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Filed: December 23, 2002  
49<sup>th</sup> Day: February 10, 2003  
Staff: Tiffany S. Tauber  
Staff Report: January 17, 2003  
Hearing Date: February 6, 2003  
Commission Action:

**STAFF REPORT: APPEAL****SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: City of Eureka

DECISION: Approval with Conditions

APPEAL NO.: A-1-EUR-02-166

APPLICANT: Target Corporation

PROJECT LOCATION: 2525 4<sup>th</sup> Street, at the intersection of 4<sup>th</sup> Street (Highway 101) and Y Street, adjacent to the Eureka Slough, in the City of Eureka, Humboldt County. (APN 002-201-008)

PROJECT DESCRIPTION: Demolition of the existing vacant Montgomery Wards building and construction of a new, 130,785-square-foot retail store with a 8,081-square-foot garden center on 11.5 acres. The project also includes repaving of the existing parking area, the addition of landscaping, and constructing public

access along Eureka Slough and to the existing boat ramp.

APPELLANTS: The Environmental Protection Information Center

SUBSTANTIVE FILE: (1) City of Eureka CDP File No. CDP-16-01; (2) Final Environmental Impact Report, "Eureka Target Store Project," (December 2002)

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**SUMMARY OF STAFF RECOMMENDATION:**

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

The City of Eureka approved a coastal development permit for the demolition of the existing vacant Montgomery Wards building and construction of a new, 130,785-square-foot retail store with a 8,081-square-foot garden center on 11.4 acres. The project also includes repaving of the existing parking area, the addition of landscaping, and public access along Eureka Slough and to the existing boat ramp. The project site is 11.4 acres located in the northeast corner of Eureka on the western margin of Eureka Slough and on the north side of U.S. 101. The site is bounded on the north by 2<sup>nd</sup> Street, on the northeast by a man-made drainage channel, and on the west by Y Street.

An appeal was filed by the Environmental Protection Information Center (EPIC). The appellant contends that the approved project raises a substantial issue of conformance with the City's LCP policies pertaining to protection of environmentally sensitive habitat areas and water quality and the development of a wetland protection program by the City.

Staff recommends that the Commission find that the development, as approved by the City, raises a substantial issue of whether the approved environmentally sensitive habitat area buffer is adequate to protect the resources of the area. As approved by the City, the project includes removal of a portion of existing pavement to create an approximately 1.4 acre landscaped buffer area along the east and northeast portions of the property adjacent to Eureka Slough and North Ditch. Along Eureka Slough, the width of the buffer area ranges from 40 feet to 250 feet from the edge of the slough. Along the North Ditch, the buffer area ranges from 20 feet to 150 feet. LUP Policy 6.A.19 allows for a reduction of the 100-foot-wide buffer if the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development and/or the proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer would protect the resources of the habitat area.

The biological information relied upon by the City in approving the project, does not demonstrate that a reduced buffer width would protect the resources of the habitat area as required by LUP Policy 6.A.19. The biological information prepared for the project discusses the increased disturbance associated with the operation of the project adjacent to the ESHA, and generally concludes that the impacts would be less than significant. However, the biological evaluation lacks site specific information regarding impacts from increased disturbance associated with operation of the project to birds, mammals, or other species that utilize the ESHA. There is no information regarding the current level of use of the ESHA by wildlife and how that level of use would be expected to change as a result of the project. Furthermore, the information in the record does not demonstrate how the planting of vegetation along a reduced buffer width would achieve the purpose(s) of the buffer to effectively protect the resources of the habitat area as required by LUP Policy 6.A.19.

Staff recommends that the Commission find that the other two contentions raised in the appeal regarding water quality and wetland program requirements do not raise a substantial issue of conformance of the project as approved with the LCP.

The appellant contends that the project as approved is inconsistent with LUP policies regarding protection of water quality in that the development would result in water pollutants entering Humboldt Bay and that impacts resulting from stormwater runoff have not been adequately addressed. Under current conditions, the entire project site is covered with impervious surfaces and stormwater runoff is directed to several different discharge points around the perimeter of the site, all of which ultimately drain untreated to Eureka Slough. As approved by the City, the project incorporates several measures to minimize adverse effects of stormwater discharge, improve and control the quantity and quality of runoff, and reduce peak stormwater runoff as required by the City's LCP. Specifically, the project as approved would (1) include a stormwater treatment unit to treat greater than 85% of the 1-hour storm event for all parking lot and building runoff, (2) reduce the amount of impervious surface area, (3) implement BMPs to minimize water quality impacts during construction, and (4) implement on-going maintenance Best Management Practices at the site. Thus, staff believes no substantial issue is raised by the alleged inconsistency with the water quality protection policies of the certified LCP.

Secondly, the appellant contends that the City should have a City-wide wetland management, enhancement, and restoration program in place as called for by LUP Policy 6.A.23. The appellant contends that because the City has not developed a wetland program, the relative impact of development at the subject site in relation to the Eureka Slough is unknown and therefore, the impacts cannot be adequately assessed. Although the City's LCP calls for such a wetland program to be developed, such a program has not yet been prepared by the City. However, LUP Policy 6.A.23 does not require that the wetland management, restoration, and enhancement program be prepared prior to the City approving coastal development permits within its jurisdiction. Furthermore, the

policy does not specify timing requirements for preparation of the wetland program relative to the timing and implementation of coastal development within the City. Moreover, an overall City wetland program is not necessary to adequately assess the impact of development at this site to the Eureka Slough. Thus, staff believes there is no substantial issue raised by the alleged inconsistency with the wetland program requirements of the certified LCP.

Staff also recommends that the Commission continue the *de novo* portion of the appeal hearing to a subsequent meeting because the Commission does not have sufficient information from the applicant to determine if the current project can be found consistent with the environmentally sensitive habitat area policies of the certified LCP.

The Motion to adopt the Staff Recommendation of Substantial Issue is found on Page 5.

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**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 subject development is appealable to the Commission because it is located between the sea and the first public road paralleling the sea as well as within 100 feet of a wetland and within 300 feet of the mean high tide line.

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 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 and the public access policies of the Coastal Act.

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

The appellant filed its appeal to the Commission in a timely manner on December 23, 2002, within 10 working days of receipt by the Commission on December 20, 2002 of the City's Notice of Final Local Action (Exhibit Nos. 6 & 7).

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I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE:

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

MOTION:

I move that the Commission determine that Appeal No. A-1-EUR-02-166 raises **NO** Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the

local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

**RESOLUTION TO FIND SUBSTANTIAL ISSUE:**

The Commission hereby finds that Appeal No. A-1-EUR-02-166 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

**II. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

**A. APPELLANT'S CONTENTIONS**

The Commission received an appeal of the City of Eureka's decision to approve the coastal development permit from The Environmental Protection Information Center (EPIC).

The permit is for the demolition of an existing vacant Montgomery Wards building and construction of a new 130,785-square-foot retail store with a 8,081-square-foot garden center on 11.4 acres. The project also includes repaving of the existing parking area, the addition of landscaping, and the provision of public access along Eureka Slough and to the existing boat ramp. The project is located at 2525 4<sup>th</sup> Street, at the intersection of 4<sup>th</sup> Street (Highway 101) and Y Street, adjacent to the Eureka Slough, in the City of Eureka.

The appellant raises contentions alleging inconsistency of the local action with the City's LCP policies regarding protection of environmentally sensitive habitat areas, water quality, and wetland restoration program requirements. The appellant's contentions are summarized below. The full text of the appellant's contentions is included as Exhibit No. 7.

**1. Project inconsistency with LCP ESHA protection and buffer policies**

The appellant contends that the City acted inconsistent with policies in the LCP regarding required setbacks (buffer) from the Eureka Slough, an environmentally sensitive habitat area. The appellant asserts that because the proposed development would be located within 100 feet of Humboldt Bay (i.e. Eureka Slough), the project is not compatible with the continuance of the Humboldt Bay/Eureka Slough estuarine habitat area. The

appellant further contends that the building could be resituated so as to minimize the impacts on Humboldt Bay.

**2. Project inconsistency with LCP water quality protection policies**

The appellant contends that the project as approved is inconsistent with LUP policies regarding protection of water quality. The appellant contends that the development would result in water pollutants entering Humboldt Bay. The appellant contends that impacts resulting from stormwater runoff have not been adequately addressed and that there is no maintenance program for the proposed oil/water separator. Furthermore, the appellant contends that the estimated removal efficiency for the proposed separator unit, approximately 80% removal of water pollutants, is insufficient and that additional water quality protection measures should be required.

**3. Project inconsistency with wetland restoration program policies**

The appellant contends that a wetland program should be in place as required by the City's LCP. The appellant contends that because the City has not developed a wetland program, the relative impact of development at the subject site in relation to the Eureka Slough is unknown and therefore, the impacts cannot be adequately assessed.

**B. LOCAL GOVERNMENT ACTION**

On December 17, 2002 the City of Eureka approved Coastal Development Permit No. CDP-16-01 (Target Corporation). The CDP was approved by the City Council and was not appealable at the local level.

The subject development was approved by the City with twenty-three (23) special conditions (Exhibit No. 6). The conditions include eleven (11) conditions (Nos. 12-22) that were required by the City Public Works Department and relate to traffic and circulation improvements and services. The conditions that are most relevant to the contentions raised in the appeal are Condition Nos. 1 and 11. Condition No. 1 requires that the applicant comply with all project descriptions, site plans, findings, recommendations, mitigation measures, conditions, and restrictions detailed in the City's findings, and in the adopted environmental document. The adopted Environmental Impact Report contains several mitigation measures and proposed project elements that address potential impacts to water quality and environmentally sensitive habitat areas that are made permit requirements by Condition No. 1 of the City's approval. The EIR contains a mitigation measure requiring the preparation of an erosion control plan which specifies practices to be implemented during site clearance, grading, and construction to minimize erosion and sedimentation of adjacent water bodies. Additionally, the project as proposed and described in the EIR includes the implementation of several measures to minimize impacts to water quality including (1) installation of a stormwater treatment

unit to treat runoff from the 95 percentile, one-hour storm event from all parking lot and building areas, (2) reduction of the amount of impervious surface area by removing a portion of existing pavement and creating a 1.4-acre vegetated buffer area adjacent to Eureka Slough, (3) implementing Best Management Practices to minimize water quality impacts during construction, and (4) implementing on-going maintenance Best Management Practices at the site. To minimize impacts to environmentally sensitive habitat areas adjacent to the site, the project as proposed and required by Condition No. 1 includes lighting that would be designed to avoid glare and direct illumination of off-site locations and environmentally sensitive areas to the east of the building by using cut-off shields on light standards to confine illumination.

Condition No. 11 of the permit requires that the buffer area along the Eureka Slough and the North Ditch be landscaped with native plants only.

The other conditions imposed by the City include conditions relating to obtaining any other necessary approvals, public access improvements, the requirement for a cultural resource monitor, preparation of a disposal plan, installation of a grease interceptor in the food service area, and maintenance of the site should it become vacant in the future.

In its action on the project, the City Council approved the permit and certified the Final Environmental Impact Report based on findings that impacts had been adequately mitigated below a threshold of significance, and that the development is consistent with the City's certified LCP.

A Notice of Final Local Action of the City's approval of the permit was received by Commission staff on December 20, 2002. The permit was appealed to the Coastal Commission in a timely manner by the appellant on December 23, 2002, within 10-working days after receipt by the Commission of the Notice of Final Local Action. A copy of the local record was received on January 10, 2003.

### **C. PROJECT SETTING AND DESCRIPTION**

#### **Project Setting**

The project site is 11.4 acres located in the northeast corner of the City of Eureka, adjacent to the western margin of Eureka Slough. The site is located on the north side of Highway 101 and is bounded on the north by 2<sup>nd</sup> Street, on the northeast by a man-made drainage channel, and on the west by Y Street. (See Exhibit Nos. 1 & 2)

The project site is currently developed with the 86,253-square-foot former Montgomery Ward building, which has been vacant since early 2001. The remainder of the site consists of paved parking and circulation areas that abut the shore of Eureka Slough and are in generally poor condition. The site is currently enclosed by cyclone fencing for security purposes.

The eastern site boundary is adjacent to the shore of Eureka Slough. The shoreline is characterized by broken concrete rip-rap along the entire property boundary. A drainage ditch, referred to as 'North Ditch' runs along the northern site boundary extending from Eureka Slough westward for a distance of approximately 450 feet to the foot of 2<sup>nd</sup> Street. The channel conveys drainage discharged from a 24-inch City storm drain outfall at the foot of 2<sup>nd</sup> Street and from a 15-inch diameter drainage outfall at the project site. A small boat ramp exists in the southeast corner of the site on Eureka Slough. This boat ramp was constructed by Montgomery Ward to allow customers to test water craft and motors from the store, but has not been used for this purpose since the mid-1970's. Kayakers have reportedly used the ramp on occasion in more recent years.

The North Ditch is tidally influence and supports native and non-native plant species including willow (*Salix sp.*), Bermuda grass (*Cynodon dactylon*), rush (*Juncus sp.*), pickleweed (*Salicornia virginica*), blackberry (*Rubus discolor*), coyote brush (*Baccharis pilularis*), pampas grass (*Cortaderia selloana*), and other grass species. The banks of the Eureka Slough are steep and covered with concrete rip-rap, but do support some vegetation including pickleweed, rush, pampas grass, Himalayan blackberry, and dense-flowered cordgrass (*Spartina densiflora*). The boat ramp area at the southeast corner of the site supports Himalayan blackberry, coyote brush, sweet fennel (*Foeniculum vulgare*), wildrye (*Leymus triticoides*), pickleweed, curly dock (*Rumex crispus*), and rushes. A narrow strip of state right-of-way located between the southern project boundary and the adjacent Highway 101 is undeveloped with a narrow ditch that runs parallel to the southern site boundary to Eureka Slough. The portion of this strip of land nearest Eureka Slough supports rushes, pickleweed, saltgrass, and other grasses. The western end of this strip of land supports several isolated willows and horse-tail (*Equisetum sp.*).

According to the EIR prepared for the project, Eureka Slough is used by several listed species of salmonids including coho salmon, summer steelhead trout, and spring-run Chinook salmon. Due to its existing developed and vacant condition, the site itself provides little natural habitat for wildlife. During periods of high water and storms, shorebirds, gulls, and other water-associated birds may roost in parking lot areas. There are no trees at or near the site that are used as rookeries by any of the heron or egret species that occur in Humboldt Bay. The fence, existing building and vegetation along the outside of the fence may be used by migratory and resident songbirds for perching. The surrounding vegetation provides a source of food (i.e. seeds, insects) for some songbird species. The Townsend's big-eared bat is known to be present in the area and is typically found in abandoned buildings, such as the project site. However, recent bat surveys conducted in the Montgomery Ward building did not find any signs of the bat in or around the vacant building.

### Project Description

The City of Eureka approved a coastal development permit for the demolition of the existing vacant Montgomery Wards building and construction of a new, 130,785-square-foot retail store with a 8,081-square-foot garden center on 11.4 acres. The project also includes repaving of the existing parking area, the addition of landscaping, and public access along Eureka Slough and to the existing boat ramp. (See Exhibit Nos. 3-5)

The new building would be located on the eastern half of the site, with the storefront facing west toward Y Street/3<sup>rd</sup> Street, and the garden center facing south toward Highway 101. The loading area would be on the east side of the building facing Eureka Slough. The building would be constructed of variegated concrete masonry units with a variety of textures and detailing, including several pitched roof elements composed of heavy timber rafters. The building height would average 27 feet, with the highest point reaching 41 feet, 5 inches at the store entrance. The building would include an overhang over the main customer entrance and across portions of the façade.

The project includes native landscaping throughout the site. A combination of trees, shrubs, and groundcovers would be planted to soften the hard edges of the building and paved areas, including trees planted at regular intervals throughout the parking area. The project also includes a 1.4-acre landscaped area adjacent to the eastern site boundary, an area which is currently covered with pavement, to create a buffer area along Eureka Slough.

The landscaped buffer area includes a shoreline recreational trail along Eureka Slough, to be constructed by the applicant and dedicated to the City of Eureka. The existing boat ramp on Eureka Slough in the southeast corner of the project site would remain in place as is, and would be made available for the launching and take out of small watercraft by recreational users. The project includes the establishment of parking spaces in the vicinity of the boat ramp for recreational users, but no improvements would be made to the boat ramp itself. This parking area would be located opposite the southeast corner of the building, in a small portion of the planned buffer area. The project includes the construction of a trail link between the boat ramp, the shoreline trail described above, and the parking spaces provided nearby and construction of a walking path along the southern project boundary to provide pedestrian access to the buffer area, the shoreline trail, and the boat ramp. An easement over both the boat ramp and the connecting trail sections would also be dedicated to the City. A wood rail fence approximately three feet high would be erected along the western, or inland, edge of the buffer area, with an opening to provide trail access to the buffer area, the shoreline trail, and the boat ramp. The fence is proposed for safety reasons to keep pedestrian users of the access areas separated from truck loading and driveway areas.

Vehicular access to the site would be provided by driveway entrances on 4<sup>th</sup> Street-U.S. 101, Y Street/Third Street, and near the foot of Second Street. Primary truck access

would be provided from the driveway on Fourth Street-U.S. 101. All driveways would be stop-sign controlled for vehicles exiting the site. The project includes 452 parking stalls, which meets the City's parking requirement for the project.

To provide adequate flood protection and drainage, site elevations would be raised an average of about one foot. Within the building footprint, the finished floor elevation would be raised by up to 2.0 feet to elevation 12.5 feet, which would provide over one foot of freeboard above the 100-year flood elevation. Virtually all existing structures, slabs, pavements, light standards, pipelines, and appurtenances would be removed from the site prior to general grading.

To address non-point source pollutants generated by the parking area, a stormwater treatment unit would be installed underground near the outlet of the 24-inch outfall pipe at the North Ditch. The on-site drainage areas would be reconfigured such that all building and parking lot drainage would be directed to the treatment unit and then to the North Ditch. This treatment facility would remove a substantial portion of hydrocarbons, sediments, and other urban pollutants from the stormwater runoff before it is discharged to the North Ditch and ultimately to Eureka Slough and Humboldt Bay. The existing 15-inch outfall pipe discharging from the site to the North Ditch would be replaced with a 24-inch pipe by enlarging the aperture in the existing headwall to accommodate the larger pipe. This work would occur entirely on the inland side of headwall, with no work required within the channel.

Project signage would consist of three wall signs and two freestanding signs. The wall signs would include two Target identification signs, one on the front (west) building elevation and one on the south building facade. The third wall sign would be a Pharmacy sign located on the front elevation. The freestanding signs would be located at the main entry drive on 4<sup>th</sup> Street-U.S. Highway 101, and at the Y Street/3<sup>rd</sup> Street entrance. The freestanding signs have been designed to integrate with the architectural style, forms, and textures of the building and to conform with the City's sign ordinance.

The project includes full-coverage lighting throughout the parking lot to provide for security and safety, but would be designed to avoid glare and direct illumination of off-site locations and environmentally sensitive areas to the east of the building. This would be accomplished through the use of cut-off shields on light standards to confine illumination to where it is needed. The building facade would not be illuminated, and project signage would be internally illuminated with no exposed lamps or lighting elements.

#### **D. SUBSTANTIAL ISSUE ANALYSIS**

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

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the*

*certified local coastal program or the public access policies set forth in this division.*

**1. Appellant's Contentions That Are Valid Grounds for Appeal**

The 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 with respect to the allegation 1(a) below, the alleged



inconsistency of the project as approved with the environmentally sensitive habitat protection and buffer policies, a substantial issue exists with regard to the approved project's conformance with the certified City of Eureka LCP. As further discussed below, the Commission finds that with respect to the allegations 1(b) and 1(c) regarding inconsistencies of the project as approved with the LCP water quality protection policies and the LCP requirement for the City to develop an overall wetland restoration program, the development as approved by the City raises no substantial issue with the certified LCP or the access provisions of the Coastal Act.

**Allegation Raising a Substantial Issue**

**a. Project inconsistency with LCP ESHA protection and buffer policies**

The appellant contends that the City acted inconsistent with policies in the LCP regarding required setbacks (buffer) from the Eureka Slough, an environmentally sensitive habitat area. The appellant asserts that because the proposed development would be located within 100 feet from Humboldt Bay (i.e. Eureka Slough), the project is not compatible with the continuance of the Humboldt Bay/Eureka Slough estuarine habitat area. The appellant further contends that the building could be resituated so as to minimize the impacts on Humboldt Bay.

**LCP Policies:**

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

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

- a. *Rivers, creeks, sloughs, gulches and associated riparian habitats, including, but not limited to Eureka Slough, Fay Slough, Cut-Off Slough, Freshwater Slough, Cooper Slough, Second Slough, Third Slough, Martin Slough, Ryan Slough, Swain Slough, and Elk River.*
- b. *Wetlands and estuaries, including that portion of Humboldt Bay within the City's jurisdiction...*

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

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

*to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas.*

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

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

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

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

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

**Discussion:** The approved project is located adjacent to Eureka Slough, an arm of Humboldt Bay. A salt marsh area that is part of the Humboldt Bay National Wildlife Area is located directly across the slough from the project site. Section 6.A.6 of the City's LUP designates sloughs, including Eureka Slough, wetlands, and Humboldt Bay as environmentally sensitive habitat areas. The Eureka Slough and Humboldt Bay provide habitat for a diversity of plants, invertebrates, fish, birds, and mammals. According to the EIR prepared for the project, Eureka Slough is used by several listed species of salmonids, including coho salmon, summer steelhead trout and spring-run Chinook salmon. Coastal salt marsh occurs along the undeveloped portions of the shorelines and the nearby islands and is generally vegetated by cordgrass at the lower elevations, and pickleweed, saltgrass, jaumea and other salt marsh species in the mid and upper marsh zones.

The City of Eureka LCP sets forth several policies regarding development and the protection of environmentally sensitive habitat areas such as Eureka Slough and Humboldt Bay. LUP Policy 6.A.7 incorporates Section 30240 of the Coastal Act and 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 be compatible with the continuance of such habitat areas. LUP Policy 6.A.8 requires that environmentally sensitive habitat areas potentially affected by development be protected, enhanced, or restored. LUP Policy 6.A.19 requires the establishment of a buffer for permitted development adjacent to all environmentally sensitive habitat areas. The policy requires a minimum buffer width of 100 feet, unless the applicant for the development demonstrates based on site specific information, the type and size of the proposed development and/or the proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer will protect the resources of the habitat area.

Buffers provide separation from development and environmentally sensitive habitat areas (ESHA) to minimize disturbance to plants and animals inhabiting an ESHA and to protect the habitat values of the area. Buffers are typically intended to create a spatial separation between potentially disruptive activity typically associated with development such as noise, lighting, and human activity which can disrupt feeding, nesting, and behavior patterns of wildlife. Buffer areas also provide transitional habitat between development and environmentally sensitive habitat areas. Additionally, buffers are often required to provide a vegetated area to capture and treat drainage and stormwater runoff from development to minimize the amount of pollutants potentially entering environmentally sensitive habitat areas and receiving waters.

The appellant contends that the City's approval is inconsistent with the LCP policies regarding the required buffer width from the Eureka Slough, an environmentally sensitive habitat area (ESHA), because portions of the approved development would be located closer than 100 feet from the ESHA. The appellant further contends that the building could be resituated so as to minimize the impacts on Humboldt Bay.

Currently, the project site is developed with a vacant retail store and associated pavement that extends directly to the edge of the shoreline of Eureka Slough. As approved by the City, the project includes removal of existing pavement to create an approximately 1.4-acre landscaped buffer area along the east and northeast portions of the property adjacent to Eureka Slough and North Ditch. The landscaped area would be vegetated with native plant species and is intended to provide a natural transition area between the project and the open water and natural areas associated with the adjacent slough. Along Eureka Slough, the width of the buffer area as approved ranges from 40 feet to 250 feet from the edge of the slough. Along the North Ditch, the buffer area ranges from 20 feet to 150 feet. The average width of the buffer area along both features is approximately 100 feet, and approximately 50 percent of the project frontage along the Eureka Slough would have a landscaped buffer of at least 100 feet.

LUP Policy 6.A.19 allows a reduction of the 100-foot-wide buffer if the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development and/or the proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer will protect the resources of the habitat area. The City prepared a biological report to evaluate impacts from construction and operation of the project on the biological resources and ESHA at the site.

In approving the project, the City found that the proposed landscaped buffer would enhance existing conditions adjacent to the slough. Additionally, the City found that although the landscaped buffer area would filter stormwater runoff generated within the buffer area, it is not required to filter runoff from the building and parking area which would be entirely captured and directed to a stormwater treatment unit near the North Ditch outfall. As a result, the buffer is not necessary to provide the stormwater filtration function often associated with landscaped buffer areas. Thus, the City found that the partially reduced buffer width would not reduce the project effectiveness in reducing non-point source pollutants reaching Eureka Slough and Humboldt Bay.

The biological report and EIR prepared for the project also evaluates the impacts of noise and vibration associated with project construction on birds and sensitive fish species potentially present in and near Eureka Slough and Humboldt Bay. The biological report indicates that during pile driving operations (on land for foundation construction), waterfowl and other birds would tend to move some distance from the shoreline adjacent to the project area but would return soon after pile driving activities ended. As the pile driving and other construction activities would not affect surrounding undeveloped nesting areas, the report concludes that while pile driving may cause some avoidance of the areas of the slough adjacent to the site, this would be a short-term effect and would not result in a significant impact. Similarly, the report indicates that vibrations would not result in a significant adverse effect to adult salmonids that can easily move from the area. The report does indicate that construction vibration could cause out-migrating smolt, or juvenile salmon, to move away from the protection of the shoreline thus becoming more susceptible to predation. However, the report indicates that smolt tend to migrate during night time hours to avoid visual predators and therefore would not be in the slough during times when the pile driving would occur. The report therefore concludes that construction activities adjacent to the ESHA would not result in an increase in the predation rate on the outmigrating smolt and therefore, would not affect listed fish species reported to use Eureka Slough.

The biological report and EIR also discusses project impacts on the ESHA from operation of the project. Currently, the site is not subject to a high level of human activity due to the vacant nature of the site. The report notes that at the present time there is activity associated with the Pepsi Cola facility on the opposite side of the North Ditch, so the increased activity during daylight hours from the operation of the project should

not result in a significant increase in activity-related disturbance. Also, the nearby highway bridge over Eureka Slough is well traveled and is a source of more-or-less constant noise and activity associated with traffic. As proposed by the applicant and approved by the City, project lighting is designed to avoid glare and direct illumination of off-site locations and ESHAs to the east of the building by use of cut-off shields to confine illumination to where it is needed.

However, the project would result in an increase in activity during evening hours along the North Ditch and along Eureka Slough. While most of the human activity at the site would be associated with the parking lot area on the west side of the site away from the Eureka Slough, delivery trucks would travel along the east and north sides of the building in the general vicinity of Eureka Slough and North Ditch. According to the EIR, truck deliveries would average five large deliveries per week by tractor trailer trucks and 8 to 10 small deliveries per day. With the reduced ESHA buffer, delivery trucks would come as close as 40 feet from Eureka Slough. Regarding the increased disturbance adjacent to the ESHA, the biological report states, *"Wildlife can adapt to the anticipated noise levels although sudden spikes in noise levels can cause wildlife to move from an area momentarily. Therefore, the impacts resulting from the increase in human activity and noise during operation of the site would not be expected to be significant."* The biological report further concludes that:

*"The proposed project would represent an enhancement of the shoreline area by incorporating the buffer area. Therefore, although portions of the buffer zone along of (sic) the east and north project frontages would be less than 100 feet in width, the buffer zone as proposed would still be adequate to protect the resources of the environmentally sensitive habitat areas of Eureka Slough and the North Ditch, and would represent a substantial improvement over existing conditions along the slough in this location."*

In approving the project, the City found that considering the presence of existing sources of disturbance and night lighting, combined with the relatively low level of disturbance and lighting anticipated as a result of the project along the east and northeast boundaries of the site, the buffer area as proposed would provide an adequate transition between the project and the ESHA of Eureka Slough.

The Commission notes that the removal of a portion of the existing pavement and planting of native landscaping directly adjacent to Eureka Slough is certainly an improvement to existing conditions at the site. However, the approved project involves the demolition and complete redevelopment of the entire 11.4-acre site. Even if the approved buffer mitigation would improve existing site conditions, the information in the record does not demonstrate that the reduced buffer would be adequate to protect the resources of the habitat area, prevent impacts from the project as approved which would significantly degrade the area and be compatible with the continuance of the habitat area

as required by LUP Policies 6.A.7 and 6.A.19. As discussed above, LUP Policy 6.A.19 allows for a reduction of the 100-foot-wide buffer if the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development and/or the proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer would protect the resources of the habitat area.

The biological information prepared for the project discusses some of the impacts of the project on the adjacent ESHA, and generally concludes that the impacts would be less than significant. The biological report specifically evaluates impacts to birds and sensitive fish species from construction impacts, including noise and vibration from inland pile driving, and general construction activities. The report also discusses impacts to wildlife in general from increased human activity associated with operation and use of the constructed development. While the biological report focuses on several specific impacts to specific listed fish species and in general to wildlife, the biological evaluation does not provide an overall assessment of the specific functions and resources of the ESHA. The biological analysis failed to identify (1) the various resident and migratory species that inhabit or utilize the ESHA, (2) the various resting, feeding, breeding, and nesting requirements of these species, (3) the relative susceptibility of the species engaging in these activities at the site to disturbance, and (4) the transitional habitat needs of these species between the ESHA and the development. For example, the biological report suggests that wildlife can adapt to anticipated noise levels associated with operation of the development, but there is no specific information regarding the current level of use of the ESHA by various species of wildlife and how that level of use would be expected to change as a result of the operation of the constructed development. Furthermore, there is no quantification of what the anticipated noise levels and other human disturbance associated with the operation of the development would be and how the width of the buffer between the ESHA and the development would affect the perceived disturbance level and the relative impacts to wildlife using the ESHA. Additionally, while the approved native vegetation buffer area would be an improvement relative to existing site conditions, the information in the record does not demonstrate how the planting of vegetation along a reduced buffer width would achieve the purpose(s) of the buffer to effectively protect the resources of the habitat area as required by LUP Policy 6.A.19. Until this information is known, it is difficult to demonstrate that a buffer width less than 100 feet would be adequate to protect the various species and habitat values of the ESHA.

