STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION

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

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

W13c

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Staff:	Robert S. Merrill
Staff Report:	July 1, 2004
Hearing Date:	July 14, 2004
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.:	**1-04-027**
APPLICANT:	City of Eureka
PROJECT LOCATION:	Along "V" Street just north of 5th Street, and along 5th Street at "U" Street, in the City of Eureka, Humboldt County (APNs 002-111-003 and 002-134-006)
PROJECT DESCRIPTION:	Construct street improvements consisting of (1) widening an approximately 50-foot-long stretch of "V" Street just north of 5th Street by relocating a storm drain and paving an additional approximately 550-square-foot area for portions of a traffic lane and a sidewalk, and (2) constructing a bus turnout along an approximately 120-foot-long stretch of 5th Street at "U" Street by relocating a storm drain and paving an additional approximately 900-square-foot area for the turnout, sidewalk and relocated bus shelter.

OTHER APPROVALS REQUIRED: Caltrans Encroachment Permit

SUBSTANTIVE FILE DOCUMENTS: (1) City of Eureka Local Coastal Program;
(2) CDP Waiver File No. 1-03-072

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with conditions of the coastal development permit application for the proposed project on the basis that, as conditioned by the Commission, the project is consistent with the Coastal Act.

The application seeks authorization for a local street improvement project involving the widening of a 50-foot-long stretch of "V" Street and the proposed installation of a bus turnout facility along 5th Street within the City of Eureka.

The two locations proposed for street improvements are located adjacent to wetland and riparian environmentally sensitive habitat areas (ESHA). The development would reduce the already small spatial separation between existing street facilities and the adjacent ESHA. At the "V" Street site, the 33-foot separation would be reduced to 20 feet, and at the 5th Street site the existing 12-foot separation would be reduced to 5 feet. However, staff believes that in this particular case, narrow buffer areas with the buffer enhancements that would be required by recommended Special Condition Nos. 1-5, are appropriate to buffer the potential impacts of the proposed urban street development on ESHA for several reasons. First, the project with recommended conditions requiring specified erosion control, debris removal, and hazardous materials management measures would minimize any potential significant adverse impact and would ensure that the project as proposed would not significantly degrade the adjacent ESHA. Second, the existing buffer areas between the ESHA and the existing street improvements are already very narrow, cannot be expanded, and have very little value in buffering the ESHA from the impacts of the existing urban street development at the site. Finally, despite narrowing the buffer areas even more, greater protection for the ESHA from the impacts of the urban street development would be provided by the project as conditioned than is provided currently with the requirements of the recommended special conditions to (1) install energy dissipaters at the ends of the storm drains to reduce erosion and sedimentation caused by the existing discharges, (2) install a continuous deflective separation unit to treat the discharges of one of the two storm drains that would be modified by the project and the incorporation of biofiltration treatment for the other storm drain to improve water quality, and (3) install a low screening fence along the approved bus turnout sidewalk to screen the bus turnout from wildlife using the ESHA, discourage entry into the ESHA, and intercept wind-blown trash. Therefore, Staff recommends that the Commission find that the project as conditioned would not

significantly degrade adjacent ESHA and would be compatible with the continuance of the habitat area consistent with Section 30240(b) of the Coastal Act.

Staff further recommends that the Commission find the project, as conditioned, is consistent with all of the Chapter 3 policies of the Coastal Act.

The Motion to adopt the Staff Recommendation of Approval with Conditions is found on page 3.

STAFF NOTES:

1. Standard of Review

The proposed project is located in the Commission's retained jurisdiction. The City of Eureka has a certified LCP, but the site is within an area shown on State Lands Commission maps over which the state retains a public trust interest. Therefore, the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit No. 1-04-027 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS: See Attachment A.

III. SPECIAL CONDITIONS:

1. Debris Disposal Plan

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for the review and approval of the Executive Director a plan for the temporary storage and disposal of construction-related debris including debris containing hazardous materials such as asphalt.

B.

(1) The temporary debris storage and disposal plan shall demonstrate that:

(a) No construction materials, debris, or waste shall be placed or stored during construction where it may be subject to entering wetlands or other coastal waters;

(b) All disposal sites are in upland areas where construction-related debris from the project may be lawfully disposed;

(c) Any and all debris resulting from construction activities shall be removed within 30 days following completion of construction;

(2) The plan shall include, at a minimum, the following components:

(a) A site plan showing all proposed locations for stockpiling construction materials, debris, or waste during construction;

(b) A description of the manner by which the material will be removed from the construction site and identification of all debris disposal sites that will be used;

(c) A schedule for removal of all debris.

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. <u>Erosion and Sedimentation Control Plan</u>

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for review and approval of the Executive Director, a plan for erosion and sedimentation control.

(1) The erosion control plan shall demonstrate that:

(a) During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources;

(b) Temporary erosion control measures shall be implemented during construction including, but not limited to: confining earthwork activities to the non-rainy season; preserving existing vegetation surrounding the construction areas as much as possible; installing weed-free rice straw mulch and matting on exposed soil and maintaining the mulch and matting in place throughout the construction period; installing silt fences, fiber rolls, and weed free rice straw barriers on the down slope side of the construction areas and maintaining these barriers in place throughout the construction period; stabilization and containment of stockpiles; and replanting or seeding any disturbed areas with native vegetation following project completion.

(2) The plan shall include, at a minimum, the following components:

(a) A narrative report describing all temporary runoff and erosion control measures to be used during construction;

(b) A site plan showing the location of all temporary erosion control measures; and

(c) A schedule for installation and removal of the temporary erosion control measures.

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Hazardous Materials Management Plan**

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and written approval of the Executive Director, a plan to reduce impacts to water quality from the use and management of hazardous materials on the site. The plan shall be prepared by a licensed engineer with experience in hazardous material management.

1. The plan, at a minimum, shall provide for the following:

(a) Equipment fueling shall occur only during daylight hours in designated fueling areas;

(b) Oil absorbent booms and/or pads shall be on site at all times during project construction. All equipment used during construction shall be free of oil and fuel leaks at all times;

(c) Provisions for preparing and pouring cement in a manner that will prevent discharges of wet cement into wetlands including, but not limited to, placement of measures such as catch basins, mats or tarps beneath the construction area to prevent spills or over-pours from entering coastal waters;

(d) Provisions for the handling, cleanup and disposal of any hazardous or non-hazardous materials used during the construction project including, but not limited to, paint, asphalt, cement, equipment fuel and oil, and contaminated sediments;

(e) A schedule for maintenance of containment measures on a regular basis throughout the duration of the project;

(f) Provisions for the containment of rinsate from the cleaning of equipment, including cement mixing equipment, and methods and locations for disposal off- site. Containment and handling shall be in upland areas and otherwise outside of any environmentally sensitive habitat area;

(g) A site map detailing the location(s) for hazardous material storage, equipment fueling and maintenance, and concrete wash-out facilities; and

(h) Reporting protocols to the appropriate public and emergency services agencies in the event of a spill.

B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Storm Water Runoff Control Plan

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for review and approval of the Executive Director, a plan for storm water runoff control.

(a) The storm water runoff control plan shall demonstrate that:

(1) Runoff from the project shall not increase the entrainment of pollutants from impervious surfaces into coastal waters;

(2) The storm drain that discharges to the wetland area east of "V" Street between 4th and 5th Streets shall be modified to include a Continuous Deflection Separation (CDS) unit equipped with an oil-skimmer baffle designed to filter storm water runoff from each storm, up to and including the 85th percentile, 1-hour storm event with a safety factor of 2 or greater to avoid degradation of water quality in the receiving wetland;

(3) The CDS unit shall not be installed within any environmentally sensitive habitat area;

(4) The CDS unit shall be maintained in accordance with the manufacturer's recommended maintenance schedule for inspections, cleaning, and record-keeping;

(5) The storm drain that discharges to the environmentally sensitive habitat area south of 5th Street at "U" Street shall be designed to

discharge to a vegetated area outside of the riparian habitat area to allow for biofiltration of pollutants contained in the runoff to be discharged from the storm drain; and

(6) Both storm drains shall be installed with energy dissipaters at their outfalls.

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

(1) A narrative report describing the CDS unit to be installed and its proposed location; and

(2) A site plan and detailed exhibits showing finished grades (at 1-foot contour intervals) and drainage improvements;

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. <u>ESHA Buffer Enhancement Plan</u>

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for the review and approval of the Executive Director a plan for the enhancement of the buffer between the approved development along 5th Street and the adjoining riparian and wetland ESHA.

(a) The buffer enhancement plan shall demonstrate that:

(i) A minimum 125-foot-long solid wooden fence shall be installed along the southern side of the realigned and reconstructed sidewalk bordering the approved bus turnout. The fence shall be constructed to a height that rises at least four feet above the surface of the reconstructed sidewalk. The fence shall be installed prior to use of the bus turnout facility.

