary of Evidence
<i>Development in Tsunami Run-up Areas:</i>	Limits the type of new development permitted below the 100-year tsunami run-up elevation.	According to the <u>Tsunami Predictions for the West Coast</u> , the 100- and 500-year tsunami run up elevations are 10.5 feet, and +19 feet, respectively. According to USGS mapping, the project site is at an elevation of approximately 40 feet or more, which is well above the 100- and 500-year tsunami run up elevations.
Parking, §A314-26 et seq.	<p>Adequate off-street parking to meet the level of anticipated parking demand generated by a use:</p> <p>7 employees: 1 space for each employee = 7 spaces</p> <p>5,042 square feet of office, library & storage space: 1 space for each 300 square feet of floor area = 17 spaces</p> <p>2 meeting rooms with a total capacity of 75 persons: 1 space for every 5 students (Coastal Zoning Regulations), or 1 space for every 3 students (Inland Zoning Regulations) = 15 spaces, and 25 spaces, respectively</p> <p>Tl. parking demand = 39 spaces, or 49 spaces.</p>	<p>Parking for meeting facilities are not specifically enumerated in the regulations. Parking needs were determined by comparing educational facilities to the planned uses. The Department believes that although the use of meeting rooms are most similar to college and trade schools in terms of uses specified in the parking regulations, the numbers on the left are too low, and expect the facility to generate a higher demand than the 39 or 49 spaces (equivalent of 1 space per 3 or 5 attendees). This conclusion is principally based on the location of the facility and the lack of alternative transportation modes (e.g., bus routes). While carpools are encouraged, a large percentage of users are expected to make individual trips by automobile. For example, if the two meeting rooms are filled to capacity, assuming 2 persons per car, the total demand is 62 spaces as contrasted with the college/trade school estimate of 39 to 49 spaces. The Department believes 62 spaces is a reasonable estimate for actual parking demand. A total of 65 spaces are proposed for new facility.</p>

4. Public Health, Safety, or Welfare:

Evidence and Discussion: The Department finds that the proposed project will not be detrimental to the public health, safety and welfare since all reviewing referral agencies have approved or conditionally approved the proposed project design. The project as proposed and conditioned is consistent with the general plan and zoning ordinances; and the proposed project will not cause significant environmental damage.

5. Supplemental Findings:

The following discussion identifies the evidence which supports the applicable supplemental findings.

Finding	Summary of Evidence
Coastal Scenic Findings §A315-16(E)(4) H.C.C.	
The project is sited and designed to be subordinate to the character of the setting.	The Department believes all of the requisite Visual Resource Protection findings specified in the Humboldt Bay Area Plan, and the Design Review combining zone findings can be made based on the submitted evidence, and comments from reviewing agencies. The project will be located at the base of the hill, the mature fir and redwood trees will be retained, and two most visible sides of the project will be generously landscaped; therefore, the Department finds that project to be sited and designed to be subordinate to the character of the setting based on the above discussion, the submitted evidence, and comments from reviewing agencies.

6. Environmental Impact:

As required by the California Environmental Quality Act, the initial study conducted by the Planning and Building Department (Attachment 3) evaluated the project for any adverse effects on the environment. Based on a site inspection, information in the application, and a review of relevant references in the Department, staff has determined that there is no evidence before the Department that the project will have any Potential adverse effect, either individually or cumulatively, on the environment. The environmental document on file in the Department includes a detailed discussion of all relevant environmental issues.

Staff has also determined that the project, as mitigated, will not result in a change to any of the resources listed in subsections (A) through (G) of Section 753.5(d) of the California Code of Regulations [Title 14, Chapter 4]. The Department of Fish and Game \$25.00 document handling fee required by the statute will be paid by the applicant.

ATTACHMENT 4**Applicant's Evidence In Support of the Required Findings**

The applicant has submitted the following written evidence in support of making the required findings, and copies of relevant are attached.

Document	Date Received by Planning	Location
Application Form	10/23/98	On file with Planning
Plot Plan Checklist	10/23/98	On file with Planning
Plot Plan	3/2/99	Before Attachment 1
Landscaping Plan	10/23/98	Before Attachment 1
Floor Plan	10/23/98	Before Attachment 1
Elevations	10/23/98	Before Attachment 1
Neighborhood Design Survey	10/23/99	Attached
Site Drainage & Grading Plan	3/2/99	Before Attachment 1
Hydraulics Report & Drainage Map #1	3/2/99	Attached
Plan of Operation	3/2/99	Attached

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ATTACHMENT 5
Referral Agency Comments and Recommendation

Referral Agency	Recommendation	Date Received by Planning	Location
Humboldt County Building Inspection Division	Conditional Approval	11/9/98	Attached
Humboldt County Public Works, Land Use Division	Conditional Approval	5/4/99	Attached
Humboldt County Public Works, Natural Resources Division	No further study	11/12/98	Attached
Humboldt County Counsel	No Response		
Humboldt County Division of Environmental Health	Conditional Approval	11/5/98	Attached
Humboldt #1 Fire Protection District	Conditional Approval	11/9/98	Attached
Humboldt Community Services District	No response		
North Coast Regional Water Quality Control Board	Approval	11/12/98	Attached
California Coast Commission	No Response		
California Department of Fish & Game	Use native plants	11/5/98	Attached
California Department of Transportation	Concurs with applicant's traffic study analysis.	11/17/98 & 5/6/99	Attached
City of Eureka	Water service.	12/8/98 & 4/23/99	Attached
City of Arcata	No Response		
Sonoma State University	Phase I	11/4/98	On file with Planning.

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- 2) Introduction-Executive Summary

ATTACHMENTS-EXHIBITS

- A) Summary Land Use Permit Protest-Appeal
- B) Review Of HAF Proposed Building Vis-à-vis Humboldt Bay Coastal Plan
- C) Review of HAF Proposed Building Vis-à-vis 1998 Planning Staff Report
- D) Distribution Of Protest-Appeal To HAF
- E) Vera Perrott Vietor Will (1972) Creating Public Nature Preserve (Trust and HAF)
- F) Tax Assessor-14.3 acre Indianola property (public's Lynn Vietor Nature Preserve)
- G) Location Maps/Proposed building site plans
- H) HAF's June 1999 'press release' On Building Within The Nature Preserve
- I) HAF Internet Site Acknowledgement Of Nature Preserve
- J) SAVE THE PUBLIC'S LYNN VIETOR NATURE PRESERVE release Mar 01
- K) Vera's Watchdogs Internet Site www.humboldtexposed.com

APPENDIX

- L) John Yeon-Internationally Renown Portland Architect, Designer, Naturalist, Ecologist, Environmentalist, creator of Vietor residence and landscaping, the centerpiece of the public's Lynn Vietor Nature Preserve

STAFF NOTE: Due to the length of the appeal information submitted by the appellant (John Perrott), staff has included only pertinent excerpts from the submittal as Exhibit No. 9. The "Index-Table of Contents" from the appellant's submittal is included here as well as the Commission appeal form and "Attachment B" of the appellant's submittal.

EXHIBIT NO. 9

APPLICATION NO.
A-1-HUM-01-022

Humboldt Area Foundation

Appeal to Commission
(Perrott) - excerpts

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1865
VOICE (707) 445-7833
FACSIMILE (707) 445-7877

MAILING ADDRESS:
P. O. BOX 4908
EUREKA, CA 95502-4908



RECEIVED

APR 30 2001

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

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

JOHN PERROTT % SAVE THE PUBLIC'S LYNN VICTOR NATURE PRESERVE
PO BOX 8559, UNIVERSAL CITY,
CA 91618-8559 (830) 755-4829 (TEXAS)
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: HUMBOLDT PLANNING (18 JAN 01), SUPERVISORS (27 MAR 01)

2. Brief description of development being appealed: HAF (HUMBOLDT AREA FOUNDATION) 1998 BUILDING PERMIT TO EXPAND OFFICE FACILITIES WITHIN PUBLIC'S LYNN VICTOR NATURE PRESERVE, INDIANOLA, HUMBOLDT CO, CA

3. Development's location (street address, assessor's parcel no., cross street, etc.): 373 INDIANOLA ROAD, BAYSIDE, CA 95524

4. Description of decision being appealed:

- a. Approval; no special conditions: EXTENSION OF 1998 BUILDING PERMIT
- 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: _____