Therefore, based on the information in the record before the City, a substantial issue is raised as to whether the project as approved would assure protection of the environmentally sensitive habitat area. In addition, without additional biological information, the Commission is unable to determine that the proposed buffer is sufficient to ensure protection of the ESHA. Consequently, there is not a high degree of factual or legal support for the City's decision to approve the project as being consistent with the certified LCP. Furthermore, given that the slough supports listed salmonid species and

adjoins, on the opposite bank, a portion of the Humboldt Bay National Wildlife Area, the significance of the coastal resources affected by the decision is high. Moreover, the extent and scope of the development approved by the City is relatively large given that the approved retail facility would be one of the largest retail developments ever approved along the shoreline in northern Eureka. Therefore, the Commission finds that, as discussed above, the appeal raises a substantial issue with respect to conformance of the approved project with LUP Policy 6.A.19 regarding the establishment of an adequate buffer for development adjacent to environmentally sensitive habitat areas to protect the resources of the habitat area and conformance with LUP Policy 6.A.7 regarding preventing impacts that would significantly degrade environmentally sensitive habitat areas from development adjacent to the habitat area.

**Appellant's Allegations that Do Not Raise a Substantial Issue**

**b. Project inconsistency with LCP water quality protection policies**

The appellant contends that the project as approved is inconsistent with LUP policies regarding protection of water quality. The appellant contends that the development would result in water pollutants entering Humboldt Bay. The appellant contends that impacts resulting from stormwater runoff have not been adequately addressed and that there is no maintenance program for the proposed oil/water separator. Furthermore, the appellant contends that the estimated removal efficiency for the proposed separator unit - approximately 80% removal of water pollutants - is insufficient and that additional water quality protection measures should be required.

**LCP policies:**

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

*The City shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, and estuaries appropriate to maintain optimum populations of aquatic organisms and for the protection of human health through, among other means, minimizing adverse effects of wastewater and stormwater discharges and entrainment, controlling the quantity and quality of runoff, preventing deletion of groundwater supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams. [emphasis added]*

LUP Stormwater Drainage Policy 4.D.5 states:

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

LUP Stormwater Drainage Policy 4.D.6 states:

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

LUP Stormwater Drainage Policy 4.D.9 states:

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

**Discussion:** The City's LCP sets forth several policies regarding the protection of water quality. LUP Policy 6.A.3 requires, in part, that the City minimize adverse effects of stormwater discharges and entrainment, and control the quantity and quality of runoff. LUP Policy 4.D.6 requires the City to improve the quality of runoff from development through the use of mitigation measures such as artificial wetlands, grassy swales, infiltration/sedimentation basins, riparian setbacks, oil/grit separators, and other best management practices (BMPs). LUP Policy 4.D.9 requires, in part, that to the maximum extent feasible, new development shall not produce a net increase in peak stormwater runoff.

The appellant contends that the project as approved is inconsistent with LUP policies regarding protection of water quality in that the development would result in water pollutants entering Humboldt Bay and that impacts resulting from stormwater runoff have not been adequately addressed. The appellant has not specified what additional water quality protection measures it believes should be required.

Under current conditions, the entire project site is covered with impervious surfaces and stormwater runoff is directed to several different discharge points around the perimeter of the site, all of which ultimately drain untreated to Eureka Slough. As approved by the City, the project incorporates several measures to minimize adverse effects of stormwater discharge, improve and control the quantity and quality of runoff, and reduce peak



stormwater runoff consistent with the City's LUP policies outlined above. Specifically, the project as approved would (1) include a stormwater treatment unit to treat all parking lot and building runoff, (2) reduce the amount of impervious surface area, (3) implement BMPs to minimize water quality impacts during construction, and (4) implement on-going maintenance Best Management Practices at the site.

First, as approved by the City, all of the parking lot and roof drainage from the project site would be collected in a new storm drain system and conveyed to an underground stormwater treatment facility located under the parking lot prior to being discharged to the North Ditch. The site currently contains no facilities for filtering stormwater prior to being discharged into Eureka Slough. All of the parking area and roof runoff from the site would be directed through a hydrodynamic separator, specifically a Vortech unit, which provides sediment removal, oil and grease removal, and trash control. During the development and review of the project, Commission staff encouraged the City to require, and the applicant to design the stormwater treatment system to treat the 85<sup>th</sup> percentile, 1-hour storm event consistent with the Commission's water quality goals. According to information on the proposed treatment system and the hydrology of the site included in the EIR prepared for the project, the flow into the treatment unit during the 85<sup>th</sup> percentile, 1-hour storm would be 5.7 cfs and the treatment unit has been designed to treat 11 cfs, almost double the volume produced by a 1-hour storm event. A 95<sup>th</sup> percentile, 1-hour storm would generate 7.7 cfs, still leaving excess capacity in the treatment unit.

Presently, 100 percent of the Total Suspended Solids (TSS) contained in the runoff from the site enter Eureka Slough untreated. Following installation of the proposed stormwater treatment unit, the TSS in the site runoff would be reduced by 80% prior to entering the City's storm drain system. Thus, installation of the underground stormwater treatment unit to treat runoff from the parking area and the building would improve the quality of runoff from the site consistent with LUP Policy 4.D.6 and would minimize adverse effects of stormwater discharge and control the quantity and quality of runoff consistent with LUP Policy 6.A.3.

The efficacy of structural water quality Best Management Practices is dependent upon on-going, regular maintenance of the facility to ensure proper functioning. The appellant also contends that there is no maintenance program for the proposed stormwater treatment unit. However, the Draft EIR prepared for the project indicates that the Vortech unit would be maintained by the applicant (Target) pursuant to a maintenance agreement with the City of Eureka. The Final EIR prepared for the project and certified by the City further addresses the issue regarding the frequency and method for maintenance and states:

*"The stormwater treatment unit would be maintained in accordance with the manufacturer's recommended maintenance schedule, which includes detailed provisions for timing of inspections and cleaning, as well as*

*proper record-keeping. The manual requires ongoing quarterly inspections of the accumulated sediment and petroleum contaminants. The recommended method of cleaning the treatment unit is by vacuum truck. Written records are to be kept for each inspection and cleaning."*

The maintenance agreement required by the City would provide the City with the ability to enforce the specified maintenance of the Vortech unit. Thus, the appellant's contention regarding maintenance requirements for the stormwater treatment unit has been adequately addressed in the City's approval of the project.

Secondly, as approved by the City, the project would replace portions of the existing pavement with pervious landscaped areas and would replace a portion of the existing pavement adjacent to Eureka Slough with a 1.4-acre landscaped buffer area. The buffer area would contain a grass-lined swale which would allow for infiltration and filter runoff from this portion of the site. As a result, the project would reduce the total volume of runoff from the site due to the conversion of some existing pavement areas to pervious landscaped areas consistent with LUP Policy 4.D.6 and would not result in a net increase in peak stormwater runoff consistent with LUP Policy 4.D.9.

Thirdly, the City's approval of the project requires the applicant to prepare an erosion control plan implementing measures to minimize erosion and sedimentation implemented during site clearance, grading, and construction. These measures include, but are not limited to: confining earthwork activities to the non-rainy season; use of temporary siltation basins; protection of storm drain inlets; stabilization and containment of stockpiles; sweeping paved surfaces with a wet sweeper; washing and maintaining equipment and vehicles in a bermed area; and surrounding construction storage and maintenance areas with berms or dikes. In addition, the project is subject to the NPDES General Permit for Storm Water Discharges Associated with Construction Activity, and is therefore required to file a Notice of Intent to Comply with the General Storm Water Permit with the Regional Water Quality Control Board prior to commencing construction. As part of the General Permit requirements, a Storm Water Pollution Prevention Plan (SWPPP) would be prepared, which must address water quality mitigation for construction and post-construction activities. The required erosion control plan and SWPPP will further ensure that potential adverse impacts to water quality are minimized consistent with LUP Policy 6.A.3.

Lastly, as approved by the City, the project includes the employment of post-construction Best Management Practices (BMPs) to ensure on-going maintenance and up-keep of the site. These BMPs include parking lot sweeping with a mechanical wet sweeper, cleaning storm drain catch basins, litter control, and good housekeeping in the loading dock area. These measures are required to be implemented by the City's approval of Special Condition No. 1 that requires the applicant to adhere to the measures outlined in the EIR prepared for the project which proposes routinely implementing the

BMPs described above. These measures would further minimize adverse effects to water quality by controlling the quality of site runoff consistent with LUP Policy 6.A.3.

In its approval of the project, the City found that:

*"With the implementation of the stormwater BMPs during and after construction, and with the installation of the stormwater treatment unit, impacts to water quality that would affect the biological productivity of the North Ditch and Eureka Slough would substantially reduce the potential pollutants in the stormwater reaching these areas. Further, the landscaped buffer area along Eureka Slough would receive no drainage from the paved areas of the project site. The buffer area itself would have a grass-lined swale which would filter runoff prior to discharge of this relatively small volume of runoff to Eureka Slough. In addition, since there are no plants to apply pesticides, herbicides, fertilizers, or other chemicals to the landscaped buffer area (to be planted with low maintenance native species) or elsewhere on the site, the project would not contribute any such chemical pollution to the North Ditch or Eureka Slough."*

Therefore, given the water quality protection measures required by the City in its approval of the project and discussed above, the Commission finds that there is sufficient factual and legal support for the City's decision that the development is consistent with the water quality protection policies of the certified LCP. Therefore, no substantial issue is raised of the conformance of the project as approved with LCP policies regarding water quality.

**c. Project inconsistency with wetland restoration program policies**

The appellant contends that a wetland program should be in place as required by the City's LCP. The appellant contends that because the City has not developed a wetland program, the relative impact of development at the subject site in relation to the Eureka Slough is unknown and therefore, the impacts cannot be adequately assessed.

**LCP policies:**

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.23 states:

*The City, in consultation with the Department of Fish and Game, Coastal Conservancy, Coastal Commission, Humboldt County, Humboldt Bay Harbor, Recreation, and Conservation District, affected landowners, and other interested parties shall prepare a detailed, implementable wetlands management, restoration and enhancement program consistent with the provisions of this General Plan. The objectives of the program shall be to*

*enhance the biological productivity of wetlands; to minimize or eliminate conflicts between wetlands and adjacent urban uses; to provide stable boundaries and buffers between urban and habitat areas; to provide restoration areas, including the City-owned lands on the Elk River Spit that may benefit from restoration and enhancement, to serve as mitigation in conjunction with future projects that may include wetland areas. Upon completion, the wetlands management and the restoration program created by this policy shall be submitted to the Coastal Commission for review and approval.*

**Discussion:** LUP Section 6.A.23 requires the City to prepare, in conjunction with other agencies, a wetland management, restoration, and enhancement program to, in part, enhance the biological productivity of wetlands, minimize or eliminate conflicts between wetlands and adjacent urban uses, and provide stable boundaries and buffers between urban and habitat areas. Although the City's LCP calls for such a wetland program to be developed, such a program has not yet been prepared by the City. The appellant asserts that because the City has not prepared the wetland program called for in the City's LCP, the relative impact of development on the subject site in relation to the Eureka Slough, an environmentally sensitive habitat area, is unknown and therefore, the impacts cannot be adequately assessed. The appellant does not specify what impacts they believe have not been adequately assessed.

LUP Policy 6.A.23 does not require that the wetland management, restoration, and enhancement program be prepared prior to the City approving coastal development permits within its jurisdiction. Furthermore, the policy does not specify timing requirements for preparation of the wetland program relative to the timing and implementation of coastal development within the City.

As noted above, LUP Policy 6.A.23 outlines the intended objectives of the wetland program called for by the policy. These objectives include enhancing the biological productivity of wetlands, minimizing or eliminating conflicts between wetlands and adjacent urban uses, providing stable boundaries and buffers between urban and habitat areas, and providing restoration areas. The City prepared an Environmental Impact Report (EIR) for the project during the CDP and CEQA review process which addresses project-specific issues regarding wetlands and environmentally sensitive habitat areas at the subject site. These issues would otherwise be only programmatically addressed in the wetland program called for by LUP Policy 6.A.23 and would not provide information specific to the impacts of the proposed project at the site. Even if the wetland program called for by the LCP had been prepared, the specific project impacts would still need to be addressed through the CEQA and CDP process and the project reviewed against other LCP policies that require the project to meet similar objectives as those intended to be addressed by the wetland program required by LUP Policy 6.A.23.

Therefore, the City's action to approve the subject development prior to preparation of the wetland program raises no substantial issue of conformance with LUP Policy 6.A.23

of the City's LCP. There is a high degree of factual support for the City's decision that the development is consistent with LUP Policy 6.A.23. The Commission therefore concludes that the appeal raises no substantial issue with respect to conformance of the local approval with LCP provision pertaining to the preparation of a wetland program.

### **Conclusion**

The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to the conformance of the approved project with the policies of the LCP regarding protection of environmentally sensitive habitat areas.

### **E. INFORMATION NEEDED FOR *DE NOVO* REVIEW OF APPLICATION**

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a *de novo* hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the *de novo* hearing to a subsequent date. The *de novo* portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, development can be approved, consistent with the certified LCP and the public access and public recreation policies set forth in the Coastal Act.

Given that the project the Commission will be considering *de novo* has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP and the public access and public recreation policies set forth in the Coastal Act. Following is a discussion of the information needed to evaluate the development.

### **Adequacy of Buffer for Environmentally Sensitive Habitat Area**

As approved by the City, the project includes removal of existing pavement to create an approximately 1.4-acre landscaped buffer area along the east and northeast portions of the property adjacent to Eureka Slough and North Ditch. Along Eureka Slough, the width of the buffer area ranges from 40 feet to 250 feet from the edge of the slough. Along the North Ditch, the buffer area ranges from 20 feet to 150 feet. As discussed previously, LUP Policy 6.A.19 allows for a reduction of the 100-foot-wide buffer if the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development and/or the proposed mitigation (such as

planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer would protect the resources of the habitat area.

The biological information relied upon by the City in approving the project does not demonstrate that a reduced buffer width would protect the resources of the habitat area as required by LUP Policy 6.A.19. The biological information prepared for the project discusses only generally the increased disturbance associated with the operation of the project adjacent to the ESHA, and concludes that the impacts would be less than significant. While the biological report focuses on several specific impacts to specific listed fish species and in general to birds and wildlife, the biological evaluation does not provide an overall assessment of the specific functions and resources of the ESHA. There is no information regarding the current level of use of the ESHA by wildlife and how that level of use would be expected to change as a result of the project. The biological analysis does not identify (1) all of the various resident and migratory species that inhabit or utilize the ESHA, (2) the various resting, feeding, breeding, and nesting requirements of these species, (3) the relative susceptibility of the species engaging in these activities at the site to disturbance, and (4) the transitional habitat needs of these species between the ESHA and the development. Additionally, there is no quantification of what the anticipated noise levels and other human disturbance associated with the operation of the development would be and how the width of the buffer between the ESHA and the development would affect the perceived disturbance level and relative impact to wildlife using the ESHA. Additionally, the biological analysis does not demonstrate how the planting of vegetation along a reduced buffer width would achieve the purpose(s) of the buffer to effectively protect the resources of the habitat area as required by LUP Policy 6.A.19. An analysis prepared by a qualified biologist addressing this information is needed to determine what buffer width is appropriate and whether the buffer can be reduced under the criteria specified in the LCP.

Without the above information, the Commission cannot reach a final determination concerning the project's consistency of the project with the environmentally sensitive habitat area policies of the LCP. Therefore, before the Commission can act on the proposed project *de novo*, the applicant must submit all of the above-identified information.

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**EXHIBITS:**

1. Regional Location
2. Site Location
3. Site Plan
4. Landscape Plan
5. Elevations
6. City of Eureka Notice of Local Final Action
7. Appeal filed December 23, 2002 (EPIC)
8. Letter from City of Eureka in Response to Appeal (dated January 3, 2003)
9. Letter from Applicant in Response to Appeal (dated December 31, 2002)





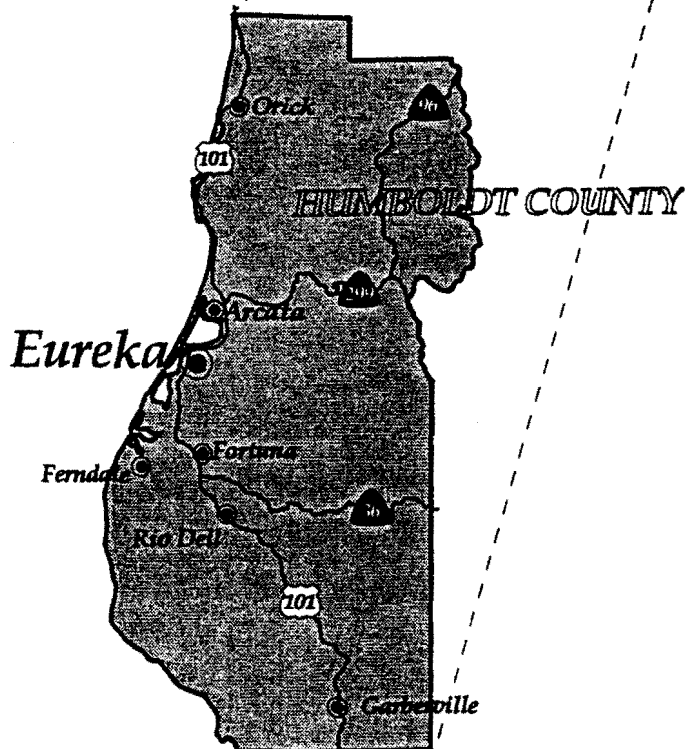
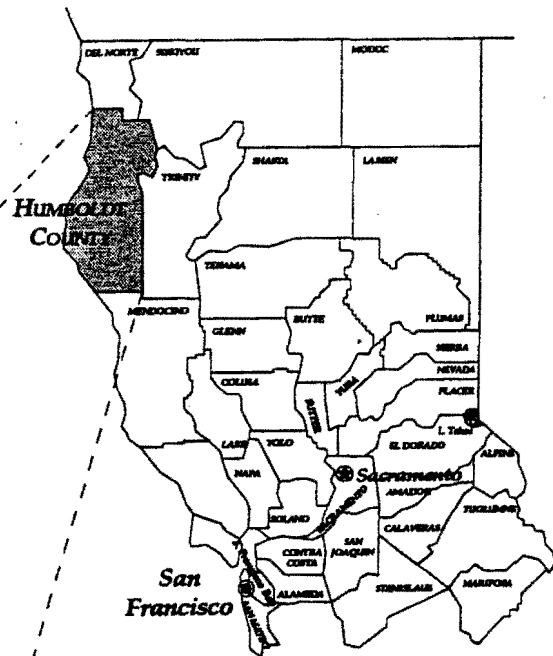
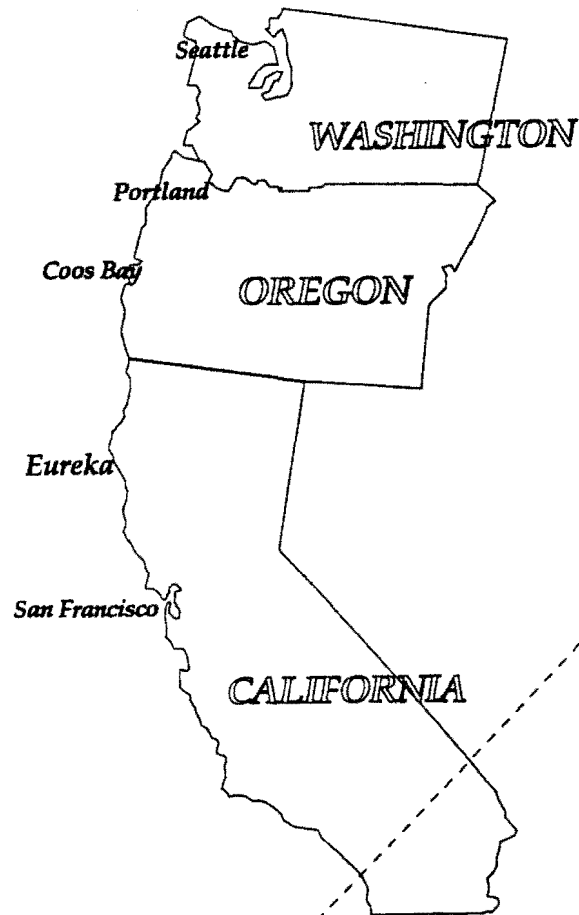


EXHIBIT NO. 1

APPLICATION NO.

A-1-EUR-02-166

TARGET

REGIONAL LOCATION

REGIONAL LOCATION

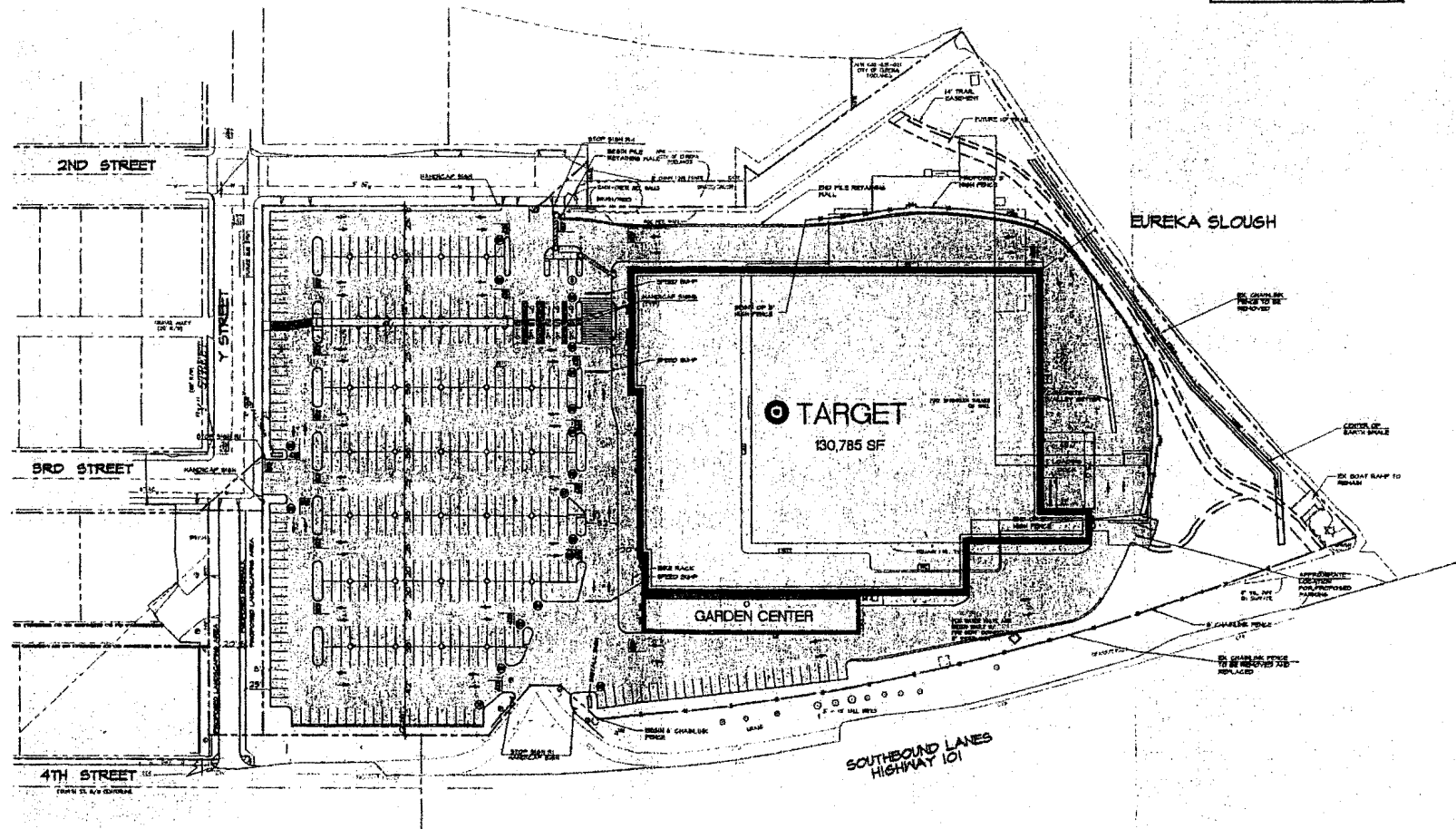
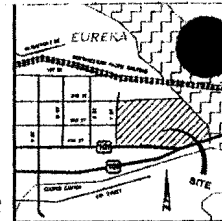
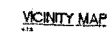
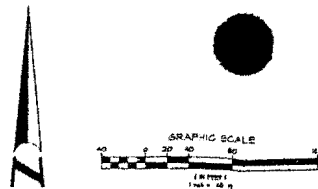


EXHIBIT NO. 2

APPLICATION NO.  
A-1-EUR-02-166  
TARGET  
SITE LOCATION

REQUIRED PARKING:  
COMMERCIAL 180 125 300 SF. 452 STALLS  
GARDEN CENTER 600HSCG SF. 16 STALLS  
TOTAL 452 STALLS





PROPOSED PARKING:  
STANDARD (4'X14') 443 STALLS  
HANDICAP (9'X14') 9 STALLS  
TOTAL 452 STALLS



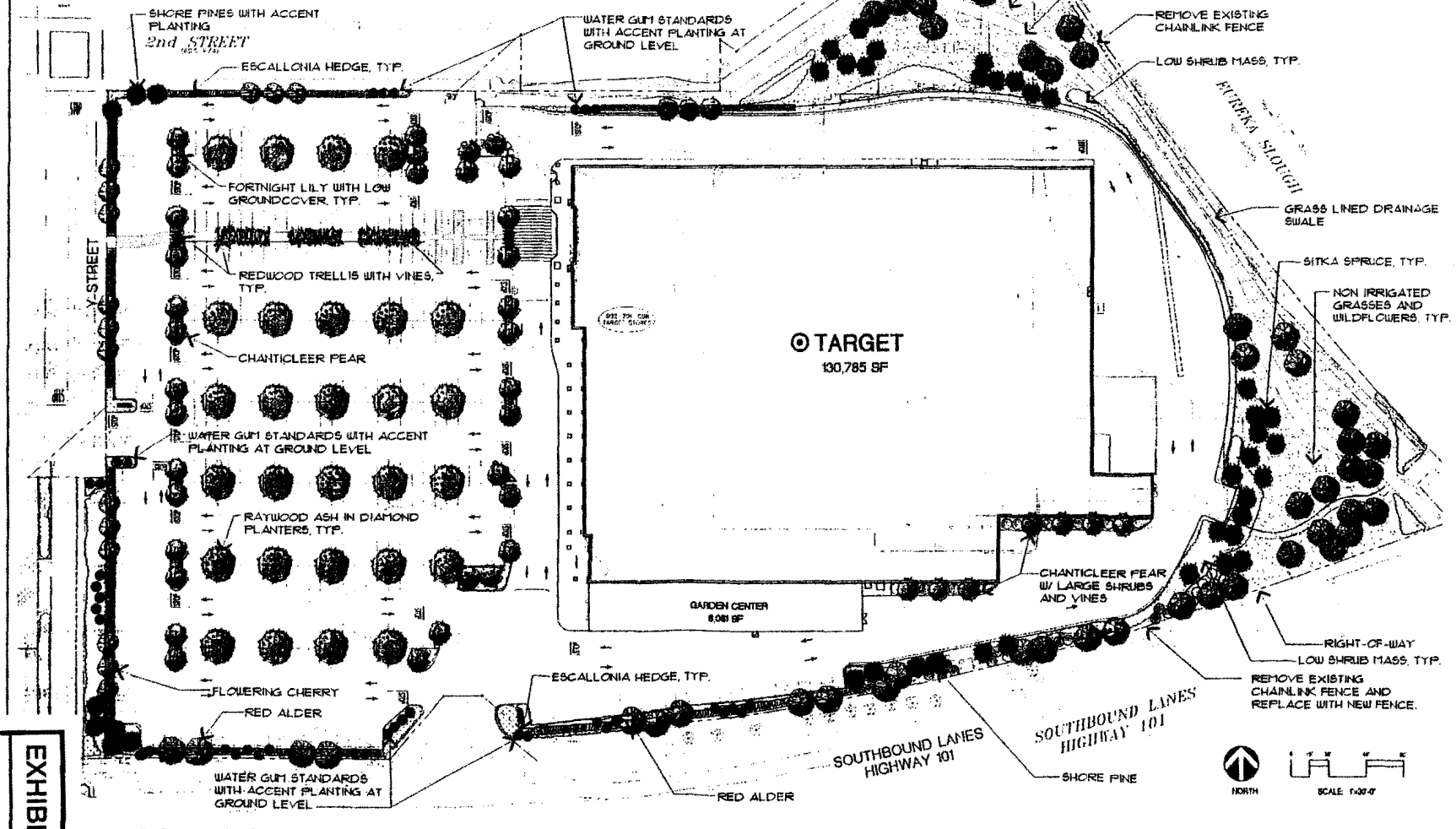
● TARGET SITE PLAN  
2525 4th STREET  
EUREKA, CA  
DECEMBER 4, 2002