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

(i) A site plan and illustrative detail of the fence to be installed;

(ii) A schedule for installation of the fence.

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. **Encroachment Permit**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, evidence of an encroachment permit or exemption from the California Department of Transportation. The encroachment permit or exemption shall evidence the ability of the applicant to develop the bus turnout facility within the public right of way of Highway 101, as conditioned herein.

7. **Archaeological Resources**

A. If an area of cultural deposits is discovered during the course of the project all construction shall cease and shall not recommence except as provided in subsection (B) hereof; and a qualified cultural resource specialist shall analyze the significance of the find.

B. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a supplementary archaeological plan for the review and approval of the Executive Director.

(i) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director.

(ii) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

1. Project Background

The proposed project involves the widening of a 50-foot-long stretch of "V" Street and the proposed installation of a bus turnout facility along 5th Street within the City of Eureka (See Exhibits 1-5). These improvements to 5th and "V" Streets would be in addition to those recently approved under Coastal Development Permit Waiver No. 1-03-072. The Commission considered the waiver at its meeting of May 13, 2004.

The project authorized by Coastal Development Permit Waiver No. 1-03-072 is to improve the intersections of 4th and "V" Street and 5th and "V" Street to provide traffic congestion relief within the Highway 101 corridor by (a) widening "V" Street between 4th and 5th Streets to accommodate a stacking lane in the southbound direction, (b) adding a left turn lane from southbound 101 (4th Street) onto southbound "V" Street, and (c) adding a third lane on northbound 101 (5th Street) that will merge back to two lanes approximately 1,000 feet east of "V" Street. To develop these improvements, the approved project involves (1) the demolition of an existing building and paved sidewalk and parking areas, (2) paving of new roadway and sidewalks, (3) reconstruction of pedestrian islands, (4) relocation of traffic signals, (5) construction of new public parking areas with landscaping, (6) restriping traffic lanes, and (7) reconstructing and relocating two existing billboards. All development will be limited to existing paved or graveled areas and the site of the existing structure to be demolished. Construction has not yet commenced on the project.

The additional improvements proposed under the current application, Coastal Development Permit Application No. 1-04-027, were originally included in the project description for CDP Application No. 1-03-072. The proposed widening of a 50-foot-long stretch of "V" Street and the proposed installation of a bus turnout facility along 5th Street were the only two elements of the original project that extended beyond existing paved, graveled, or built upon areas. In both instances, the proposed street improvements would expand street development towards environmentally sensitive habitat areas (ESHA), encroaching into what already are narrow buffer areas of non-sensitive ruderal vegetation between the ESHA and the highway. The proposed "V" Street improvements would reduce the distance between the ESHA and the developed and previously approved street improvements from a minimum of 33 feet to a minimum of 20 feet; the proposed bus turnout development would reduce the distance between the ESHA and the developed and previously approved street improvements from a minimum of 12 feet to 5 feet.

The applicant requested that the Executive Director process CDP Application No. 1-03-072, as originally proposed with the "V" Street and 5th Street bus turnout improvements included, as a permit waiver. Pursuant to Section 30624.7 of the Coastal Act, the Executive Director may issue a waiver of coastal development permit requirements for any development that is de minimis. Section 30624.7 states that a proposed development

is de minimis if the Executive Director determines that it involves no potential for any adverse effect, either individually or cumulatively, on coastal resources and that it will be consistent with the policies of Chapter 3. Section 30240(b) requires that development in areas adjacent to ESHA shall be sited and designed to prevent impacts that would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas. Staff informed the applicant that whether or not the project were ultimately found by the Commission to be consistent with Chapter 3 of the Coastal Act and approved, it was staff's belief that the encroachment of the proposed development at the 5th Street bus turnout and "V" Street towards ESHA within the already relatively narrow area between the existing developed street improvements and the ESHA could potentially cause an adverse effect on the ESHA and raise an issue of consistency with Section 30240(b) of Chapter 3 of the Coastal Act. Therefore, staff indicated to the applicant that the Executive Director determined that the project could not be processed as a permit waiver.

The City indicated to staff that their project schedule required that the project be authorized by the time of the May Commission meeting. To allow the project to go forward under a permit waiver, the City amended the project description of its application and submitted revised plans to delete the 5th Street bus turnout facility and the widening of a 50-foot-long stretch of "V" Street to eliminate the portions of the project that encroach beyond existing paved or graveled areas towards ESHA. Along 5th Street where the bus turnout facility had been proposed, the revised plan for CDP Application No. 1-03-072 shows a continuous sidewalk along the existing graveled road right-of-way without any bus turnout. Along the 50-foot-long stretch of "V" Street that had been proposed to be widened, the revised plan for CDP Application No. 1-03-072 accommodates the additional traffic stacking lane that is a key element of the congestion relief project by narrowing the proposed lanes, converting most of the existing sidewalk to traffic lane leaving only a 1.5-2-foot-wide walk. As the revised project did not include any element that would extend street development towards the ESHA areas, the staff processed the amended application as a permit waiver. The Executive Director reported the permit waiver to the Commission at the May 13, 2004 meeting. As the Commission did not object to the issuance of the waiver, the waiver became effective after the meeting.

The City indicates that although the basic traffic congestion relief project can be built without the 5th Street bus turnout and the widening of a 50-foot-long stretch of "V" Street, the City believes the 5th Street bus turnout and the standard width sidewalk that would not be built under the permit waiver are very important facilities. Therefore, the City has submitted the current application, CDP Application No. 1-04-027, seeking authorization from the Commission for these improvements. Approval of the application would enable the City to add these facilities on to the project currently approved under CDP Waiver No. 1-03-027. Denial of this application would mean that the bus shelter and the widening of the 50-foot-long stretch of "V" Street would not be added onto the project currently approved for construction.

2 Site Description

The proposed street improvement project is located along the Highway 101 corridor at the northern entrance to the City of Eureka along "V" Street, just north of 5th Street, and along 5th Street, opposite the terminus of "U" Street (See Exhibits 1-3). Within this portion of the City, 5th Street is designated as northbound Highway 101. "V" Street connects 5th Street, (northbound 101) with 4th Street (southbound 101).

The project site is located along the northern side of the historic course of First Slough, a tributary to Eureka Slough, which connects to Humboldt Bay. First Slough receives drainage from the Cooper Gulch basin in northeastern Eureka. The historic course of First Slough has been substantially altered since the 1930s and 1940s as the City grew and Highway 101 north of the City was routed through the slough and across Eureka Slough and extended through the diked seasonal wetlands adjacent to the east side of Arcata Bay south of the City of Arcata. A patchwork of wetland and riparian habitats remain in the project vicinity, with wetland areas separated by roads and other urban development. The two areas where street improvements are proposed in the current application are located close to two of these patchwork wetland and riparian areas (See Exhibit 6).

The proposed improvements along "V" Street would be constructed near the end of a wetland swale that extends east away from "V" Street between northbound 101 (5th Street) and southbound 101 (4th Street). The end of the swale is approximately 33 feet away from the existing sidewalk along "V" Street and is approximately 20 feet wide. Approximately 250 feet away from "V" Street, the swale broadens into a pond. Areas further east drain back to the pond. The pond and lower portions of the swale are tidally influenced. Tidal waters extend to the site from First Slough via a concrete culvert extending underneath 5th Street. The culvert is located approximately 700 feet east of "V" Street. The wetland is dominated by *Tiglochin maritima*, *Deschampsia cespitosa*, and other brackish marsh species. A broad flat adjoins the north side of the pond which saturates for significant periods and supports a dense canopy of alder (*Alnus rubra*) and various species of willow. The willow canopy extends further northward up onto a slope. The biological assessment prepared for the project identifies this slope area as riparian ESHA.

The proposed bus turnout improvements along 5th Street would be constructed adjacent to a wetland habitat bounded on the north by 5th Street, the east by another section of "V" Street, the south by 6th Street, and on the west by upland area that rises towards "T" Street. This wetland area is connected to the remnants of First Slough by a culvert under "V" Street. The channel that cuts across the wetland area to the culvert is the primary watercourse for drainage from Cooper Gulch basin, which enters this wetland area via another culvert located beneath 6th Street. The channel and adjoining areas of the

wetland contain salt marsh and brackish marsh characterized by the biological assessment as "exceptionally high quality, containing high species diversity with a small percentage of exotic species." The salt marsh species include *Salicornia virginica, Spartina densiflora, Carex aquatilis, Paraphalis strigosa, Distichlis spicata, Juamea carnosa, Limonium californicum*, as well as *Triglochin maritime*. The brackish marsh species include *Tiglochin maritima, Deschampsia cespitosa*, and other brackish marsh species. A small area of former marsh in the southwest corner of the wetland area appears to have been historically filled, and currently ranges 0.5-1 foot elevation above the adjacent marsh. Although this area has been filled, the filled area qualifies as wetlands under the Coastal Act. Much of the overall wetland area contains a dense willow over-story which extends up onto the fill slopes along 5th Street. Because of the close proximity of this riparian area to the high quality wetland area below, the biological assessment identifies the riparian canopy as riparian habitat ESHA. Besides various willow species, the riparian area contains *Alnus rubra, Malus fusca, Rubus discolor, Hedera helix, Equisetum telmatiea*, and other hyrodphytic species.