DATE FILED: _____

DISTRICT: _____

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 JAN 2001

b. ~~City Council/Board of Supervisors~~ MAR 2001

d. Other

18 JAN 2001 - PLANNING

6. Date of local government's decision: 27 MAR 2001 - BOARD OF SUPERVISORS

7. Local government's file number (if any): #APN 402-031-29

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:

HUMBOLDT AREA FOUNDATION (HAF), PO BOX 99
BAYSIDE, CA 95524

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) (IN WRITING) JAMES R SCHWARTZ, % MANATT, PHELPS & PHILIPS, LLP, 11355 W. OLYMPIC BLVD, LOS ANGELES CA, 90064 (JAN 01) - HAF LAWYER

(2) SUE DELANEY (VERBALLY) MAR 01, % MITCHELL, BRISSE, DEANEY & VRIJZE, 817 SEVENTH, EUREKA, CA 95501

(3) DW PERROTT (WRITING/VERBAL) JAN 01, MAR 01 PO BOX 819, SISTERS, OR 97759 - APPELLANT

(4) J. R. PERROTT (WRITING/VERBAL) JAN 01, MAR 01 29310 SEABISCUIT DR, FAIR OAKS RANCH, TX 78015 - APPELLANT

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.

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.)

THE PROPERTY IS A PUBLIC NOTICE PRESERVE HELD
IN TRUST. HAF ARE NOT OWNERS, RATHER TRUSTEES.
IT IS HAF'S FIDUCIARY RESPONSIBILITY TO PROTECT
THE PROPERTY 'NATIVE AND UNSPOILED', NOT DESPOIL IT
WITH BUILDINGS AND PAVING. HAF DUPED AUTHORITIES
BY NOT DISCLOSING THE TRUE OWNERSHIP OF LAND
(PUBLIC) MASQUERADING AS OWNERS, NOT TRUSTEES.
THE CONSTRUCTION (DESTRUCTION) IS 180° FROM THE
'LETTER AND SPIRIT' OF CAL'S PROP 20 (1972) AND THE COASTAL PLAN *

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.

MORE DETAILS IN ACCOMPANYING EXECUTIVE SUMMARY, EXHIBITS
SECTION V. Certification A THROUGH K, AND (L) APPENDIX

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

[Handwritten signature]
Signature of Appellant(s) or
Authorized Agent
Date 30 APRIL 2001

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 _____

EXHIBIT B-REVIEW OF HAF PROPOSED BUILDING PERMIT VIS-À-VIS HUMBOLDT BAY COASTAL PLAN

The writer, appellant, an heir of Vera Vietor Perrott, herewith takes the liberty to review the proposed HAF 'land use' vis-a-vis the HUMBOLDT COUNTY GENERAL PLAN VOLUME II, HUMBOLDT BAY AREA PLAN OF THE HUMBOLDT COUNTY LOCAL COASTAL PROGRAM, provided by planning, dated July 1989. This is as certified by the State Of California Coastal Commission on 14 October 1982. The cover of this document, and its index is to be found at the end of this Exhibit B.

For this review, the document is approached sequentially, front to back, and stipulations and comments found relevant to a review of the 'land use' at Indianola are duplicated herein in bold print with page reference. This is followed by the appellants comments in normal print, focusing on the alleged inconsistency of awarding HAF the building permit as being outside the 'letter and spirit' of the whole Coastal Commission initiative. The review focuses on 'land use' conflicts with expansionist 'interloper' trustee HAF wanting to expand onsite and destroy the nature preserve, rather than moving offsite to expand.

Cpt 1-pg 1: 1.10 INTRODUCTION. Second paragraph **POST CERTIFICATION DEVELOPMENT NOT IN CONFORMANCE WITH THIS PLAN SHALL NOT BE APPROVED BY THE COUNTY.** This is of course a general introductory statement. The Vietors created the public's Lynn Vietor Nature Preserve of their 14.3 acres in Indianola in 1972. It was so run, honoring the nature preserve through 1994. Then HAF made the decision as replacement trustees (1994) (despite their fiduciary responsibility to do otherwise) to despoil the Nature Preserve in favor of their 'conflict of interest' commercial development. The letter and spirit of the California Coastal Act is that recreation and nature take preference over commercial activities in non-urban (rural) settings. HAF's building plans (1995) and current are not in conformance with the 'Plan'.

Cpt1-pg 1: 1.30 USE OF THIS DOCUMENT. Fourth line of the second paragraph. **IT (California Coastal Plan) INDICATES HOW THE LAND SHOULD IDEALLY BE USED.** Presumably with the land left in trust for the public as a Nature Preserve, that is its ideal use. The 'letter and spirit' on the California Coastal Act is to protect where possible the beauty of the coastal areas, and allow the public access to it. Vera so stipulated for her 14.3 acres gifted (in trust) to the public.

Cpt1-pg 2: 2.20 BACKGROUND, paragraph four. **PROPOSITION 20 ESTABLISHED SOME PRIORITIES AND GUIDELINES FOR COASTAL DEVELOPMENT AND CONSERVATION, AND CREATED THE CALIFORNIA COASTAL COMMISSION WHOSE JOB WAS TO PREPARE A COASTAL ZONE MANAGEMENT PROGRAM TO BE APPROVED BY THE LEGISLATURE.** The important word is 'conservation'. Vera died in 1972, before the fall elections when California's Proposition 20 was voted in. Vera as a private citizen created a 'nature preserve' for the public (in trust) of her personal 'nature refuge'. She would look to the Coastal Commission or whoever to support her act by not letting her public gift be destroyed by ill-conceived development.

HAF's non 'nature preserve' commercial type activities would be better served in an urban area, or anyplace outside the public's Nature Preserve.

Cpt 2-pg 1: 2.20 COASTAL ACT GOALS AND POLICIES. THE STATE LEGISLATURE BY ENACTING THE COASTAL ACT OF 1976, ADOPTED THE FOLLOWING BASIC GOALS FOR THE COASTAL ZONE.

(a) PROTECT, MAINTAIN AND WHERE FEASIBLE, ENHANCE AND RESTORE THE OVERALL QUALITY OF THE COASTAL ZONE ENVIRONMENT AND ITS NATURAL AND MANMADE RESOURCES. Vera Vietor in her 1972 will had the same 'letter and spirit' as the 'not yet created' (or voted) proposition 20. Her 14.3 acres, with its architecturally significant residence (man made) and nature refuge (natural resources) should be taken under the wing of the Coastal Commission mandate, and protected from destruction by HAF. In the right hands, and renovated, the 14.3 acres should become a National Heritage Site (or equal), but certainly not further despoiled.

Chp 3-pg 1: INTRODUCTION, second paragraph, fifth line. IN ADDITION, THE COASTAL ACT REQUIRES THAT ALL DEVELOPMENT BE SUBJECT TO STANDARDS DESIGNED TO PROTECT NATURAL AND CULTURAL RESOURCES. Vera as a private citizen created and left in trust for the public a 'natural resource', the Nature Preserve, and a 'cultural resource' in her architecturally significant home, shown in the New York Museum Of Modern Art alongside of works of Frank Lloyd Wright in the early 1940's. This is the way it was for 20 years. Post 1994, the HAF trustees are bent on destroying these 'resources' for commercial type development that has no business (inappropriate land use) inside the public's Nature Preserve.

Cpt 3, pg 6-7. B. DEVELOPMENT POLICIES. C. end of section. ANY LANDS LYING OUTSIDE THE URBAN LIMIT SHALL BE DEEMED RURAL FOR DEVELOPMENT PURPOSES, AND SUBJECT TO THE RURAL DEVELOPMENT POLICIES. The Vietor 14.3 acre property is outside of urban limits of Eureka or Arcata. It has a zoning of RA 2.5, which is agricultural or 'restricted' residential with 2.5 acre minimum lot size (see Exhibit F 'Tax Assessor'). The Vietors originally had a two car garage. HAF converted the Vietor's garage to office space, the driveway to six parking spaces. In 1995 HAF 'created' 21 parking spaces by destroying the heart of the nature preserve north of the residence. Their 'approved' 1998 plan is for 65 new parking spaces--the main culprit in taking up 10 % of the total 14.3 acre Nature Preserve). If the building plan is approved, this will result in up to ninety two parking spaces. On the 14.3 acres if it was developed on the 2.5 acre minimum zoning, that would allow a maximum of five private residences. Taking 2.5 cars per residence, that would theoretically be 12.5 or 13 vehicles. HAF is asking (and has provisionally approved) 700 % of what would be expected by the zoning restrictions? This distortion of use gives some idea of how utterly inappropriate HAF's expansion in this rural area is, with the error by the fact the land is a public Nature Preserve, to be guarded 'native and unspoiled', not even a picnic table to be introduced. But HAF made no mention of the true facts in their application to Planning.