**sls** associates, inc.  
500 YONKID VALLEY RD, SUITE 190, WALNUT CREEK, CA  
925-943-5225 FAX 925-943-5718  
ENGINEERING SURVEYING LANDSCAPE ARCHITECTURE

|                 |
|-----------------|
| EXHIBIT NO. 3   |
| APPLICATION NO. |
| A-1-EUR-02-166  |
| TARGET          |
| SITE PLAN       |

| SHRUBS  |   |                      |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
|---|---|----------------------|-------------|------------------------|------------------------|-----------|-------|------------------------|----------------------------|-------|----------------------|--------------|-------|------------------------|----------------------|-------|
|   | <table><tr><th>BOTANICAL NAME</th><th>COMMON NAME</th><th>RHS</th></tr><tr><td>COTONEASTER LACINIOSUS</td><td>RED</td><td>5.0/6</td></tr><tr><td>SPYRALAEAE INDICA</td><td>ROSA HAMBURGENSE VARIEGATA</td><td>5.0/6</td></tr><tr><td>ESCALONIA FRUTICOSA</td><td>ESCALONIA</td><td>5.0/6</td></tr><tr><td>HYDRANGEA PLENIORAMATA</td><td>PHOTINIA BONAERENSIS</td><td>5.0/6</td></tr></table> | BOTANICAL NAME       | COMMON NAME | RHS                    | COTONEASTER LACINIOSUS | RED       | 5.0/6 | SPYRALAEAE INDICA      | ROSA HAMBURGENSE VARIEGATA | 5.0/6 | ESCALONIA FRUTICOSA  | ESCALONIA    | 5.0/6 | HYDRANGEA PLENIORAMATA | PHOTINIA BONAERENSIS | 5.0/6 |
| BOTANICAL NAME  | COMMON NAME   | RHS                  |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| COTONEASTER LACINIOSUS  | RED   | 5.0/6                |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| SPYRALAEAE INDICA   | ROSA HAMBURGENSE VARIEGATA  | 5.0/6                |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| ESCALONIA FRUTICOSA   | ESCALONIA   | 5.0/6                |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| HYDRANGEA PLENIORAMATA  | PHOTINIA BONAERENSIS  | 5.0/6                |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| GROUNDCOVERS  |   |                      |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
|  | <table><tr><th>BOTANICAL NAME</th><th>COMMON NAME</th><th>RHS</th></tr><tr><td>ANTHURUS ANTHURUS</td><td>GERANIUM</td><td>1.0/6</td></tr><tr><td>HELMINTHOSIS AQUATILIS</td><td>OSTRANTHUS PRAECOX GROUP</td><td>1.0/6</td></tr><tr><td>HELMINTHOSIS PRAECOX</td><td>HELMINTHOSIS</td><td>1.0/6</td></tr></table>   | BOTANICAL NAME       | COMMON NAME | RHS                    | ANTHURUS ANTHURUS      | GERANIUM  | 1.0/6 | HELMINTHOSIS AQUATILIS | OSTRANTHUS PRAECOX GROUP   | 1.0/6 | HELMINTHOSIS PRAECOX | HELMINTHOSIS | 1.0/6 |                        |                      |       |
| BOTANICAL NAME  | COMMON NAME   | RHS                  |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| ANTHURUS ANTHURUS   | GERANIUM  | 1.0/6                |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| HELMINTHOSIS AQUATILIS  | OSTRANTHUS PRAECOX GROUP  | 1.0/6                |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| HELMINTHOSIS PRAECOX  | HELMINTHOSIS  | 1.0/6                |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| ACCENT GROUNDCOVER PLANTING   |   |                      |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
|  | <table><tr><th>BOTANICAL NAME</th><th>COMMON NAME</th><th>RHS</th></tr><tr><td>DIETERIA VIRENS</td><td>PORTULACA</td><td>1.0/6</td></tr><tr><td>HELMINTHOSIS PRAECOX</td><td>HELMINTHOSIS</td><td>1.0/6</td></tr></table>   | BOTANICAL NAME       | COMMON NAME | RHS                    | DIETERIA VIRENS        | PORTULACA | 1.0/6 | HELMINTHOSIS PRAECOX   | HELMINTHOSIS               | 1.0/6 |                      |              |       |                        |                      |       |
| BOTANICAL NAME  | COMMON NAME   | RHS                  |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| DIETERIA VIRENS   | PORTULACA   | 1.0/6                |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| HELMINTHOSIS PRAECOX  | HELMINTHOSIS  | 1.0/6                |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| HYDRANGEA MIX   |   |                      |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
|  | <table><tr><th>NON INVOLVED GRASSES</th><th>HYDRANGEA</th></tr><tr><td>HYDRANGEA PLENIORAMATA</td><td>HYDRANGEA</td></tr></table>   | NON INVOLVED GRASSES | HYDRANGEA   | HYDRANGEA PLENIORAMATA | HYDRANGEA              |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| NON INVOLVED GRASSES  | HYDRANGEA   |                      |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |
| HYDRANGEA PLENIORAMATA  | HYDRANGEA   |                      |             |                        |                        |           |       |                        |                            |       |                      |              |       |                        |                      |       |

NOTE  
1 SITE CONTAINS 25-26 SQUARE FEET OF LAMINATED



**MPA Design**

**CONCEPTUAL LANDSCAPE PLAN**

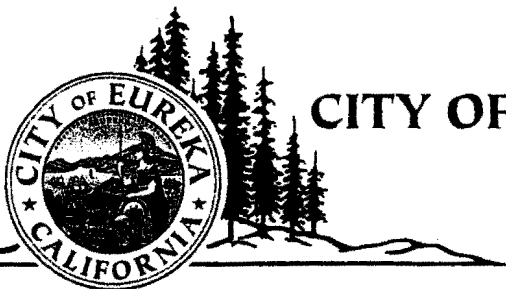
PROJECT  
L-1

EXHIBIT NO. 4  
APPLICATION NO  
A-1-EUR-02-166  
TARGET  
LANDSCAPE PLAN

## TARGET ELEVATIONS

CLAY ROOF TILES;

**TARGET T-1421 EUREKA, CA**  
2525 FOURTH STREET, EUREKA, CALIFORNIA



## CITY OF EUREKA

COMMUNITY  
DEVELOPMENT DEPARTMENT

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

**NOTICE OF FINAL CITY ACTION ON A COASTAL DEVELOPMENT PERMIT**  
**CDP-16-01 – Target Corporation**  
**December 18, 2002**

The following project is located within the Coastal Zone of the City of Eureka. On December 17, 2002, action was taken by the City on CDP-16-01 to adopt the attached resolution certifying the environmental impact report, and adopting a Mitigation and Monitoring Program for implementation of the project; to adopt the Findings of Fact in the attached Exhibit "A", and to approve the Coastal Development Permit subject to the conditions of approval attached in the attached Exhibit "B". The applicants are requesting a coastal development permit for the demolition of the existing vacant Montgomery Ward store and construction of a 130,785 sq. ft. commercial retail store with an additional 8,081 sq. ft. garden center on 11.5 acres. The project also includes repaving of the parking area, the addition of landscaping, and public access along Eureka Slough and to the existing boat ramp. The property is located at 2525 4th Street; APN: 002-201-008.

**RECEIVED**

**APPLICANT:** Target Corporation  
Attn: John Dewes  
1000 Nicollet Mall, TPN-12i  
Minneapolis, Minnesota 55403

DEC 20 2002

CALIFORNIA  
COASTAL COMMISSION

**APPLICATION FILE NUMBERS:** CDP-16-01 **FILED:** November 7, 2001

**ACTION WAS TAKEN BY:** Eureka City Council  
December 17, 2002

**CEQA STATUS:** The project is subject to environmental review in accordance with the California Environmental Quality Act (CEQA). An environmental impact report was prepared for the project and was circulated to the State Clearinghouse as required by law (SCH #2002012014). The close of the comment period on the circulated environmental document was October 15, 2002.

**ACTION:** ☐ Approved ☐ Denied ☒ Approved with  
Conditions

**The project was not appealable at the local level.**

EXHIBIT NO. 6

APPLICATION NO.  
A-1-EUR-02-166  
NOTICE OF LOCAL  
ACTION (1 of 67)

City of Eureka ~ City Council  
**AGENDA SUMMARY**

RE: Eureka Target Store; Target Corp.; 2525 4<sup>th</sup> Street; Coastal Development Permit for the construction of a Target retail store; Case No. CDP-16-01.

FOR AGENDA DATE: December 17, 2002

AGENDA ITEM NO.:

**RECEIVED**

DEC 20 2002

**RECOMMENDATION:**

1. Hold a Public Hearing;
2. Adopt Resolution \_\_\_\_\_, "A Resolution of the City Council of the City of Eureka Certifying the Completion and Adequacy of the Final Environmental Impact Report for the Eureka Target Store Project (SCH#2002012014), and Adopting a Mitigation and Monitoring Program for the Implementation of the Project".
3. Adopt the Findings of Fact in Exhibit "A";
4. Approve the Coastal Development Permit subject to the conditions of approval in Exhibit "B".

CALIFORNIA  
COASTAL COMMISSION

**SUMMARY OF THE ISSUE:** The Eureka Target Store project, proposed by the Target Corporation, proposes to remove the former Montgomery Ward building and replace it with a free-standing commercial retail store with a gross floor area of 130,785 square feet, and an additional 8,081 square-foot garden center. The existing pavement will be removed and the site will be re-graded, resurfaced, and landscaped. A landscaped buffer area of approximately 1.4 acres will be created in the eastern portion of the site adjacent to Eureka Slough, resulting in the permanent removal of 1.4 acres of pavement. This area will include a public access trail along the slough, public access to the boat ramp, and public access from the boat ramp to a small parking area near the boat ramp, accessible from Target's parking area. The project is located in the City's redevelopment area as well as within the Enterprise Zone. A detailed project description is included in Section I of the DEIR, and as revised in the FEIR.

*Continued on next page...*

**FISCAL IMPACT:** The project will result in a significant increase in the City of Eureka's Redevelopment Agency tax increment funding, as well as an increase in the City's sales tax revenues.

Signature: \_\_\_\_\_

*Kevin R. Hamblin*  
Kevin R. Hamblin

Director of Community Development

Signature: \_\_\_\_\_

*David W. Tyson*  
David W. Tyson

City Manager

**REVIEWED BY:**

**DATE:**

**INITIALS:**

City Attorney

Community Services

Fire Department

Public Works

12/10/02

CB by R

**COUNCIL ACTION:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_



City of Eureka ~ City Council  
**AGENDA REVIEW**

**RE:** Eureka Target Store; Target Corp.; 2525 4<sup>th</sup> Street; Coastal Development Permit for the construction of a Target retail store; Case No. CDP-16-01.

**FOR AGENDA DATE:** December 17, 2002

**AGENDA ITEM NO.:**

*Continued from previous page...*

This project site has a General Plan land use designation of "General Service Commercial (GSC)", and is zoned "Service Commercial (CS)". This land use designation and zoning allow the Target Store as a principally permitted use. However, the project is also located in the Coastal Zone within the City's Local Coastal Program (LCP) jurisdiction, and therefore requires a Coastal Development Permit (CDP) from the City. Because a CDP is a discretionary permit, the project is subject to the California Environmental Quality Act (CEQA). It was determined early in the process that an EIR would be required for this project. The project is being presented to the Council for consideration to certify the EIR prepared for the Target Project, and approve the Coastal Development Permit for the project.

**SECTION I - CEQA REQUIREMENTS**

**EIR Certification**

In order to certify the EIR as adequate, the California Environmental Quality Act (CEQA) requires that the City Council make three specific findings. They are:

- 1) That the EIR has been completed in compliance with CEQA;
- 2) That the EIR was presented to the decision making body of the Lead Agency (the City Council), and that the decision making body reviewed and considered the information contained in the EIR; and
- 3) That the EIR reflects the City Council's independent judgment and analysis.

1) **EIR in compliance with CEQA**

One of the basic purposes of CEQA is to inform governmental decision makers and the public about the potential significant environmental effects of proposed activities. In order to achieve this purpose, CEQA specifies criteria for the preparation, contents and circulation of an EIR. A draft EIR analyzing potential impacts of the Eureka Target Store Project was prepared and circulated for review and comment to both the public and the State and local agencies for a period of 45 days. Included in this circulation was the submittal of the draft EIR to the State Clearinghouse, as required by CEQA.

Ten comment letters were received on the draft EIR. Four of the letters were from public agencies, including the U.S. Fish and Wildlife Service, California Coastal Commission, Caltrans and the Humboldt County Board of Supervisors. In addition, the City received two comment letters from the Table Bluff Reservation, and a letter each from the Environmental Protection Information Center (EPIC); Keep Eureka Beautiful; Hum-Boats; and Janssen, Malloy, Needham, Morrison, & Reinholtsen, LLP, on behalf of Friends of Humboldt.

The comment letters and responses to those letters are found in the Final EIR. The City responded to all environmental issues raised in the comment letters. The Final EIR addresses all environmental issues raised



City of Eureka ~ City Council  
**AGENDA REVIEW**

**RE:** Eureka Target Store; Target Corp.; 2525 4<sup>th</sup> Street; Coastal Development Permit for the construction of a Target retail store; Case No. CDP-16-01.

**FOR AGENDA DATE:** December 17, 2002

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in the comment letters. As required by CEQA, the final EIR was provided to those public agencies and others who commented on the draft EIR at least ten days prior to the anticipated certification date.

There were revisions to the draft EIR that resulted from several of the comment letters. These revisions are contained in Section III of the Final EIR as text amendments. The most significant revision was a revision to the project description in regard to public access to Eureka Slough. The change results in the existing boat ramp being made available to the public for the launching of small watercraft, and the replacement of exclusionary fencing with a low decorative wooden fence with openings between the landscaped buffer area and the pavement which will allow public access to and along the slough from Target's property.

2) EIR presented to City Council for review and consideration.

To assist the City Council in determining the adequacy of the EIR, CEQA Guidelines Section 15151 provide a standard of adequacy for an EIR:

"An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure."

The EIR includes a summary of the potential environmental effects that could result should the project be built. This summary is found in the Summary section of the EIR which are the blue pages in the front of the draft EIR and the Final EIR. Although a number of potentially significant effects have been identified, after mitigation was incorporated into the project there are no remaining significant impacts from this project.

Staff believes the EIR meets the standard of adequacy because it does provide a sufficient degree of information for both the public and the City Council to understand the potential environmental effects of the Eureka Target Project. By holding this meeting to consider the EIR, and by making the other two required findings, the Council can make the finding that the EIR was presented to the Council and that the Council has reviewed and considered the information contained in the EIR. Further, the Council can determine that the EIR meets the adequacy requirement of CEQA.

3) EIR reflects City Council's independent judgment and analysis.

The Target EIR was prepared by Bert Verrips, AICP, the consultant EIR Project Manager under contract to the Target Corporation. Pursuant to CEQA, the City Council must review and consider the information contained in the EIR and make the determination that it reflects the Lead Agency's independent judgment and analysis. City staff reviewed and revised the administrative drafts of the Draft EIR and the Final EIR prior to publication and circulation. Based on the extensive review of these documents by City staff, the

City of Eureka ~ City Council  
**AGENDA REVIEW**

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City Council can make the finding that the EIR does reflect the independent judgment and analysis of the Lead Agency.

**Statement of Findings**

CEQA requires that a public agency shall not approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes written findings for each of those significant effects. The findings required for the approval of this project, which support the conclusion that the project will not result in any unmitigated significant environmental effects, have been prepared for adoption as Attachment "A" of the attached Resolution. The adoption of these findings will allow the Council to approve the project in compliance with CEQA.

**Mitigation and Monitoring Program**

Section 15091(d) of the CEQA guidelines requires that a public agency shall adopt a program for reporting on or monitoring the mitigation required in a project or made a condition of approval to avoid or substantially lessen significant environmental effects. Pursuant to Sections 15091(d) and 15097 of the CEQA Guidelines, a Statement of Mitigation Measures and Monitoring Programs has been prepared for adoption as Attachment "B" of the Resolution. The adoption of these mitigation measures and monitoring programs satisfies the CEQA requirement and will allow the Council to approve the project.

There were corrections required in the in the EIR text for three of the traffic section tables to make them consistent with the tables contained in the traffic study. These corrections were inadvertently left out of the FEIR. The corrections are included as Attachment 2 to this staff report, and any action to certify the EIR would include these corrections. The errors are in the EIR text only and are considered typographical errors. There are no changes in the conclusions of the EIR as a result of these changes.

**SECTION II - COASTAL DEVELOPMENT PERMIT APPROVAL**

All potentially significant environmental impacts of the project have been reduced below a level of significance by the inclusion of mitigation measures as conditions of approval of the project. The recommended findings along with the mitigation and monitoring programs support this conclusion. Upon certification of the EIR and adoption of the findings and mitigation and monitoring programs, the obligation under CEQA will have been met, and Council can approve the project.

Through the CEQA process, potential significant environmental impacts were identified and mitigation was proposed to reduce the affects from these impacts below a threshold of significance. These mitigation measures become part of the conditions of approval for the project. Through the CDP process, additional conditions of approval may be imposed on the project. These conditions are meant to further mitigate impacts from the project that do not rise to a level of significance.

City of Eureka ~ City Council  
**AGENDA REVIEW**

**RE:** Eureka Target Store; Target Corp.; 2525 4<sup>th</sup> Street; Coastal Development Permit for the construction of a Target retail store; Case No. CDP-16-01.

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**Consistency with Local Coastal Program**

To approve the coastal development permit, the Council must determine that the project is consistent with the certified Local Coastal Program (LCP), which includes the adopted General Plan and the Eureka Municipal Code. Staff has analyzed the project and believes, based on the project submittal materials and the circulated environmental document, that the project is consistent with the adopted LCP. In summary, the project is in compliance with the adopted LCP because: it meets the development standards of the Code, including height, bulk, setbacks, land use, etc.; the project constitutes infill development of a blighted site; the project will not result in adverse environmental impacts; the project will not adversely impact public services such as fire protection, sewage disposal and storm drain runoff; the project is in compliance with the coastal resource protection standards and coastal access standards; the project incorporates Best Management Practices in the design and implementation of stormwater runoff towards natural resource areas; the project will not result in adverse traffic impacts; and the project will not result in seismic or geologic hazards, etc. The findings of fact for the project, which provide the basis for the Council's determination that the policies of the LCP are supported by this project, are contained in detail in Exhibit "A". A detailed listing of General Plan goals and policies that support the Target project are provided in Attachment 1.

Some of the more important aspects of the project in support of the City's LCP include the provision of public access to and along the shoreline by incorporating into the project the public use of the existing boat ramp and the construction of a trail along Eureka Slough; the establishment of a naturally vegetated buffer along the Eureka Slough; the street improvements proposed to 4<sup>th</sup>, "V" Street, 3<sup>rd</sup> Street and "Y" Street; the elimination of the blighted conditions and reuse of an existing commercial urban site; and the improvement in the quality of the runoff coming from the site by the removal of 1.4 acres of pavement and the installation of a hydrodynamic separator.

Traffic impacts are one of the primary concerns in connection with the project. Currently, the 4<sup>th</sup> and "V" Street intersection is congested, particularly at certain times of the day. The City is proceeding with the "V" Street project which will increase the level of service at this intersection. The Target project would contribute significantly to the traffic at this intersection. However, the project has been conditioned to require portions of the "V" Street project be completed by Target if the City's "V" Street project is not completed prior to Target's completion. As explained in the traffic study, the proposed mitigation will improve the level of service at this intersection to better than pre-project conditions. Other required traffic improvements include the conversion of the two-way stop at 3<sup>rd</sup> and "V" Streets to a 4-way stop, and the addition of a dedicated right-turn lane from "V" Street to 4<sup>th</sup> Street. The proposed improvement at 3<sup>rd</sup> and "V" Street will result in a 1.5 second delay over existing conditions with the project, and will leave the intersection operating at an acceptable level of service "C".

The other concern most universally reflected in the comments on the DEIR were related to coastal access, particularly the availability of the existing boat ramp for public use. Target determined after reviewing the public comments that they would amend their project description to include a public access easement deeded to the City over the boat ramp, which will allow public access and the launching of small watercraft

City of Eureka ~ City Council  
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from the existing boat ramp. Public access to and along the shoreline is further enhanced by a proposed deeded easement to the City over a shoreline trail to be constructed by Target, a proposed deeded easement to the City from the boat ramp to a proposed parking area near the boat ramp for two to three vehicles, and by the establishment of a native vegetation buffer along the shoreline of Eureka Slough. All these amenities are a significant improvement over what currently exists on this site.

**ATTACHMENTS:**

|                      |  |                     |
|----------------------|--|---------------------|
| Exhibit "A"          | Findings of Fact .....                       | pages 7 - 14        |
| Exhibit "B"          | Conditions of Approval .....                 | pages 15 -18        |
| Attachment 1         | Goals and Policies of the General Plan ..... | pages 19 - 32       |
| Attachment 2         | Corrections to DEIR Traffic Tables .....     | page 33-34          |
| Attachment 3         | Reduced Site Plans .....                     | n/a                 |
| Attachment 4         | Final EIR (3 volumes) .....                  | provided previously |
| Resolution No. 2002- |  |                     |

Detailed project information is available for review; a copy of these documents has been placed in the "Council Read File" on file with the City Clerk.

City of Eureka ~ City Council  
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**Exhibit "A"**  
**FINDINGS OF FACT**

The decision of the City Council to approve with conditions the subject application was made after careful, reasoned and equitable consideration of the evidence in the record, including, but not be limited to: written and oral testimony submitted at the public hearing; the staff report; site investigation(s); agency comments; project file; and, the evidence submitted with the permit application.

Section 156.107 of the City's Zoning Ordinance requires that a coastal development shall be approved only upon making the finding that the proposed development conforms to the policies of the certified local coastal program. The City's local coastal program includes the adopted General Plan, and the Coastal Zoning Ordinance as contained in the Eureka Municipal Code.

In addition, Section 15091 of the CEQA Guidelines requires specific findings be made in order for a lead agency to approve a project. By certifying the EIR, the Council will have made those findings.

The findings of fact listed below "bridge the analytical gap" between the raw evidence in the record and the City Council decision.

**ENVIRONMENTAL FINDINGS**

1. An Environmental Impact Report (EIR), SCH# 2002012014, was prepared, circulated and certified, and a Statement of Findings and Statement of Mitigation Measures and Monitoring Programs adopted pursuant to the California Environmental Quality Act (CEQA). The EIR concludes that with the specified mitigation, the project will not result in significant adverse environmental impacts.
2. The mitigation measures identified in the EIR have been incorporated into project approval as conditions of approval (see Exhibit "B").

**GENERAL PLAN CONFORMANCE FINDINGS**

**Land Use and Community Design**

1. The City finds that the project is in compliance with the City of Eureka's Local Coastal Program because it protects residential neighborhoods from the effects of commercial development; promotes economic choices and expansion; protects valuable natural and ecological resources; promotes the development of commercial uses to meet present and future needs; and helps maintain economic vitality, as supported by the following:

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- A. The project involves the infilling of vacant urban commercial land and reuse of underutilized, blighted urban land, which due to its vacancy is presently not contributing substantially to the economy of Eureka. The development of the property will significantly increase the City's Redevelopment Agency's tax increment funding sales tax generated by the property.
- B. The project will increase the supply of commercial development in the City by rehabilitating a deteriorating commercial property and replacing it with an operating retail development with adequate parking and convenient access and circulation within a commercially designated area of the City. The project is replacing a lost retail use with another similar retail use that is consistent with the General Plan.
- C. The design of the project considers visual attractiveness, and includes a significant amount of landscaping that serves to soften and screen the views of the building. The landscaping includes parking lot landscaping in compliance with the City's zoning ordinance. A buffer area along the Eureka Slough and along the North Ditch will be landscaped with native vegetation. Architectural detailing has been included in the structure for visual interest and relief. The views toward the structure from Highway 101 and from the Eureka Slough will be significantly improved from a deteriorating and blighted viewshed, which is what currently exists. The footprint and massing of the project will be similar to the existing on-site development, and will not substantially alter view corridors available from Highway 101, Eureka Slough, or other vantage points.
- D. The project, as conditioned, protects the ecological balance of the coastal zone and prevents its deterioration by removing 1.4 acres of pavement and replacing it with a vegetated buffer; by improving the quality of stormwater runoff from the property; by installing lighting that avoids glare and direct illumination of off-site locations or environmentally sensitive areas; by the planting native species along Eureka Slough and North Ditch; and as further discussed in the EIR prepared for the project.

**Transportation and Circulation**

- 2. The City finds that the project is in conformance with the City of Eureka's Local Coastal Program because the project is designed to ensure safe and efficient movement of people and goods; provides sufficient project access; contributes toward coordinated transit service; encourages bicycle use and contributes toward the development of a system of bikeways and bicycle parking facilities; encourages and facilitates pedestrian travel through the City; and supports the needs of recreational boating operations, as supported by the following:
  - A. A traffic study was prepared for the project by a professional traffic engineering firm, and reviewed by City staff, which evaluated traffic impacts associated with the project and identified feasible mitigation measures, to be implemented in conjunction with the project. The traffic study concludes that the project, as conditioned, would restore traffic level of service to pre-project levels or better where mitigation is required, or would not impact traffic to a level that requires mitigation, ensuring the safe and efficient movement of people and goods.

City of Eureka ~ City Council  
**AGENDA REVIEW**

**RE:** Eureka Target Store; Target Corp.; 2525 4<sup>th</sup> Street; Coastal Development Permit for the construction of a Target retail store; Case No. CDP-16-01.

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- B. The project applicant will contribute street and highway improvements resulting from project impacts, as conditioned in Exhibit "B", which will improve safety and traffic flow in the areas impacted by the project.
- C. The project includes sufficient off-street, landscaped, lighted parking to serve the project as shown on the site plan, in accordance with the City's parking standards as contained in the Eureka Municipal Code. The project also includes replacement of lost on-street parking on 4<sup>th</sup> street, as conditioned in Exhibit "B".
- D. The project encourages bicycle use by providing a secure bicycle rack for use by customers and employees, as well as by providing a section of what will eventually be a continuous trail along the waterfront for the use of bicycles as well as pedestrians.
- E. The proposed "Y" and Second Street improvements include sidewalks on the project's side of the street, which will improve the appearance of the right-of-way and pedestrian access and safety. Pedestrian access within Eureka is also enhanced with the provision of the trail along Eureka Slough.
- F. Recreational boating access to the Eureka Slough is provided and enhanced by the project via the granting and acceptance of a public access easement over the existing boat ramp, from the ramp to a small parking area near the ramp, and along a shoreline trail.

**Public Facilities and Services**

- 3. The City finds that the project is in conformance with the City of Eureka's Local Coastal Program because the project includes the effective and efficient provision of public facilities and services; will be served by and adequate, safe and high quality supply of water; will contribute toward the maintenance of adequate wastewater collection, treatment and disposal; will convey stormwater in a manner that least inconveniences the public, reduces or prevents potential water-related damage, and protects the environment; contributes toward maintaining adequate police services; and provides protection to property and to Eureka residents and visitors from injury and loss of life from fire, as supported by the following:
  - A. The project proposes the replacement and/or enhancement of existing public works facilities for new development. The replacement and enhancement of these facilities will not damage coastal resources, and will contribute toward the protection of coastal resources. The installation of the stormwater treatment unit will improve the quality of stormwater runoff into the slough and bay. Street improvements will increase public safety and the visual attractiveness of the area. Construction impacts to coastal resources are short term, and have been mitigated to below a level of significance.
  - B. The project includes off-site mitigation for traffic impacts, and will therefore contribute a "fair share" to providing public services and infrastructure.

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- C. The project will be connected to the City's water system, and the applicant will install any necessary components of the water conveyance system to the standards of the City and the Uniform Building Code. There is adequate water supply and conveyance capacity in the City's system for both potable water and for fire suppression to serve the water demands of the project, as necessary for protection of the health, safety and welfare of citizens and property.
- D. The project promotes efficient water use and reduced water demand by proposing a substantial portion of project landscaping that will consist of native species which generally require less irrigation than exotics, and by including water-conserving fixtures in the project as required by law to help minimize water usage and flows into the sewer system and wastewater treatment plant.
- E. The project will connect to City sewer, and the City's wastewater treatment plant has sufficient capacity to serve the proposed project.
- F. The project has been designed to reduce overall site runoff relative to existing conditions, and to avoid on-site or downstream flooding or other impacts. The removal of 1.4 acres of pavement, to be replaced with native vegetation, reduces the amount of runoff from the site. All parking area drainage will be directed into the drainage course on the north side of the property, which was determined adequate to handle the drainage. Conditions regarding stormwater quality and quantity will improve as a result of the project.
- G. The project will implement Best Management Practices (BMP's) to minimize water quality impacts from sediment transport during construction.
- H. The project includes the installation of a stormwater treatment unit that will treat runoff from the 95 percentile, one-hour storm, and would effectively remove over 80 percent of the surface water pollutants from parking lot runoff. The project is designed so that all parking lot runoff will pass through the treatment unit. This will improve the quality of the stormwater runoff from the site.
- I. A Disposal Plan is required as a condition of approval to insure that recycling and/or reuse occurs to the extent feasible, and that material to be disposed of is taken to an appropriate location(s).
- J. The project will include recycling bins to facilitate recycling. Cardboard will be baled on-site for recycling and collected under contract to the Humboldt Sanitation/Recycling Company. The demolition contract will specify that building materials from the existing Montgomery Ward store be salvaged for reuse and/or recycling to the maximum extent feasible. The proposed project incorporates facilities for solid waste collection in compliance with applicable provisions of the Humboldt County Integrated Waste Management Plan and the City's Source Reduction and Recycling Plan.



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- K. The project design incorporates public safety features and strives to reduce impacts to the Police Department. The project includes the installation of surveillance/security cameras in the parking lot, which will be monitored by in-store security personnel and contribute toward public safety. In addition, any store alarm will be immediately relayed to the store manager and store operations manager, who are on 24-hour call, as well as to the appropriate emergency service agency. Prompt notification and response by store personnel will eliminate the need for a police officer to wait a long time for a store manager to arrive at the store after an alarm has sounded.
- L. The store will be sprinklered as required under the Uniform Building Code, and will include fire alarms and a smoke detection system. The fire flow requirement can be met at the project site. The risk of personal injury of property damage will be reduced as a result, and the proposed improvements will help maintain specified response times.

**Recreational and Cultural Resources**

- 4. The City finds that the project is in conformance with the City of Eureka's Local Coastal Program because the project provides public open space and shoreline accessways while avoiding impacts to environmentally sensitive habitats; preserves and enhances the historical features of Eureka; and identifies and protects Eureka's archeological and cultural sites as supported by the following:
  - A. The project is located between the first public road and the sea, and provides and enhances access for the public to and along the shoreline within the project through the establishment of public access easements to be granted to, and accepted by, the City. The easements will be located along a proposed trail to be constructed by the applicant along the Eureka Slough, over the existing boat ramp, and from the boat ramp to a proposed parking area near the ramp. The trail easements will be a minimum of 14-ft. in width, and the constructed trail 10-ft. in width. The trail is planned to be connected at either end in the future, and will contribute to the City's goal of a trail along Eureka Slough. The project also provides a walking path along the southern project boundary to provide pedestrian access through the parking lot to the shoreline and boat ramp. A vertical access easement from Second Street to Eureka Slough was recently accepted by the City adjacent to the north boundary of the Target property.
  - B. The existing fencing along the slough and around the boat ramp will be removed, and a low wooden decorative fence with openings will be installed between the pavement and the proposed vegetated buffer. The openings will allow public access to the proposed trail as well as to the boat ramp. A parking area will be installed near the boat ramp to further facilitate public access to the slough.
  - C. The proposed project will be constructed on a site that currently supports an existing building and will not create a new obstruction to view corridors from public streets and places. The proposed building will be similar in height to the existing building, except for the peaked

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vertical roof extensions added to enhance the appearance of the building. The incorporation of the on-site trail and easement along the shore of Eureka Slough within the project will enhance viewing opportunities from the shoreline for future trail users.

- D. There are no historically significant structures, features, or district in proximity to the site that would be adversely affected by the project.
- E. An archaeological survey report was prepared for the project, and is maintained as a confidential report in the Community Development Department in order to protect any cultural resources discussed in the report. The local Native American community as well as the Native American Heritage Commission were consulted on this project, and provided comments that were incorporated into the report and ultimately into the mitigation measures and conditions of approval. Disturbance to any cultural resources that may be present on the site will be avoided or mitigated to less-than-significant levels in accordance with applicable regulations and protocols. Cultural monitor(s) are required to be present during subsurface excavation, along with a qualified archaeologist, as conditioned in Exhibit "B". The project therefore protects cultural sites that may be located on the property.