The biological assessment surveyed the wetland habitats for sensitive plant and wildlife species. No sensitive plant species were observed in the project area. In addition, no threatened or endangered wildlife species were observed.

As part of the overall biological assessment, a survey of fisheries values was conducted. Although the drainages within the project area are tidally influenced, the inspection indicated that little or no nursery area for anadromous salmonids is present and no spawning habitat is present. The Cooper Gulch basin is relatively small, with no upper elevation headwaters typically associated with salmonid supporting streams. The fisheries inspection indicates that the culverts along "V" and 6th Streets are probably barriers to fish migration. The federally endangered Tidewater goby is also known to be present in Humboldt Bay, including the lower reaches of Eureka Slough. However, it is not know whether or not it occurs in the immediate project area vicinity.

The proposed project is within the ethnographic territory of the Wiyot people. An archaeological investigation was conducted for the project and determined that although Wiyot village sites had been previously discovered in nearby areas, no archaeological resources were discovered at the project site.

3. Project Description

The proposed project involves two specific street improvement projects within the Highway 101 corridor including (1) the widening of a 50-foot-long stretch of the east side of "V" Street just north of 5th Street, and (2) the installation of a bus turnout facility along the south side of 5th Street opposite the terminus of "U" Street. As discussed above, the proposed street improvements would complement a larger street improvement project for the 101 corridor that has already been authorized by CDP Waiver No. 1-03-072 considered by the Commission in May of 2004. The overall project is designed to

provide traffic congestion relief at the junction of Highway 101 with the first cross street in the northern part of the City ("V" Street) that connects northbound (5th Street) and southbound Highway 101 (4th Street). These intersections are two of the most highly congested areas in Eureka, and traffic volumes are expected to increase substantially over the next two decades. The California Department of Transportation (Caltrans) has recommended that the project be developed to minimize delay on Route 101 at "V" Street. The city and Caltrans have an agreement which transfers the responsibility for completing the project to the City. The two specific project elements proposed under the current application are described in more detail below:

Widening of "V" Street

The objectives of this element of the project are to provide for a greater turning radius for vehicles turning left onto "V" Street from 5th Street to better accommodate trucks and other large vehicles and to provide for a full six-foot-wide sidewalk along the entire east side of this section of "V" Street between 4th Street and 5th Street.

The street improvements previously approved by CDP Wavier No. 1-03-072 along this section of "V" Street involved adding a stacking lane to the existing two-lane street to store more of the vehicles that travel along "V" Street between the two one-way streets that comprise Highway 101. The stacking lane would be accommodated by narrowing the proposed lanes and converting most of a 50-foot-long section of the existing sidewalk to traffic lane, leaving only a 1.5-2-foot-wide sidewalk.

The proposed project involves (1) demolishing the remaining width of the sidewalk, (2) paving over the site of the demolished sidewalk and adjacent vacant land to create a total of approximately 100 square feet of expanded street area, and (3) constructing a full nine-foot-wide segment of sidewalk outboard of the widened street over an additional approximately 450 square feet of area (See Exhibit 4). The new outboard edge of the sidewalk would be approximately 13 linear feet farther east than the outboard edge of the current sidewalk.

As the ground slopes to the east from the existing edge of the sidewalk, the project includes placing a total of approximately 95 cubic yards of earthen fill to build up a base for the new segments of street and sidewalk and to create a new slope. The new fill slope would cover approximately 600 square feet between the outer edge of the reconstructed sidewalk and the toe of the slope. All fill would be placed in upland area, and the fill slope would be covered with erosion matting to prevent erosion and the entrainment of additional sediment into runoff from the site. The City proposes to seed the slope with native grass seed after construction.

This portion of the project also involves modifying a drop inlet and storm drainpipe that conveys runoff from the 5th and "V" intersection. CDP Waiver No. 1-03-072 authorized moving the drop inlet from adjacent to the existing curb on the east side of "V" Street to

what would have been the reconstructed curb several feet to the east. The proposed project involves moving the drop inlet an additional 10 linear feet to the new curb edge that would result from the proposed reconstruction of the sidewalk further to the east. The proposed project also includes replacing the eastern portion of the existing storm drain to slightly realign the 18-inch storm drain and extend it to the toe of the new fill slope adjacent to the edge of the wetland. The reconstructed storm drain would include a rock energy dissipater covering approximately 9 square feet of area at the end of the pipe.

Installation of Bus Turnout Facility on 5th Street.

The objective of this element of the project is to provide for a safe location for bus passengers to enter or leave buses without the buses blocking traffic. A bus stop currently exists along the south side of 5th Street at "U" Street. Sufficient room exists at this bus stop for buses to stop and avoid blocking traffic. However, with the street improvements approved by CDP Waiver No. 1-03-072 that were necessary to redue traffic congestion and additional improvements planned by Caltrans further west along 5th Street outside of the Commission's permit jurisdiction which include restriping 5th Street to add a third travel lane within the existing street section in this area, buses stopping at this existing bus stop would unavoidably block a lane of traffic. As a result, even though traffic flow overall is significantly improved by the street improvements approved by CDP Waiver No. 1-03-072, the existing bus stop would likely need to be discontinued unless the new expanded bus pullout at this existing bus stop location is created as proposed to provide a safe passenger loading area where the buses would not block traffic. The City indicates there is no other feasible location for a bus stop that would serve northbound passengers in the project vicinity. According to the City, the bus stop to the south of the project is located at 5th and "K" Street, approximately ¾ of a mile away from the 5th and "U" stop, and the area in between is all privately owned. Thus, relocating the bus stop further south would require the acquisition of additional property and adversely affect existing businesses along this section of 5th Street. The City believes relocating the bus stop to the south is not a feasible alternative and that just eliminating the current bus stop would also be unacceptable as eliminating the bus stop would leave the 5th and "K" bus stop as the last stop for northbound passengers, making access to the easterly area of the vicinity difficult for people who rely on the bus for transportation.

Other street improvements previously approved by CDP Wavier No. 1-03-072 along 5th Street at the site of the proposed bus turnout include extending the sidewalk, which currently ends a short distance beyond the existing bus shelter at the end of the "U" Street right-of-way. The sidewalk is authorized by CDP Waiver No. 1-03-072 to be extended all the way to "V" Street over an existing graveled area.

The changes proposed by the current project involve (1) realigning an approximately 125-foot-long segment of existing and approved sidewalk to go around the new bus turnout area, (2) paving an approximately 550 square-foot area inboard of the realigned sidewalk for the new bus turnout, and (3) relocating the existing bus shelter to a new 5-

foot by 9-foot concrete pad that would extend off the western end of the realigned sidewalk (See Exhibit 5). The new outboard edge of the realigned segment of sidewalk would extend a maximum of approximately 7 feet farther south than the outboard edge of the current and approved extended sidewalk. A total of approximately 680 square feet of additional area not currently paved or approved to be paved under CDP Wavier No. 1-03-072 would be paved for the bus turnout, the realigned sidewalk, and the new bus shelter pad.

As the ground slopes to the south from the existing edge of the sidewalk, the project includes placing a low retaining wall and a total of approximately 10 cubic yards of earthen fill to build up a base for the new segment of sidewalk. All fill would be placed in upland area. The City proposes to seed disturbed areas with native grass seed after construction.

This portion of the project also involves replacing and slightly relocating a drop inlet and storm drainpipe that conveys runoff from the 5th and "U" intersection. The new drop inlet and 24-inch storm drainpipe would be located approximately 7 feet to the west of the existing storm drain facility. The new storm drain would include a rock energy dissipater covering approximately 9 square feet of area at the end of the pipe.

Proposed BMPS

As proposed, the City would require the contractor to implement Best Management Practices (BMPs) to control erosion and sedimentation and protect water quality throughout construction of the proposed project. The proposed measures include:

- Scheduling construction to avoid rainy periods;
- Preserving existing vegetation;
- Installing straw mulch and matting on exposed soil;
- Installing velocity dissipaters at culvert outfalls;
- Installing silt fences, fiber rolls, and straw barriers;
- Hazardous waste management of petroleum products, asphalt products, paint, and other materials used in the project;
- Measures to prevent or reduce the discharge of pollutants from paving operations;
- Measures for cleaning, fueling, and maintaining vehicles and equipment; and
- Concrete waste management.