Cpt 3-pg 8: C. NONCONFORMING USES AND STRUCTURES. IT IS THE INTENT THAT NONCONFORMING USES AND STRUCTURES MAY BE SUBSTITUTED WITH MORE CONFORMING USES AND STRUCTURES. To build a modern structure and 65 parking spaces, destroy 10% of the public's Nature Preserve is presumably deemed 'non conforming'. That is substituting a nonconforming use (new buildings and blacktop) for an long established more conforming use and structure (green space, redwoods, and an architectural gem now over 60 years old)—exactly the opposite as the goal of the Coastal Plan. In the Coastal Plan is the allowance of 'wetlands mitigation', by 'allowing the destroying of some limited wetlands, but the developer being obliged to recreate other wetlands elsewhere in their place. The Nature Preserve could be nominated as such a site (looking for wetland creation). It would be much more reasonable to create a pond or wetland on the southeast corner of the property. This would augment the quality of the public's Lynn Vietor Nature Preserve, rather than allowing the illegal 'out of place' commercial buildings HAF proposes, to 'clear-grade-pave over', thus completely destroy 10 % of the public's Lynn Vietor Nature Preserve.

Cpt 3-pg 9: Top of page, first line. AND VISITOR SERVING LAND USES SHALL NOT BE PRECLUDED BY OTHER DEVELOPMENT. The prime 'visitor serving' and public benefit Nature Preserve should not be destroyed for administrative uses by HAF.

Cpt 2-page 12. B. DEVELOPMENT POLICIES two thirds down page, 2. RECREATIONAL: ANY PASSIVE OR ACTIVE RECREATIONAL ACTIVITY USE OF OPEN WATER, THE WATER BEACH INTERFACES, OR OTHER NATURAL FEATURES WHICH IN HUMBOLDT COUNTY EXIST ONLY OR PREDOMINATELY AT NEAR SHORE AREAS. This indicates that California Coastal Commission policies would seem to favor what Vera created for the public in her 1972 will. The Coastal policies would never condone the post 1994 destruction of the public's Nature Preserve. HAF's ill advised plan to destroy the public's Nature Preserve in favor of their Project will produce a high vehicle traffic 'commercial' enterprise inside what should be a primarily foot traffic only reserve.

Cpt 3-page 12: B. DEVELOPMENT POLICIES, bottom of page, 4. WHEREUSES CONFLICT AMONG THEMSELVES, PRIORITY SHOULD BE GIVEN TO RECREATIONAL OVER COMMERCIAL. That's what Vera mandated in her 1972 will leaving the Nature Preserve in trust for the public. Vera stipulated that if the property was not kept native and unspoiled, this trust SHALL be terminated. For the Coastal Commission not to disallow the HAF building permit violates the 'letter and spirit' of the Coastal Commission mandates to conserve the coastal area for the public and posterity.

Cpt 3-pg 24: 3.15 RECREATIONAL AND VISITOR SERVING AREAS. *** 30213. (PART) LOWER COST VISITOR AND RECREATION FACILITIES.....SHALL BE PROTECTED, ENCOURAGED, AND, WHERE FEASIBLE, PROVIDED. DEVELOPMENTS PROVIDING PUBLIC RECREATION OPPORTUNITIES

WOULD BE PREFERRED. Vera Perrott Vietor in her 1972 will gifted to the public (in trust) a low cost public Nature Preserve. According to California Coastal Commission guidelines, the present use should be 'encouraged and protected'. The Coastal Commission can do this by denying HAF's building permit to destroy the public's Nature Preserve at Indianola.

Cpt 3-pg 24, following on the statement immediately above. *** 30222. THE USE OF PRIVATE LANDS SUITABLE FOR VISITOR-SERVING COMMERCIAL RECREATIONAL FACILITIES DESIGNED TO ENHANCE PUBLIC OPPORTUNITIES FOR COASTAL RECREATION SHALL HAVE PRIORITY OVER PRIVATE RESIDENTIAL, GENERAL INDUSTRY OR GENERAL COMMERCIAL DEVELOPMENT. This statement shows a 'coastal' preference for recreation over commercial, as did Vera in her will, creating the Nature Preserve to be guarded 'native and unspoiled' with 'not even a picnic table to be introduced'. However to allow HAF's 'conflict-of-interest' commercial activity destroys the property physically, introduces great quantities of 'non-nature-preserve' auto traffic (92 parking spaces within the Nature Preserve) and degrades the ambience of the Nature Preserve. This conflict of land use should be resolved in favor of the public's Nature Preserve. HAF can move offsite to a more urban area to do their grant giving, if they can't abide by the rules of the 'Nature Preserve'.

Cpt 3, pg 24: following the two statements above in 3.15, RECREATIONAL AND VISITOR SERVING AREAS *** 30252. THE LOCATION AND AMOUNT OF NEW DEVELOPMENT SHOULD MAINTAIN AND ENHANCE PUBLIC ACCESS TO THE COAST BY 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 DEVELOPEMNT PLANS WITH PROVISION OF ONSITE RECREATIONAL FACILITIES TO SERVE THE NEW DEVELOPMENT. Vera created a 14.3 acre public Nature Preserve in 1972. As the populations of Eureka and Arcata increase, and the two cities will tend to grow together, Vera's 1972 contribution fills the mandates of the Coastal policy and plan and provides more public recreational areas. HAF's requested building permit within the public's 14.3 acre Nature Preserve at Indianola not only denigrates an existing Coastal recreation area, but fails to provide any off setting new recreation, park like areas.

Cpt 3, page 25. B. DEVELOPMENT POLICIES, top of page, 1. IT IS THE POLICY OF THIS COUNTY TO PREFER THE PRIVATE SECTOR AS THE PROVIDER OF VISITOR-SERVING FACILITIES. TO THIS END LAND HAS BEEN RESERVED IN EACH PLANNING AREA FOR VISITOR-SERVING USES; AND THE COUNTY DISCOURAGES PUBLIC AGENCIES FROM ESTABLISHING VISITOR SERVING FACILITIES, BEYOND THE LEVEL OF OVERNIGHT CAMPGROUNDS AND PICNIC AREAS AND OTHER NONCOMMERCIAL DAY USE FACILITIES SUCH AS INTERPRETIVE CENTERS, BOAT LAUNCHING FACILITIES, ETC. Vera privately created the public's Nature Preserve in 1972. It has survived over some 30 years, but is now threatened by HAF wanting to destroy it for their self-serving

commercial activities. The County Planning Commission and Supervisors have improperly gone along with this 'loss' of a 'Recreational and Visitor Serving Area', the public's Nature Preserve. This does not conform to the philosophy behind California's 1972's Proposition 20. The building permit for HAF to destroy the public's Nature Preserve should not be approved.

Cpt 3-pg 31. Under 3.21 RURAL SUBDIVISION REQUIREMENTS, top of page 31, c. INDIANOLA-RURAL RESIDENTIAL. THIS AREA IS CURRENTLY COMPRISED OF APPROXIMATELY 80 RESIDENTIAL PARCELS AND INCLUDES APPROXIMATELY 210 ACRES. THESE PARCELS ARE LOCATED IN AN UPLAND AREA WHERE SOILS ARE SUITABLE FOR SEPTIC SYSTEMS. THE AVERAGE PARCEL SIZE IS 2.6 ACRES, WHICH IS REFLECTIVE OF THE EXISTING DEVELOPMENT PATTERN IN THIS AREA. THE AREA IS PLANNED FOR AN AVERAGE DENSITY OF ONE UNIT PER 2.5 ACRES. As noted above, the Vietor's 14.3 acres would allow for five 'residential parcels', at 2.5 cars per family, or optimally some 13. HAF if given their building permit, would create 65 new slots, a total of 92 parking spaces in little more than 10 % of the 14.3 acres. Such development is out of whack on population density, as HAF destroys the heart of the public's Nature Preserve.