**Natural Resources**

5. The City finds that the project is in conformance with the City of Eureka's Local Coastal Program because the project protects and enhances the natural qualities of aquatic resources; preserves valuable marine, wetland and riparian habitat; and protects and improves air quality.
- A. No buffer currently exists between the present development and either Eureka Slough or the watercourse along the north boundary of the Target property, termed the "North Ditch" in the EIR. The site is paved and fenced immediately adjacent to the shoreline of both the Eureka Slough and the North Ditch. A buffer containing native vegetation will be established along the Eureka Slough and the North Ditch by the removal of 1.4 acres of existing pavement and fencing. The buffer varies in width from approximately 250 feet to 40 feet along the slough, and from approximately 20 feet to 150 feet along the North Ditch. The average width of the buffer area along both features will be approximately 100 feet, and at least 50 percent of the project frontage along Eureka Slough will have a landscaped buffer of at least 100 feet. Approximately 50 percent of the naturalized non-structural portion of the North Ditch, being the easterly portion of the ditch, will have a landscaped buffer of at least 100 feet. No fertilizers or herbicides will be applied within the buffer area, which will drain directly into the slough. The enhancement of the buffer by the planting of native vegetation provides additional protection and enhancement of coastal sensitive habitat over and above a simple setback, and mitigates the need for a larger buffer. In addition, the majority of the stormwater runoff from the project site will pass through a stormwater treatment unit and into the North Ditch, and will not go through the buffer area and into the slough. The buffer area is thus not necessary to filter storm water, and is therefore of sufficient size as proposed. The installation of the vegetated buffer will

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contribute to the restoration of biological diversity and productivity of this coastal area as well as the quality of coastal waters in the Eureka Slough, and will provide protection for environmentally sensitive resources.

- B. Water quality impacts and impacts to sensitive aquatic resources will be minimized by the filtering of all parking lot runoff through the proposed stormwater treatment unit and the implementation of Best Management Practices during construction.
- C. No aspect of the project development will directly disturb, encroach upon or disrupt known sensitive coastal habit or resources. No work is proposed in the Eureka Slough or in any wetland areas. All work will be conducted within presently developed areas.
- D. A survey conducted by a qualified bat specialist revealed no Townsend's big-eared bats present in the existing building. A follow-up survey will be conducted prior to demolition of the building, and appropriate protocol will be followed as determined by a qualified professional to avoid impacts to any bats that may be present.
- E. The project, as conditioned in Exhibit "B", is in compliance with the North Coast Unified Air Quality Management District standards, thresholds, and rules regarding air quality impacts of new development.

**Health and Safety**

- 6. The City finds that the project is in conformance with the City of Eureka's Local Coastal Program because the project minimizes loss of life, injury and property damage due to seismic and geologic hazards; minimizes the risk of loss of life, injury, damage to property and economic and social dislocations resulting from flood hazards; minimizes the risk of loss of life, injury, serious illness, damage to property, and economic and social dislocations resulting from the past or future use, transport, treatment, and disposal of hazardous materials and hazardous materials wastes; and protects Eureka residents from harmful and annoying effects of exposure to excessive noise.
  - A. A geologic report was prepared for the project, and the required elements, recommendations and measures necessary to minimize impacts due to geologic and seismic hazards have been incorporated into the project design. The project will be constructed in compliance with UBC seismic safety standards. The project will therefore minimize the loss of life, injury and property damage due to geologic and seismic hazards.
  - B. The project has been designed such that no portion of the site developed with the proposed structure is subject to inundation during a 100-year storm event. The finish floor elevation of the building will be 1.7 feet above the maximum 100-year surface water elevation, exceeding the required 1-foot FEMA requirement and minimizing flood hazard impacts.

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- C. Residual contamination sources in the form of asbestos-containing building materials, lead based paint, and possible soil contamination from hydraulic oil or similar substance and chlorinated dioxin, exist on the site, and will be remediated as required by applicable laws and regulations as conditioned in Exhibit "B" and as discussed in the EIR, which will result in an improved situation with regard to hazardous substances on-site.
- D. An acoustical analysis was prepared for the project. Those noise levels that could potentially exceed the City's standards are mitigated below a level of significance. These potentially significant noise sources include roof-top mounted mechanical equipment and construction noise, which includes pile driving. The project, as conditioned in Exhibit "B", is in compliance with the traffic and non-traffic noise standards of the General Plan.

**COASTAL ZONING CONFORMANCE FINDINGS**

1. The City finds that the proposed project complies with the development standards specified in the Eureka Municipal Code for the "Service Commercial" zone district, including height, bulk, setbacks, screening landscaping, land use, off-street parking standards, etc.
2. The City finds that the project is principally permitted within the Coastal Service Commercial District in which it is located. The site could be reoccupied without any discretionary approval if no development were proposed that would require a coastal development permit. In that case, no development conditions beyond those normally associated with a building permit could be required, and no environmental review would be required. The proposed project meets the development standards of the Eureka Municipal Code, whereas the existing project, although it can be reoccupied as discussed, does not. The proposed project provides amenities in support of coastal resources, whereas the existing facility does not.
3. The City finds that the project complies with all applicable development standards as contained in the Eureka Municipal Code, and specifically within the Coastal Zoning Regulations, as supported by the General Plan conformance findings.

**End Exhibit "A"**

**Exhibit "B"**

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**Exhibit "B"**  
**CONDITIONS OF APPROVAL**

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

1. The applicant shall comply with all project descriptions, site plans, findings, recommendations, mitigation measures, conditions, restrictions, etc. as detailed herein, in the adopted environmental documents and the submitted documents and correspondence regarding the project. This specifically includes all mitigation measures contained in the *Resolution of the City Council of the City of Eureka Certifying the Completion and Adequacy of the Final Environmental Impact Report for the Eureka Target Store Project (SCH#2002012014) and Adopting a Mitigation and Monitoring Program for the Implementation of the Project.*
2. The applicant shall receive approval of the project by the City's Design Review Committee.
3. The applicant shall submit an workplan outlining additional investigations required in the Auto Center to the City and the Regional Water Quality Control Board prior to obtaining a demolition permit from the Building Department, as required in the letter to the City from the Board dated December 2, 2002 .
4. The applicant shall dedicate to the City, and the City shall accept, public access easements for:
  - the proposed trail along the Eureka Slough, the required easement being a minimum of 14 feet wide;
  - the boat ramp; and
  - over the area between the proposed boat ramp parking area and the boat ramp, the required easement being a minimum of 14 feet wide.

The trail shall be improved to a width of 10-feet with an all-weather surface to a standard as required by the Public Works Department.

5. The applicant shall hire a cultural monitor(s) to be on site, in conjunction with the archaeologist as required per Mitigation Measure #3 of the Statement of Mitigation and Monitoring Programs, during all subsurface construction.

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6. A Disposal Plan shall be submitted and approved by the City's Community Development Department, with input from Public Works and the Building Department, prior to issuance of a demolition permit. The Disposal Plan shall include, but shall not be limited to, identification of the various materials to be demolished and their approximate volumes, and how they will be reused, recycled, or where they will be taken for disposal. Emphasis shall be placed on reuse and recycling to the greatest extent feasible.
7. A Wastewater Discharge Permit, issued by the City's Pretreatment Division of the Community Services Department must be obtained for the photo lab's waste chemical treatment unit (silver recovery unit).
8. An adequately sized grease interceptor shall be installed for the food service area.
9. An AWWA approved reduced pressure principal backflow prevention device shall be installed on the water service to the facility, due to both the food service area and the photo lab housed within the store.
10. The applicant shall be responsible for obtaining all other agency permits or approvals required for the execution of the project.
11. The buffer area along the Eureka Slough and the North Ditch shall be landscaped with native plants only.

**Following are Public Works Conditions of Approval:**

**12. 4<sup>th</sup> and "V" Street - westbound left turn lane**

The applicant shall add a dedicated westbound left turn lane on 4<sup>th</sup> Street. This improvement will include alterations to the existing traffic signal system including modifications to poles, wiring, detectors, striping, signal timing, and all other items necessary to accomplish this improvement. Plans and specifications for installation of the left turn lane shall be approved by the City of Eureka and Caltrans prior to construction and the applicant shall obtain all necessary permits. The applicant shall place a security deposit with the City for this work prior to the issuance of a Building Permit for the Target project. The work shall be completed prior to the issuance of a Certificate of Occupancy for the Target project.

**13. 4<sup>th</sup> and "V" Street - southbound right turn lane**

The traffic impact analysis identified a queuing problem for southbound traffic at 4<sup>th</sup> and "V" Street and states that operating conditions can be improved with the addition of a southbound right turn lane. (Page 49 "Transportation Impact Analysis".) The applicant shall construct a southbound right turn lane which will include modifications to the existing traffic signal system including modifications to poles, wiring, detectors, striping, signal timing, and all other items necessary to accomplish this item. The applicant shall prepare plans and specifications for installation of the right turn lane to be approved by the City of Eureka and Caltrans prior to

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construction and the applicant shall obtain all necessary permits. The applicant shall place a security deposit with the City for this work prior to the issuance of a Building Permit for the Target project. The work shall be completed prior to the issuance of a Certificate of Occupancy for the Target project.

14. 3<sup>rd</sup> and "V" Street - 4 way stop control

The applicant shall modify the traffic controls at the 3<sup>rd</sup> and "V" Street intersection from 2-way stop control to 4-way stop control, and shall place signs and pavement marking to City standards.

15. 4<sup>th</sup> and "W" Street - construct off-street parking

A left turn lane on 4<sup>th</sup> Street at "V" Street will be installed as a condition of approval for the project. This will require the removal of parking along a portion of the south side of 4<sup>th</sup> Street. To mitigate for the loss of on-street parking, the applicant shall construct off-street parking to accommodate five vehicles at 4<sup>th</sup> and "W" Street within existing City right-of-way. The applicant shall prepare plans and specifications for construction of the off-street parking to be approved by the City of Eureka and Caltrans prior to construction, and the applicant shall obtain all necessary permits. The applicant shall place a security deposit with the City for this work prior to the issuance of a Building Permit for the Target project. The work shall be completed prior to the issuance of a Certificate of Occupancy for the Target project.

16. Dedicate 60-foot wide "Y" Street Easement for Public Street and Utility Purposes

The applicant shall dedicate to the City of Eureka a 60-foot wide public street and utility easement over "Y" Street from 3<sup>rd</sup> to 4<sup>th</sup> Streets to the satisfaction of the City of Eureka prior to the issuance of a Building Permit for the Target project.

17. Construct Public Street (Alley) Improvements over "Y" Street from 3<sup>rd</sup> to 4<sup>th</sup> Streets

The applicant shall prepare plans and specifications for construction of "Y" Street from 3<sup>rd</sup> to 4<sup>th</sup> Streets to be reviewed and approved by the City of Eureka Public Works/Engineering Department. The applicant shall then construct said improvements prior to the issuance of the Certificate of Occupancy for the Target project. Said improvements shall include but shall not be limited to: 6-foot wide concrete sidewalk on the east side of "Y" Street within the 9-foot sidewalk area; a 20-foot wide asphalt concrete pavement at 4<sup>th</sup> Street, widening to 24 feet at Target's entrance; concrete curb on west side; drainage improvements; and appropriate pavement markings and traffic control devices. The applicant shall pay City a \$200 Improvement Plan Review Fee and pay for inspections of said improvements. The applicant's contractor shall obtain a \$50 Encroachment Permit for said work and shall provide insurance certificates and endorsements in accordance with the Encroachment Permit requirements.

18. Target shall Participate in the Reconstruction of the Intersection of 3<sup>rd</sup> and "Y" Streets

The City will survey, design and stake said improvements at no cost to applicant. The applicant shall proportionately participate in the cost of street improvements based on added vehicle traffic. The applicant shall place a security deposit with the City for said share of costs prior to

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intersection. The work will be completed prior to the issuance of a Certificate of Occupancy for the Target project. City will be doing additional water and sewer improvements at no cost to the applicant.

**19. Target shall Participate in the Overlay of 3<sup>rd</sup> Street from "V" to "Y" Streets.**

The City will survey, design and stake said improvements at no cost to applicant. The applicant shall proportionately participate in the cost of street overlay improvements based on added vehicle traffic. The applicant shall place a security deposit with the City for said share of costs prior to the issuance of a Building Permit for the Target project.

**20. Target shall Reconstruct Sidewalk Improvements along the 2<sup>nd</sup> and "Y" Streets within Target's Frontage**

The applicant shall construct said improvements prior to the issuance of the Certificate of Occupancy for the Target project. Said improvements shall include but shall not be limited to: 6-foot wide concrete sidewalks in 9-foot sidewalk areas; driveways meeting ADA accessibility; curb returns meeting ADA accessibility; and patching of streets to provide for drainage. The City will survey, design and stake said improvements at no cost to applicant. All improvements shall be in accordance with City Standards.

**21. Irrigation lines must have approved backflow prevention devices installed.**

**22. The applicant shall pay for any modifications to or new water or sewer services.**

**End Exhibit "B"**

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**Attachment 1**

**Excerpts from the Goals and Policies of the adopted General Plan  
that support the proposed Eureka Target Project.**

★ Denotes policies designed to meet Coastal Act requirements

**LAND USE AND COMMUNITY DESIGN**

**Land Use and Development Framework**

Goal 1.A

To establish and maintain a land use pattern and mix of development in the Eureka area that protects residential neighborhoods, promotes economic choices and expansion, facilitates logical and cost-effective service extensions, and protects valuable natural and ecological resources.

Policies

1.A.1 The City shall encourage infilling of vacant urban land and reuse of underutilized urban land within the Planning Area as its first priority of accommodating demand for growth.

1.A.1 ★ To promote the public safety, health, and welfare, and to protect private and public property, to assure the long-term productivity and economic vitality of coastal resources, and to conserve and restore the natural environment, the City shall protect the ecological balance of the coastal zone and prevent its deterioration and destruction. (Note – Policy numbers in the General Plan repeat themselves in this section.)

**Commercial Development**

Goal 1.L

To ensure an adequate supply of commercial land for and promote the development of commercial uses to meet the present and future needs of Eureka residents and visitors and to maintain economic vitality.

Policies

1.L.2 The City shall promote high quality design, visual attractiveness, proper location, adequate sites, sufficient off-street parking, and a convenient circulation system for commercially-designated areas of the city.

1.L.8 The City shall require major commercial development projects to either be located in areas served by public transportation or in areas to which the existing public transportation service can be feasibly extended.

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- 1.L.10 The City shall work with property owners in deteriorated and deteriorating commercial areas to either rehabilitate their properties or convert them to productive uses that are consistent with this General Plan.

**TRANSPORTATION AND CIRCULATION**

**Streets and Highways**

Goal 3.A

To provide for the planning and development of the city's roadway system, ensure safe and efficient movement of people and goods, and provide sufficient access to new development.

Policies

- 3.A.2 The City shall endeavor to manage its street and highway system so as to maintain Level of Service C operation on all roadway segments, except for any portion of U.S. 101, where Level of Service D shall be acceptable. For evaluation purposes, service levels shall be determined on the basis of midblock roadway planning capacities shown in Table 3-3 and the definitions of service levels shown in Table 3-4.
- 3.A.6 The City shall require all new land development projects to contribute a fair share of the cost of any street and highway improvement that can be assigned to the traffic-generating attributes of the new or intensified uses. Any project that is expected to generate more than 50 trips per peak hour shall be required to submit a traffic analysis prior to approval. Any project that is anticipated to generate significant traffic impacts will be required to mitigate such impacts.
- 3.A.14 The City shall require all new or intensified development projects to provide sufficient off-street parking supply so as to conserve the existing on-street supply, particularly in the commercial, medical services commercial, industrial, and higher density residential areas, except in the Core Area as specified under Goal 3.H in this document. In cases where off-street parking is required, the City will encourage joint-use parking arrangements.

**Public Transit**

Goal 3.B

To provide coordinated transit service within eureka and surrounding areas as an alternative to automobiles.

Policies

- 3.B.5 Where appropriate, the City shall require new development to dedicate easements for and provide sheltered public stops for transit patron access.

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**Bicycle Transportation**

Goal 3.C

To encourage the use of the bicycle as an alternate, energy efficient mode of transportation within the city and to develop a system of bikeways and bicycle parking facilities which will safely and effectively serve those wishing to utilize bicycles for commute or recreational trips.

Policies

3.C.4 The City shall promote the installation of secure bicycle racks in areas generating substantial bicycle traffic and at major public facilities. The City shall also require the installation of bicycle racks whenever a major traffic generator is developed.

**Pedestrian Transportation**

Goal 3.D

To encourage and facilitate walking throughout the city.

Policies

3.D.1 The City shall provide for the extension of sidewalks, trails, and walking facilities throughout the city to allow for convenient and safe pedestrian movement.

3.D.4 The City shall promote the linkage of sidewalks and walkways with bike and pedestrian trails leading to and through outdoor recreational areas such as parks and schools, as well as commercial areas.

**Water Transportation**

Goal 3.G.

To support the water transportation needs of commercial fishing and recreational boating operations.

Policies

3.G.1 ★ The City shall protect and, where feasible, upgrade facilities serving the commercial fishing and recreational boating industries. Existing commercial fishing and recreational boating space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, to the maximum extent feasible, be designed and located so as not to interfere with the needs of the commercial fishing industry.

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**PUBLIC FACILITIES AND SERVICES**

**General public Facilities and Services**

Goal 4.A.

To ensure the effective and efficient provision of public facilities and services for existing and new development.

Policies

- 4.A.3 The City shall require that all land designated for urban development be served by adequate water and other utilities necessary for health, safety, and welfare of citizens and property. Conversely, the City shall not provide urban utilities to areas that are not designated for urban development, particularly agricultural areas, wetland areas, forest lands, and areas with unsuitable topography.
- 4.A.4★ The City declares that existing public works facilities, including water, wastewater, stormwater, highway, and railroad facilities serving the Planning Area are essential to the economic and social well-being of the people and shall be maintained, enhanced, and restored to assure the orderly and balanced utilization and conservation of natural and human-created resources.
- 4.A.6★ The City shall ensure that new or expanded public works facilities within the Coastal Zone will be designed and limited to accommodate needs generated by permitted uses and development consistent with the provisions of this General Plan.
- 4.A.10 The City shall require that new development contribute its fair share to providing all public services and infrastructure, including schools, necessary to serve that development.

**Water Supply and Delivery**

Goal 4.B

To ensure the availability of an adequate and safe water supply and the maintenance of high quality water for residents of and visitors to Eureka.

Policies

- 4.B.2 The City shall require proponents of new development to demonstrate the availability of a long-term, reliable water supply and adequate water supply infrastructure. The City shall require all new development within the city to connect to the City's water system. New development shall be responsible for constructing or financing any water system upgrades necessary to serve the development.
- 4.B.4 The City shall promote efficient water use and reduced water demand by requiring water-conserving design and equipment in new construction and encouraging retrofitting existing development with water-conserving devices.

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**Wastewater Collection, Treatment, and Disposal**

Goal 4.C

To ensure adequate wastewater collection, treatment, and disposal.

Policies

- 4.C.1 The City shall promote efficient water use and reduced wastewater system demand by requiring water-conserving design and equipment in new construction and encouraging retrofitting with water-conserving devices.
- 4.C.5 The City shall require all new development within the city limits to connect to the City wastewater treatment system.

**Stormwater Drainage**

Goal 4.D

To collect and convey stormwater in a manner that least inconveniences the public, reduces or prevents potential water-related damage, and protects the environment.

Policies

- 4.D.6 The City shall improve the quality of runoff from urban and suburban development through use of appropriate and feasible mitigation measures including, but not limited to, artificial wetlands, grassy swales, infiltration/sedimentation basins, riparian setbacks, oil/grit separators, and other best management practices (BMPs).
- 4.D.9 The City shall require new projects that affect the quantity or quality of surface water runoff to allocate land as necessary for the purpose of detaining post-project flows and/or for the incorporation of mitigation measures for water quality impacts related to urban runoff.

**Solid Waste Collection and Disposal**

Goal 4.E

To ensure the safe and efficient disposal or recycling of solid waste generated in Eureka.

Policies

- 4.E.1 The City shall require solid waste collection in all urban and suburban development.

**Law Enforcement**

Goal 4.F

To provide adequate police services to deter crime and to meet the growing demand for services associated with increasing population and commercial/industrial development in the city.

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Policies

- 4.F.2 The City Police Department shall strive to maintain an average response time of three (3) minutes for calls for service critical life-threatening emergencies.
- 4.F.5 The City shall consider public safety issues in all aspects of commercial and residential project design, including crime prevention through environmental design.

**Fire Protection**

Goal 4.G

To protect residents of and visitors to Eureka from injury and loss of life and to protect property from fires.

Policies

- 4.G.1 The City shall ensure that water main size, water flow, fire hydrant spacing, and other fire facilities meet City standards.
- 4.G.3 The City Fire Department shall attempt to maintain an average response time of three (3) minutes for all service calls, including emergency medical service (EMS) calls.
- 4.G.4 The City shall require new development to develop or fund fire protection facilities, personnel, and operations and maintenance that, at a minimum, maintains the above service level standards.

**RECREATIONAL AND CULTURAL RESOURCES**

**Coastal Recreation and Access**

Goal 5.B

To provide public open space and shoreline accessways throughout the Coastal Zone, consistent with protecting environmentally sensitive habitats and other coastal priority land uses.

Policies

- 5.B.4★ The City of Eureka shall protect and enhance the public's rights of access to and along the shoreline, consistent with protecting environmentally sensitive habitats, by:
- Accepting offers of dedications that will increase opportunities for public access and recreation and the availability of necessary staff and funding to improve and maintain access ways and assume liability for them;
  - Actively seeking other public, community non-profit, or public agencies to accept offers of dedications and having them assume liability and maintenance responsibilities; and,
  - Allowing only such development as will not interfere with the public's right of access to the sea, where such right was acquired through use or legislative authorization.

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**5.B.5★** For new development between the first public road and the sea, the City shall require the dedication of a vertical access easement to the mean high tide line unless:

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

**5.B.6★** For new development between the first public road and the sea, the City shall require a lateral access easement along the shoreline unless:

- a. Lateral access at the site would be inconsistent with other General Plan coastal policies, including existing expanded, or new coastal dependent industry, agricultural operations, or the protection of environmentally sensitive habitat areas; or,
- b. Access is inconsistent with public safety or military security needs.

**5.B.7★** The City shall establish a coordinated continuous public access system throughout its Coastal Zone, consisting of pedestrian walkways, nature walks, and bikeways with necessary support facilities, as described in Table 5-2 and shown in Figure 5-1 (of the General Plan Policies).

**5.B.10** To the maximum extent feasible, the City shall ensure universal public access to the waterfront, including support facilities.

### **Historic Preservation**

#### Goal 5.E

To preserve and enhance the historical features of the Eureka area.

#### Policies

**5.E.1** The City shall designate historic districts for the restoration and preservation of those areas, building, and site in Eureka that are of historic, cultural, and/or architectural significance.

### **Archeological Resources**

#### Goal 5.F

To identify, protect, and enhance Eureka's important archeological and cultural sites and their contributing environment.

#### Policies

**5.F.1** The City shall solicit the cooperation of the owners of cultural resources, encourage those owners to treat these resources as assets rather than liabilities, and encourage the support of the

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general public for the preservation and enhancement of these resources.

- 5.F.2 The City shall solicit the views of the Native American Heritage Commission and/or the local Native American community in cases where development may result in disturbance to sites containing evidence of Native American activity and/or to sites of cultural importance.
- 5.F.5 The City shall require that discretionary development projects identify and protect from damage, destruction, and abuse, important historical, archaeological, and cultural sites and their contributing environment. Such assessments shall be incorporated into a citywide cultural resource data base.
- 5.F.6 The City shall require that discretionary development projects are designed to avoid potential impacts to significant cultural resources whenever feasible. Unavoidable impacts, whenever feasible, shall be reduced to a less than significant level and/or shall be mitigated by extracting maximum recoverable data. Determinations of impacts, significance, and mitigation shall be made by qualified archaeological or historical consultants, depending on the type of resource in question.
- 5.F.7 The City shall, within its power, maintain confidentiality regarding the locations of archaeological sites in order to preserve and protect these resources from vandalism and the unauthorized removal of artifacts.

**NATURAL RESOURCES**

**Aquatic Resources and Marine, Wetland, and Riparian Habitat**

Goal 6.A

To protect and enhance the natural qualities of the Eureka area's aquatic resources and to preserve the area's valuable marine, wetland, and riparian habitat.

Policies

6.A.3 ★ The City shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, wetlands, and estuaries appropriate to maintain optimum populations of aquatic organisms and for the protection of human health through, among other means, minimizing adverse effects of wastewater and stormwater discharges and entrainment, controlling the quantity and quality of runoff, preventing depletion of groundwater supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

6.A.6 ★ The City declares the following to be environmentally sensitive habitat areas within the Coastal Zone:

- a. Rivers, creeks, sloughs, gulches and associated riparian habitats, including but not



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limited to Eureka Slough, Fay Slough, Cut-Off Slough, Freshwater Slough, Cooper Slough, Second Slough, Third Slough, Martin Slough, Ryan Slough, Swain Slough, and Elk River.

- b. Wetlands and estuaries, including that portion of Humboldt Bay within the City's jurisdiction, riparian areas, and vegetated dunes.
- c. Indian Island, Daby Island, and the Woodley Island wildlife area.
- d. Other unique habitat areas, such as waterbird rookeries, and habitat for all rare or endangered species on state or federal lists.
- e. Grazed or farmed wetlands (i.e., diked former tidelands).

6.A.7★ Within the Coastal Zone, the City shall ensure that environmentally sensitive habitat areas are protected against any significant disruption of habitat values, and that only uses dependent on such resources shall be allowed within such areas. The City shall require that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas.

6.A.19★ The City shall require establishment of a buffer for permitted development adjacent to all environmentally sensitive areas. The minimum width of a buffer shall be 100 feet, unless the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development, and/or proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer will protect the resources of the habitat area. As necessary to protect the environmentally sensitive area, the City may require a buffer greater than 100 feet. The buffer shall be measured horizontally from the edge of the environmental sensitive area nearest the proposed development to the edge of the development nearest to the environmentally sensitive area. Maps and supplemental information submitted as part of the application shall be used to specifically define these boundaries.

**Air Quality—General**

Goal 6.E

To protect and improve air quality in the Eureka area.

Policies

6.E.3 The City shall require project-level environmental review to include identification of potential air quality impacts and designation of design and other appropriate mitigation measures or offset fees to reduce impacts. The City shall work with project proponents and other agencies in identifying, ensuring the implementation of, and monitoring the success of mitigation measures.

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6.E.4 The City shall submit development proposals to the North Coast Unified Air Quality Management District for review and comment in compliance with CEQA prior to consideration by the Planning Commission and /or City Council.

6.E.5 In reviewing project applications with potential for creating air quality impacts, the City shall consider alternatives or amendments that reduce emissions of air pollutants.

**HEALTH AND SAFETY**

**Seismic Hazards**

Goal 7.A

To minimize loss of life, injury, and property damage due to seismic hazards.

Policies

7.A.1 For all development in areas subject to seismic hazards (i.e., fault rupture, amplified seismic shaking, slope failure, subsidence, settlement, or other similar effects) which is otherwise consistent with the policies of this General Plan, the City shall, prior to project approval, require a geological report prepared by a registered geologist, a certified engineering geologist, or a registered engineer with expertise in seismic engineering. The report shall consider, describe, and analyze the following:

- a. Geologic conditions, including soil, sediment, and rock types and characteristics, in addition to structural features such as bedding, joints, and faults;
- b. Evidence of past or potential liquefaction conditions, or other types of ground failure, related to seismic shaking;
- c. Potential effects on the site because of fault rupture; and
- d. Any other information that might affect the proposed development, such as the information called for in Division of Mines and Geology Notes 44 and 49.

The report shall recommend mitigation measures for any potential impacts and shall outline alternative solutions. The report shall express a professional opinion as to whether the project can be designed so that it will neither be subject to nor contribute to significant geological instability throughout the life span of the project.

7.A.3 The City shall require that new structure intended for human occupancy be designed and constructed to minimize risk to the safety of occupants.

**Geological Hazards**

Goal 7.B

To minimize loss of life, injury, and property damage due to geological hazards.

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Policies

7.B.1 The City shall ensure new development is sited and designed consistent with limitations imposed by geologic hazards.

7.B.2★ The City shall ensure that development on or near the shoreline of Elk River, Humboldt Bay, and Eureka Slough neither contributes significantly to, nor is subject to, high risk of damage from shoreline erosion over the life span of the development.

7.B.4★ For all high density residential and other high occupancy development located in areas of significant liquefaction potential, the City shall, at the time project application, require a geology and soils report prepared by a registered geologist, professional civil engineer with expertise in soil mechanics or foundation engineering geologist, and shall consider, describe, and analyze the following:

- a. Geological conditions, including soil, sediment, and rock types and characteristics in addition to structural features, such as bedding, joint and faults;
- b. Evidence of past or potential liquefaction conditions, and the implications of such conditions for the proposed development;
- c. Potential effects of seismic forces resulting from a maximum credible earthquake;
- d. Any other factors that might affect the development.

The report shall also detail mitigation measures for any potential impacts and outline alternative solutions. The report shall express a professional opinion as to whether the project can be designed so that it will neither be subject to nor contribute to significant geologic instability throughout the life-span of the project.

7.B.5★ For all development proposed within areas subject to significant shoreline erosion, and which is otherwise consistent with the policies of this General Plan, the City shall, prior to project approval, require a geology and soils report prepared by a registered geologist, professional civil engineer with expertise in soil mechanics or foundation engineering, or by a certified engineering geologist, and shall consider, describe, and analyze the following:

- a. Site topography, extending the surveying work beyond the site as needed to depict unusual conditions that might affect the site;
- b. Historic, current and foreseeable shoreline erosion, including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs where available and possible changes in shore configuration and sand transport;
- c. Geologic conditions, including soil, sediment and rock types and characteristics in addition to structural features, such as bedding, joint and faults;
- d. Impact of construction activity on the stability of the site adjacent area;
- e. Potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction;
- f. Effects of marine erosion on shoreline areas;
- g. Potential effects of seismic forces resulting from a maximum credible earthquake;

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- h. Any other factors that might affect slope stability.

The report shall evaluate the off-site impacts of development and the additional impacts that might occur due to the proposed development. The report shall also detail mitigation measures for any potential impacts and outline alternative solutions. The report shall express a professional opinion as to whether the project can be designed so that it will neither be subject to nor contribute to significant onsite or offsite geologic instability throughout the life-span of the project.

**Flooding**

Goal 7.D

To minimize the risk of loss of life, injury, damage to property and economic and social dislocations resulting from flood hazards.