4. Water Quality

Coastal Act Section 30230 states as follows:

> *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special*

> *biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Coastal Act Section 30231 states as follows:

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Storm water runoff from new roadway improvement projects can adversely affect the biological productivity of coastal waters by degrading water quality. Section 30230 and 30231 of the Coastal Act require the protection of the biological productivity and quality of coastal waters. The proposed project includes the demolition of existing sidewalk and curb facilities and the pavement of a total of an additional 1,230 square feet of area to provide for a widened street area, a bus turnout facility and realigned sidewalks. Due to the project's location adjacent to wetland areas that are remnants of Cooper Gulch and First Slough, and which both ultimately drain to Eureka Slough and then on to Humboldt Bay, the proposed project has the potential to adversely impact water quality within a coastal stream, an estuary, and the marine environment. The project could result in adverse impacts to water quality from (a) construction-related impacts including erosion and sedimentation, discharges of debris, and accidental releases of hazardous construction-related materials entering coastal waters, and (b) pollutants entrained in storm water runoff from the completed impervious street, bus turnout, and sidewalk surfaces.

(a) Construction-Related Water Quality Impacts.

The project involves demolition of certain existing sidewalk and curb facilities, grading of both sites to provide suitable earthen foundations for the proposed street improvements, and the paving and construction of widened street areas, a bus turnout, and sidewalks. During site clearance, grading, and construction, erosion of exposed soils, the discharge of construction-related debris, and accidental spills or release of hazardous

materials, including concrete and equipment fluids, could result in water quality impacts to adjacent coastal waters.

The erosion of exposed soils during construction activities would result in the potential for increased sediment loads to the wetland areas adjacent to the construction sites and the downstream waterways, including First Slough, Eureka Slough, and Humboldt Bay. Increased sediment loads may adversely affect aquatic habitats in nearby water bodies by increasing turbidity, which can alter feeding behaviors, respiration, and reproductive functions of aquatic organisms including sensitive fish species. Both construction sites are perched at the top of relatively steep slopes above the wetland areas. As a result, runoff from the construction areas would be subject to greater flow velocities with greater sediment transport than if the project were performed in an area with a flat topography. Therefore, the potential for erosion and sedimentation from storm water runoff from the two project sites would be relatively high.

The proposed project incorporates several measures intended to control the erosion of exposed soils and minimize sedimentation of adjoining coastal waters during construction. As described in the project description finding above, the City would require the contractor to implement Best Management Practices (BMPs) to control erosion and sedimentation throughout construction of the proposed project. The specific sedimentation and erosion control measures proposed during construction are described in the application as including:

- Scheduling construction to avoid rainy periods;
- Preserving existing vegetation;
- Installing straw mulch and matting on exposed soil;
- Installing velocity dissipaters at culvert outfalls.
- Installing silt fences, fiber rolls, and straw barriers.

To ensure that these measures are implemented as proposed, the Commission attaches Special Condition No. 2, which requires the applicant to submit for the review and approval of the Executive Director, an erosion and sedimentation control plan. The plan is required to include provisions for: (1) confining earthwork activities to the non-rainy season; (2) preserving existing vegetation surrounding the construction areas as much as possible; (3) installing weed-free rice straw mulch and matting on exposed soil and maintaining the much and matting in place throughout the construction period; (4) installing silt fences, fiber rolls, and weed-free rice straw barriers on the down slope side of the construction areas and maintaining these barriers in place throughout the construction period; and (6) reseeding areas disturbed by construction with native vegetation. A sedimentation and erosion control measure that is not specifically proposed by the applicant as a best management practice is the stabilization and containment of stockpiles. Stockpiles of dirt and construction debris are subject to runoff erosion just as other areas of disturbed soils at project sites, and with the added height of

stockpiles above the ground, stockpiles of such material are also more exposed to wind erosion that can carry particulates into adjoining or nearby wetland areas. Therefore, Special Condition No. 2 also requires the inclusion of stabilization and containment of stockpiles in the erosion and sedimentation control plan.

In addition to impacts from storm water runoff and sedimentation, the water quality of coastal waters could be adversely affected by the discharge or release of demolition debris into the wetlands. The demolition of the existing segments of sidewalk and other paved areas would generate a significant amount of debris including concrete and asphalt. To ensure that any construction-related debris that is stored on site during construction is stored in a manner that will prevent the debris from entering coastal waters and that the debris is ultimately disposed of in an approved location, the Commission attaches Special Condition No. 1 requiring that prior to issuance of the coastal development permit, the applicant submit for the review and approval of the Executive Director, a plan for the temporary storage and disposal of construction-related debris including any potentially hazardous materials. The plan must show stockpile locations, describe the manner by which the material would be removed from the construction site, provide for the removal of all construction debris from the site within 30 days of project completion, identify all debris disposal sites that would be utilized and demonstrate that all disposal sites are in upland areas where construction-related debris from the project may be lawfully disposed.

The proposed project involves the use of potentially hazardous materials on site and near wetland areas. Potential contaminants include vehicle and heavy equipment fluids such as oil, grease, petroleum, hydraulic fluids, fuels, and coolants. In addition, the project includes the use of paint for street markings and the use of concrete and asphalt for sidewalk and street area construction. Paint, asphalt, wet concrete or cement powder, and heavy equipment fluids can be toxic to wildlife if they were to come in contact with coastal waters.

The proposed project incorporates several measures intended to prevent the release of such hazardous substances. As described in the project description finding above, the City would require the contractor to implement Best Management Practices (BMPs) to control the release of hazardous substances including:

- Hazardous waste management of petroleum products, asphalt products, paint, and other materials used in the project;
- Measures to prevent or reduce the discharge of pollutants from paving operations;
- Measures for cleaning, fueling, and maintaining vehicles and equipment; and
- Concrete waste management.

To ensure that these measures are implemented as proposed, the Commission attaches Special Condition No. 3 which requires the applicant to submit for the review and

approval of the Executive Director, a hazardous materials management plan. The plan is required to include specific provisions for: (1) limiting fueling to daylight hours in designated fueling areas only; (2) maintaining oil and chemical spill containment equipment on site and maintaining construction equipment to ensure the equipment is free of leaks, (3) measures for preparing and pouring cement to prevent discharges of wet cement; (4) provisions for the handling, cleanup and disposal of any hazardous or non-hazardous materials used during construction; (5) containing rinsate from the cleaning of equipment; and (6) reporting spills to the appropriate public and emergency services agencies in the event of a spill.

(b) Storm Water Runoff from Impervious Surfaces

Existing storm drains from both "V" Street and 5th Street discharge into the wetlands adjacent to the two project locations. Each storm drain conveys street runoff from the surrounding area. Neither storm drain includes an oil and water separator or other filtration device designed to remove pollutants from storm water before discharge, other than a standard drop inlet grate. Pollutants generally related to urban street runoff that could be generated at each site and entrained in the runoff discharged through the storm drains include trash and debris, sediment, oil and grease from automobiles, heavy metals associated with automobile tires and brake pads, and chemicals.

The proposed project would increase the amount of street and sidewalk area, both of which are impervious surfaces that would contribute a greater amount of polluted runoff to the storm drains in the two project locations than flows from either the existing street development or the street development with the modifications approved by CDP Waiver No. 1-03-072. The proposed modifications to one of the two storm drains that would be modified by the project would allow for biofiltration treatment of the discharge from the drain. The existing 24-inch storm drain that conveys runoff away from the 5th and "U" intersection to the riparian ESHA south of 5th Street would be replaced and relocated approximately 7 feet to the west of the existing storm drain facility and would include a rock energy dissipater at the end of the pipe. In its current location, the storm drain outlet is very close to the riparian ESHA and does not have an energy dissipater that would slow the discharge. As a result, the discharge from this storm drain flows untreated into the riparian ESHA at a rate that is causing erosion of the hill slope and causing even greater sedimentation of the wetland below the riparian area.

In its new location, the proposed replacement storm drain would discharge into a vegetated area adjacent to the riparian ESHA. The proposed rock energy dissipater would slow the flow of water from the outfall to minimize erosion of the hill slope and resulting sedimentation of the wetland. After being reduced in speed by the energy dissipater, the discharge would flow through the vegetated area which would act to filter out pollutants before the discharge drains towards the riparian area and the wetland below.

The use of biofiltration to treat the discharge from the replacement storm drain at the 5th and "U" Street location would be effective in minimizing the discharge's adverse impacts to water quality. To ensure that the proposed biofiltration system is effectively implemented as proposed, the Commission attaches Special Condition No. 4. Special Condition No. 4 requires the applicant to submit for the review and approval of the Executive Director, a storm water runoff control plan. Among other things, the plan is required to include specific provisions for: (1) installing an energy dissipater at the outfall end of the proposed relocated storm drain, and (2) designing the storm drain to discharge to the vegetated area to allow for biofiltration of pollutants contained in the discharge.