Cpt 3-page 41: 3.27 RECREATION, mid page, last of seven items. ***30253. (4) NEW DEVELOPMENT SHALL MINIMIZE ENERGY CONSUMPTION AND VEHICLE MILES TRAVELED. The answer to HAF's desire to 'expand physically', finding themselves 'temporarily' in a Public Nature preserve, is to move offsite. This should be a more urban area, not overloading a rural low density population area. This would result in energy consumption savings, and minimize vehicle miles traveled (and the need to destroy a nature preserve to then park the vehicles within it).

Cpt 3-page 41: A. PLANNED USES, mid page, second paragraph. PUBLIC RECREATION IS ONE OF THE ACTIVITIES FOR WHICH HUMBOLDT COUNTY IS FAMOUS, AND HUMBOLDT BAY IS A UNIQUE RESOURCE FOR BOTH LOCAL RESIDENTS AND VISITORS. Vera helped provide something unique in her 14.3 acre gift in trust to the public of her Nature Preserve and architecturally significant residence at Indianola. Theses treasures should be guarded by their trustees, even made into a National Heritage Site (or equal) vs. being destroyed by HAF's ill advised Project.

Cpt 3-page 42. Continued under 3.27 RECREATION, further under B. FINDINGS FOR PERMITTING OF RECREATIONAL FACILITIES, 2. THE PROPOSED DEVELOPMENT WOULD NOT CREATE TRAFFIC FLOWS DETRIMENTAL TO AGRICULTURAL OR FORESTRY USES IN THE PLANNING AREA. The intersection at 101 some quarter of a mile west of the site is one of the most dangerous in the County. 101 is four lane. Travelling south (Arcata to Eureka) to turn into the Indianola roads, south bound traffic often fills the left turn land, and then all too often extends out (backs up into) a lane of 101 south, reducing 101 south to a single lane (south). This is an extremely dangerous intersection. HAF with their 92 parking slots can only exacerbate this problem. The obvious question, why let HAF 1) destroy a

nature preserve, and 2) put high density population in a restricted low population density area, while 3) aggravating an already bad traffic problem? HAF should relocate their 'expansion' offsite, to an urban area, with slower traffic and traffic lights, etc. and not worsen such extreme traffic problems. A denial of HAF building permit is thus of merit on many counts.

Cpt 3-pg 43-44: 3.30 NATURAL RESOURCES PROTECTION POLICIES AND STANDARDS, bottom of page 43, *** 30240. (a) ENVIRONMENTALLY SENSITIVE HABITAT AREAS SHALL BE PROTECTED AGAINST ANY SIGNIFICANT DISRUPTION OF HABITAT VALUES, AND ONLY USES DEPENDENT ON SUCH RESOURCES SHALL BE ALLOWED WITHIN SUCH AREAS. (b) DEVELOPMENT IN AREAS ADJACENT TO ENVIRONMENTALLY SENSITIVE HABITAT AREA AND PARKS AND RECREATIONAL AREAS SHALL BE SITED AND DESIGNED TO PREVENT IMPACTS WHICH WOULD SIGNIFICANTLY DEGRADE SUCH AREAS, AND SHALL BE COMPATIBLE WITH THE CONTINUANCE OF SUCH HABITAT AREAS. First Mother Nature, then the Vietors 'created' a nature sanctuary (habitat) when they moved to the Indianola site in 1940. Now 60 years later, it is officially the public's Lynn Vietor Nature Preserve. Based on the mandates of the public's California 1972 Proposition 20, HAF should not be allowed to abrogate their fiduciary responsibility to guard this 'environmentally sensitive habitat'. The 14.3 acres is the home of many animals, bedding ground for deer, with a wide variety of bird life and nesting sites. The areas, having mostly redwoods, could well be the nesting site for spotted owls or marbled murrelets. The Coastal Commission should make Humboldt County live up to their Coastal Plan, and deny HAF's building permit, and save this (rare in the zone) sensitive natural habitat.

Cpt 3, page 45: Continuing under 3.30 NATURAL RESOURCES PROTECTION POLICIES AND STANDARDS (PG 43), on page 45, A. PLANNED USES, HUMBOLDT BAY IS THE LARGEST WETLAND AND ESTUARINE HABITAT IN THE COASTAL ZONE, CONTAINING APPROXIMATELY 23% OF THE COASTAL WETLANDS IN CALIFORNIA. Continuing middle of the third paragraph, WHILE THE SHEER EXTENT OF THESE HABITATS PROVIDES IMPORTANT NATURAL RESOURCE VALUES, THE MIX OF THESE HABITATS IS A SIGNIFICANT FEATURE OF THE HUMBOLDT BAY AREA. MANY WILDLIFE AND FISH SPECIES USE A VARIETY OF HABITATES DURING THEIR LIFETIMES, OR EVEN DURING THE COURSE OF A SINGLE DAY. THE AVAILABILITY OF DIFFERENT HABITATS IS ESSENTIAL TO THE SURVIVAL OF THESE ORGANIZMS. The Vietor property now Nature Preserve has for some 60 years provided a 'near shore' (less than a quarter mile from salt water) habitat. This is threatened by the HAF Project, to wit building on it and paving it over. There are few if any other 'on shore' habitats of this nature in the zone. For the protection of the biodiversity of the Humboldt Bay ecosystem, the public's Nature Preserve should not be destroyed. The ill conceived HAF building permit should be denied as an environmental disaster.

Cpt 3-pg 46. Continuing as above, top of page, last sentence of first paragraph, THE RESOURCE PROTECTION POLICIES ARE DESIGNATED TO MAINTAIN LAND AND WATER AREAS THAT ARE NECESSARY FOR WATERFOUL, WILDLIFE AND FISH PRODUCTION IN THE BAY. The 'resource protection policies' from California's 1972 Proposition 20 should not permit HAF, as the 'non-functioning' trustees of the Nature Preserve, to destroy that public owned 'natural habitat' to build a monument to their own glory. The building permit should be denied. Let HAF relocate their 'expanding' operation elsewhere in a more urban setting, more receptive and appropriate to large buildings and asphalt paving.

Cpt 3-pg 46: Same section as above, third paragraph. THE TRANSITIONAL AGRICULTURAL LANDS (FARMED WETLANDS) POLICIES ARE DESIGNED TO MAINTAIN EXISTING AGRICULTURAL LAND USES WHILE PREVENTING PRACTICES THAT WOULD ADVERSELY AFFECT EXISTING WILDLIFE HABITAT. This section presents the 'letter and spirit' of the Coastal Plan, of saving some 'natural habitat'. Vera Vietor did that in 1972 in creating the Nature Preserve in public trust. The Coastal Commission should reject, or at very least require an EIR, prior to considering any approval of HAF's Project that will adversely affect the wildlife habitat in the Nature Preserve.

Cpt 3-pg 46: Continuing the section 3.30 NATURAL RESOURCES PROTECTION POLICIES AND STANDARDS (pg 43), the sixth paragraph on page 46, THE COUNTY ALSO ENCOURAGES THE PURCHASE OF PRIVATELY OWNED PARCELS FROM WILLING SELLERS IN THIS AREA BY PRIVATE OR PUBLIC AGENCIES COMMITTED TO PRESERVING THE AREA IN ITS NATURAL, UNDISTURBED STATE. Vera Perrott Vietor in 1972 willed her then some thirty year old private 'nature preserve' to the public in trust (no purchase cost to the County). Vera mandated that it be kept 'native and unspoiled', not to even be 'despoiled' by a picnic table. The Coastal Plan promotes private (and public) agencies which are committed to preserving the natural, undisturbed state of areas such as the Nature Preserve. HAF's Project is diametrically opposite to the Plan's purpose and expressly stated goals.