Policies

7.D.1 ★ The City shall prohibit high density residential and other high occupancy development, including new hospitals, schools, residential development with a gross density of 8 units per acre or more, office buildings 10,000 square feet in size or larger, or visitor-serving structural developments 5,000 square feet in size or larger, from locating in flood hazard areas, as designated on the Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM), dated June 1, 1982, unless they are constructed with a finished foundation that extends above the 100-year flood level and meet all applicable drainage policies of this General Plan. Other development in flood hazard areas shall incorporate mitigation measures that minimize the potential for flood damage, including development siting and use of flood proofing techniques and materials, consistent with other land use plan policies.

**Hazardous Materials and Toxic Contamination**

Goal 7.E

To minimize the risk of loss of life, injury, serious illness, damage to property, and economic and social dislocations resulting from the past or future use, transport, treatment, and disposal of hazardous materials and hazardous materials wastes.

Policies

7.E.1 The City shall ensure that the use and disposal of hazardous materials in the Eureka area complies with local, state, and federal safety standards.

7.E.11 The City shall work with owners of property affected by toxic contamination to identify cost-effective approaches to remediation of contaminated soils. In particular, the City shall focus its efforts on developing unified strategies to addressing cleanup of large areas (e.g., the Westside Industrial Area, the waterfront area) so as to reduce the unit cost of remediation.

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7.E.12 The City shall work with the Regional water Quality Control Board and Humboldt County to identify and mitigate groundwater contamination caused by past disposal of toxic materials along the waterfront and in industrial areas.

**Residential Noise Exposure**

Goal 7.G

To protect Eureka residents from the harmful and annoying effects of exposure to excessive noise.

Policies

7.G.2 The City shall require that noise created by new proposed non-transportation sources be mitigated so as not to exceed the noise level standards of Table 7-1 as measured immediately within the property line of lands designated for noise-sensitive uses, as listed in Table 7-1.

| TABLE 7-1<br>NOISE LEVEL PERFORMANCE STANDARDS<br>New Projects Affected by or Including Non-transportation Sources   |                                |                                  |
|--|--------------------------------|----------------------------------|
| Noise Level Descriptor   | Daytime<br>(7 a.m. to 10 p.m.) | Nighttime<br>(10 p.m. to 7 a.m.) |
| Hourly L <sub>eq</sub> , dB  | 50                             | 70                               |
| Maximum level, dB  | 70                             | 65                               |
| Each of the noise levels specified above shall be lowered by five dB for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises. These noise level standards do not apply to residential units established in conjunction with industrial or commercial uses (e.g., caretaker dwellings). |                                |                                  |

- 7.G.4 Where proposed non-residential land uses are likely to produce noise levels exceeding the performance standards of Table 7-1 at existing or planned noise-sensitive uses, the City shall require an acoustical analysis as part of the environmental review process so that noise mitigation may be included in the project design. The acoustical analysis shall meet the following requirements:
- It shall be the financial responsibility of the applicant.
  - It shall be prepared by a qualified person experienced in the fields of environmental noise assessment and architectural acoustics.
  - It shall include representative noise level measurements with sufficient sampling periods and locations to adequately describe local conditions and the predominant noise sources.
  - It shall include estimates of existing and projected cumulative (20 years) noise levels in terms of L<sub>dn</sub> or CNEL and /or the standards of Table 7-1, and compare those levels to the policies of this General Plan
  - It shall recommend appropriate mitigation to achieve compliance with the policies and

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standards of this General Plan, giving preference to proper site planning and design over mitigation measures which require the construction of noise barriers or structural modifications to buildings which contain noise-sensitive land uses. Where the noise source in question consists of intermittent single events, the report must address the effects of maximum noise levels in sleeping rooms in terms of possible sleep disturbance.

- f. It shall include estimates of noise exposure after the prescribed mitigation measures have been implemented.
- g. It shall describe a post-project assessment program which could be used to evaluate the effectiveness of the proposed mitigation measures.

7.G.5 The City shall evaluate the general feasibility of proposed projects with respect to existing and future transportation noise levels shown in Figure 7-1.

TABLE 7

## EXISTING, BACKGROUND, AND BACKGROUND PLUS WARDS HIGHWAY SEGMENT LEVELS OF SERVICE

| Highway Segment                            | Peak Hour | Existing |           |     | Background                |                         |     | Background Plus Wards     |                         |     |
|--|-----------|----------|-----------|-----|---------------------------|-------------------------|-----|---------------------------|-------------------------|-----|
|  |           | Vol.     | Density * | LOS | Vol.                      | Density y*              | LOS | Vol.                      | Density *               | LOS |
| Northbound U.S. 101 North of Eureka Slough | AM        | 2,080    | 19.9      | C   | 2,082                     | 19.9                    | C   | <del>2,096</del><br>2,094 | <del>20.1</del><br>20.0 | C   |
|  | PM        | 1,959    | 18.7      | C   | <del>1,890</del><br>1,978 | <del>18.1</del><br>18.9 | C   | <del>2,038</del><br>2,026 | <del>19.5</del><br>19.4 | C   |
| Southbound U.S. 101 North of Eureka Slough | AM        | 1,886    | 18.0      | C   | <del>1,978</del><br>1,890 | <del>18.9</del><br>18.1 | C   | <del>1,911</del><br>1,909 | 18.3                    | C   |
|  | PM        | 1,519    | 14.5      | B   | 1,539                     | 14.7                    | B   | <del>1,599</del><br>1,614 | <del>15.3</del><br>15.4 | B   |

\* Density is expressed in passenger cars per mile per lane and is calculated based on an assumed free-flow speed of 60 mph.

TABLE 10

HIGHWAY SEGMENT LEVELS OF SERVICE FOR  
EXISTING, BACKGROUND, BACKGROUND PLUS WARDS, AND PROJECT CONDITIONS

| Highway Segment <sup>1</sup>     | Peak Hour | Existing |                      |               | Background |                      |     | Background + Wards |                      |     | Project |                      |     |
|----------------------------------|-----------|----------|----------------------|---------------|------------|----------------------|-----|--------------------|----------------------|-----|---------|----------------------|-----|
|                                  |           | Vol.     | Density <sup>2</sup> | LOS           | Vol.       | Density <sup>2</sup> | LOS | Vol.               | Density <sup>2</sup> | LOS | Vol.    | Density <sup>2</sup> | LOS |
| N/B U.S. 101 N. of Eureka Slough | AM        | 2,080    | 19.9                 | C             | 2,082      | 19.9                 | C   | 2,094              | 20.0                 | C   | 2,102   | 20.1                 | C   |
|                                  | PM        | 1,959    | 18.7                 | C             | 1,978      | 18.9                 | C   | 2,026              | 19.4                 | C   | 2,055   | 19.7                 | C   |
| S/B U.S. 101 N. of Eureka Slough | AM        | 1,886    | 18.0                 | <del>BC</del> | 1,890      | 18.1                 | C   | 1,909              | 18.3                 | C   | 1,921   | 18.4                 | C   |
|                                  | PM        | 1,519    | 14.5                 | B             | 1,539      | 14.7                 | B   | 1,614              | 15.4                 | B   | 1,608   | 15.4                 | B   |

<sup>1</sup> The project effects only one segment of open highway, that is the segment heading north from Eureka.

<sup>2</sup> Density is expressed in passenger cars per mile per lane and is calculated based on an assumed free-flow speed of 60 mph.

TABLE 9

**INTERSECTION LEVELS OF SERVICE FOR  
EXISTING, BACKGROUND, BACKGROUND PLUS WARDS, AND PROJECT CONDITIONS**

| Intersection                                  | Peak Hour | Existing                   |     | Background                 |     | Background + Wards         |     | Project                    |           |                              | Mitigated                  |     |
|---|-----------|----------------------------|-----|----------------------------|-----|----------------------------|-----|----------------------------|-----------|------------------------------|----------------------------|-----|
|   |           | Average Delay <sup>1</sup> | LOS | Average Delay <sup>1</sup> | LOS | Average Delay <sup>1</sup> | LOS | Average Delay <sup>1</sup> | LOS       | Change in Delay <sup>2</sup> | Average Delay <sup>1</sup> | LOS |
| <b>Signalized Intersections</b>               |           |                            |     |                            |     |                            |     |                            |           |                              |                            |     |
| R Street and 4 <sup>th</sup> Street           | AM        | 21.7                       | C   | 21.7                       | C   | 22.2                       | C   | 22.6                       | C         | +0.9                         |                            |     |
|   | PM        | 22.6                       | C   | <del>22.7</del><br>22.6    | C   | 26.0                       | C   | <del>28.3</del><br>27.0    | C         | <del>+2.3</del><br>4.4       |                            |     |
| V Street and 4 <sup>th</sup> Street           | AM        | 74.4                       | E*  | 75.2                       | E*  | 75.5                       | E*  | 75.5                       | E*        | +0.2                         | 18.9                       | B   |
|   | PM        | 89.2                       | F*  | 93.6                       | F*  | 115.6                      | F*  | <b>137.9</b>               | <b>F*</b> | <b>+44.3</b>                 | 67.1                       | E   |
| V Street and 5 <sup>th</sup> Street           | AM        | 37.0                       | D   | 37.2                       | D   | 39.4                       | D   | 41.2                       | D         | +3.8                         |                            |     |
|   | PM        | 36.2                       | D   | 36.5                       | D   | 41.2                       | D   | 44.6                       | D         | +8.1                         |                            |     |
| West Avenue and Myrtle Ave.                   | AM        | 31.4                       | C   | 31.6                       | C   | 32.1                       | C   | 32.4                       | C         | +0.8                         |                            |     |
|   | PM        | 21.9                       | C   | 23.1                       | C   | 23.9                       | C   | 24.4                       | C         | +1.3                         |                            |     |
| <b>Unsignalized Intersections<sup>3</sup></b> |           |                            |     |                            |     |                            |     |                            |           |                              |                            |     |
| R Street and 3 <sup>rd</sup> Street           | AM        | 36.6                       | E*  | 37.2                       | E*  | 38.3                       | E*  | 38.9                       | E*        | +1.7                         |                            |     |
|   | PM        | 27.5                       | D*  | 28.2                       | D*  | 30.0                       | D*  | 31.0                       | D*        | +2.8                         |                            |     |
| R Street and 5 <sup>th</sup> Street           | AM        | 26.5                       | D   | 26.8                       | D   | 27.5                       | D   | 27.8                       | D         | +1.0                         |                            |     |
|   | PM        | 34.6                       | D   | 37.8                       | E*  | 39.7                       | E*  | 41.4                       | E*        | +3.6                         |                            |     |
| T Street and 3 <sup>rd</sup> Street           | AM        | 12.2                       | B   | 12.2                       | B   | 12.2                       | B   | 12.3                       | B         | +0.1                         |                            |     |
|   | PM        | 10.6                       | B   | 10.6                       | B   | 10.7                       | B   | 10.8                       | B         | +0.2                         |                            |     |
| V Street and 3 <sup>rd</sup> Street           | AM        | 11.0                       | B   | 11.0                       | B   | 11.8                       | B   | 12.4                       | B         | <del>+0.6</del><br>1.3       | 8.3                        | A   |
|   | PM        | 14.0                       | B   | 14.0                       | B   | 22.9                       | C   | <b>53.6</b>                | <b>F*</b> | <b>+39.6</b>                 | 15.5                       | C   |
| V Street/West Ave. and 6 <sup>th</sup> St.    | AM        | 11.1                       | B   | 11.1                       | B   | 11.3                       | B   | 11.4                       | B         | +0.3                         |                            |     |
|   | PM        | 12.7                       | B   | 11.6                       | B   | 13.6                       | B   | 14.0                       | B         | +2.4                         |                            |     |
| X Street and 3 <sup>rd</sup> Street           | AM        | 11.0                       | B   | 11.0                       | B   | 10.1                       | B   | 12.4                       | B         | +1.4                         |                            |     |
|   | PM        | 11.1                       | B   | 11.1                       | B   | 13.5                       | B   | 15.4                       | C         | +4.3                         |                            |     |
| Y Street and 2 <sup>nd</sup> Street           | AM        | 8.9                        | A   | 8.9                        | A   | 9.0                        | A   | 9.1                        | A         | +0.2                         |                            |     |
|   | PM        | 8.8                        | A   | 8.8                        | A   | 9.1                        | A   | 9.3                        | A         | +0.5                         |                            |     |
| Y Street and 3 <sup>rd</sup> Street           | AM        | 10.0                       | A   | 10.1                       | B   | 11.9                       | B   | 10.9                       | B         | +0.8                         |                            |     |
|   | PM        | 9.9                        | A   | 9.9                        | A   | 12.5                       | B   | 13.5                       | B         | +3.6                         |                            |     |

<sup>1</sup> Seconds per vehicle.<sup>2</sup> Change in delay measured relative to Background Conditions.<sup>3</sup> For unsignalized intersections, delay and corresponding level of service on the worst approach is reported.

\* Unacceptable level of service. Note that for highway segments in Eureka, LOS D is considered acceptable by City and Caltrans.

**Bold** indicates a significant project impact.

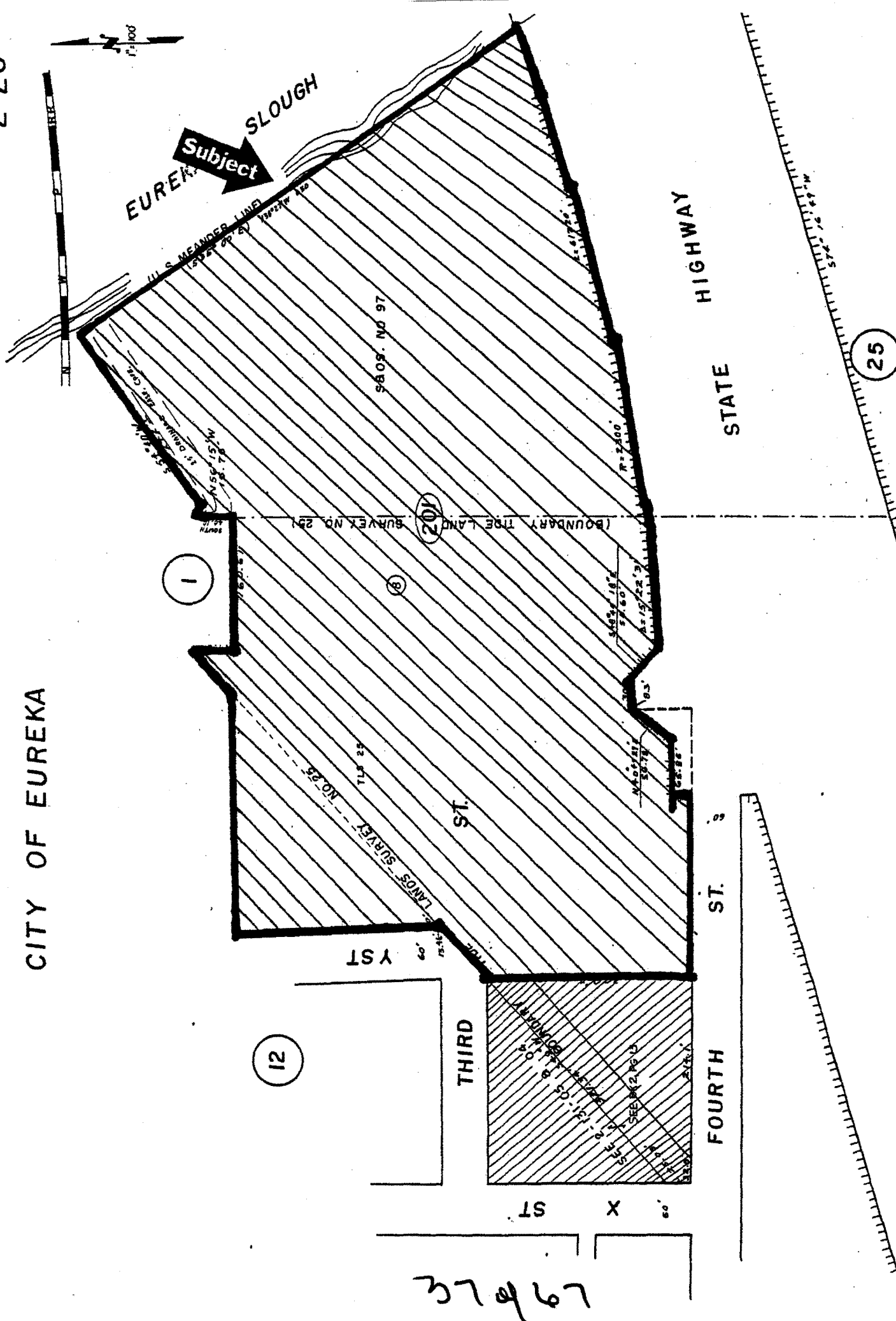
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City of Eureka  
Location Map  
Not to Scale  
North up

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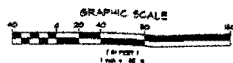


# **PARKING SUMMARY**

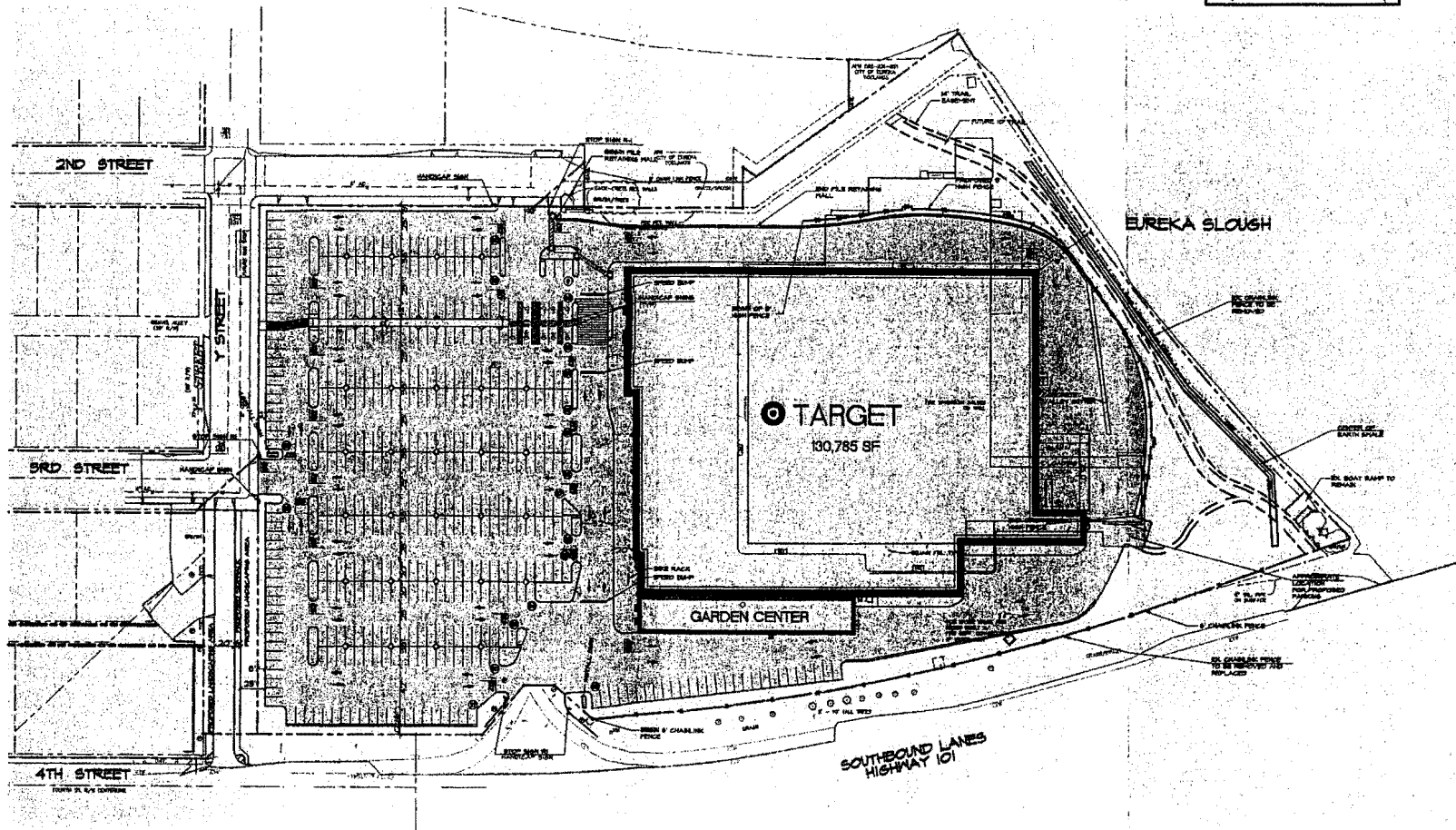
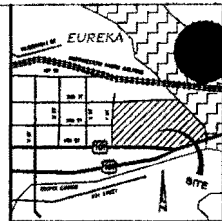
CITY OF EUREKA REQUIREMENTS:  
COMMERCIAL 1/300 SF (RPA)  
GARDEN CENTER 1/300 SF

REQUIRED PARKING:  
COMMERCIAL 150'x300' 300 STALLS  
GARDEN CENTER 600'x200' 120 STALLS  
TOTAL 420 STALLS

PROPOSED PARKING:  
STANDARD (8'x12') 445 STALLS  
HANDICAP (8'x12') 2 STALLS  
TOTAL 447 STALLS



VICINITY MAP  
ATA

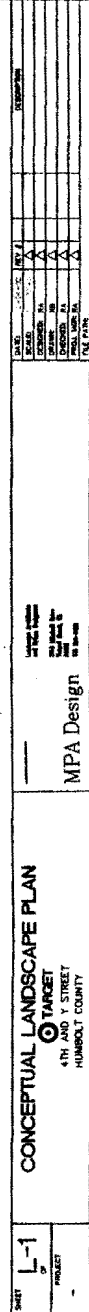


© TARGET SITE PLAN  
2525 4th STREET  
EUREKA, CA  
DECEMBER 4, 2002

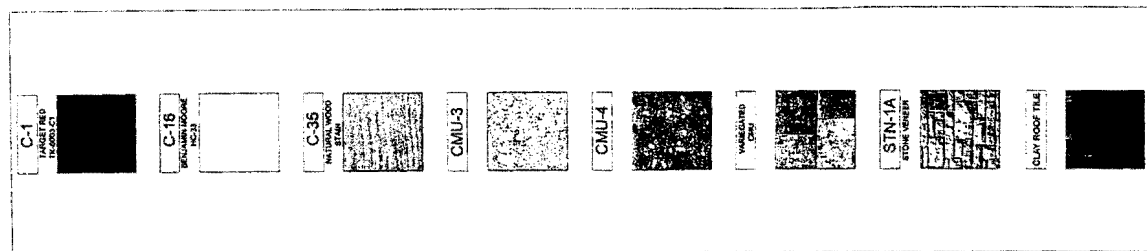
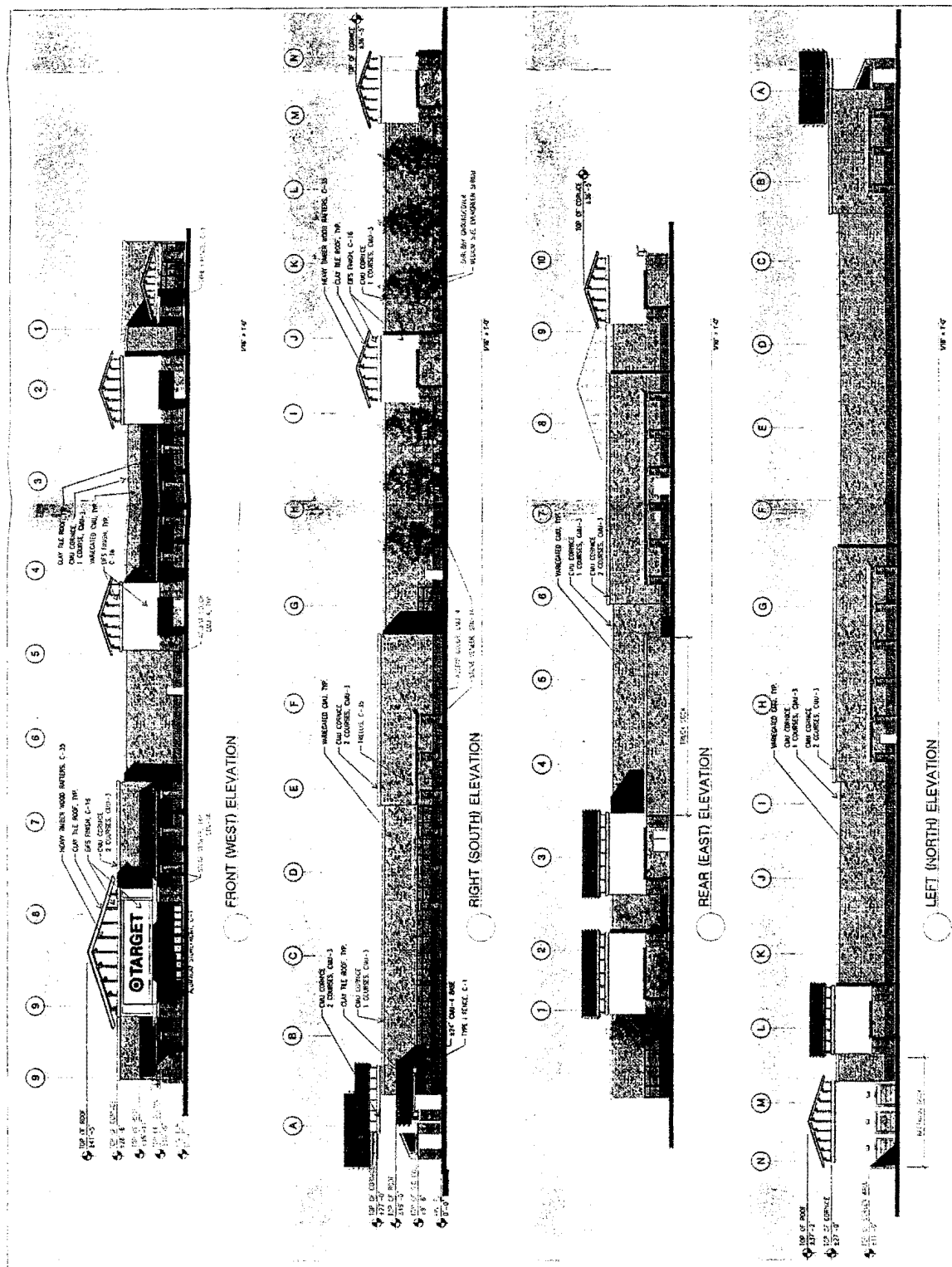
**SLS** associates, inc.  
500 YONACIO VALLEY RD, SUITE 190, WALNUT CREEK, CA  
925-843-5225 FAX 925-843-5718  
ENGINEERING SURVEYING LANDSCAPE ARCHITECTURE

1 SITE CONTAINS 15,724 SQUARE FEET OF LANDSCAPING

| 5-20-205                            |                       |      |
|-------------------------------------|-----------------------|------|
| BOTANICAL NAME                      | COMMON NAME           | #/sq |
| CORYNEAELES LACTIFLORA              | RED                   | 0.5% |
| RAUPELOIDES NEREA                   | RED LAMPROUS VARETIES | 0.5% |
| BRACALLOA FRAGRANS                  | BRACALLOA             | 0.5% |
| HYPERICA CALIFORNICA                | PACIFIC BAY HYPERIC   | 0.5% |
| <b>GROUNDCOVERS</b>                 |                       |      |
| BOTANICAL NAME                      | COMMON NAME           | #/sq |
| ARISTIDA HYPERICA - INDIAN          | REDSEEDING            | 1.0% |
| HYPERICA CALIFORNICA                | COMPASS ROSE GROUP    | 1.0% |
| RAUPELOIDES N. PROCEPITA            | COMPASS               | 1.0% |
| <b>ACCENT GROUNDCOVER PLANTING</b>  |                       |      |
| BOTANICAL NAME                      | COMMON NAME           | #/sq |
| DIETERIA VIOLEA                     | DIETERIA LILY         | 1.0% |
| HYPERICELLA SPECIES                 | HYPERICELLA           | 1.0% |
| <b>HYDROSEED MIX</b>                |                       |      |
| WED INVOLVED GRASSES AND SOD PLANTS |                       |      |



5985



## **RESOLUTION NO. 2002-**

### **A Resolution of the City Council of the City of Eureka Certifying the Completion and Adequacy of the Final Environmental Impact Report for the Eureka Target Store Project (SCH#2002012014) and Adopting a Mitigation and Monitoring Program for the Implementation of the Project**

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**WHEREAS**, the Community Development Department has received and has submitted to the City Council of the City of Eureka (Council) an application for a Coastal Development Permit (Case No. CDP-16-01) for the proposed Eureka Target Store Project (Project), which consists of the demolition of the existing vacant Montgomery Ward store and construction of a 130,785 sq. ft. commercial retail store with an additional 8,081 sq. ft. garden center on 11.5 acres. The Project also includes repaving of the parking area, the addition of landscaping, and public access to and along Eureka Slough and to the existing boat ramp; and

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

**WHEREAS**, a Notice of Preparation for a Draft Environmental Impact Report (Draft EIR) was filed with the State Clearinghouse in the Office of Planning and Research, and was also issued by the City for local agency and public review, with a Comment Period of 30 days commencing on 4 January 2002; and

**WHEREAS**, a Notice of Completion of a Draft EIR (Draft EIR; SCH#2002012014) was filed with the State Clearinghouse in the Office of Planning and Research, establishing a Public Review Period for the Draft EIR of 45 days commencing on 29 August 2002 and ending on 15 October 2002; and

**WHEREAS**, a Notice of Availability was issued by the City for local agency and public review, establishing a Public Review Period for the Draft EIR of 45 days commencing on 30 August 2002 and ending on 14 October 2002; and

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

**WHEREAS**, written comments on the Draft EIR were received during the review period and the Draft EIR was thereafter revised and supplemented to adopt changes suggested and address issues raised in said comments; and

**WHEREAS**, a public meeting was held by the City Council of the City of Eureka on 17 December 2002 on the Final EIR, following notice duly and regularly given as required by law, and all interested persons expressing desire to comment thereon or object thereto having been heard, and said Final EIR and all comments and responses thereto having been considered; and

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WHEREAS, the City Council found that the Final EIR consisted of the Draft EIR as revised; comments and recommendations received on the Draft EIR; a list of persons, organizations and public agencies commenting on the Draft EIR; and the City Council's responses to significant environmental points raised in the review and consultation process; and

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

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

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

WHEREAS, the City Council by this Resolution adopts the Statement of Findings, Attachment "A" hereto incorporated herein by this reference, and the Statement of Mitigation Measures and Monitoring Programs, Attachment "B" hereto incorporated herein by this reference, as required by Sections 15091 and 15097 of the CEQA Guidelines.