No opportunity exists to provide similar biofiltration treatment of the discharge from the storm drain at the "V" Street location because of a lack of space. The existing storm drain at this location outlets midway up the slope that extends up from the wetland swale to the current "V" Street sidewalk. The outfall of this storm drain does not include an energy dissipater, and the discharge is eroding the earthen slope, resulting in additional sedimentation of the wetland below. The storm drain must be modified to accommodate the proposed project, as the existing slope area would be covered with new upland fill to create a foundation for the proposed expansion of the street area of "V" Street and the sidewalk. The eastern portion of the existing storm drain would be replaced to slightly realign the 18-inch storm drain and extend it to the toe of the new fill slope adjacent to the edge of the wetland. The reconstructed storm drain would include a rock energy dissipater at the end of the pipe, directly adjacent to the wetland. By locating the outfall near the toe of the slope and including a rock energy dissipater, the proposed modifications to the outfall would minimize erosion of the fill slope and the resulting sedimentation of the wetland that is currently occurring.

However, no treatment best management practices are proposed to provide filtration of pollutants already entrained within the storm water before the runoff enters the wetlands. There is no space at the end of the dissipater for a non-wetland vegetative area to provide for biofiltration of the discharge as the toe of both the existing and regraded fill slope abuts the wetland and the proposed discharge point is immediately adjacent to the wetland. No other treatment measure is proposed.

Some level of treatment of the discharge from this storm drain is necessary to ensure that the pollutants in the greater volume of storm water runoff that would be generated by the proposed expansion of street and sidewalk paving would not adversely affect the biological productivity and the quality of the adjoining wetland and downstream coastal waters consistent with Sections 30230 and 30231 of the Coastal Act. A mechanical filtration system is available that could be employed in the design of the modified storm drain to minimize the discharge of pollutants from the storm water conveyed through the drain. Continuous deflective separation (CDS) units are cylindrical underground structures that separate pollutants from storm water runoff using fluid dynamics. CDS units are typically installed in locations where space is not available for

detention/retention ponds, grass swales, sand filters, or other large treatment facilities. Flows entering the CDS unit flow through a separation chamber and begin a circular motion that is hydraulically designed to allow the flow to pass through a cylindrical stainless steel screen while the screen traps and retains pollutants. Floatable and neutrally buoyant debris, sediment, and other pollutants collect in the center of the chamber, with heavier pollutants settling into a central sump, where they can be removed by vacuum or a removable basket as needed (one to four times each year). Floatables are retained in the separation chamber above the submerged screen. After water passes through the screen, the water moves under an oil-skimmer baffle and continues downstream in the storm water drain. The baffle prevents oil and grease from escaping the CDS unit. According to the Journal "Stormwater," CDS units permanently remove virtually 100% of floatables and 100% of all particles greater than one-half the size of the screen opening from storm water flows up to their treatment capacity. In addition, the journal reports that CDS units have a small footprint and are relatively easy to install and maintain.

To ensure that the increased discharge that would result from the project from the storm drain that extends south of "V" Street between 4th and 5th Streets and the relocation of the discharge to a point directly adjacent to the wetland would not adversely affect biological productivity and water quality of the adjoining wetland and downstream coastal waters, the Commission imposes Special Condition No. 4. This condition requires that the storm water runoff control plan required to be submitted for the review and approval of the Executive Director include specific provisions for installing a CDS unit equipped with an oil-skimmer baffle. The unit is required to be designed to filter storm water runoff from each storm, up to and including the 85th percentile, 1-hour storm event with an appropriate safety factor of 2 or greater. CDS units require cleaning periodically in accordance with the maintenance schedule suggested by the manufacturer of the unit to prevent clogging of the system. Therefore, Special Condition No. 4 also requires that the runoff control plan include provisions for maintaining the CDS unit in accordance with the manufacturer's recommended maintenance schedule for inspections, cleaning, and record keeping. This provision will ensure that the CDS unit will remain effective at removing pollutants. Furthermore, the special condition requires that the rock energy dissipater be installed as proposed at the end of the storm drain to minimize erosion and additional sedimentation of the wetland.

Therefore, the Commission finds that as conditioned, the project would minimize adverse effects to water quality by controlling the quality of site runoff and is consistent with the requirements of 30230 and 30231 of the Coastal Act that the biological productivity and the quality of coastal waters be maintained and enhanced were feasible.

Conclusion

With the implementation of the storm water BMPs during and after construction, including erosion control measures, proper debris disposal, management of hazardous materials used in the construction process, the use of biofiltration to treat the discharge

from the 5th street storm drain, and the use of a CDS storm water treatment unit to treat the discharge from the "V" Street storm drain, the project as conditioned would substantially reduce the potential pollutants reaching the wetlands associated with First Slough and Eureka Slough, thereby protecting the water quality and biological productivity of these areas. Therefore, the Commission finds that the project as conditioned is consistent with Sections 30230 and 30231 of the Coastal Act.

5. Protection of Environmentally Sensitive Habitat Area (ESHA)

Section 30240 of the Coastal Act states in applicable part:

> *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
>
> *(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Section 30240(b) requires that environmentally sensitive habitat areas (ESHAs) be protected against any significant disruption of habitat values potentially resulting from adjacent development.

As described in the site description finding, the project area is located along the remnants of First Slough and the Cooper Gulch Basin, and both portions of the project site are located adjacent to wetland and riparian ESHA that are associated with the slough and drainage. The proposed improvements along "V" Street would be constructed near the end of an approximately 20-foot-wide wetland swale that extends east away from "V" Street along northbound 101 where it eventually broadens into a pond. The pond and lower portions of the swale are tidally influenced and contain brackish marsh species. A riparian ESHA area adjoins the north side of the pond and extends northward up onto a slope (See Exhibit 6).

The proposed bus turnout improvements along 5th Street would be constructed adjacent to a wetland habitat connected to the remnants of First Slough by a culvert under "V" Street and to the upper Cooper Gulch basin via another culvert. The channel and adjoining areas of the wetland contain salt marsh and brackish marsh characterized by the biological assessment as "exceptionally high quality, containing high species diversity with a small percentage of exotic species." A small area of former marsh in the southwest corner of the wetland area appears to have been historically filled, and currently ranges 0.5-1 foot elevation above the adjacent marsh. Although this area has been filled, the filled area qualifies as wetlands under the Coastal Act. Much of the

overall wetland area contains a dense willow over-story which extends up onto the fill slopes along 5th Street. The biological assessment identifies the riparian canopy as riparian habitat ESHA.

To ensure that development adjacent to an ESHA is sited and designed to prevent impacts which would significantly degrade those areas and is compatible with the continuance of the habitat consistent with Section 30240(b) of the Coastal Act, the Commission requires that an adequate spatial buffer be established between the proposed development and the ESHA. Spatial buffers are commonly required to be at least 100 feet in width. Spatial 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 can provide a vegetated area to capture and treat drainage and storm water runoff from development to minimize the amount of pollutants potentially entering environmentally sensitive habitat areas and receiving waters.

In both locations, the existing street improvements are already located much closer to the ESHA than 100 feet, and the proposed street improvements would reduce the spatial buffer between the development and the ESHA even further. At the "V" Street site, the existing sidewalk is as close as 33 feet to the edge of the wetland swale. The proposed street and sidewalk improvements at this location would extend as close as 20 feet to the edge of the wetland.

At the 5th Street site, the existing sidewalk is as close as 12 feet to the edge of the riparian ESHA. Construction of the proposed bus turnout and realigned sidewalk around the bus turnout extends the street improvements to within 5 feet of the riparian ESHA.

However, even though the proposed development would reduce the available separation between the street development and the ESHA, in both locations, the existing spatial buffers are much narrower than 100 feet and are so small that they do not serve as valuable buffers for the adjacent habitat from impacts from traffic, street runoff, and human activity. The proposed development, as conditioned would make physical improvements to the buffer that would improve protection of the adjacent ESHA areas and would be compatible with the continuance of the habitat consistent with the requirements of Section 30240(a) of the Coastal Act, despite the fact that the buffers in each case would be somewhat narrower than they are at present.

At the "V" Street location, the project, as conditioned, would better protect the wetland swale from sedimentation and other water quality impacts than the wetland is currently protected in a couple of ways. First, as discussed in the water quality finding above, the

proposed project would modify the configuration of the storm drain in a way that would reduce erosion and sedimentation of the adjoining wetland from the storm drain itself. The discharge point would be relocated to the base of the slope and fitted with a rock energy dissipater. The proposed energy dissipater would slow the flow of water from the outfall to minimize erosion and resulting sedimentation of the wetland. Second, the requirements of Special Condition No. 4 that a continuous deflective separation (CDS) unit be installed with the modified storm drain would greatly reduce the discharge of pollutants from the storm drain into the wetland and downstream coastal waters. As discussed in the water quality finding above, such units can remove virtually 100% of floatables and 100% of all particles greater than one-half the size of the screen opening from storm water flows up to their treatment capacity. In addition, the CDS unit is required to be equipped with an oil-skimmer baffle that would serve to remove oil and grease that would be entrained in the street runoff that is discharged through the storm drain.