Cpt 3-pg 47. From the third paragraph. DURING THE PREPARATION OF THIS LAND USE PLAN IT BECAME EVIDENT THAT AGRICULTURE AND WETLAND USES ARE SEVERLY CONSTRAINED BY THE FACT THAT MOST LAND SURROUNDING THE BAY IS IN ONE OR THE OTHER SUCH PRODUCTIVE USE. AS INDUSTRIAL USES COMPETE FOR AVAILABLE LAND (E.G. THE KING SALMON AND FIELDS LANDING AREAS), IT IS LIKELY THAT CERTAIN ISOLATED WETLANDS WILL BE FILLED, LEADING TO STATE AND FEDERAL REQUIREMENTS FOR WETLAND RESTORATION AT OTHER SITES. Currently 'recreating' wetlands at new sites as a trade off for development obliterating smaller wetlands is an active Humboldt County process, mode of operation. Rather than building within and paving over 10% of the public's Nature Preserve, the 'low' south west corner, the only open portion (the rest is redwood forest) could and should be designated as an 'alternate' wetland site. Then install a pond to augment the existing hillock and forested nature preserve, vs. the Nature Preserve's trustees HAF despoiling it by building within

and paving over the preserve. The topography, the sloping SW corner makes this easy with a 'corner of property' dike.

Cpt 3-pg47: Last two lines on the page. RESTORATION OF THESE AREAS FOR FISH AND WILDLIFE HABITAT SHALL BE ENCOURAGED, WHERE FEASIBLE, WHEN THEY ARE NO LONGER NEEDED FOR THEIR PRESENT PURPOSE. Continuing with the idea of installing a wetland within the public's Nature Preserve vs. HAF's proposed despoliation by building within it and paving it over, would be in line with the stated Coastal Plan philosophy above. Building in the public's 'nature preserve' is quite the opposite of the California Proposition 20 (1972) philosophy.

Cpt 3-pg 51: Under 5. WETLAND RESTORATION, third paragraph IN WETLAND RESTORATION PROJECTS NOT SPECIFICALLY REQUIRED BY SECTION 30607.1 OF THE COASTAL ACT, IT IS THE POLICY OF THE COUNTY TO ENCOURAGE 'MITIGATION BANKING' TO FACILITATE PROJECTS PERMITTED UNDER SECION 30233 OF THE COASTAL ACT. The Nature Preserve should be put into 'mitigation banking' as 'encouraged' by County policy, i.e. identified as a site for an up to 1.4 acre pond or wetland, in the low southwest corner, fairly open meadow that is now slated for destruction by HAF's currently proposed building. I.e enhance the now some 60 year old 'nature preserve' gifted in trust to the County and/or public in 1972 by Vera Perrott Vietor rather than let it be destroyed. This could take place under a new trustee, as Humboldt State University, who would be real land managers and trustees, not destroyers.

Cpt 3-pg 62: 3.40 VISUAL RESOURCES PROTECTION. Top of page. ***30251. THE SCENIC AND VISUAL QUALITIES OF COASTAL AREA SHALL BE CONSIDERED AND PROTECTED AS A RESOURCE OF PUBLIC IMPORTANCE. The Vietors left (1972) the public (in trust) a visually pleasing 14.3 acres as the public's Nature Preserve. To let HAF destroy it, and build an unattractive modern building on and pave over 1.4 acres, 10 % of the 'nature preserve' is not consistent with the philosophy of California's 1972 Proposition 20 and the ensuing Coastal Act.

Cpt 3-pg 62: Continuing VISUAL RESOURCE PROTECTION, second paragraph, *** 30253. NEW DEVELOPMENT SHALL: (5) WHERE APPROPRIATE, PROTECT SPECIAL COMMUNITIES AND NEIGHBORHOODS WHICH, BECAUSE OF THEIR UNIQUE CHARACTERSITICS, ARE POPULAR VISITOR DESTINATION POINTS FOR RECREATIONAL USE. The Nature Preserve stands out as a sparkling Gem in the special community are known as Indianola. The Nature Preserve has been a destination primarily for nature lovers—not for business meetings. HAF's Project would significantly and irreparably change the nature and scope of activities and use of the property, opposite of those for which its was created as the Nature Preserve, and should qualify it for protection under California Proposition 20 Coastal Act provisions.

Cpt 3-pg 62, continuing VISUAL RESOURCE PROTECTION, B. DEVELOPMENT POLICIES, 1. PHYSICAL SCALE AND VISUAL COMPATIBILITY. NO DEVELOPMENT SHALL BE APPROVED THAT IS NOT COMPATIBLE WITH THE

PHYSICAL SCALE OF DEVELOPMENT AS DESIGNATED IN THE AREA PLAN AND ZONING FOR THE SUBJECT PARCEL, AND THE FOLLOWING CRITERIA SHALL BE DETERMINATIVE IN ESTABLISHING THE COMPATIBILITY OF THE PROPOSED DEVELOPMENT. The 'development' proposed by HAF is not compatible with the zoning, RA 2.5, Residential-agricultural, with 2.5 acre minimum building plots, for a non urban area. But that zoning does not take into account that this unique wooded (redwoods) hillock is a public Nature Preserve, with the one 1940 structure, an architecturally significant treasure that was shown at the New York Museum Of Modern Art alongside works of Frank Lloyd Wright in the early 1940's. Again under RA 2.5, there would be about 13 cars expected on this 'acreage'. HAF's building plan brings the number of paved parking slots to 92! The physical scale of HAF's Project is grossly disproportionate quantitatively and qualitatively to the allowed residential zoning, but far worse in light of its destruction of a Nature Preserve.

Cpt 3-pg 62: Continuing from above, bottom of page, restrictive guidelines (1) NO GREATER IN HEIGHT OR BULK THAN IS PERMITTED FOR THE PRINCIPAL USE, AND IS OTHERWISE COMPATIBLE WITH THE STYLES AND VISIBLE MATERIAL OF EXISTING DEVELOPMENT OR LAND FORMS IN THE IMMEDIATE NEIGHBORHOOD, WHERE SUCH DEVELOPMENT IS VISIBLE FROM THE NEAREST PUBLIC ROAD. The 'principal use' as per the 1972 will of Vera Perrott Vietor is as the public's Nature Preserve, or a predominately redwood forest on a 14.3 acre hillock with stunning views of Humboldt Bay, all in a rural-agricultural setting. Vera's will (see Exhibit E) clearly and unequivocally stipulates that the property (including residence) be kept 'native and unspoiled, and all of it', not even permitting the despoliation by a 'picnic table', clear and unequivocal. Prior trustees so guarded it for 23 years (72-95). The proposed HAF building and 65 slot parking lot, will destroy 10 % of the public's Nature Preserve and is 'very visible' from the Indianola cutoff road, and but a quarter mile east of US 101, the main artery of the North Coast.

Cpt 3-pg 63, continuing on the next page with the comment immediately above (2) WHERE THE PROJECT CANNOT FEASIBLY CONFORM TO PARAGRAPH 1 (immediately above) AND NO OTHER MORE FEASIBLE LOCATION EXISTS, THAT THE EXTERIOR DESIGN, AND LANDSCAPING BE SUBJECT TO A PUBLIC HEARING, AND SHALL BE APPROVED ONLY WHEN : (a) THERE IS NO LESS ENVIRONMENTALLY DAMAGING FEASIBLE ALTERNATIVE LOCATION. HAF could relocate to 'anywhere' in Humboldt County and make charitable grants. There is absolutely no need to destroy the public's Nature Preserve to act as a charitable entity. There are unlimited 'less environmentally damaging feasible alternative locations' for HAF's 'expansion'.

Cpt 3-pg 63, continuing with 3.40 VISUAL RESOURCE PROTECTION. 2. PROTECTION OF NATURAL LANDFORMS AND FEATURES. NATURAL CONTOURS, INCLUDING SLOPE, VISIBLE CONTOURS OR HILLTOPS AND TREELINES, BLUFFS AND ROCK OUTCROPPINGS, SHALL SUFFER THE MINIMUM FEASIBLE DISTURBANCE COMPATIBLE WITH DEVELOPMENT OF ANY PERMITTED USE, AND THE FOLLOWING STANDARDS SHALL AT A

MINIMUM SECURE THIS OBJECTIVE. The 14.3 acre property is a unique forested hillock, with great natural beauty topped off by the architecturally significant John Yeon masterpiece. There should be no 'disturbance' whatsoever of the natural landforms, etc. HAF's Project would forever alter this very visible and prominent natural and cultural resource in close proximity of US 101.