NOW, THEREFORE, be it resolved, determined, and ordered by the City Council that:

1. The City Council does hereby certify that the Final EIR has been completed in compliance with CEQA, the CEQA Guidelines, and local procedures adopted by the City of Eureka pursuant thereto, and that the Final EIR was reviewed and considered by the City Council, and that the Final EIR represents the City of Eureka's independent judgment.
2. The Final EIR, which has been and will be on file with the City of Eureka, 531 K Street, Eureka, California, is composed of the following elements:
  - a. Draft EIR;
  - b. A list of persons, agencies, and organizations commenting on the Draft EIR;
  - c. Copies of comments received during the public review of the Draft EIR;
  - d. The City of Eureka's response to those comments.
3. The City Council makes the findings contained in the Statement of Findings with respect to significant effects identified in the Final EIR and finds that each fact in support of the findings is true and is based upon substantial evidence in the record, including the Final EIR. The Statement of Findings is attached hereto as Attachment "A", and is incorporated herein by this reference.
4. The City Council finds that the Final EIR has identified all significant environmental effects of the proposed Project and that there are no known potential environmental effects not addressed in the Final EIR.
5. The City Council finds that all significant effects of the proposed Project are set forth in the Statement of Findings and the Final EIR.



6. The City Council finds that all significant effects have been mitigated or avoided and have been reduced to an acceptable level by the implementation of mitigation measures on the approved Project. All mitigation measures have been incorporated into the project as conditions of approval. The list of mitigation measures, and City monitoring programs for those measures is included in the Statement of Mitigation Measures and Monitoring Programs attached hereto as Attachment "C", and is incorporated herein by this reference.
7. The City Council finds that potential mitigation measures or project alternatives not incorporated into the Project (including the "No Project" alternative) were rejected as infeasible, based upon specific economic, legal, social, technological, or other considerations as set forth in the Statement of Findings and the Final EIR.
8. The City Council finds that the Final EIR has described all reasonable alternatives to the Project that could feasibly obtain the basic objectives of the Project (including the "No Project" alternative), even when these alternatives might impede the attainment of Project objectives and might be more costly. Further, the City Council finds that a good faith effort was made to incorporate alternatives in the preparation of the Draft EIR, and all reasonable alternatives were considered in the review process of the Final EIR and ultimate decision on the Project.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Eureka, County of Humboldt, State of California, on the 17th day of December, 2002, by the following vote:

AYES: COUNCILMEMBERS:  
 NOES: COUNCILMEMBERS:  
 ABSENT: COUNCILMEMBERS:  
 ABSTAIN: COUNCILMEMBERS:

ATTEST:

\_\_\_\_\_  
*Peter LaVallee*  
 Mayor

\_\_\_\_\_  
*Kathleen L. Franco Simmons, City Clerk*  
 City Clerk

APPROVED AS TO ADMINISTRATION:

APPROVED AS TO FORM:

\_\_\_\_\_  
*David W. Tyson*  
 City Manager

\_\_\_\_\_  
*David E. Tranberg*  
 City Attorney

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 3



## ATTACHMENT "A"

### Statement of Findings Eureka Target Store Project

Pursuant to Public Resources Code section 21081 and CEQA Guidelines section 15091, the following findings address the Eureka Target Store Project ("Project") significant and potentially significant impacts and means for mitigating those impacts. The California Environmental Quality Act requires that one or more of a set of three findings be made by the lead agency (i.e., by the City for this project) whenever an EIR identifies a significant effect on the environment; these findings are established in section 15091(a) of the CEQA Guidelines:

- "(1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- "(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- "(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR."

The Project, as proposed by Target Corporation ("Target") allows for the removal of an 86,253 square-foot former Montgomery Ward building and the construction of a freestanding 130,785 square-foot commercial retail store and an additional 8,081 square-foot garden center on a 11.4-acre site. In each case, a rationale statement explaining how identified mitigation lessens or avoids the related impact follows the appropriate statutory finding.

#### I. GENERAL CONSIDERATIONS

1. Reliance on Record. The findings and determinations contained herein are based on competent and substantial evidence, both oral and written, contained in the Project's record including the August 2002 Draft Environmental Impact Report ("Draft EIR") and the November 2002 Final Environmental Impact Report ("Final EIR"), which incorporates the Draft EIR by reference and includes revisions to the Draft EIR. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.
2. Nature of Findings. Any finding made herein by the City Council will be deemed made, regardless of where it appears in this document. Any language included in this document constitutes findings by the City Council, whether or not any particular sentence or clause includes a statement to that effect. If these findings fail to cross-reference, or incorporate by

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reference, any other part of these findings, the City Council intends that any finding required or permitted will be deemed made if it appears in any portion of the findings, or findings elsewhere in the record.

3. Limitations. The City Council's analysis and evaluation of the Project is based on the best information currently available. It is inevitable that, in evaluating the Project, absolute and perfect knowledge of all possible aspects of the Project is impossible. One major limitation on analyzing the Project is the City Council's lack of knowledge about future events, especially those occurring outside the City. In some instances, the City Council's analysis has had to rely on assumptions about factors such as growth and traffic generation in areas outside of the political boundaries of the City. In all instances, best efforts have been made to form accurate assumptions. The City is also limited in its ability to solve what are in effect regional, state and national problems and issues and must work within the political framework in which it exists and with the limitations inherent in that framework.
4. Summaries of Facts, Impacts, Mitigation Measures, Alternatives and Other Matters. All summaries of information in the findings to follow are based on the Final EIR and/or other evidence in the record as a whole. Such summaries are not intended to be exhaustive recitations of all facts in the record upon which they are based. Moreover, the summaries of impacts, mitigation measures and alternatives are only summaries. This document includes only as much detail as may be necessary to show the basis for the findings set forth below. Cross-references to the Final EIR have been made where helpful. Conflicting interpretations of the Final EIR language and the mitigation conditions language adopted by the City Council will be resolved in favor of the latter as the most appropriate way to mitigate the impact in question.
5. Adoption of Mitigation Measures. These findings address the mitigation measures recommended in the Final EIR for impacts identified as significant or potentially significant. The City Council, in approving the Project, adopts those mitigation measures recommended in the Final EIR, as revised by the City Council, that are not already incorporated into the Project, except with respect to those mitigation measures rejected by the City Council as being infeasible or unnecessary. Where multiple mitigation measures are adopted for a single impact, all the identified measures are required to support the related mitigation finding, unless otherwise specified (i.e., if mitigation measures are identified as options or alternatives). The City Council finds that all the mitigation measures now or previously incorporated into the Project are desirable and feasible and will be implemented in accordance with the Mitigation Monitoring Plan for the Project.
6. Effectiveness of Mitigation Measures. The Final EIR for the Project identifies mitigation measures to reduce the significant and potentially significant environmental effects to insignificant levels. The City Council reviewed the Final EIR and agrees with the Final EIR's conclusions.
7. Description of the Record. For purposes of CEQA and these findings, the record before the City Council includes, without limitation, the following:

- A. All applications for approvals and development entitlements related to the Project submitted to the City, including without limitation, application for the Coastal Development Permit;
- B. The Draft EIR and the Final EIR;
- C. All staff reports on the Project and the Final EIR;
- D. All studies prepared for the Project and the Final EIR;
- E. All public reports and documents related to the Project prepared by City staff for the City Council and the Planning Commission;
- F. All documentary and oral evidence received and reviewed at public hearings and study sessions related to the Project and the Final EIR;
- G. The Mitigation Monitoring Plan for the Final EIR;
- H. All matters of common knowledge to the City Council, including but not limited to:
  - 1. The City's general plan and zoning and other ordinances;
  - 2. The City's fiscal status;
  - 3. City policies and regulations;
  - 4. Reports, projections and correspondence related to development within and surrounding the City; and,
  - 5. State laws and regulations and publications, including all reports and guidelines published by the California Office of Planning and Research.

## **II. IMPACTS AVOIDED OR MITIGATED BELOW A LEVEL OF SIGNIFICANCE.**

### **LAND USE AND PLANNING**

There are no significant land use and planning impacts.

### **GEOLOGY AND SOILS**

There are no significant geological or soil impacts.

## HYDROLOGY AND WATER QUALITY

**Impact C3.** During site clearance, grading, and construction, erosion of exposed soils and pollutants from equipment may result in water quality impacts to adjacent water bodies. (*Significant*)

**Mitigation #1.** An erosion control plan will be prepared that specifies practices to be implemented during site clearance, grading, and construction to minimize erosion and sedimentation. Typical erosion control measures include, but are not limited too, the following:

- a. schedule earthwork to occur primarily from April through October;
- b. stabilize exposed soils by the end of October in any given year;
- c. convey runoff from areas of exposed soils to temporary siltation basins;
- d. protect storm drain inlets from sedimentation with berms or filtration barriers;
- e. apply water to exposed soils regularly during the dry season to prevent wind erosion;
- f. stabilize stockpiles of demolition debris, topsoil, and fill material through application of water, by the use of covers and/or by using chemical agents;
- g. install gravel construction entrances to reduce tracking of sediment onto adjoining streets;
- h. sweep on-site paved surfaces and surrounding streets regularly with a wet sweeper;
- i. store all construction equipment and material in designated areas away from waterways and storm drain inlets;
- j. surround construction storage and maintenance areas with berms or dikes;
- k. wash and maintain equipment and vehicles in a separate bermed area, with runoff directed to a lined retention basin;
- l. collect construction waste routinely and deposit in covered dumpsters; and
- m. after construction is completed, clean the storm drain system of all sediment and debris.

**Finding.** The City finds that the changes or alterations as described in the above mitigation measure that have been required in, or incorporated into, the Project will avoid or substantially lessen the potentially significant environmental effects identified in the Final EIR, and that with the incorporation of the specified mitigation measures, the impact of the Project is less than significant. These measures are within the authority of the City, and the implementation of these measures comports with CEQA Guidelines Section 15091(a)(1).

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The City also finds that regulating effects on water quality in the project area is the responsibility of the Regional Water Quality Control Board, which can, should and is expected to enforce regulations that will ensure that impacts to water quality are kept at less than significant levels. This finding comports with CEQA Guidelines Section 15091(a)(2).

**Rationale.** The project is required to comply with the federal EPA's NPDES requirements for construction runoff, which requires mitigation measures such as the ones described above. These measures comply with the federal Clean Water Act and are intended to reduce and minimize any impacts from stormwater runoff during and after construction. Based on the hydrology report and the hydrology and water quality analysis in the Final EIR the implementation of Mitigation Measure #1 would reduce water quality impacts to adjacent water bodies to a less than significant level.

### BIOLOGICAL RESOURCES

**Impact D1.** Demolition of the existing building could adversely affect any Townsend's big-eared bats, which could occupy the vacant Montgomery Ward building prior to demolition. (*Significant*)

**Mitigation #2.** Prior to demolition of the vacant on-site building, the project applicant will have a qualified biologist survey for bats, and if bats are found to be present, the applicant will implement measures recommended by the biologist.

**Finding.** The City finds that the changes or alterations as described in the above mitigation measure that have been required in, or incorporated into, the Project will avoid or substantially lessen the potentially significant environmental effects identified in the Final EIR, and that with the incorporation of the specified mitigation measures, the impact of the Project is less than significant. These measures are within the authority of the City, and the implementation of these measures comports with CEQA Guidelines Section 15091(a)(1).

**Rationale.** The biological reports, including a focused bat survey of the former Montgomery Ward building conducted by Wildlife Research Associated in May 2002, did not indicate the present of any bats in the building. Accordingly, requiring further survey of bats before demolition of the structure and if bats are found mitigating any impacts to the bats under the direction of a qualified bat specialist would reduce the impact to the species to less than significant.

### CULTURAL RESOURCES

**Impact E1.** Previously undiscovered cultural materials may be buried on the site, which could be adversely affected by grading and construction for the Project. (*Significant*)

**Mitigation #3.** The following measures will be implemented to mitigate impacts to any buried cultural resources on the site:

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- a. construction personnel will be informed regarding the potential for exposure of possible buried prehistoric and historic resources, including human remains, during construction, as well as the procedures to be followed in the event archaeological materials are discovered;
- b. all subsurface construction will be subject to a monitoring program under the direction of a qualified archaeologist who will determine the extent and intensity of monitoring required in consultation with the City of Eureka and the Target Corporation;
- c. upon the discovery of any buried cultural materials, all ground-disturbing work within 30 meters of the find will be halted and the find will be inspected and evaluated by a qualified archaeologist and a Native American representative. The archaeologist will consult with the City of Eureka in the preparation of any necessary plans for the treatment of any finds deemed to be important according to CEQA and other applicable State laws. Any human burials will be handled in accordance with State law; and
- d. any finds will be reported in accordance with current professional protocols including a "closure" report at the end of the archaeological monitoring. Curation of any documents, artifacts and other items associated with the treatment of any finds will be with a local repository selected by the City of Eureka and the Target Corporation.

**Finding.** The City finds that the changes or alterations as described in the above mitigation measure that have been required in, or incorporated into, the Project will avoid or substantially lessen the potentially significant environmental effects identified in the Final EIR, and that with the incorporation of the specified mitigation measures, the impact of the Project is less than significant. These measures are within the authority of the City, and the implementation of these measures comports with CEQA Guidelines Section 15091(a)(1).

**Rationale.** Based on the cultural resources assessment prepared by Basin Research Associates in March 2002, and the cultural resources analysis in the Final EIR, implementation of Mitigation Measure #3 would reduce the impact to undiscovered cultural materials that may be buried on the site to a less than significant level.

### AESTHETICS

There are no significant aesthetic impacts.

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## TRAFFIC AND CIRCULATION

**Impact G1.** The traffic generated by the Project would add more than 5 seconds of delay at two intersections (V Street/4<sup>th</sup> Street, and V Street/3<sup>rd</sup> Street) that operate at unacceptable Levels of Service under pre-project conditions. (Significant)

**Mitigation #4.** The following measures will be implemented to mitigate impacts at the two intersections:

*V Street/3rd Street* - Convert the intersection from two-way stop control to four-way stop control; and

*V Street/4th Street* - Add a dedicated westbound left-turn lane on southbound 4th Street at V Street.

**Finding.** The City finds that the changes or alterations as described in the above mitigation measure that have been required in, or incorporated into, the Project will avoid or substantially lessen the potentially significant environmental effects identified in the Final EIR, and that with the incorporation of the specified mitigation measures, the impact of the Project is less than significant. These measures are within the authority of the City, and the implementation of these measures comports with CEQA Guidelines Section 15091(a)(1).

**Rationale.** Based on the traffic impact analysis prepared by Hexagon Transportation Consultants in August 2002 and the traffic impact analysis described in the Final EIR, the implementation of Mitigation Measure #4 would improve the level of service at the V Street/3<sup>rd</sup> Street intersection to LOS C during the PM peak hour. The implementation of Mitigation Measure #4 would also improve the level of service at the V Street/4<sup>th</sup> Street intersection to better than existing conditions or LOS B during the AM peak hour and LOS E during the PM peak hour. Accordingly, the implementation of Mitigation Measure #4 would reduce the traffic impact and, specifically, the Level of Service impact, at both intersections to a less than significant level.

## NOISE

**Impact H2.** Certain activities associated with the Project could exceed the noise performance standards of the City of Eureka General Plan. (Significant)

**Mitigation #5.** Plans for the project will include a provision that the noise level generated by the rooftop mechanical equipment at that store will not exceed an  $L_{eq}$  of 50 dBA at the nearest residence during the daytime nor 45 dBA during the nighttime.

**Finding.** The City finds that the changes or alterations as described in the above mitigation measure that have been required in, or incorporated into, the Project will avoid or substantially lessen the potentially significant environmental effects identified in the Final EIR, and that with the incorporation of the specified mitigation measures, the impact of the Project is

less than significant. These measures are within the authority of the City, and the implementation of these measures comports with CEQA Guidelines Section 15091(a)(1).

**Rationale.** The major noise sources associated with the Project would be parking lot activity, truck delivery, loading dock activity, activity at the outdoor garden center and noise generated by fixed mechanical equipment. The Project has been designed to minimize noise impact from these activities. Also, based on the environmental noise assessment prepared by Illingworth & Rodkin in August 2002, and the noise analysis in the Final EIR, and the implementation of Mitigation Measure #5 will minimize the noise impact to a less than significant level.

**Impact H4.** During demolition, site clearance, grading, and construction, noise levels would be temporarily elevated at sensitive human receptors nearest to the project site. (*Short-Term Significant*)

**Mitigation #6.** The following measures will be implemented to mitigate impacts to any noise performance standards:

- a. *Construction Scheduling.* Limit noise-generating construction activities to 7:00 AM to 7:00 PM on weekdays, 9:00 AM to 5:00 PM on Saturdays, with no noise-generating construction to occur on Sundays or holidays.
- b. *Construction Equipment Mufflers and Maintenance.* Properly muffle and maintain all construction equipment powered by internal combustion engines.
- c. *Idling Prohibitions.* Prohibit unnecessary idling of internal combustion engines.
- d. *Equipment Location and Shielding.* Locate all stationary noise-generating construction equipment such as air compressors as far as practicable from existing nearby residences.
- e. *Quiet Equipment Selection.* Select quiet construction equipment, particularly air compressors, whenever possible. (Fit motorized equipment with proper mufflers in good working order.)
- f. *Noise Disturbance Coordinator.* Designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of any noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site.

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**Finding.** The City finds that the changes or alterations as described in the above mitigation measure that have been required in, or incorporated into, the Project will avoid or substantially lessen the potentially significant environmental effects identified in the Final EIR, and that with the incorporation of the specified mitigation measures, the impact of the Project is less than significant. These measures are within the authority of the City, and the implementation of these measures comports with CEQA Guidelines Section 15091(a)(1).

**Rationale.** The mitigation described above required under the Mitigation Monitoring Plan will be included in the construction contract documents for the Project and would be the responsibility of the contractor to implement and enforce. While noise emissions from different equipment vary substantially, the mitigation measures described above are the standard construction noise abatement measures and are generally considered to reduce construction noise to less-than-significant levels.

**Impact H5.** During construction, pile driving for foundation supports and other heavy construction techniques would generate high noise levels. (*Short-Term Significant*)

**Mitigation #7.** The following measures will be implemented to mitigate the noise generated by pile driving and other heavy construction techniques:

- a. the number of pile drivers will be doubled to reduce the overall time that people are exposed to the noise;
- b. pile driving will be restricted to weekdays during the hours of 9:00 AM to 5:00 PM, with no pile driving to occur on weekends or holidays; and
- c. prior to the commencement of pile driving or other high noise generating construction techniques, the contractor will provide written notification to the potentially affected residents within 300 feet of the project site boundary. The written notice will be provided at least 72 hours prior to the start of pile driving or other high noise generating construction techniques, and will indicate the dates and times during which such activity is expected to occur.

**Finding.** The City finds that the changes or alterations as described in the above mitigation measure that have been required in, or incorporated into, the Project will avoid or substantially lessen the potentially significant environmental effects identified in the Final EIR, and that with the incorporation of the specified mitigation measures, the impact of the Project is less than significant. These measures are within the authority of the City, and the implementation of these measures comports with CEQA Guidelines Section 15091(a)(1).

**Rationale.** While the above-described mitigation does not reduce the noise of individual hammer blows during pile driving, it restricts the hours and days of pile driving to minimize annoyance and ensures advance notice to minimize any inconvenience. Based on the environmental noise assessment prepared by Illingworth & Rodkin in August 2002 and the noise

analysis in the Final EIR, implementation of Mitigation Measure #7 will minimize the short-term noise impact from pile driving to a less than significant level.

### AIR QUALITY

**Impact 11.** Demolition, grading, excavation, and construction for the Project would generate dust and exhaust emissions that could adversely affect local and regional air quality. (*Significant*)

**Mitigation #8.** Dust control measures will be implemented to reduce PM10 emissions during grading and construction. The North Coast Unified Air Quality Management District, under its Rule 430, requires the following in conjunction with construction activities:

- a. covering open bodied trucks when used for transporting materials likely to give rise to airborne dust;
- b. the use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or clearing of land;
- c. the application of asphalt, oil, water or suitable chemicals on dirt roads, materials stockpiles, and other surfaces which can give rise to airborne dust; and
- d. the prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water, or other means.

In addition to the above requirements of NCUAQMD Rule 430, the following additional dust control measures will be implemented:

- a. all areas of the site (including unpaved roads) with vehicle traffic will be watered or have a dust palliative applied as necessary for stabilization of dust emissions;
- b. All on-site vehicle traffic will be limited to a speed of 15 mph on unpaved surfaces; and
- c. A dust-control coordinator will be designated. The name and telephone number of the dust-control coordinator will be posted in conspicuous locations adjacent the project site. This person will respond to complaints in a timely manner (within 24 hours at most) and have the authority to take corrective action.

**Finding.** The City finds that the changes or alterations as described in the above mitigation measure that have been required in, or incorporated into, the Project will avoid or substantially lessen the potentially significant environmental effects identified in the Final EIR,

and that with the incorporation of the specified mitigation measures, the impact of the Project is less than significant. These measures are within the authority of the City, and the implementation of these measures comports with CEQA Guidelines Section 15091(a)(1).

The City also finds that regulating air quality effects in the project area is the responsibility of the North Coast Unified Air Quality Management District, which can, should and is expected to enforce regulations that will ensure that impacts to air quality are kept at less than significant levels. This finding comports with CEQA Guidelines Section 15091(a)(2).

**Rationale.** The mitigation measures above will also be included in the construction documents for the Project and will therefore be the responsibility of the contractor. The mitigation measures by requiring watering or treating the site, covering any soil piles or soil leaving the site and restricting speeds on the site will minimize dust and exhaust emissions and reduce any impacts to local and regional air quality to a less than significant level

### HAZARDOUS MATERIALS

**Impact J1.** The existing on-site building contains asbestos materials, which could pose a health hazard during building demolition. (*Significant*)

**Mitigation #9.** Prior to demolition of the existing on-site structures, asbestos-containing materials will be removed and properly disposed of, as required by applicable laws and regulations.

**Finding.** The City finds that the changes or alterations as described in the above mitigation measure that have been required in, or incorporated into, the Project will avoid or substantially lessen the potentially significant environmental effects identified in the Final EIR, and that with the incorporation of the specified mitigation measures, the impact of the Project is less than significant.. These measures are within the authority of the City, and the implementation of these measures comports with CEQA Guidelines Section 15091(a)(1). The City also finds that regulating the hazardous effects of asbestos in the project area is the responsibility of the North Coast Unified Air Quality Management District, which can, should and is expected to enforce regulations that will ensure that impacts from asbestos removal are kept at less than significant levels. This finding comports with CEQA Guidelines Section 15091(a)(2).

**Rationale.** The removal and proper disposal of asbestos in the building before it is demolished and in accordance with the requirements of Cal/OSHA and the U.S. EPA will reduce any environmental impact from the asbestos in the building to a less than significant level.

**Impact J2.** The on-site structure may include lead-based paint, which could pose a health hazard during building demolition. (*Significant*)

**Mitigation #10.** Prior to demolition of the existing on-site structure, the exterior paint will be tested for lead content. If peeling, flaking, or cracking lead-based paint is found, it will be removed and properly disposed of, in accordance with applicable laws and regulations.

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**Finding.** The City finds that the changes or alterations as described in the above mitigation measure that have been required in, or incorporated into, the Project will avoid or substantially lessen the potentially significant environmental effects identified in the Final EIR, and that with the incorporation of the specified mitigation measures, the impact of the Project is less than significant. These measures are within the authority of the City, and the implementation of these measures comports with CEQA Guidelines Section 15091(a)(1).

**Rationale.** The removal of peeling, flaking or cracking lead-based paint before demolition of the existing building will reduce any environmental impact from the lead based paint to a less than significant level.

**Impact J3.** There is an unidentified floor drain in the existing building, which may have been used to discharge steam cleaning drainage. This could have resulted in soil contamination in the vicinity of the drain. (*Significant*)

**Mitigation #11.** During building demolition, a hazardous materials professional will observe removal of all floor drains, and if anything of a suspicious nature appears, samples will be taken and tested for contamination, with appropriate remediation undertaken if necessary.

**Finding.** The City finds that the changes or alterations as described in the above mitigation measure that have been required in, or incorporated into, the Project will avoid or substantially lessen the potentially significant environmental effects identified in the Final EIR, and that with the incorporation of the specified mitigation measures, the impact of the Project is less than significant.. These measures are within the authority of the City, and the implementation of these measures comports with CEQA Guidelines Section 15091(a)(1).

**Rationale.** The observation by a hazardous material professional during the demolition of the building will ensure that any areas of suspicion or contamination are properly tested and remediated, if necessary, thereby reducing any environmental impact from soil contamination from the floor drains to a less than significant level.

### **UTILITIES AND SERVICE SYSTEMS**

There are no significant utilities and service systems impacts.

### **PUBLIC SERVICES**

There are no significant public services impacts.

## **II. ALTERNATIVES**

The EIR evaluates the potential environmental consequences of a range of alternatives, including the No Project alternative, the Reasonably Foreseeable Development alternative and the Alternative Location alternative. The City finds that the Project represents the environmentally

superior alternative to the No Project alternative. The Project alternatives would result in generally greater levels of environmental impact than the proposed project. These impacts include further site deterioration and blighted conditions with negative land use and aesthetic consequences, and no remediation of hazardous materials on the site for the No Project alternative; significant public safety hazards in the event of a major earthquake for the Reasonably Foreseeable Development alternative; and land use displacement impacts, cultural resources impacts, possibly unavoidable traffic impacts and substantial soil and groundwater contamination issues for the Alternative Location alternative.

### **III. STATEMENT OF OVERRIDING CONSIDERATIONS NOT NEEDED**

The Final EIR does not identify project impacts that cannot be avoided or mitigated to below a level of significance. In consequence, the City finds that a Statement of Overriding Considerations is not required for this project, pursuant to Section 15093 of the CEQA Guidelines.

## ATTACHMENT "B"

### Statement of Mitigation Measures and Monitoring Programs Eureka Target Store Project

#### INTRODUCTION

The California Environmental Quality Act (CEQA) requires public agencies to report on and monitor mitigation measures adopted as part of the environmental review process (Public Resources Code Section 21081.6). This Mitigation Monitoring Plan (MMP) is designed to ensure that the measures identified in the EIR are fully implemented. The MMP describes the actions that must take place as part of each measure, the timing of these actions, the entity responsible for implementation, and the agency responsible for enforcing each action.

Public Resources Code Section 21081.6(a)(2) states: "[t]he lead agency shall specify the location and custodian of documents and other material which constitute the record of proceedings upon which its decision is based." For this project, the custodian and location of documents is as follows:

Lisa D. Shikany, Environmental Planner  
City of Eureka Community Development Department  
531 "K" Street  
Eureka, California 95501-1145  
(707) 268-5265

The Mitigation Monitoring Plan is organized according to the following format for each mitigation measure:

Mitigation Measure - The mitigation measure listed in each case is taken verbatim from the EIR. The number of the mitigation measure as contained in the EIR is shown in parenthesis.

Timing/Milestones - Each action must take place prior to a specific approval for the project (e.g., issuance of grading permits or building permits, approval of improvement plans), and can also consist of an ongoing action such as inspections during grading and construction.

Responsibility for Oversight - The City of Eureka will have ultimate and legal responsibility for ensuring that all of the mitigation measures are implemented. This item identifies the City department or division which has been assigned responsibility for enforcement of a particular mitigation measure.

Implementation of Mitigation Measure - This item provides details as to how the mitigation measure is to be implemented and monitored.

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Responsibility for Implementation - This item identifies the entity responsible for implementing the mitigation measure. In general, this will be the developer or the general contractor for on-site development, and the City for off-site improvements that it undertakes. All actions that are the responsibility of the developer will be included in the Conditions of Approval for the Coastal Development Permit for the project.

Checkoff Date/Initials/Notes - This item is to be used by the City official(s) responsible for oversight of a particular measure to verify that it has been implemented.

## HYDROLOGY AND DRAINAGE

**Mitigation Measure #1 (C3)** - An erosion control plan shall be prepared which specifies practices to be implemented during site clearance, grading, and construction to minimize erosion and sedimentation. Typical erosion control measures include the following:

- a) Schedule earthwork to occur primarily from April through October.
- b) Stabilize exposed soils by the end of October in any given year.
- c) Convey runoff from areas of exposed soils to temporary siltation basins.
- d) Protect storm drain inlets from sedimentation with berms or filtration barriers.
- e) Apply water to exposed soils regularly during the dry season to prevent wind erosion.
- f) Stabilize stockpiles of demolition debris, topsoil, and fill material through application of water, by the use of covers and/or by using chemical agents.
- g) Install gravel construction entrances to reduce tracking of sediment onto adjoining streets.
- h) Sweep on-site paved surfaces and surrounding streets regularly with a wet sweeper.
- i) Store all construction equipment and material in designated areas away from waterways and storm drain inlets.
- j) Surround construction storage and maintenance areas with berms or dikes.
- k) Wash and maintain equipment and vehicles in a separate bermed area, with runoff directed to a lined retention basin.
- l) Collect construction waste routinely and deposit in covered dumpsters.
- m) After construction is completed, clean the storm drain system of all sediment and debris.

Timing/Milestones - Prior to issuance of grading permit, and ongoing during site grading and construction.

Responsibility for Oversight - Public Works Department and Building Department.

Implementation of Mitigation Measure - The developer/general contractor shall submit to the Public Works Department grading plans which include erosion control measures in conformance with the City's drainage and erosion control standards. The approved grading plans shall be incorporated into the contract documents (plans and specifications) for project grading and construction. City inspectors shall ensure that the grading contractor is effectively implementing the erosion control measures in accordance with the Grading Permit conditions. The Public Works Department and/or Building Department shall be empowered to direct the contractor to temporarily suspend grading and/or construction activities if the work is found not to be in compliance with this measure, pending the successful completion of specific actions to regain compliance.

Responsibility for Implementation - Target Corporation/general contractor.

Checkoff Date/Initials/Notes -

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## BIOLOGICAL RESOURCES

**Mitigation Measure #2 (D1)** - Prior to demolition of the vacant on-site building, the project applicant shall have a qualified biologist survey for bats, and if bats are found to be present, the applicant shall implement measures recommended by the biologist.

Timing/Milestones - Prior to the issuance of demolition or grading permits.

Responsibility for Oversight - Community Development Department.

Implementation of Mitigation Measure - The developer/general contractor shall retain a qualified biologist who shall conduct the bat survey no sooner than 30 days prior to commencement of building demolition, or 30 days prior to commencement of grading and site clearance activities within 300 feet of the building, whichever occurs first. If the biologist finds evidence of nesting or roosting bats during the survey, he shall contact the developer/general contractor and submit recommendations as to appropriate action. The developer/general contractor shall contact the Community Development Department in order to coordinate implementation of the appropriate actions. The Community Development Department shall ensure that the recommended actions are implemented to the satisfaction of the biologist prior to issuance of demolition permits (for general demolition and asbestos removal) or grading permits. Upon completion of the recommended actions, the developer/general contractor shall have the biologist prepare a report on the survey findings and any mitigative actions, which report shall be submitted to the Community Development Department and the California Department of Fish and Game.