The Commission notes that the most significant impacts to the wetland habitat off of "V" Street caused by the urban street use and development along "V" Street result from storm drain discharges. The configuration of the wetland relative to adjoining development reduces the significance of any adverse impacts that noise and light impacts from traffic and pedestrian activity on "V" Street has on the wetland. Both the existing and proposed modified street and sidewalk configurations front on only the narrow 20-foot-wide end of the wetland swale. The wetland swale extends hundreds of feet to the east and broadens into a pond at a location approximately 250 feet east of the proposed relocated sidewalk. The swale is adjoined closely on its southern side by northbound 101 for a much longer distance than the 20 feet that "V" Street adjoins the end of the wetland swale. The swale is adjoined closely on its northern side by a restaurant and parking lot. The noise and light impacts from the commercial and highway development to the north and south of the swale overshadow any additional noise and light impact that would be generated by expanding "V" Street and its sidewalk closer to the western end of the narrow wetland in this location.

At the 5th Street location, the development as conditioned would also better protect the riparian and wetland ESHA from sedimentation and other water quality impacts. The existing storm drain at this site does not contain an energy dissipater and discharges at a point very close to the riparian ESHA. As a result, the water flowing out of the storm drain causes erosion of the slope where it discharges and contributes sedimentation to the downslope wetland. In addition, the discharge from the existing outfall is not treated in any way. The proposed modifications to the storm drain include the installation of an energy dissipater at the outfall end of the drain. As with the energy dissipater to be installed at the end of the "V" Street storm drain, the energy dissipater would slow the flow of water from the outfall to minimize erosion and resulting sedimentation of the downslope wetland. In addition, as discussed in the water quality finding above, the modifications to the storm drain would allow for the discharge to be treated by biofiltration by vegetation outside of the riparian ESHA. The discharge point will be

moved away from the riparian habitat in a manner that would allow for the discharge to flow through a vegetated area that would serve to filter and remove pollutants from the discharge. The requirements of Special Condition No. 4 that a storm water runoff plan be submitted for the review and approval of the Executive Director that specifically provides for biofiltration of pollutants from the storm drain discharge will ensure that this treatment measure will be implemented.

The proposed bus turnout development at 5th Street could potentially increase the disturbance of wildlife use of the adjoining riparian and wetland ESHA. The project would move the location where buses stop and passengers embark and disembark approximately 7 feet closer to the ESHA. The noise of braking and accelerating buses, and the voices and movement of passengers waiting for buses at the proposed bus turnout location would cause somewhat greater disturbance to birds and other wildlife using the riparian and wetland habitat than these same effects from the existing roadway development. To minimize this impact on the ESHA, the Commission attaches Special Condition No. 5 which requires the submittal for the review and approval of the Executive Director a plan for the installation of a low fence next to the sidewalk that would be realigned around the new bus turnout. The condition requires that the fence be at least four feet in height, be of solid wood construction, and extend for a minimum distance of 125 feet along the entire length of the portion of the sidewalk that flanks the bus turnout. As the riparian and wetland ESHA is downslope of the bus turnout and 5th Street, the line of view between the bus turnout and the ESHA is at a steep angle. As a result, a solid four-foot-high fence would be sufficient to screen most of the activity at the bus stop from the view of wildlife using the ESHA below. The required fence would also be of value in blocking wind-blown trash generated at the bus stop and nearby areas from blowing into the ESHA. Furthermore, the fence would discourage pedestrians from wandering down into the ESHA from the 5th Street sidewalk.

The required fence would not only have value in avoiding degradation of the adjoining ESHA from the impacts of the proposed project, it would also have value in reducing these same kinds of impacts from the rest of the street in the immediate project vicinity. Currently there is no visual or noise screen, barrier to windblown trash, or even a symbolic barrier to discourage pedestrians from wandering into the adjoining ESHA. Therefore, the project as conditioned would improve the protection of the adjacent ESHA areas from these impacts of existing development.

As discussed above in the Water Quality Finding, the project as conditioned would include mitigation measures that would protect the water quality of the adjoining ESHAs from the impacts of project construction activities. Special Condition Nos. 1-4 require the submittal for the review and approval of the Executive Director of debris disposal, storm water runoff and erosion control, and hazardous materials management plans. The debris disposal plan would protect against construction-related water quality impacts by requiring that all construction-related debris be stored properly on site and ultimately removed from the project site and adequately disposed of in an approved upland location.

The storm water runoff and erosion control plan would protect against construction related water quality impacts by requiring that: (1) earthwork activities be confined to the non-rainy season; (2) existing vegetation surrounding the construction areas be preserved as much as possible; (3) weed-free rice straw mulch and matting on exposed soil be installed and maintained in place throughout the construction period; (4) velocity dissipaters be installed at the culvert outfalls during project construction; (5) silt fences, fiber rolls, and weed-free rice straw barriers be installed on the downslope side of the construction areas and maintained in place throughout the construction period; (6) stockpiles of dirt and construction debris be stabilized and contained; and (7) disturbed areas be replanted or seeded with native vegetation following project completion. The hazardous materials management plan would protect against construction-related water quality impacts by requiring that: (1) fueling be limited to daylight hours in designated fueling areas only; (2) oil spill containment equipment be maintained on site and that construction equipment be maintained to ensure the equipment is free of leaks, (3) measures for preparing and pouring cement be implemented to prevent discharges of wet cement; (4) measures for the handling, cleanup and disposal of any hazardous or non-hazardous materials used during construction be established; (5) spill containment facilities be maintained; (6) measures to contain rinsate from the cleaning of equipment; and (7) measures to report spills to the appropriate agencies be implemented.

Even with the buffer improvements, the ESHA could also be adversely affected if non-native, invasive plant species were introduced at the site. Introduced invasive exotic plant species could spread into the ESHA and displace native wetland vegetation, thereby disrupting the value and function of the adjacent ESHA. The erosion and runoff control plan required by Special Condition No. 4 requires the applicant to seed disturbed areas with only non-invasive plants to ensure that no exotic invasive plants are introduced as part of the approved project.

The Commission finds that with the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent environmentally sensitive habitat area from visual and noise disturbance, erosion and sedimentation, the discharges of pollutants in storm water runoff, and the introduction of invasive exotic plants, the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the habitat area.

The Commission further finds that in this particular case, narrow buffer areas with the fencing and water quality measures that are required to be implemented by Special Condition Nos. 1-5, are appropriate to buffer the potential impacts of the proposed urban street development on ESHA for several reasons. First, as discussed above, the project as conditioned to require the specified mitigation measures will minimize any potential significant adverse impact and will ensure that the project as proposed will not significantly degrade the adjacent ESHA. Second, the existing buffer areas between the ESHA and the existing street improvements are already very narrow, cannot be expanded, and have very little value in buffering the ESHA from the impacts of the

existing urban street development at the site. Finally, despite narrowing the buffer areas even more, with the required (1) installation of storm drain energy dissipaters, (2) installation of a continuous deflective separation unit to treat the discharges of one of the two storm drains that would be modified by the project and the incorporation of biofiltration treatment for the other storm drain, and (3) installation of the screening fence along the approved bus turnout sidewalk, greater protection for the ESHA from the impacts of the urban street development will be provided by the proposed project than is provided currently by the somewhat larger spatial separation between the existing street improvements and the ESHA.

Therefore, the Commission finds that the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the habitat area consistent with Section 30240(b) of the Coastal Act.

6. Archaeological Resources

Section 30244 of the Coastal Act states that reasonable mitigation measures shall be required where development would adversely impact archaeological resources.

The proposed project is within the ethnographic territory of the Wiyot people. Wiyot settlements lay along Humboldt Bay and along the banks of many of the streams and sloughs in the area. An archaeological investigation was conducted for the project in 2001 by an archaeologist with the Department of Transportation. The investigation included a literature search, a field survey, and consultation with a tribal representative. The archaeological investigation report indicates that no archaeological materials were observed within the project areas surveyed, and that no further archaeological evaluation should be necessary if the project is constructed as currently planned. However, the report recommends that if buried archaeological resources are encountered during construction activities, all work in the area should terminate until a qualified archaeologist can evaluate the materials to determine their significance.

To ensure protection of any archaeological resources that may be discovered at the site during construction of the proposed project, the Commission attaches Special Condition No. 7. The condition requires that if an area of archaeological deposits is discovered during the course of the project, all construction must cease and a qualified archaeologist must analyze the significance of the find. To recommence construction following discovery of archaeological deposits, the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director to determine whether the changes are *de minimis* in nature and scope, or whether an amendment to this permit is required.

Therefore, the Commission finds that the proposed project, as conditioned, would not result in adverse impacts to cultural resources and would be consistent with Section 30244 of the Coastal Act.