Cpt 3-page 63: Mid page, 3. COASTAL SCENIC AREA. IN THE COASTAL SCENIC AREA DESIGNATED IN THE AREA PLAN MAP (INDIANOLA AREA), IT IS THE INTENT OF THESE REGULATIONS THAT ALL DEVELOPMENTS VISIBLE FROM HIGHWAY 101 BE SUBORDINATED TO THE CHARACTER OF THE DESIGNATED AREA, AND THE FOLLOWING UNIFORM STANDARDS SHALL APPLY TO ALL DEVELOPMENT WITHIN SAID AREA, IN ADDITION TO THE APPLICABLE POLICIES OF THIS PLAN: The upper portion of the 14.3 acre property left in trust to the public in 1972 is visible from US 101 and 'salt water' (Humboldt North Bay) approximately one quarter of a mile to the west. John Yeon the Portland architect left Portland for 'boondocks' Humboldt County mainly because 'he fell in love with the site', the stunning bay view, and redwood covered hillock that the Vietors proposed building on in 1940. So here we have a unique public nature preserve topped by a world class architectural treasure, in a special Coastal Scenic Zone. More reason to disqualify HAF's ill-conceived Project to build in and destroy the public Nature Preserve. This would leave open the active option of the 'renovation' of the site (reversal of HAF's 1995 destruction) and the 14.3 acre property becoming a National Heritage Site (or equal), in the letter and spirit of California's Proposition 20 (1972).

Cpt 3-pg 64: Continuing 3.40 VISUAL RESOURCE PROTECTION (pg 62), 4. COASTAL VIEW AREA, b. (1) THE DEVELOPMENT IS NOT VISIBLE FROM THE ROAD OR WOULD NOT BLOCK AND PART OF THE VIEW. The 'development' proposed is on the main secondary road, the Indianola Cutoff, is in full view from the road, and the construction (destruction) will not only cut off the view, it will 'destroy it', the view and the public's Nature Preserve.

Cpt 3-pg 65. Continuing as above, (2) THAT THE EXTERIOR DESIGN, LIGHTING AND LANDSCAPING COMBINE TO RENDER THE OVERALL APPEARANCES COMPATIBLE WITH THE NATURAL SETTING AS SEEN FROM THE ROAD. The 'setting' is the public's, to be guarded 'native and unspoiled', not even a picnic table to be added. No part of the proposed HAF building project, an ugly barn like 6300 square foot building and 65 slot parking lot is 'compatible with the natural setting', and is all highly visible from the Indianola Cutoff Road. To destroy the natural setting is not compatible with the 'natural setting'. To build within the limits of the public's Nature Preserve as proposed by HAF is illegal and an environmental travesty. HAF's proposed Project is an affront to the North Coast public (the owners), the public who passed California's Proposition 20 (1972), the ensuing Coastal Plan, Mother Nature, and last but not least, Vera the benefactor.

Cpt 3-pg 65: Continuing as above, (4) THAT ALL FEASIBLE STEPS HAVE BEEN TAKEN TO MINIMIZE THE VISIBILITY OF PARKING AREAS FROM THE

PUBLIC ROAD. A minor detail, the 65 slot parking area (most of the 1.4 acres 'to be' destroyed by the HAF building project) is adjacent to and clearly visible from the Indianola Cutoff Road. If 'all feasible steps' are taken, HAF will be denied their building permit, they will relocate to an urban or other area, not destroy the public's Nature Preserve for parking and a commercial type building incompatible with the area in general, the restrictive rural zoning. Most importantly, the proposed 'parking' destroys the heart of the public's Nature Preserve, to be kept 'native and unspoiled', not even a picnic table to be added, certainly not 1.4 acres of blacktop (parking).

Cpt 3-pg 66: 8. NATURAL FEATURES. SIGNIFICANT NATURAL FEATURES WITHIN THE HUMBOLDT BAY PLANNING AREA, AND SPECIFIC PROTECTION FOR RETENTION OF THESE RESOURCES ARE AS FOLLOWS: AREA. BOTTOMLANDS BETWEEN EUREKA AND ARCATA. SCENIC PROTECTION. DESIGNATED PUBLIC RECREATION AND AGRICULTURAL EXCLUSIVE, AS WELL AS COASTAL VIEW AREAS. So in 1940 the Vietors chose one of the most charming and beautiful wooded hillocks in this 'now' (per ensuing Coastal Plan) special scenically protected 'coastal view' area, and created their own private 14.3 acre 'nature sanctuary'. Vera died in June 1972 before the election that brought on California Proposition 20 (fall of 1972) and the Coastal Plan, but she left her jewel, her Walden Pond gift in trust to the North Coast public. After some 60 years as a nature sanctuary, should this public property be destroyed by HAF?

Cpt 3-pg 67: 3.50 ACCESS. PUBLIC ACCESS PROVIDES FOR RECREATIONAL OPPORTUNITIES AROUND THE BAY AREA THAT ADD TO THE LOCAL ECONOMY, AND ENHANCE THE QUALITY OF LIFE FOR LOCAL RESIDENTS. Vera Perrott Vietor left her 14.3 acre 'nature sanctuary' in trust for the public (1972), mandating that it be 'open to the public'. Now some 60 years after her creating this jewel and tribute to Mother Nature in 1940, HAF's Project would irreparably despoil it. This is not in line with the 'letter and spirit' of California's Proposition 20, Coastal Plan, CEQA, the public's interest, and Vera's 1972 will? The building permit should be denied.

Cpt 3-Pg 68: top of page 68, continuing on 3.50 ACCESS. ***30212.5 WHENEVER APPROPRIATE AND FEASIBLE, PUBLIC FACILITIES, INCLUDING PARKING AREAS OR FACILITIES, SHALL BE DISTRIBUTED THROUGHOUT THE AREA SO AS TO MITIGATE AGAINST THE IMPACTS, SOCIAL AND OTHERWISE, OF OVERCROWDING OR OVERUSE BY THE PUBLIC OF ANY SINGLE AREA. HAF by their plan will have 92 total parking slots within the 14.3 acre public Nature Preserve whereas if it was residential (as zoned RA 2.5-i.e residences when allowed on minimum of 2.5 acres), only five homes would be allowed on the 14.3 acres (taken as 15 acres). At 2.5 cars per home, 13 cars as contrasted to 92 parking slots that HAF seeks and that the County has 'approved'. But isn't that all academic? This 'paving over' despoliation is occurring within the limits of the public's Lynn Vietor Nature Preserve, 10 % of which will be obliterated by the ugly barn like office building and 65 parking slots. But none of these slots are for visitors to the nature preserve. They are all for 'non-nature-preserve' visitors to HAF's 'commercial' (even if non-profit) facilities. As a nature preserve, parking should be outside the 'preserve', visitors would walk in. Instead HAF is

planning to attract a different clientele, unappreciative garbage, and noise creating 'visitors' with no interest in the nature preserve, but irreparably destroying its 'natural' ambience. This is an environmental travesty if HAF's building permit is issued. Only the California Coastal Commission stands between HAF and their intent to despoil this natural treasure and further anger Mother Nature.

Cpt 4-pg 6. Chapter 4 lists the Humboldt County land zoning designations. At the tax office the zoning on the 14.3 acre Nature Preserve is RA 2.5. This is applied to non urban, predominately agricultural with restricted residential with 2.5 acre minimum lots (where permitted-restricted and secondary to agriculture). This is the general zoning of the area where the public's Nature Preserve is located on a mostly forested (second growth redwood) 14.3 acre hillock. There are other zoning classifications that the unique 14.3 acres should qualify for, as below: (PR) PUBLIC RECREATIONAL. PURPOSE: TO PROTECT PUBLICLY OWNED LANDS SUITABLE FOR RECREATIONAL DEVELOPMENT OR RESOURCE PROTECTION. PRINCIPAL USE: PUBLIC RECREATION AND OPEN SPACE (PER SECTION 3.25) The 14.3 acres is not only 'suitable' for 'recreational development' it is (since 1940) a 'nature preserve', officially so held in trust for the public by Vera Perrott Vietor's 1972 will as the Lynn Vietor Nature Preserve, and (page 7) (NR) NATURAL RESOURCES. PURPOSE: TO PROTECT AND ENHANCE VALUABLE FISH AND WILDLIFE HABITATS, AND PROVIDE FOR PUBLIC AND PRIVATE USE OF THEIR RESOURCES, INCLUDING HUNTING, FISHING AND OTHER FORMS OF RECREATION. PRINCIPAL USE: MANAGEMENT FOR FISH AND WILDLIFE HABITAT. The 14.3 acre public Nature Preserve enhances wildlife habitat in a natural ecosystem of mostly forest. About 10% in the southwest corner is fairly open meadow where deer and other animals find shelter (the site of HAF proposed building and paving over for parking). There is no hunting, but there is nature walking, bird watching, meditation in a soothing natural setting with Mother Nature in charge. It is the obvious hope that the Coastal Commission will stop the HAF construction (despoliation) as being incompatible with the 'letter and spirit' of the Coastal Plan. Further, it would be reasonable to ask the Coastal Commission to recommend that Humboldt Planning or the Tax Assessors add the (PR) and (NR) designation to the 14.3 acre parcel in question as being compatible with its current (last 60 years) use. However, these 'planning' or 'zoning' designations are more for what 'will be allowed' in the future, vs. tracking what is actually in place on the land.