Responsibility for Implementation - Target Corporation/general contractor.

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Checkoff Date/Initials/Notes -

## CULTURAL RESOURCES

**Mitigation Measure #3 (E1)** - All of the following measures shall be implemented to mitigate impacts to any buried cultural resources on the site:

- a) Construction personnel shall be informed regarding the potential for exposure of possible buried prehistoric and historic resources, including human remains, during construction, as well as the procedures to be followed in the event archaeological materials are discovered.
- b) All subsurface construction shall be subject to a monitoring program under the direction of a qualified archaeologist who shall determine the extent and intensity of monitoring required in consultation with the City of Eureka and the Target Corporation.
- c) Upon the discovery of any buried cultural materials, all ground-disturbing work within 30 meters of the find shall be halted and the find shall be inspected and evaluated by a qualified archaeologist and a Native American representative. The archaeologist shall consult with the City of Eureka in the preparation of any necessary plans for the treatment of any finds deemed to be important according to CEQA and other applicable State laws. Any human burials shall be handled in accordance with State law.
- d) Any finds shall be reported in accordance with current professional protocols including a "closure" report at the end of the archaeological monitoring. Curation of any documents, artifacts and other items associated with the treatment of any finds shall be with a local repository selected by the City of Eureka and the Target Corporation.

Timing/Milestones - During grading, excavation, demolition, and construction.

Responsibility for Oversight - Community Development Department, Public Works Department and Building Department.

Implementation of Mitigation Measure - The Community Development Department and the Public Works Department or Building Department shall ensure that the contract documents for site development include the above mitigations for archaeological resources. Prior to commencement of site development activities, the developer shall retain a qualified archaeologist to prepare an archaeological monitoring plan for the project. The monitoring plan shall be approved by the City of Eureka Community Development Department and Target Corporation, and shall be included in the contract documents for project grading, excavation, demolition, and construction.

Prior to initiation of ground-disturbing activities, the Target Corporation/general contractor shall inform all supervisory personnel and subcontractors of the potential for buried archaeological materials to be discovered during construction and of the procedures to be followed in the event of such a discovery. All contracts involving subsurface excavation, construction and/or installation shall include clauses requiring that construction personnel be provided with such briefings.

If potential cultural material, other than human remains (discussed below), are discovered all work in the vicinity shall stop until the recommended actions of the project archaeologist are implemented, as specified in the mitigation measure. The Public Works Department or Building Department shall enforce any required work stoppages at the location of the find, and shall ensure that the perimeter established around the find is not encroached upon until all recommended actions have been completed to the satisfaction of the project archaeologist and the Community Development Department. Work in the vicinity of the find shall not recommence until specifically authorized by the Community Development Department.

If human remains are found, all grading, excavation, and other activity in the immediate vicinity shall cease, the find shall be left in place, and the developer shall immediately notify the Humboldt County Coroner, the project archaeologist, and the Community Development Department to assess the find and determine how to proceed. If the remains are not found to be Native American, the County Coroner shall determine how to proceed. If remains are found to be Native American, the Native American Heritage Foundation shall be notified at (916) 653-4082 in order to locate the "most likely descendant" of the human remains. The remains shall be reburied under the direction of a designated Native American group. The Public Works Department or Building Department shall enforce any required work stoppages at the location of the find, and shall ensure that the perimeter established around the find is not encroached upon until all recommended actions have been completed to the satisfaction of the project archaeologist and the Community Development Department.

Responsibility for Implementation - Target Corporation/general contractor.

Checkoff Date/Initials/Notes -

## TRAFFIC AND CIRCULATION

**Mitigation Measure #4 (G1)** - Implement the following improvements to mitigate the potential traffic impacts resulting from the project:

*V Street/3<sup>rd</sup> Street* - Convert the intersection from two-way stop control to four-way stop control.

*V Street/4<sup>th</sup> Street* - Add a dedicated westbound left-turn lane on southbound 4<sup>th</sup> Street at V Street.

Timing/Milestones - The roadway improvements shall be completed and operational prior to the opening of the Target store for business.

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Responsibility for Oversight - Department of Public Works.

Implementation of Mitigation Measure - The Department of Public Works shall coordinate with the Target Corporation in the development of improvement plans for the specified measures, and for the funding and timely completion of the improvements.

Responsibility for Implementation - City and Target Corporation/general contractor.

Checkoff Date/Initials/Notes -

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## NOISE

**Mitigation Measure #5 (H2)** - Plans for the project shall include a provision that the noise level generated by the rooftop mechanical equipment at that store shall not exceed an  $L_{eq}$  of 50 dBA at the nearest residence during the daytime nor 45 dBA during the nighttime.

Timing/Milestones - Prior to selection and installation of the rooftop mechanical equipment, and after installation of the mechanical equipment.

Responsibility for Oversight - Community Development Department and Building Department.

Implementation of Mitigation Measure - The Community Development Department and the Building Department shall ensure that the contract documents for building construction include the above maximum noise specifications for the rooftop equipment. The contract documents shall also specify that a qualified acoustical engineer shall review the manufacturers noise specifications to verify that the selected equipment is rated to meet the maximum allowable noise levels. The acoustical engineer shall prepare a letter to that effect to the Community Development Department and Building Department, who shall authorize the equipment selection.

After the rooftop mechanical equipment has been installed, the acoustical engineer shall conduct noise measurements of the operating equipment to field verify that it does not exceed the maximum allowable noise levels. If the equipment does not exceed the maximum allowable noise levels, the acoustical engineer shall prepare a letter to that effect to the Community Development Department and the Building Department, who shall authorize the equipment to operate. If the equipment is found to exceed the maximum allowable noise levels, the acoustical engineer shall identify additional mitigation measures (e.g., rooftop acoustical barriers) which will reduce the noise to comply with the specified maximum noise levels. The additional mitigation shall be reviewed and approved by the Community Development Department and the Building Department, and shall be installed by the applicant prior to operation of the mechanical equipment.

Responsibility for Implementation - Target Corporation/general contractor.

Checkoff Date/Initials/Notes -

**Mitigation Measure #6 (H4)** - Short-term noise impacts shall be reduced through implementation of the following measures: limiting the hours of construction; proper muffling and maintenance of equipment; prohibition of unnecessary idling; noise shielding of stationary equipment and location of such equipment away from sensitive receptors; selection of quiet equipment; and designation of a 'noise disturbance coordinator' to respond to noise complaints. These measures are described in further detail below.

- a) *Construction Scheduling.* Limit noise-generating construction activities to 7:00 AM to 7:00 PM on weekdays, 9:00 AM to 5:00 PM on Saturdays, with no noise-generating construction to occur on Sundays or holidays.
- b) *Construction Equipment Mufflers and Maintenance.* Properly muffle and maintain all construction equipment powered by internal combustion engines.
- c) *Idling Prohibitions.* Prohibit unnecessary idling of internal combustion engines.
- d) *Equipment Location and Shielding.* Locate all stationary noise-generating construction equipment such as air compressors as far as practicable from existing nearby residences.
- e) *Quiet Equipment Selection.* Select quiet construction equipment, particularly air compressors, whenever possible. (Fit motorized equipment with proper mufflers in good working order.)
- f) *Noise Disturbance Coordinator.* Designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of any noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site.

Timing/Milestones - Prior to approval of grading and improvement plans, and ongoing during grading and construction.

Responsibility for Oversight - Public Works Department and Building Department.

Implementation of Mitigation Measure - The Public Works Department and the Building Department shall ensure that the contract documents for grading and construction include the above measures for reduction of construction noise. The Public Works Department and the Building Department shall ensure that the measures are effectively implemented.

Responsibility for Implementation - Target Corporation/general contractor.

Checkoff Date/Initials/Notes -

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**Mitigation Measure #7 (H5)** - To mitigate the noise generated by pile driving and other heavy construction techniques, the following measures shall be implemented.

- a) The number of pile drivers shall be doubled to reduce the overall time that people are exposed to the noise.
- b) Pile driving shall be restricted to weekdays during the hours of 9:00 AM to 5:00 PM, with no pile driving to occur on weekends or holidays.
- c) Prior to the commencement of pile driving or other high noise generating construction techniques, the contractor shall provide written notification to the potentially affected residents within 300 feet of the project site boundary. The written notice shall be provided at least 72 hours prior to the start of pile driving or other high noise generating construction techniques, and shall indicate the dates and times during which such activity is expected to occur.

Timing/Milestones - Prior to and during pile driving activities.

Responsibility for Oversight - Public Works Department and Building Department.

Implementation of Mitigation Measure - The Public Works Department and the Building Department shall ensure that the contract documents for pile driving include the above measures related to mitigation of pile driving noise. The contractor shall notify the Public Works Department and the Building Department at least one week prior to planned commencement of pile driving in order to coordinate noticing and inspections, and to coordinate the expeditious completion of pile driving activities. The contractor shall provide written verification to the City that the required noticing was completed, including a copy of the notice provided to property owners, a list of who received the notice and the date the notice was mailed or delivered. The Public Works Department and the Building Department shall ensure that the above noise mitigation measures are effectively implemented.

Responsibility for Implementation - Target Corporation/general contractor.

Checkoff Date/Initials/Notes -

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## AIR QUALITY

**Mitigation Measure #8 (I1)** - Dust control measures shall be implemented to reduce PM<sub>10</sub> emissions during grading and construction. The North Coast Unified Air Quality Management District, under its Rule 430, requires the following in conjunction with construction activities:

- a) Covering open bodied trucks when used for transporting materials likely to give rise to airborne dust.
- b) The use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or clearing of land.
- c) The application of asphalt, oil, water or suitable chemicals on dirt roads, materials stockpiles, and other surfaces which can give rise to airborne dust.
- d) The prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water, or other means.

In addition to the above requirements of NCUAQMD Rule 430, the following additional dust control measures shall be implemented:

- e) All areas of the site (including unpaved roads) with vehicle traffic shall be watered or have a dust palliative applied as necessary for stabilization of dust emissions.
- f) All on-site vehicle traffic shall be limited to a speed of 15 mph on unpaved surfaces.
- g) A dust-control coordinator shall be designated. The name and telephone number of the dust-control coordinator shall be posted in conspicuous locations adjacent the project site. This person shall respond to complaints in a timely manner (within 24 hours at most) and have the authority to take corrective action.

Timing/Milestones - Prior to approval of grading plans and improvement plans, and ongoing during grading and construction.

Responsibility for Oversight - Public Works Department and Building Department.

Implementation of Mitigation Measure - The Public Works Department shall ensure that the contract documents for grading, excavation, demolition, and construction include the above dust control measures. The Public Works Department shall ensure that the measures are effectively implemented.

Responsibility for Implementation - Target Corporation/general contractor.

Checkoff Date/Initials/Notes -

## HAZARDOUS MATERIALS

**Mitigation Measure #9 (J1)** - Prior to demolition of the existing on-site structures, asbestos-containing materials shall be removed and properly disposed of, as required by applicable laws and regulations.

Timing/Milestones - Prior to issuance of demolition permits, with completion prior to general demolition.

Responsibility for Oversight - Building Department.

Implementation of Mitigation Measure - The Building Department shall ensure that the contract documents for building demolition include the above asbestos removal measure. In conformance with 40 CFR Part 61, AESHAP (National Emissions Standards for Hazardous Air Pollutants), prior to obtaining a demolition permit from the Building Department to allow commencement of scheduled asbestos removal activities, the developer shall have a thorough survey for the presence of asbestos containing material conducted by a California licensed asbestos consultant. Upon completion of the survey, a complete and accurate demolition notification form must be submitted to the NCUAQMD at least 10 working days prior to the start date of the demolition, and prior to the issuance of a demolition permit from the Building Department. A demolition permit will not be issued until the developer provides the Building Department with evidence of the receipt by the NCUAQMD of a satisfactory notification form. This evidence shall be in the form of a letter from the NCUAQMD acknowledging receipt of the required notification. Following the completion of remediation, the contractor shall submit documentation to the Building Department and the NCUAQMD certifying that the hazardous asbestos-containing material has been removed from the building in accordance with all applicable laws and regulations. The Building Department shall ensure that any hazardous asbestos-containing material has been removed from the building prior to authorizing the commencement of general demolition and grading.

Responsibility for Implementation - Target Corporation/general contractor.

Checkoff Date/Initials/Notes -

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**Mitigation Measure #10 (J2)** - Prior to demolition of the existing on-site structure, the exterior paint shall be tested for lead content. If peeling, flaking, or cracking lead-based paint is found, it shall be removed and properly disposed of, in accordance with applicable laws and regulations.

Timing/Milestones - Prior to issuance of demolition permits, with completion prior to general demolition.

Responsibility for Oversight - Building Department.

Implementation of Mitigation Measure - The Building Department shall ensure that the contract documents for building demolition include the above lead paint sampling and removal measure. The developer/general contractor shall submit to the Building Department a report, prepared by a qualified contractor, that details the findings of the lead paint sampling and testing program, and provides recommendations for remediation, as appropriate. The Building Department shall review and approve the report, as appropriate. Following the completion of remediation, the contractor shall submit documentation to the Building Department certifying that the hazardous lead paint has been removed from the buildings in accordance with all applicable laws and regulations. The Building Department shall ensure that any hazardous lead paint has been removed from the buildings prior to authorizing the commencement of general demolition and grading.

Responsibility for Implementation - Target Corporation/general contractor.

Checkoff Date/Initials/Notes -

**Mitigation Measure #11 (J3)** - During building demolition, a hazardous materials professional shall observe removal of all floor drains, and if anything of a suspicious nature appears, samples shall be taken and tested for contamination, with appropriate remediation undertaken if necessary.

Timing/Milestones - During building demolition.

Responsibility for Oversight - Building Department.

Implementation of Mitigation Measure - The Building Department shall ensure that the contract documents for building demolition include the above provision for inspection of all floor drains. If samples are taken which indicate soil or groundwater contamination, demolition work in the vicinity of the affected floor drain(s) shall stop until the Building Department is notified. The hazardous materials contractor and general contractor shall coordinate with the Building Department, Humboldt County Division of Environmental Health and Regional Water Quality Control Board to determine the recommended course of action. All recommended actions shall be completed to the satisfaction of the Humboldt County Division of Environmental Health and Regional Water Quality Control Board prior to recommencement of building demolition activities in the affected area(s).

Responsibility for Implementation - Target Corporation/general contractor.

Checkoff Date/Initials/Notes -



## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

MAILING ADDRESS:

710 E STREET • SUITE 200

P. O. BOX 4908

EUREKA, CA 95501-1865

EUREKA, CA 95502-4908

VOICE (707) 445-7833

FAX (707) 445-7877

RECEIVED

DEC 23 2002

APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENTCALIFORNIA  
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):

The Environmental Protection Information Center (EPIC) - Christine Ambros  
P.O. Box 818, Arcata, CA 95518 707-822-1343  
~~Friends of Humboldt Bay 215 1st Street Eureka 95501, 415-533-5335~~

Zip Area Code Phone No.

## SECTION II. Decision Being Appealed

1. Name of local/port  
government: City of Eureka2. Brief description of development being  
appealed: Demolition of existing structure & construction of a 130,785 sq. ft.  
retail store w/ additional 8,081 sq. ft. garden center3. Development's location (street address, assessor's parcel no., cross-  
street, etc.): 2525 4th St., @ intersection of 4th (Hwy 101) and "Y" St., Eureka, CA

4. Description of decision being appealed

a. Approval; no special conditions: \_\_\_\_\_

b. Approval with special conditions: Sign-limited size, maintenance upkeep  
if it becomes vacant

c. Denial: \_\_\_\_\_

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

## TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-EUR-02-166DATE FILED: 12/23/02DISTRICT: North CoastEXHIBIT NO. 7

APPLICATION NO.

A-1-EUR-02-166

APPEAL (EPIC)

(1 of 4)

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

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

a. ☐ Planning director/Zoning Administrator

c. ☐ Planning Commission

b. ☒ City Council/Board of Supervisors

d. ☐ Other \_\_\_\_\_

6. Date of local government's decision:

December 17, 2002

7. Local government's file number (if any):

Case No. CDP-16-01

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:

Target Corporation  
Attn: John Dewey  
1000 Nicolet Mall, TPN-12i, Minneapolis, Minnesota

55403

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) Janssen, Malloy, Needham, Morrison, Reinholdsen, LLP  
730 Fifth Street, Eureka, CA 95501  
(Friends of Humboldt)

(2) Table Bluff Reservation Wiyot Tribe  
1000 Wiyot Drive, Eureka CA 95551

(3) USFWS, Arcata Field Office  
1655 Heindan Road  
Arcata, CA 95521

(4) Jay Dottle  
2570 Acheson Way  
Arcata, CA 95521

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.

2 of 4

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 development does not comply w/setback requirements  
in the City of Eureka General Plan (adopted 1997, amended 3/23/99)  
sections 6.A.19, 6.A.23, and also does not  
comply with the following additional policies of the City of Eureka  
General Plan - 6.A.7, 6.A.8, and 6.A.3. See attached sheet  
For additional documentation (Attachment A) and section  
4.D.6.

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/or knowledge.

Christine Ambrose

Signature of Appellant(s) or  
Authorized Agent

Date

12/23/02

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

SECTION VI. Agent Authorization

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

\_\_\_\_\_  
Signature of Appellant(s)

Date

\_\_\_\_\_

## Attachment A, Grounds For Appeal

The proposed project involves the demolition of the existing building and parking area and construction of a new 130,785-square-foot Target Corporation retail store, an 8,081-square-foot garden center, and a 452-stall paved parking lot within 100 feet of Humboldt Bay at 2525 4<sup>th</sup> Street, Eureka.

The development meets the proper grounds for An Appeal according to PRC section 30603, because it does not comply with the following setback policy requirements in the City of Eureka General Plan and LCP:

Section 6.A.19: *"The City shall require establishment of a buffer for permitted development adjacent to all environmentally sensitive areas. The minimum width of the buffer shall be 100 feet..."* (LUP pg.6-5)

The proposed development is within 100' of Humboldt Bay, an environmentally sensitive area. The City of Eureka has not developed a wetlands program so the relative impact of development on this particular filled wetland in relation to Eureka Slough is unknown, therefore, the impacts cannot be adequately assessed. However, a program should be in place:

Section 6.A.23: *"The City in consultation with the CDFG, Coastal Conservancy, Coastal Commission, Humboldt County, Humboldt Bay Harbor District, affected landowners, and other interested parties shall prepare a detailed, implementable, wetlands management restoration, and enhancement program consistent with the provisions of this General Plan."* (LUP pg.6-5)

The City of Eureka has not ensured that environmentally sensitive habitat areas are protected, by allowing development within 100' of Humboldt Bay. New construction should require an improving existing onsite conditions. The Target store is not dependent on coastal resources. The Target store is poorly situated on Humboldt Bay, and should be re-oriented. The City of Eureka has not ensured that environmentally sensitive habitat areas and water quality of Humboldt Bay has been protected; stormwater runoff has not been adequately addressed, and there is no maintenance program for the oil water separator. The estimated removal efficiency for the proposed separator unit would only be approximately 80% removal of water pollutants. We believe this is insufficient, and that additional measures should be required:

Section 4.D.6: *"The City shall improve the quality of runoff from urban and suburban development through use of appropriate and feasible mitigation measures"* (LUP pg. 4-4)

We believe that water pollutants should not be entering Humboldt Bay as a result of this project:

Section 6.A.7: *"Within the coastal zone, the City shall ensure that environmentally sensitive habitat areas are protected against any significant disruption of habitat values, and that only uses dependent on such resources shall be allowed within such areas. The City shall require that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas."* (LUP pg. 6-2)

The Target store is not compatible with the continuance of the Humboldt Bay/Eureka Slough estuarine complex habitat area. Considering that complete demolition is proposed, the building could be resituated so as to minimize the impacts on Humboldt Bay, an environmentally sensitive habitat area.

Section 6.A.8: *"Within the coastal zone, prior to the approval for development, the City shall require that all development on lots or parcels designated NR (natural resources) designated on the Land Use diagram or within 250 feet of such designation, or development potentially affecting an environmentally sensitive habitat area, shall be found to be in conformity with the applicable habitat protection policies of the General Plan."* (pg.6-2)

Environmental Protection Information Center

P.O. Box 818

Arcata, CA 95518

4 of 4



## CITY OF EUREKA

COMMUNITY  
DEVELOPMENT DEPARTMENT

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

RECEIVED

JAN 03 2003

CALIFORNIA  
COASTAL COMMISSION

January 3, 2002

California Coastal Commission  
Bob Merrill, North Coast District Manager  
P.O. Box 4908  
Eureka, CA 95502-4908

RE: EPIC Appeal of the Eureka Target Store Project

Dear Mr. Merrill,

EXHIBIT NO. 8

APPLICATION NO.

A-1-EUR-02-166

CITY RESPONSE TO  
APPEAL (1 of 10)

The City of Eureka has reviewed the Eureka Target Store Project appeal submitted by the Environmental Protection Information Center (EPIC), and respectfully requests that the Coastal Commission make a finding of **no substantial issue** with regard to the appeal. The City Council unanimously approved the Eureka Target Store Project on December 17, 2002, and in so doing, unanimously determined that project is in full compliance with the City's Local Coastal Program (LCP)/General Plan. We do not believe there is any basis for the appeal, as all of the grounds submitted by EPIC in Attachment "A" of the appeal have been thoroughly addressed by the project as conditioned. EPIC has provided no evidence to support their allegations that the project is not in compliance with the City of Eureka's Local Coastal Program (LCP) and General Plan, in contrast with the extensive scientific information compiled and analyzed for this project by the City, and upon which the City based their findings. The City respectfully requests that the Coastal Commission reject EPIC's appeal, and allow the coastal development permit granted by the City of Eureka to stand.

With regard to the appeal, we wish to first point out that under Section III.b. of the appeal, parties who testified (either verbally or in writing) at the City hearing are to be listed, as well as other parties which are known to the appellant to be interested and should receive notice of this appeal. The four parties listed include Janssen, Malloy, Needham, Morrison & Reinholtsen, LLP; Table Bluff Reservation, Wiyot Tribe; USFWS, Arcata Field Office; and Jay Dottle. The Commission staff should be aware that these four parties provided written comments on the Draft EIR (DEIR), and the City addressed those comments in the Final EIR. No further written comments on the EIR or the CDP were received from any of these parties, and none of the four specific parties presented any oral testimony at the Coastal Development Permit (CDP) public hearing.

We would like to specifically address the grounds for appeal provided by EPIC, all of which we believe are adequately addressed by the project, which includes the EIR, mitigation measures and conditions of approval for the project. We have listed each of EPIC's grounds for appeal, followed by a discussion of why and how the issue raised by EPIC is addressed by the project, and therefore does not raise a substantial issue.

\*\*\*\*\*

- **EPIC states:** *The development meets the proper grounds for An Appeal (sic) according to PRC section 30603, because it does not comply with the following setback policy requirements in the City of Eureka General Plan and LCP:*

*Section 6.A.19: "The City shall require establishment of a buffer for permitted development adjacent to all environmentally sensitive areas. The minimum width of a buffer shall be 100 feet..." (LUP pg. 6-5)*

**Discussion:**

Section 30603(a) of the Coastal Act provides that an action taken on a CDP application by a local government with a certified LCP may be appealed to the Coastal Commission for only certain types of developments. This project does fall into one or more of those types of development. However, Section 30603(b)(1) of the Coastal Act states that the grounds for an appeal pursuant to 30603(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 the Coastal Act. According to the statement above, Ms. Ambrose on behalf of EPIC, is filing an appeal based on an allegation that the Target project does not comply with Policy 6.A.19 of the City of Eureka's LCP. The EPIC appeal cites only a portion of the policy. The full text of the above cited policy is as follows:

6.A.19 The City shall require establishment of a buffer for permitted development adjacent to all environmentally sensitive areas. The minimum width of a buffer shall be 100 feet, unless the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development, and/or proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer will protect the resources of the habitat area. As necessary to protect the environmentally sensitive area, the City may require a buffer greater than 100 feet. The buffer shall be measured horizontally from the edge of the environmental sensitive area nearest the proposed development to the edge of the development nearest to the environmentally sensitive area. Maps and supplemental information submitted as part of the application shall be used to specifically define these boundaries.

EPIC's excerpt from the above policy leaves the reader with the impression that the project is not in compliance with the above noted policy, as the excerpt implies a strict requirement of 100 feet for a buffer for development adjacent to an environmentally sensitive area, in this case the

Eureka Slough. However, if the entire policy is considered, it is clear that a 100-ft. buffer is required unless there are mitigating circumstances, such as the planting of vegetation within the buffer, that will achieve adequate protection of the adjacent resources.

The City made a finding that the project as a whole, and in this case specifically the buffer, is in compliance with the City's LCP because the project protects and enhances the natural qualities of aquatic resources, and preserves valuable marine, wetland and riparian habitat. Specifically, in Finding 5.A. of the Findings of Fact adopted when approving the CDP, the City found that the proposed vegetated buffer will contribute to the restoration of biological diversity and productivity of this coastal area as well as the quality of the coastal waters of the Eureka Slough, and will provide protection for the environmentally sensitive resources of the slough. The project as proposed significantly improves the existing situation overall, as well as specifically regarding the buffer.

The site at present is developed with pavement extending up to a cyclone fence at the edge of the slough; there is no buffer. The proposed project includes a 1.4 acre buffer along the Eureka Slough that will be planted with native vegetation. The City based their conformance findings regarding the adequacy of the buffer for protection of coastal resources and compliance with the City's LCP on the following:

- There is no buffer presently on the site, and no buffer could be required if the project were to be developed in such a manner that a CDP would not be required. All water from the existing site currently enters Eureka Slough untreated, and in a greater volume than the volume associated with the proposed project.
- The proposed buffer includes native vegetation, a mitigating factor for allowing a reduced buffer width. The LCP policy implies a 100-ft. buffer is adequate because of sheer distance, irrespective of vegetation. The City believes a vegetated buffer is far more beneficial with regard to protecting and enhancing coastal resources than an unvegetated 100-ft. buffer in this instance.
- Although the proposed buffer is not 100 feet in width along the entire Eureka Slough frontage, at least 50 percent of the slough frontage will have a buffer width of at least 100 feet, and the total area of the buffer as proposed is at least equal to the area of the buffer if it were to be a consistent 100-ft. width all along the slough.
- The buffer is not required for enhancement of water quality, as all runoff from the parking lot will pass through a stormwater treatment facility before entering Eureka Slough. However, as mentioned above, the total impervious surface area that would result from a consistent 100-ft. buffer is still proposed.
- Biological assessments of the project and its impacts were conducted, and concluded that with the proposed mitigation, the project would not result in

3010

significant impacts to sensitive coastal resources in compliance with the City's LCP policy 6.A.19.

As the Commission staff knows, the City as well as the Coastal Commission have allowed reduced buffers, or even no buffer, for numerous projects within the Coastal Zone when mitigation to adequately protect sensitive coastal resources is incorporated into the project. The allowance of a buffer that is less than 100 feet is not uncommon, nor is it unprecedented, particularly in such an urbanized environment when site specific conditions allow for adequate protection of coastal resources with a reduced buffer.

\*\*\*\*\*

- **EPIC states:** *The proposed development is within 100' of Humboldt Bay, an environmentally sensitive area. The City of Eureka has not developed a wetlands program so the relative impact of development on this particular filled wetland in relation to Eureka Slough is unknown, therefore, the impacts cannot be adequately assessed. However, a program should be in place:*

6.A.23 *The City in consultation with the CDFG, Coastal Conservancy, Coastal Commission, Humboldt County, Humboldt Bay Harbor District, affected landowners, and other interested parties shall prepare a detailed, implementable, wetlands management restoration and enhancement program consistent with the provisions of this General Plan."* (LUP pg. 6-5)

**Discussion:**

EPIC has, again, excerpted a portion of one of the City's LCP policies which when viewed in total, makes the purpose and intent of the policy much clearer. The full text of the above cited policy is as follows:

6.A.23 The City, in consultation with the Department of Fish and Game, Coastal Conservancy, Coastal Commission, Humboldt County, Humboldt Bay Harbor, Recreation, and Conservation District, affected landowners, and other interested parties shall prepare a detailed, implementable wetlands management, restoration and enhancement program consistent with the provisions of this General Plan. The objectives of the program shall be to enhance the biological productivity of wetlands; to minimize or eliminate conflicts between wetlands and adjacent urban uses; to provide stable boundaries and buffers between urban and habitat areas; to provide restoration areas, including the City-owned lands on the Elk River Spit that may benefit from restoration and enhancement, to serve as mitigation in conjunction with future projects that may include wetland areas. Upon completion, the wetlands management and restoration program created by this policy shall be submitted to the Coastal Commission for review and approval.

4010



EPIC's claim that because the City has not prepared the program proposed by the above noted policy, the relative impact of development on this site in relation to Eureka Slough is unknown, and therefore the impacts cannot be adequately assessed, is erroneous. EPIC seems to completely dismiss the CEQA process and the resulting EIR, which addresses the issues that would otherwise be only programmatically addressed if the above noted program were to be implemented. The specific project impacts would still need to be addressed through the CEQA and CDP process, which they were for the Target project.

The full text of this policy provides the objectives for the program proposed by the policy, which are "to enhance the biological productivity of wetlands; to minimize or eliminate conflicts between wetlands and adjacent urban uses; to provide stable boundaries and buffers between urban and habitat areas; (and) to provide restoration areas . . .". Through the CEQA and CDP process, the City made the finding that the project would enhance biological productivity in and along the Eureka Slough, and would provide a stable boundary and buffer between the project and the slough, as discussed in the preceding discussion. The project does not propose any direct impacts to wetlands such as filling or other similar disturbance, so wetland restoration is not warranted for this project. Therefore, although the City does not as yet have a wetlands management, restoration and enhancement program in place, the impacts of the project on the Eureka Slough have been addressed, and the objectives of the program as outlined in the policy have been met.

\*\*\*\*\*

- **EPIC states:** *The City of Eureka has not ensured that environmentally sensitive habitat areas are protected, by allowing development within 100' of Humboldt Bay. New construction should require an improving existing (sic) onsite conditions. The Target store is not dependent on coastal resources. The Target store is poorly situated on Humboldt Bay, and should be re-oriented. The City of Eureka has not ensured that environmentally sensitive habitat areas and water quality of Humboldt Bay has been protected; stormwater runoff has not been adequately addressed, and there is no maintenance program for the oil water separator. The estimated removal efficiency for the proposed separator unit would only be approximately 80% removal of water pollutants. We believe this is insufficient, and that additional measures should be required:*

*Section 4.D.6: "The City shall improve the quality of runoff from urban and suburban development through use of appropriate and feasible mitigation measures" (LUP pg. 4-4)*

- **EPIC states:** *We believe that water pollutants should not be entering Humboldt Bay as a result of this project:*

*Section 6.A.7: "Within the Coastal Zone, the City shall ensure that environmentally sensitive habitat areas are protected against any significant disruption of habitat values, and that only uses dependent on such resources shall be allowed within such areas. The City shall require that development in areas adjacent to environmentally sensitive habitat areas be sited and*

5 of 10

*designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas." (LUP pg. 6-2)*

**Discussion:**

These two points are combined for discussion since they both relate to water quality. It should also be pointed out that EPIC's comments addressed in this discussion do not properly relate to the policies they cite. Their comments regarding the orientation of the building and the fact that Target is not a coastal-dependent use are not related to policy 4.D.6 which they cite for this comment. Their next comment being addressed in this section cites policy 6.A.7., which relates to their previous comment regarding orientation and coastal-dependent uses.