7. Public Access

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

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

Although the project site is located near First Slough and Humboldt Bay, the proposed project would not adversely affect public access. The two locations of the proposed project along "V" Street between 5th and 4th and along 5th Street, between "U" and "V" are adjacent to wetland and ESHA areas, but the two sites are not located adjacent to the open slough or to the shoreline of Humboldt Bay. Intervening roadways and other development are located between the project sites and the remains of First Slough and the Humboldt Bay shoreline. Furthermore, to the extent that the public utilizes 5th Street and "V" Street on journeys to the First Slough and Humboldt Bay shorelines, the proposed project would help facilitate access. The improvements along "V" Street would widen the approximately 6-foot-wide sidewalk along "V" Street as it is currently permitted pursuant to CDP Waiver No. 1-03-072 to make it a continuous 9-foot-wide sidewalk that would be safer and easier to walk on. The bus turnout facility proposed on 5th Street would ensure that a bus stop with a safe bus loading and unloading area is provided in the vicinity to facilitate people who may wish to reach the shoreline by bus. Finally, the proposed project is part of a larger traffic congestion relief project that will make it easier for motorists and bicyclists to reach nearby shoreline areas for public access purposes. Moreover, the proposed project would not create any new demand for public access or otherwise create any additional burdens on public access.

Therefore, the Commission finds that the proposed project does not have any significant adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

8. California Environmental Quality Act.

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

The Commission incorporates its findings on conformity with the Chapter 3 policies of the Coastal Act at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed herein, in the findings addressing the consistency of the proposed project with the Chapter 3 policies of the Coastal Act, the proposed project has been conditioned to be found consistent with the Coastal Act. Mitigation measures, which will minimize all adverse environmental impacts have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

Exhibits

1. Regional Location
2. Location Map
3. Vicinity Map
4. "V" Street Site Plan
5. 5th Street Bus Turnout Site Plan
6. ESHA and Wetland Maps

ATTACHMENT

Standard Conditions:

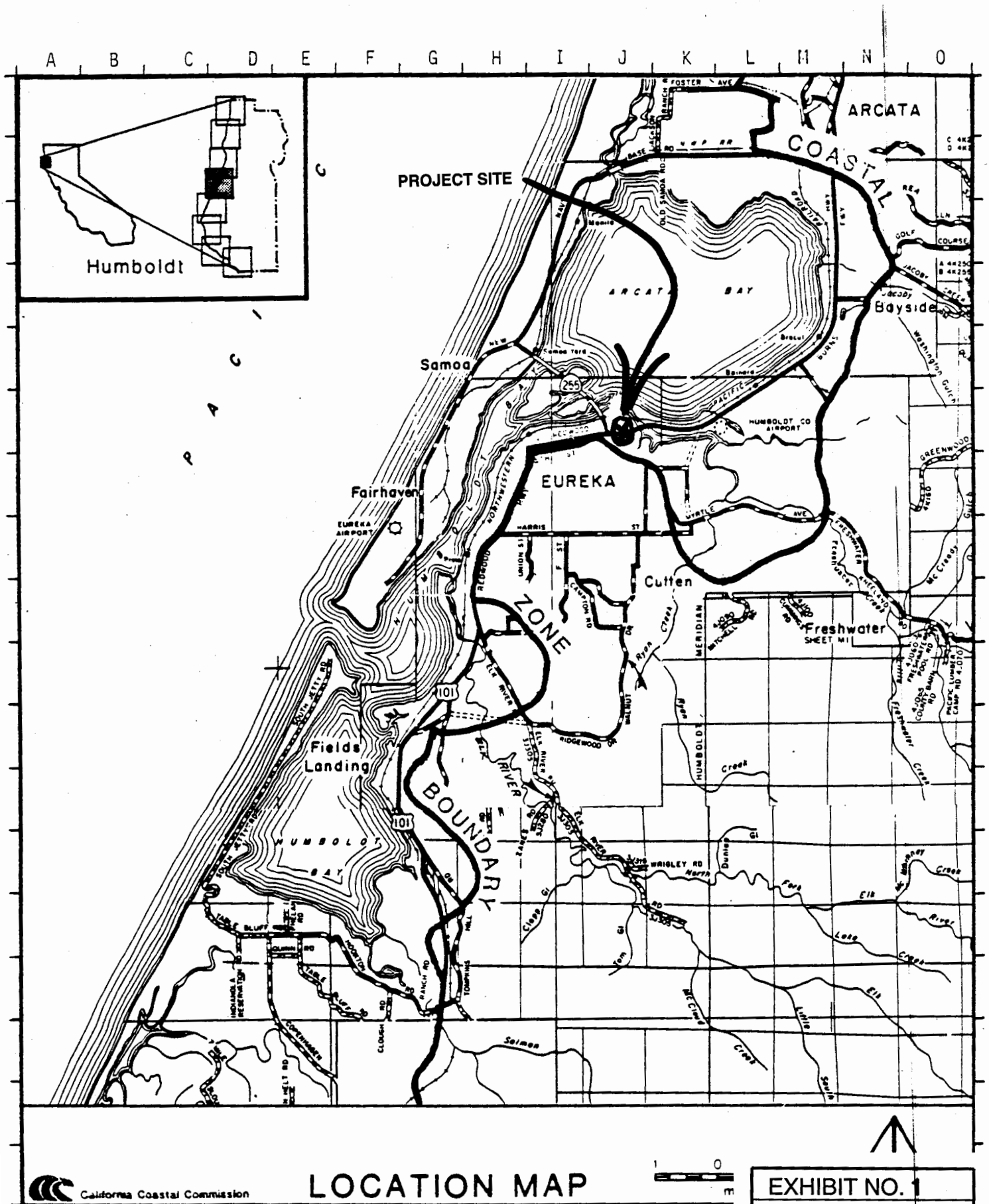
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