Cpt 5-page 3: DEFINITIONS. "ENVIRONMENTALLY SENSITIVE" -MEANS ANY AREA IN WHICH PLANT AND ANIMAL LIFE OR THEIR HABITATS ARE EITHER RARE OR ESPECIALLY VALUABLE BECAUSE OF THEIR SPECIAL NATURE OR ROLE IN THE ECOSYSTEM AND WHICH COULD EASILY BE DISTURBED OR DEGRADED BY HUMAN ACTIVITIES AND DEVELOPMENTS (COASTAL ACT SECTION 30107.5), INCLUDING: AREAS OF SPECIAL BIOLOGICAL SIGNIFICANCE AS IDENTIFIED BY THE STATE WATER RESOURCES CONTROL BOARD, RARE AND ENDANGERED SPECIES HABITAT IDENTIFIED BY THE STATE DEPARTMENT OF FISH AND GAME, ALL COASTAL WETLANDS AND LAGOONS, ALL MARINE, WILDLIFE AND

EDUCATION AND RESEARCH RESERVES; NEARSHORE REEFS, TIDEPOLS, SEA CAVES, ISLETS AND OFFSHORE ROCKS, KELP BEDS, INDIGENOUS DUNE PLANTS HABITATS; AND WILDERNESS AND PRIMITIVE AREAS. After some 60 years as a 'nature sanctuary' in a neighborhood otherwise stripped by agriculture or other human development, the public's Nature Preserve as an isolated haven for Mother Nature should qualify as 'environmentally sensitive'.

Cpt 5-pg 4. DEFINITIONS, continued, "HIGHLY SCENIC AREA"-GENERALLY INCLUDE (2) OPEN AREAS OF PARTICULAR VALUE IN PRESERVING NATURAL LAND-FORMS AND SIGNIFICANT VEGETATION, OR IN PROVIDING ATTRACTIVE TRANSITIONS BETWEEN NATURAL AND URBANIZED AREAS. The 14.3 acre public Lynn Vietor Nature Preserve 'preserves' natural land forms and significant vegetation (redwoods etc.) and provides a transition between natural and urbanized areas, in the Coastal-Scenic 'zone' fronting on North Humboldt Bay between Eureka and Arcata where nothing else of the kind is available. It should be so preserved, a small win in the eternal struggle between mankind vs. Mother Nature, not destroyed by HAF.

This is the public's Nature Preserve at Indianola against the backdrop of the California Coastal Act, and HAF's Project to build within and 'irreparably despoil' it. It is located midway between the Bay (salt water) and US highway 101 on the west, and the Old Arcata Road (east boundary of the Coastal Zone). And midway between the two biggest urban areas on the California North Coast, Eureka to the south and Arcata to the north. The exceptional property is a redwood forest covered hillock with stunning views of nearby Humboldt Bay, that has been guarded as a 'nature sanctuary' for 60 years, then since 1972 held in trust for the public. In this Exhibit B section above, the 'land use' of the 14.3 acres is compared against the more than 130 page HUMBOLDT BAY AREA COASTAL PLAN. This is as Vera's heirs believe should have been done by Humboldt Planning before issuing the 1994 and 1998 building permits to HAF, had they known the true nature of the property, a public Nature Preserve. The review herein highlights the unique ecosystem, natural treasure involved. This is juxtaposed against HAF's current trustees ill-conceived intent (Project) to destroy it, and rob the public of the Walden Pond gift that Vera Perrott Vietor left them in 1972 in her special and final tribute to Vera's friend, Mother Nature in a losing battle against misguided over development in the Coastal Zone. If HAF's proposed building permit is issued, it will be an environmental travesty, and make a mockery of the Humboldt County Local Coastal Program.

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
FACSIMILE (707) 445-7877



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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

CALIFORNIA COASTAL COMMISSION

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

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

Charles A. Thomas
2363 ARbutus ST. #C
Eureka, CA 95503 (907) 441-0619
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Humboldt Planning (1-18-01); Humboldt Supervisors (3/27/01)

2. Brief description of development being appealed: Humboldt Area Foundation Building Permit to build commercial building and parking lot on Lynn Victor Nature Preserve.

3. Development's location (street address, assessor's parcel no., cross street, etc.): 373 Indianola Road, Bayside, Ca 95529

4. Description of decision being appealed:

- a. Approval; no special conditions: extension of Building Permit
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: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

Table with 4 rows: EXHIBIT NO. 10, APPLICATION NO. A-1-HUM-01-022, Humboldt Area Foundation, Appeal to Commission (Thomas)

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

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

6. Date of local government's decision: _____

7. Local government's file number (if any): APN 402-031-29

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:

Humboldt Area Foundation
P.O. Box 99
Bay side, Ca 95524

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) J. R. Perrott
29310 Seabiscuit Dr.
Fair Oaks Ranch, TX 78015

(2) _____

(3) _____

(4) _____

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.

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.) Application For Building Permit violates Humboldt Bay Area Plan of the Local Coastal Plan as follows:

- 327 Recreation - 30213 - Protection For Low Cost Recreation Facilities
- 30222 - Priority for commercial recreation over commercial development
- 30233 - Upland Areas reserved for recreational uses
- 40- Visual Resource Protection = 30251 - Scenic and Visual qualities shall be protected as resource 30253 - protect special communities that are popular visitor destination points. Nature Preserve is popular for hiking and meditation (See Back of this 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.

Mark A. Thomas

Signature of Appellant(s) or Authorized Agent

Date April 28, 2001

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 _____

Protection of Natural Land Forms. - Natural Topography to maintained as best as possible. This project requires the excavation 300 cu. yards of soil and 320 cu. yards of new fill.

2) Coastal Scenic Area Area Plan Map (Indianola Area)
all developments visible from Highway 101 must be subordinate to area. This commercial project would not be subordinate to said area. a. New industrial shall be limited to temporary storage of materials for improvement. This project is not for storage.

3) Coastal Viewing Areas. minimize visibility of parking areas from public roads. Applicant Site map shows large parking lot too close and quite visible from intersection of Indianola Cutoff and Indianola Rd.

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MAR 21 2001

James R. Schwartz
Manatt, Phelps & Phillips, LLP
Direct Dial: (310) 312-4182
E-mail: JSchwartz@manatt.com

HUMBOLDT COUNTY
BUILDING DEPARTMENT

March 19, 2001

Client-Matter: 22051-060

Via Federal Express

Board of Supervisors
Humboldt County
3015 "H" Street
Eureka, CA 95501

**Re: Humboldt Area Foundation, Extension Appeal, Indianola Area
Case No. CDP-98-23A/CUP-98-07A/SP-98-21A;
File No. APN: 402-031-29**

Dear Members of the Board of Supervisors:

We are writing to you on behalf of the Humboldt Area Foundation ("Foundation") in response to Mr. John Perrott's letter to you of January 25, 2001. Without going into extraordinary detail to list all of the inaccuracies in Mr. Perrott's letter, we do feel compelled to point out the following facts:

First, and as noted by the Humboldt County Director of Planning and Building in his Memorandum to the Board of March 7, 2001, the Trustee of Record is, as a matter of law, the proper legal decision maker with respect to all land development matters for Trust property. See Probate Code §§ 16226-16233. Moreover, in the present case the Foundation is both the sole Trustee of the real property in question (pursuant to an Order of the Humboldt County Superior Court dated December 7, 1994) as well as the sole beneficiary of the Trust upon which that real property is held (pursuant to a Judgment of Preliminary Distribution of the Humboldt County Superior Court in the Estate of Vera Perrott Vietor dated May 1, 1974). As such, the Foundation is the only person or party with any legal or equitable interest in the real property in question.