EPIC has again, excerpted only a portion of a general plan policy where the full text of the policy would help clarify why the Target project complies with the policy. The full text of the above cited policy 4.D.6. is as follows:

4.D.6 The City shall improve the quality of runoff from urban and suburban development through use of appropriate and feasible mitigation measures including, but not limited to, artificial wetlands, grassy swales, infiltration/sedimentation basins, riparian setbacks, oil/grit separators, and other best management practices (BMPs).

Through the CEQA and CDP process, the City has determined that the project will minimize water quality impacts and improve the quality of runoff from the site through the creation of a riparian buffer area which includes the removal of existing pavement, the installation of a stormwater treatment unit, and the requirement for implementation of BMPs. There are several components of the project that will contribute toward reducing runoff and improving the quality of the runoff, including the following:

- The site currently contains no facilities for filtering stormwater prior to its entering the Eureka Slough. Stormwater runs directly from the parking lot into the slough. The project proposes to improve water quality by the installation of a hydrodynamic separator, specifically a Vortech unit, which provides sediment removal, oil and grease removal and control of trash. All of the runoff from the parking area and the roof of the Target store will pass through this unit before entering the stormwater system. Table 18 on Page 34 of the CMF Hydrology Report contained in Volume II of the DEIR indicates that the flow into the treatment unit during the 85<sup>th</sup> percentile, 1-hour storm would be 5.7 cfs. The treatment unit will treat 11 cfs, almost double the volume produced by a 1-hour storm event, in compliance with the Coastal Commission staff recommendation contained in the NOP comment letter. Note that the rainfall intensity conservatively assumes that the entire hourly rainfall occurs within 20 minutes rather than 60 minutes, so the 5.7 cfs for a 1-hour storm would even be less. A 95<sup>th</sup> percentile, 1-hour storm would generate 7.7 cfs, still leaving excess capacity in the treatment unit.

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At the present, 100 percent of the Total Suspended Solids (TSS) contained in the runoff from the site are entering Eureka Slough. Once the Vortech stormwater treatment unit is installed, the TSS in the site runoff will be reduced by 80% prior to entering the City's storm drain system. The Vortech unit would be considered the best of the Best Management Practices, as it is currently state of the art with regard to stormwater quality, and more advanced than any unit currently within the City of Eureka.

Regarding the maintenance of the Vortech unit, the DEIR notes on Page 50 that the unit will be maintained by Target pursuant to a maintenance agreement with the City of Eureka. In addition, the FEIR further addresses this issue in response B.7. to the Coastal Commission's questions regarding the frequency and method for maintenance. The EIR text was amended as follows: "The stormwater treatment unit would be maintained in accordance with the manufacturer's recommended maintenance schedule, which includes detailed provisions for timing of inspections and cleaning, as well as proper record-keeping. The manual requires ongoing quarterly inspections of the accumulated sediment and petroleum contaminants. The recommended method of cleaning the treatment unit is by vacuum truck. Written records are to be kept for each inspection and cleaning." The maintenance agreement required by the City will provide the City with the ability to enforce the specified maintenance of the Vortech unit. EPIC's contention that there is no maintenance program for the Vortech unit is erroneous.

- The site is currently completely covered with impervious surface. The project proposes the removal of approximately 1.4 acres of impervious pavement along the Eureka Slough, as well as the removal of additional existing pavement for the installation of landscaping in and around the parking lot. The removal of the 1.4 acres pavement, to be replaced with native vegetation which will not be treated with chemicals, reduces the total volume of runoff from the site from what exists today. Tables 16 and 17 of the CMF report show the comparison of pre-project and post-project runoff volumes, with a reduction of 0.03 acre-feet of water for the 10-year runoff volume for the project. This reduction is conservative, as the pavement area to be removed in locations other than the buffer along the Eureka Slough, was considered as impervious area in these calculations. The buffer area will drain directly into Eureka Slough, but instead of draining from a parking/roadway area as it currently does, it will drain from a vegetated, chemical-free vegetated area.
- A mitigation measure has been adopted that requires an erosion control plan be prepared to the satisfaction of the City specifying practices to be implemented during site clearance, grading and construction to minimize erosion and sedimentation. Typical erosion control measures are listed. In addition, the project is subject to the NPDES General Permit for Storm Water Discharges Associated with Construction Activity, and must therefore file a Notice of Intent to Comply with the General Storm Water Permit prior to commencing construction. As part of the General Permit requirements, a Storm Water Pollution Prevention Plan (SWPPP) would be prepared, which must address water

7410

quality mitigation for both the construction and post-construction periods. The SWPPP will include the appropriate state-published BMPs to be implemented for the project.

- The project includes the employment of post-construction BMPs such as parking lot sweeping with a mechanical wet sweeper; cleaning of storm drain catch basins; litter control; and good housekeeping in the loading dock area, as discussed on Page 50 of the DEIR.

EPIC notes that the Target store is not dependent on coastal resources, and should be re-oriented. Policy 6.A.7 states that only uses dependent on environmentally sensitive resources shall be allowed **within** (emphasis added) environmentally sensitive habitat areas. The Target project is not located within an environmentally sensitive, but rather adjacent to such an area, as is all the development along Eureka's urban shoreline. The project site is presently fully developed with a commercial use. This parcel has an LCP land use designation appropriate for commercial development, and is proposed to be redeveloped with a commercial use in compliance its land use designation. As such, this property is certainly not considered a sensitive habitat area.

This policy goes on to state that the City shall require that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas. The City has made the finding that the project as conditioned prevents impacts to the adjoining environmentally sensitive habitat, is compatible with the continuance of the habitat, and is in compliance with this portion of the policy based on information contained in the EIR and supporting documents, some of which is discussed in detail in this letter.

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- **EPIC states:** *The Target store is not compatible with the continuance of the Humboldt Bay/Eureka Slough estuarine complex habitat area. Considering that complete demolition is proposed, the building could be resituated so as to minimize the impacts on Humboldt Bay, an environmentally sensitive habitat area.*

*Section 6.A.8: "Within the coastal zone, prior to approval for development, the City shall require that all development on lots or parcels designated NR (Natural Resources) designated on the Land Use Diagram or within 250 feet of such designation, or development potentially affecting an environmentally sensitive habitat area, shall be found to be in conformity with the applicable habitat protection policies of the General Plan." (pg. 6-2).*

**Discussion:**

The full text of the above cited policy is as follows:

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6.A.8 Within the Coastal Zone, prior to approval of a development, the City shall require that all development on lots or parcels designated NR (Natural Resources) on the Land Use Diagram or within 250 feet of such designation, or development potentially affecting an environmentally sensitive habitat area, shall be found to be in conformity with the applicable habitat protection policies of the General Plan. All development plans, drainage plans, and grading plans submitted as part of an application shall show the precise location of the habitat(s) potentially affected by the proposed project and the manner in which they will be protected, enhanced or restored.

As has been discussed, the Target project is adjacent to the Eureka Slough, which is an environmentally sensitive habitat area. The City has found that the project is in compliance with the City's LCP/General Plan policies. The project as conditioned protects the sensitive habitat of the Eureka Slough. EPIC states that the building could be resituated so as to minimize impacts to Humboldt Bay. We would assume, based on other comments that EPIC has provided, that this means the building could be resituated to provide for a wider buffer. As discussed above, the City has found that the vegetated buffer as proposed is adequate for the protection and continuance of the sensitive habitat of the Eureka Slough, and complies with the City's LCP.

\*\*\*\*\*

- EPIC states that the project does not comply with General Policy 6.A.3., but does not include any explanation as to why. Policy 6.A.3. reads as follows:

6.A.3 The City shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, wetlands, and estuaries appropriate to maintain optimum populations of aquatic organisms and for the protection of human health through, among other means, minimizing adverse effects of wastewater and stormwater discharges and entrainment, controlling the quantity and quality of runoff, preventing depletion of groundwater supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

**Discussion:**

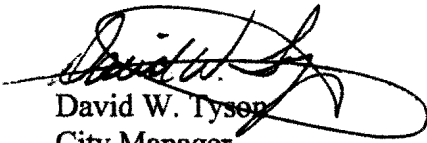
The discussions above also address this particular policy. The quality of coastal waters will be improved due to improved stormwater quality and reduced stormwater quantity as a result of the project. The creation of a vegetated buffer to replace the pavement which presently extends to the Eureka Slough will provide for increased biological productivity and improved aesthetics. Wastewater discharges will enter the City's sewer system, in compliance with LCP/General Plan policies. Groundwater supplies will not be affected by this project. Surface water flow will be redirected so as to improve water quality by directing all parking lot and roof runoff through a stormwater treatment unit, and will not adversely affect any adjoining properties. No alteration of any watercourse will occur as a result of this project. This project is in compliance with Policy 6.A.3.

9 of 10

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The City of Eureka has conducted a thorough and sound analysis of the Eureka Target Store project. We have based our findings and ultimately our approval of this project on information and studies provided by experts in their respective fields. We have provided ample opportunity for public input, and have responded to public and agency comments with changes in the project as a result of those comments. We have made a sound determination that the project, as conditioned, is in compliance with our LCP/General Plan. EPIC's appeal is without merit, consisting solely of allegations with no evidence to support them. We would ask that the Coastal Commission find that EPIC's appeal raises no substantial issue under the Coastal Act.

Sincerely,

  
David W. Tyson  
City Manager

10 of 10

**STEEFEL  
LEVITT  
& WEISS**

A PROFESSIONAL CORPORATION

**EXHIBIT NO. 9****APPLICATION NO.**

A-1-EUR-02-166

APPLICANT'S  
RESPONSE TO APPEAL  
(1 of 11)

ONE EMBARCADERO CENTER • THIRTIETH FLOOR • SAN FRANCISCO, CALIFORNIA 94111-3719

TELEPHONE: (415) 788-0900 • FACSIMILE: (415) 788-2019

December 31, 2002

15741

**VIA FACSIMILE AND MAIL**

Mr. Robert Merrill  
California Coastal Commission  
North Coast District Office  
710 E Street, Suite 200  
Eureka, California 955501-1865

Re: Appeal of Coastal Development Permit No. 16-01 for the  
Target Store located at 2525 4<sup>th</sup> Street in Eureka, California

Dear Mr. Merrill,

On behalf of Target Corporation ("Target"), the applicant for Coastal Development Permit No. 16-01 ("CDP"), we respectfully request that the Coastal Commission staff recommend that **no substantial issue exists** with respect to the appeal filed by the Environmental Protection Information Center ("EPIC"). EPIC's appeal is without merit. EPIC does not, and cannot, show that the construction of a Target retail store at 2525 4<sup>th</sup> Street in Eureka California (the "Project" or "Target Store") fails to conform to the City of Eureka Certified Local Coastal Program ("LCP") or the public access policies set forth in the Coastal Act. As a result, no substantial issue exists and the Coastal Commission should determine that a de novo review of the Project and the CDP is not necessary.

**A. Project Background**

The Project being appealed by EPIC was unanimously approved by the Eureka City Council on December 17, 2002. In unanimously approving the CDP, the City Council found that the Project was consistent with the City of Eureka ("City") certified LCP because it, among other things, complied with coastal resource protection standards and coastal access standards and would not adversely impact storm drain runoff. The City Council also agreed that the Project was very beneficial to the community and constituted a substantial enhancement of the existing site, which sits at the gateway to the City.

The Project, as approved, removes an abandoned Montgomery Ward department store, which has been described as blight, and replaces it with a modern, visually appealing 130,785 square feet free standing commercial retail store and 8,081 square feet garden center.

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The Project makes substantial improvements to the project site including removal of dilapidated pavement around the rear and sides of the parking lot and installation of extensive landscaping. The Project also includes removing 1.4 acres of paving along the Eureka Slough and replacing it with a 1.4-acre landscaped buffer that includes a shoreline recreational trail to be constructed by Target. The buffer provides a substantial transition area between the store and the Eureka Slough, and allows public access to an existing boat ramp on the Project site. Target has further agreed to create a walking path along the southern project boundary to provide pedestrian access to the buffer area, the shoreline trail and the boat ramp, and to provide several parking spaces for the boat ramp in an area accessible from the Target Store's parking area.

For over a year, Target has been meeting with the City of Eureka Community Development Department, the California Coastal Commission, and many other governmental and community groups on the store's design and the site plan. Although Target could have merely reutilized the existing Montgomery Ward building, it chose instead to provide a substantially enhanced new building and site design, with the amenities mentioned above. Target was willing to accommodate the wishes of the City, numerous agencies, including the Coastal Commission, and the Eureka citizens, as evidenced by the substantially enhanced store design, landscaping and site engineering, and its agreement to dedicate the pedestrian trail, and boat ramp to the City, as well as provide several public parking spaces to facilitate public access. Because traffic was a significant concern of the City and local residents, Target worked with the City and Caltrans to devise a traffic solution that Caltrans determined would result in significantly improved traffic conditions, even with the additional traffic to be generated by Target. (reference Caltrans' 12/13/02 letter to the City of Eureka, copy attached).

Target has also worked closely with the Coastal Commission staff to address its comments and concerns regarding the Project as raised in the Coastal Commission response to the City's Notice of Preparation ("NOP") and to the Draft Environmental Impact Report ("EIR"). In response to the NOP, the Coastal Commission raised questions and concerns about the Project's impact on water quality, environmentally sensitive habitat area, public access and recreation, visual resources, geologic hazards and cultural resources. These concerns were thoroughly evaluated and were resolved in a manner satisfactory to the City and the Coastal Commission staff. A number of these concerns and resolutions were addressed in the Draft EIR. As a result, the Commission's concerns regarding the Draft EIR were limited to public access and recreation, and water quality. In response to the Coastal Commission's, and the community's concerns about public access, Target agreed to provide public access to the existing boat ramp and construct a shoreline trail on the Project site parallel to the Eureka Slough. To address the Coastal Commission's concerns about water quality, Target agreed to install an underground storm water treatment unit - a system which exceeds the City and Regional Board standards for storm water quality control and the Coastal Commission staff's suggestion for removal efficiency. Target has taken into consideration and addressed the Coastal Commission's concerns and has proposed a Project that will be beneficial to the community and will further protect the natural resources in the Project area.

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## B. Appeal Procedures

Actions taken by local governments on a coastal development permit applications may be appealed by an aggrieved person to the Coastal Commission if the development is located within certain a geographic appeal areas or is a certain type of project. *See* Cal. Resources Code § 30603. The Project is located within 300 feet of the mean high tideline of the sea, which means that the Project is located within the Coastal Commission's appeal jurisdiction. *See id.*

The grounds for an appeal to the Coastal Commission are limited under the Coastal Act to allegations 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 [the Coastal Act]." *Id.* at § 30603. Unless the Coastal Commission determines that "*no substantial issue exists* with respect to the grounds on which an appeal has been filed," the Coastal Commission will hear any appeal. *Id.* at § 30625(b)(2) (emphasis added). If a substantial issue is found, the Coastal Commission will proceed to a full public de novo hearing on the merits of the project.

During any part of the appeal process, "only the applicant, persons who opposed the application before the local government (or their representative), and the local government are qualified to testify at the Coastal Commission hearing, during any stage of the appeal process." Cal. Code of Regs. tit. 14, § 13117. All other persons may submit written testimony to the Coastal Commission. *See id.*

## C. EPIC's Appeal Is Without Merit And Fails To Raise A Substantial Issue Warranting De Novo Review By The Coastal Commission.

EPIC's bases for appeal are without merit and do not pose a substantial issue that requires de novo review by the Coastal Commission. EPIC asserts that the Project does not comply with certain policies of the City General Plan and LCP<sup>1</sup> – an assertion that is unfounded and without merit based on evidence in the record.

### 1. The Project Complies With The Setback Requirements Of The City Of Eureka General Plan And LCP.

EPIC incorrectly asserts that the Project does not comply with the setback requirements of the General Plan. In its appeal, EPIC misleadingly cited only a portion of General Plan Policy 6.A.19, which sets forth the setback requirements for development adjacent

<sup>1</sup> The LCP for the City incorporates the policies of the General Plan and hereinafter will be collectively referred to as "General Plan Policy[ies]".

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to environmentally sensitive areas. General Plan Policy 6.A.19 does not require a 100 foot buffer in all instances and specifically permits a smaller buffer if

"the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development, and/or proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer will the resources of the habitat area."

Target has shown that a smaller buffer is appropriate for the Project.

The Project is not a new development but rather a replacement of an existing rundown building. The existing Montgomery Ward site includes paved parking and loading areas that extend up to the Eureka Slough (i.e., no buffer currently exists). While Target was authorized under the City Zoning Ordinance to replace the sign and occupy the existing building, Target decided to redevelop the site, construct a new more visually appealing structure and enhance the shoreline area by including a natural landscape buffer along the Eureka Slough and the North Ditch.

The buffer proposed provides a natural transition between the Project and the open water and natural areas associated with the adjacent slough. Along the Eureka Slough, the width of the buffer area would vary from 40 feet to 250 feet from the edge of the slough. The average width of the buffer area is approximately 100 feet, and at least 50 percent of the Project frontage along the Eureka Slough would have a landscaped setback of at least 100 feet. Because the landscape buffer would be planted with native vegetation, it would provide additional enhancement of coastal sensitive habitat over and above a simple setback and thereby mitigates the need for a larger buffer.

Buffers are typically used as mechanisms to filter storm water runoff from developed areas. Here, however, the buffer would only filter storm water runoff generated within the buffer area and would not filter runoff from the parking area, which would be entirely captured and directed to the storm water treatment unit near the North Ditch outfall. As a result, traditional function of a buffer does not apply here, which mean that the partially reduced buffer width does not reduce the effectiveness in reducing non-point pollutants from reaching the Eureka Slough and Humboldt Bay – the buffer area is sufficient size as proposed.

The buffer will also be landscaped with native species which will contribute to the restoration of biological diversity and productivity of this coastal area as well as the quality of coastal waters in the Eureka Slough. Since the proposed buffer will provide adequate protection for environmentally sensitive resources, a larger buffer is not required and the Project complies with the LCP.

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2. The Project Improves Storm Water Runoff From The Project Site And Protects Environmentally Sensitive Habitats In The Eureka Slough And Humboldt Bay.

Contrary to EPIC's assertion in its appeal, the Project complies with the City of Eureka General Plan Policy 4.D.6, which requires that "[t]he City [] improve the quality of runoff from urban . . . development through use of appropriate and feasible mitigation measures. . . ." The Project also complies with General Plan Policy 6.A.3 which provides that

"[t]he City shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, wetlands, and estuaries appropriate to maintain optimum populations of aquatic organisms and for the protection of human health through, among other means, minimizing adverse effects of wastewater and storm water discharges and entrainment, controlling the quantity and quality of runoff, preventing depletion of ground water supplied and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams."

Presently the site is entirely covered with impervious surfaces and all storm water runs off the site at various points. Since this does not comply with current water quality and development standards, Coastal Commission staff urged Target to use the opportunity of constructing of a new parking lot to incorporate current water quality and development standards to improve the quality of runoff from the site. Target has done just that.

In response to these comments, and to comply with the City's General Plan Policies, Target agreed to redesign the drainage pattern of the site. Under Target's site plan design, all discharge from the parking lot and roof will be collected in a new storm drain system and conveyed into an underground storm water treatment facility located under the parking lot before being discharged to the North Ditch. This facility will provide highly effective removal of water pollutants and exceeds the City and Regional Board standards for storm water quality control and the removal efficiency suggested by the Coastal Commission. The facility will treat all runoff for flows up to the 10-year event and has an estimated removal efficiency of 81 percent for the total annual runoff. While EPIC asserts that 80 percent removal of water pollutants is insufficient, as noted above, in fact, the 80% standard exceeds the efficiency recommended by the Coastal Commission and the Regional Board's standards for storm water quality.

In addition to the treatment facility, Target has also agreed to remove a portion of impervious surface and replace it with pervious landscaped areas. Along the Eureka Slough and the North Ditch, the existing pavement will be replaced with 1.4-acre landscaped buffer area. The increase in landscaped areas will result in an overall reduction in storm water leaving the

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site. To further reduce surface water pollutants, Target will sweep the parking lot with a mechanical wet sweeper, clean the storm drain catch basins, control litter and good housekeeping in the loading dock area (i.e., Best Management Practices ("BMPs")).

EPIC's also raised concerns about the maintenance of the storm water treatment unit. The Conditions of Approval for the Project require maintaining the facility in accordance with the manufacturers recommended maintenance schedule, which includes detailed provisions for timing of inspections and cleaning. As a result, EPIC concerns are unfounded as the Project's storm water treatment and mitigation complies with the LCP and water quality standards.

3. The Project Restores And Protects Environmentally Sensitive Habitats and Biological Resources And Is Compatible With The Surrounding Area.

After two years of working with the City, the Coastal Commission and community groups, Target created a Project that the City Council unanimously found was compatible with, and adequately protects, the sensitive habitat of the Eureka Slough and Humboldt Bay. The City Council specifically found that the Project "protects the ecological balance of the coastal zone and prevents its deterioration" and is "in conformance with the [LCP] because the project protects and enhances the natural qualities of aquatic resources [and]; preserves valuable marine, wetland and riparian habitat." Resolution [ ], Exhibit A, secs. 1(D), 5.

Target specifically developed the site so that no disturbance or encroachment upon known sensitive coastal habitat would be necessary. To ensure further protection from indirect impacts, Target also agreed to remove 1.4 acres of pavement immediately adjacent to the Eureka Slough, and the North Ditch and replace it with a vegetated buffer. Presently no buffer exists between the Montgomery Ward development and the Eureka Slough or the North Ditch. Native vegetation will be planted within the buffer, which will provide additional protection and enhancement of coastal sensitive habitat. The vegetative buffer will also contribute to the restoration of biological diversity and productivity of this coastal area as well as the quality of coastal waters in the Eureka Slough and protection for environmentally sensitive resources.

To minimize water quality impacts to sensitive aquatic resources, Target agreed to include a storm water treatment unit that will effectively remove 80 percent of the surface water pollutants from parking lot runoff and to implement BMPs during construction. Target also redesigned the Project site to include more landscaping and less impervious surface - site improvements that will only further protect the Eureka Slough and Humboldt Bay.

In these and other ways, Target also worked to comply with General Plan Policy 6.A.7, which requires that

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"the City [] ensure that environmentally sensitive habitat area are protected against any significant disruption or habitat values, and that only uses dependent on such resources [] be allowed within such areas . . . [and that the City] require that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas."

EPIC appears to have forgotten that the Project site is not pristine waterfront property, but rather is located on a previously developed Montgomery Ward site within the City's redevelopment area and Enterprise Zone. The Project site has always been planned for development and is surrounded by other commercial, retail and light industrial uses. Moreover, the Project that was approved by the City Council will improve existing site conditions and prevent impacts to the surrounding natural resources. Accordingly, EPIC's assertion that the Project does not comply with General Plan Policy 6.A.7 is unfounded and without merit.

Similarly, EPIC's assertion that the Project does not comply with General Plan Policy 6.A.8, which requires the City Council to find the Project "in conformity with the applicable habitat protection policies of the General Plan" is unfounded. As noted above, the City Council unanimously approved the Project and found that it complies with the LCP, including the applicable habitat protection policies of the General Plan.

4. The Project's Impact On Wetlands And The Eureka Slough Has Been Adequately Assessed.

EPIC erroneously asserts that because the City has not prepared a wetlands management restoration, and enhancement program, as required under General Plan Policy 6.A.23, the Project's impacts on wetlands have not been adequately assessed. A review of the Project's site plan clearly indicates that the Project design will not impact any wetlands. The City Council agreed and found that "[n]o work is proposed in the Eureka Slough or in **any wetland areas.**" Resolution -, Attach. A, sec. 5(C) (emphasis added). Again EPIC fails to acknowledge that the project site currently is completely paved with no wetlands. The California Environmental Quality Act ("CEQA") and the General Plan do not require an analysis of non-existent or pre-existing wetlands. Accordingly, the fact that a wetlands management restoration and enhancement program has not been developed is irrelevant and does not indicate that the Project fails to comply with the LCP - especially since no wetlands will be impacted by the Project.

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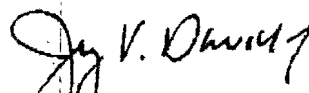
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\* \* \* \* \*

After a thorough analysis the City of Eureka unanimously determined that the Project is fully consistent with the LCP and the Coastal Act. We respectfully request that staff and the Coastal Commission determine that the EPIC appeal raises no substantial issue under the Coastal Act.

Sincerely,

  
Judy V. Davidoff

JVD/AMP  
Attachments

cc: Lisa Shikany, City of Eureka  
John Dewes, Target Corporation  
Barbara White, Target Corporation

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**DEPARTMENT OF TRANSPORTATION**

District 1 - P O Box 3700  
PHONE (707) 441-8937  
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TTY (916) 654-4086



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December 13, 2002

1-HUM-101-79.61  
Target Store FEIR  
SCH# 2002012014

Mr. Kevin Hamblin, Director  
Community Development Department  
City of Eureka  
531 K Street  
Eureka, CA 95501

**RECEIVED**  
DEC 16 2002

PUBLIC WORKS DEPARTMENT

Dear Mr. Hamblin:

The purpose of this letter is to clarify our Department's comments on the Final Environmental Impact Report (FEIR) for the proposed Target store located at 2525 4<sup>th</sup> Street (the former Montgomery Wards site) in Eureka. The Target project will generate a significant amount of traffic. Caltrans is particularly concerned with increases in traffic at the intersections of 4<sup>th</sup> & 5<sup>th</sup> (Route 101) at V street. As you are aware, these intersections are presently experiencing congestion and a project has been programmed to improve the operations of these intersections. Our responsibility is to ensure that the increase in traffic from the Target project does not negate the proposed operational improvement project.

In the initial review of the traffic study for this project, Caltrans staff expressed concern with the trip generation factor that Hexagon Transportation Consultants Inc. used in their traffic generation model. In subsequent communications between Caltrans and the City of Eureka, this issue did not appear to be resolved. In order to resolve this issue and clarify the assumptions and conclusions of the FEIR, John Carson, Caltrans Traffic Operations, and I called Dan Moody, City of Eureka, on December 6<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> to discuss the project, its impacts, and proposed mitigation. The following tables were developed based upon our discussions with Dan, the traffic analysis information in the FEIR for the Target project, and the City's traffic analysis of the proposed improvement project a 4<sup>th</sup> and 5<sup>th</sup> at V Street. The tables are a summary comparison of the traffic impacts to Route 101 and mitigation to be required from the project. The delay numbers and Level of Service (LOS) calculations in the table were provided by Dan Moody. They are based on data in the FEIR, and were verified using both "Trafix" and "Synchro" traffic simulation programs—accepted industry standards:

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#### 4<sup>th</sup> and V St. Intersection

|   |                  |
|---|------------------|
| Existing PM Peak Delay (in seconds)   | 89.2<br>LOS (F)  |
| PM Peak Delay with Target (no mitigation)   | 144.6<br>LOS (F) |
| PM Peak Delay with Target (with mitigation;<br>Left-turn lane on 4 <sup>th</sup> & Right-turn lane on V street)               | 74.1<br>LOS (E)  |
| PM Peak Delay with Target (with City's planned<br>Intersection improvements at 4 <sup>th</sup> & 5 <sup>th</sup> at V Street) | 28.7<br>LOS (C)  |

#### 5<sup>th</sup> and V St. Intersection

|   |                 |
|---|-----------------|
| Existing PM Peak Delay (in seconds)   | 36.2<br>LOS (D) |
| PM Peak Delay with Target (no mitigation)   | 46.7<br>LOS (D) |
| PM Peak Delay with Target (with City's planned<br>Intersection improvements at 4 <sup>th</sup> & 5 <sup>th</sup> at V street) | 24.1<br>LOS (C) |

In summary, construction of the City's intersection improvement project at 4<sup>th</sup> & 5<sup>th</sup> at V streets will significantly improve the operational characteristics of these intersections, even with the additional traffic generated by Target. The PM peak average delay per vehicle at 4<sup>th</sup> & V street can be expected to be decreased from an existing level of 89.2 seconds to 28.7 seconds. Correspondingly, level of service will improve from "F" to "C". Correspondingly, the PM peak average delay per vehicle at 5<sup>th</sup> & V street can be expected decrease from 36.2 seconds to 24.1 seconds with a corresponding level of service improvement from "D" to "C". Based upon projected traffic growth, it is expected that level of service at both intersections will decrease to "D" by the year 2025.

Likewise, the City's mitigation requirements for the Target project appear to be sufficient to mitigate impacts to Route 101 traffic at 4<sup>th</sup> & 5<sup>th</sup> at V street intersections if the City's project were not to come to fruition. If, for some reason, the City is not able to complete its project, Target will still be required to construct or secure construction of the left-turn lane on 4<sup>th</sup> street to V street and a right-turn lane on V street between 3<sup>rd</sup> and 4<sup>th</sup> streets. These "stand-alone" mitigation measures will result in a small improvement to existing congestion at the 4<sup>th</sup> and V street intersection, reducing existing PM peak average delay per vehicle from 89.2 seconds to 74.1 seconds with a corresponding level of service improvement from "F" to "E".

Based upon the above analysis and discussion, Caltrans is satisfied with proposed traffic mitigation on Route 101 for the Target project. We welcome the opportunity to

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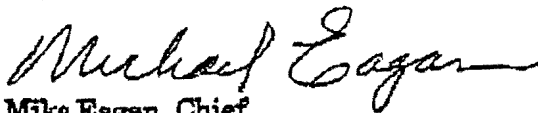


Mr. Kevin Hamblin, p.2  
December 18, 2002

work closely with the City to ensure that all of mitigation for the project is fully implemented.

We have no further comments on the project at this time. If you have questions or need further assistance, please contact me at the number listed above or contact Rex Jackman of the District 1 Office of Community Planning at (707) 445-6412, or by e-mail at <rex\_jackman@dot.ca.gov>.

Sincerely,



Mike Eagan, Chief

District 1 Office of System and Community Planning and Local Assistance

c. Dan Moody  
Georgia Garcia, State Clearinghouse