Second, and as follows from the above, Mr. Perrott has no legal interest whatsoever in the trust property. In this regard, Mr. Perrott and his siblings filed various Petitions in the Humboldt County Superior Court in 1999 alleging that they had an interest in the trust property in question. Judge Michael Brown of the Humboldt County Superior Court dismissed these Petitions, finding that Mr. Perrott and his siblings "have no right or interest in the Trust and, therefore, lack standing to object to the Trustees' administration of the Trust." Judge Brown's decision was unanimously upheld by the California Court of Appeal for the First Appellate District and, on February 14, 2001, the California Supreme Court denied Mr. Perrott's Petition for Review. As

Board of Supervisors
Humboldt County
March 19, 2001
Page 2

such, the determination that Mr. Perrott has no interest in the real property in question is now final and binding.

Finally, in his letter to you, Mr. Perrott has reiterated his claims that the Foundation has in the past breached the terms of its trust that that this project would likewise breach the trust terms. These claims are, quite simply, wrong - and they are the exact same claims that Mr. Perrott made in his court filings and that were expressly rejected by the Courts. After reviewing all of the facts relating to the Foundation's stewardship of the Vietor Trust, Judge Brown specifically found that:

"The actions of the trustees complained of by Petitioners do not breach the conditions of the will of Vera Perrott Vietor and are consistent with prior orders of this court" (Emphasis added). See, Order Dismissing Consolidated Petitions, dated Feb. 23, 2000.

In fact, in his ruling of September 27, 1999, Judge Brown specifically found with respect to this specific project that:

"[T]he project appears to be in keeping with the intent of the testator, whose first desire was to establish the foundation, and yet maintain the property in its park like atmosphere. Since establishment of the trust, it has grown tremendously, benefiting many residents of Humboldt County. In an attempt to continue and expand such benefits, the subject project is undertaken, while carefully preserving the Vietor estate."

Moreover, the California Attorney General¹⁷, in his Joinder in the Foundation's Application to Dismiss the Perrotts' Petitions, expressly stated that "...the (Perrotts') Petitions are utterly without merit".

We find it extremely unfortunate that Mr. Perrott seems unable to accept either the Courts' or the Attorney General's conclusions in this regard and insists on attacking the Foundation for his own purposes. The Foundation has a truly exceptional record in serving the people of Humboldt County and the North Coast. The proposed project will allow the Foundation to continue this service to the community.

¹⁷ The Attorney General has statutory oversight responsibilities over charitable trusts and corporations in California. See, Cal. Govt. Code §§12580 et. seq.; Cal. Corp. Code §§ 5000 et. seq.

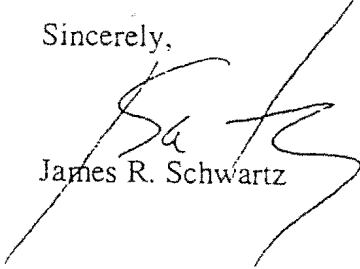
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Board of Supervisors
Humboldt County
March 19, 2001
Page 3

We appreciate your consideration in this regard.

Sincerely,



James R. Schwartz

JRS:ss

cc: Peter Pennekamp
Nancy Delaney Esq.

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May 24, 2001

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CALIFORNIA
COASTAL COMMISSION

Client-Matter: 22051-060

The California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501
Attn: Ms. Tiffany S. Tauber
Coastal Planner

RE: HUMBOLDT AREA FOUNDATION - COMMISSION APPEAL #A-1-HUM-01-022

Dear Honorable Commissioners:

This law firm represents the Humboldt Area Foundation (the "Foundation"), a non-profit public benefit corporation that provides a myriad of programs designed to improve the lives of the residents of the North Coast communities. We are writing in response to the above referenced appeal filed by John Perrott, an individual representing an entity calling itself the Save the Public's Lynn Vietor Nature Preserve. We respectfully request that the Commission deny the appeal. Set forth below are: (1) a brief summary of the history of the Foundation; (2) the facts of this matter; and (3) a discussion about Perrott's unmeritorious claims are set forth below.

The Humboldt Area Foundation Charitable Trust was formed in 1972 to operate as a community foundation and to encourage charitable giving in Humboldt County and the North Coast. It was originally funded by a gift from the estate of Vera Vietor, consisting of Mrs. Vietor's home and approximately \$2.4 million in cash and securities. Since then, the Foundation has grown into a successful community foundation, with assets in excess of \$45 million. The Foundation supports wide-ranging charitable programs, including the North Coast Cultural Trust, The Union Labor Foundation, the Technical Assistance Program to provide help to North Coast charitable organizations, and an extensive grant making program focused on youth and families.

In October, 1998, the Foundation submitted an application to expand its meeting facilities and offices located at 373 Indianola Road in Humboldt County with the Humboldt County Community Development Services department. Following staff analysis, environmental review and a noticed public hearing, in 1999 the Humboldt County Planning Commission granted a Conditional Use Permit, a Coastal Development Permit and a Special Permit (collectively, the "Permits") for this project. The Permits were valid for one year.

EXHIBIT NO. 12
APPLICATION NO. A-1-HUM-01-022
Humboldt Area Foundation
Applicant's Correspondence

The California Coastal Commission
May 24, 2001
Page 3

- 2) the General Plan designation for which a land use conformance finding was made has not changed;
- 3) the design of the project as it was originally reviewed has not changed;
- 4) the agencies and departments to which the project was originally referred and referred to again as part of the extension process have all recommended approval or conditional approval; and
- 5) no new evidence regarding the original environmental analysis has arisen which would require additional CEQA review.”

For whatever reason, Mr. Perrott apparently is unable to accept the judgments of Humboldt County, the California Attorney General, and the Courts as to the lack of merit of his claims, and he now seeks to reargue these same issues in his appeal to this Commission. These issues have absolutely no place before the Commission, which is charged with determining whether Humboldt County's actions are inconsistent with its Certified Local Coastal Program. This is certainly not the case, and Mr. Perrott can present no evidence in this regard.

Additionally, Mr. Perrott's latest filing also demonstrates his basic misunderstanding of the legal capacity of the Foundation as trustee of the property. The Foundation is the Trustee of Record and, as a matter of law, is the proper legal decision-maker with respect to all land development matters for the Trust property². Moreover, the Foundation is both the sole Trustee of the real property in question (pursuant to an Order of the Humboldt County Superior Court dated December 7, 1994), as well as the sole beneficiary of the Trust upon which that real property is held (pursuant to a Judgment of Preliminary Distribution of the Humboldt County Superior Court in the Estate of Vera Perrott Vietor dated May 1, 1974). As such, the Foundation is the only person or party with any legal or equitable interest in the real property in question.

We regret that Mr. Perrott has wasted so much time, energy and public resources in pursuing his various challenges, and hope that the Commission will find it unnecessary to undertake yet another review of these claims. The project is badly needed by the community and has already been needlessly delayed. Due to weather constraints on the North Coast, any further delays will likely postpone the ability of the Foundation to proceed with this project for another full year. Such a result would deprive the Foundation's charitable beneficiaries of the valuable benefits that will be provided by this project.

² Please see Probate Code §§ 16226-16233

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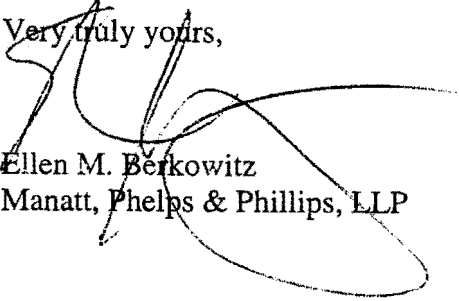
The California Coastal Commission

May 24, 2001

Page 4

Thank you for your consideration of this matter. If you require any further information, staff should not hesitate to contact me.

Very truly yours,



Ellen M. Berkowitz
Manatt, Phelps & Phillips, LLP

EMB/c-ab

cc: Peter Pennekamp

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