California Coastal Commission

LOCATION MAP

1 0

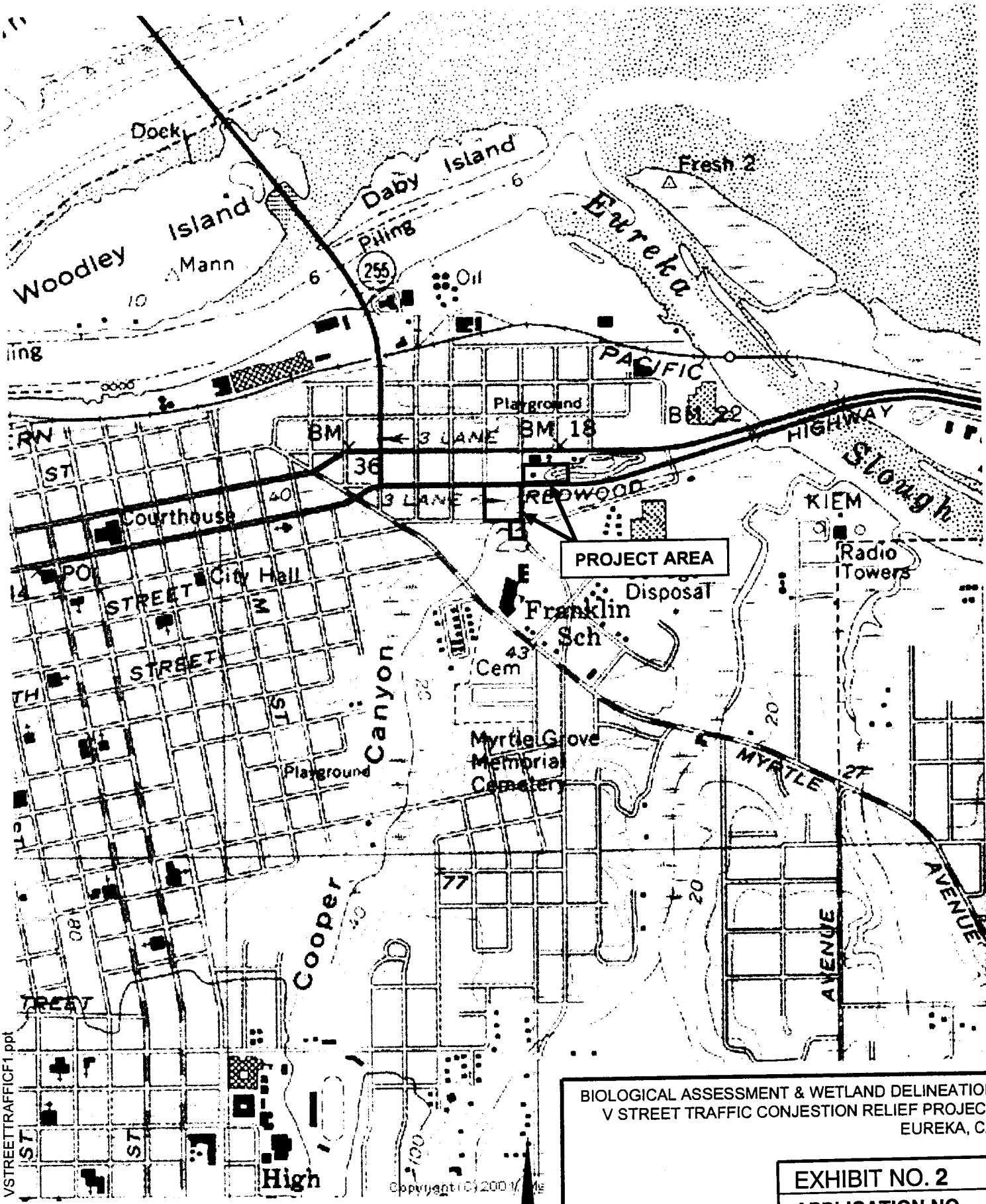
County of Humboldt

EXHIBIT NO. 1

APPLICATION NO.
1-04-027

CITY OF EUREKA

REGIONAL LOCATION



VSTREETTRAFFICF1.ppt

SCALE: 1" = ~1,200'
EUREKA USGS 7.5' BASE MAP

BIOLOGICAL ASSESSMENT & WETLAND DELINEATION
V STREET TRAFFIC CONJESTION RELIEF PROJECT
EUREKA, CA

SHN

EXHIBIT NO. 2

APPLICATION NO.
1-04-027

CITY OF EUREKA

LOCATION MAP

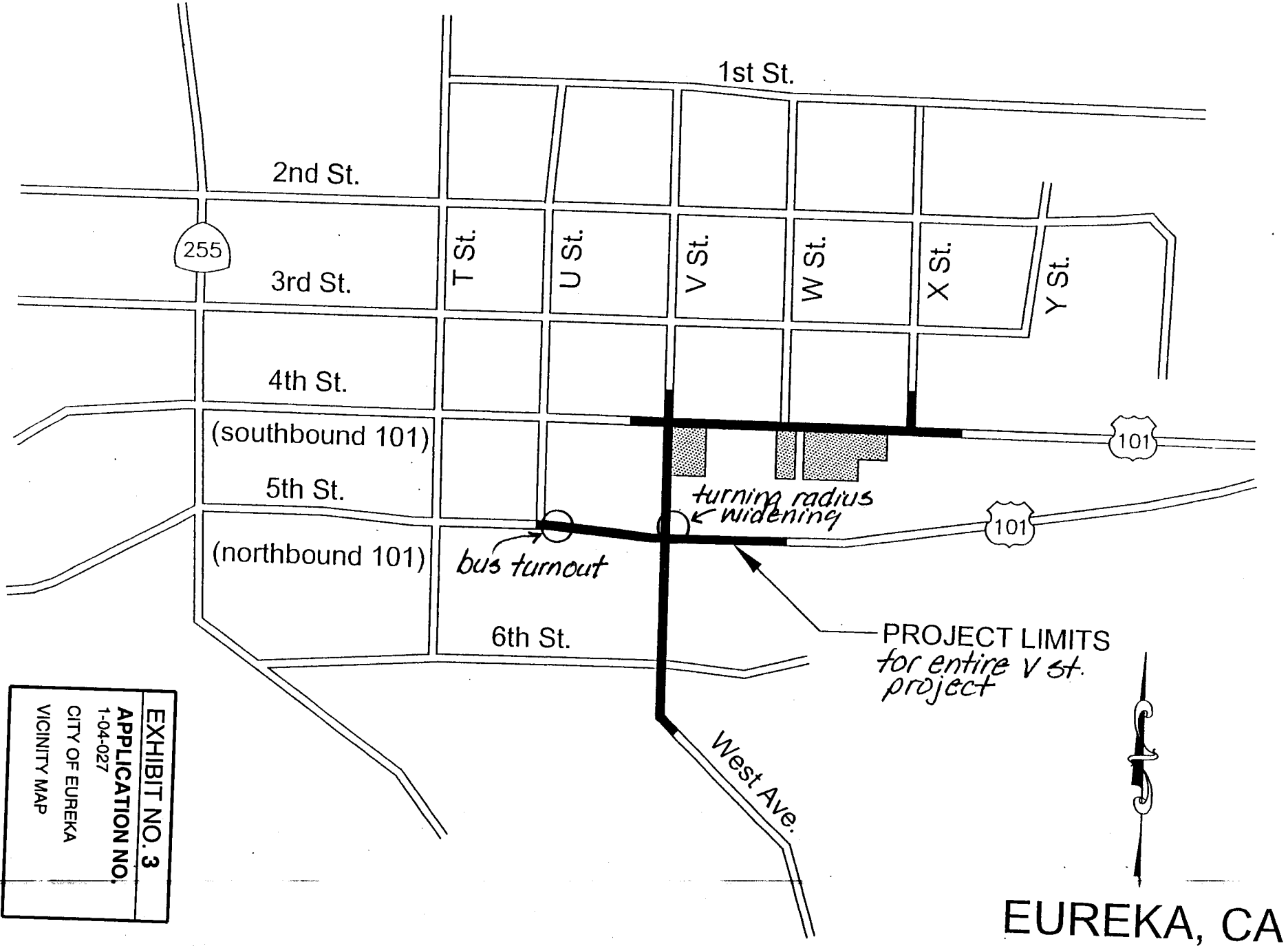


EXHIBIT NO. 3
APPLICATION NO.
1-04-027
CITY OF EUREKA
VICINITY MAP

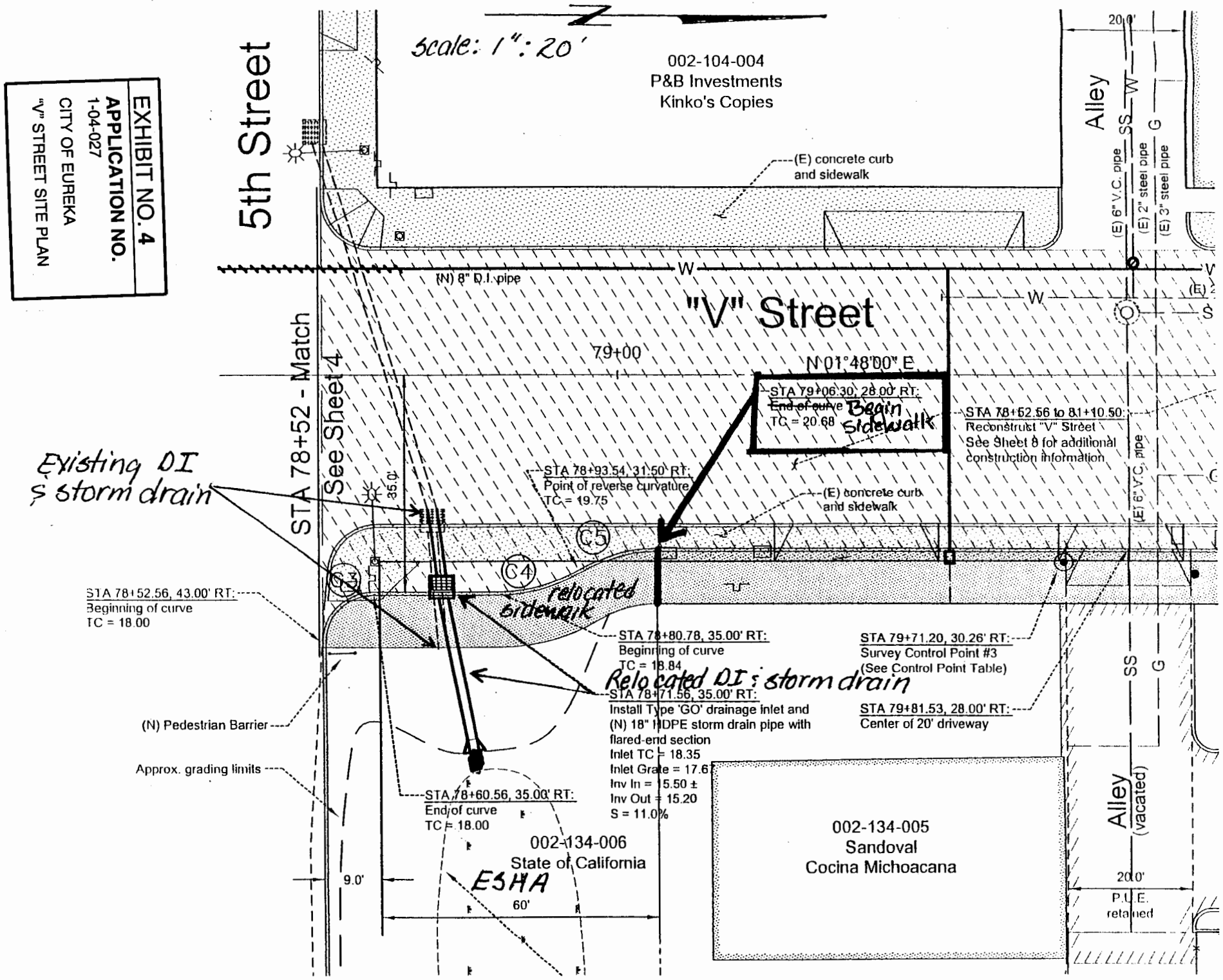
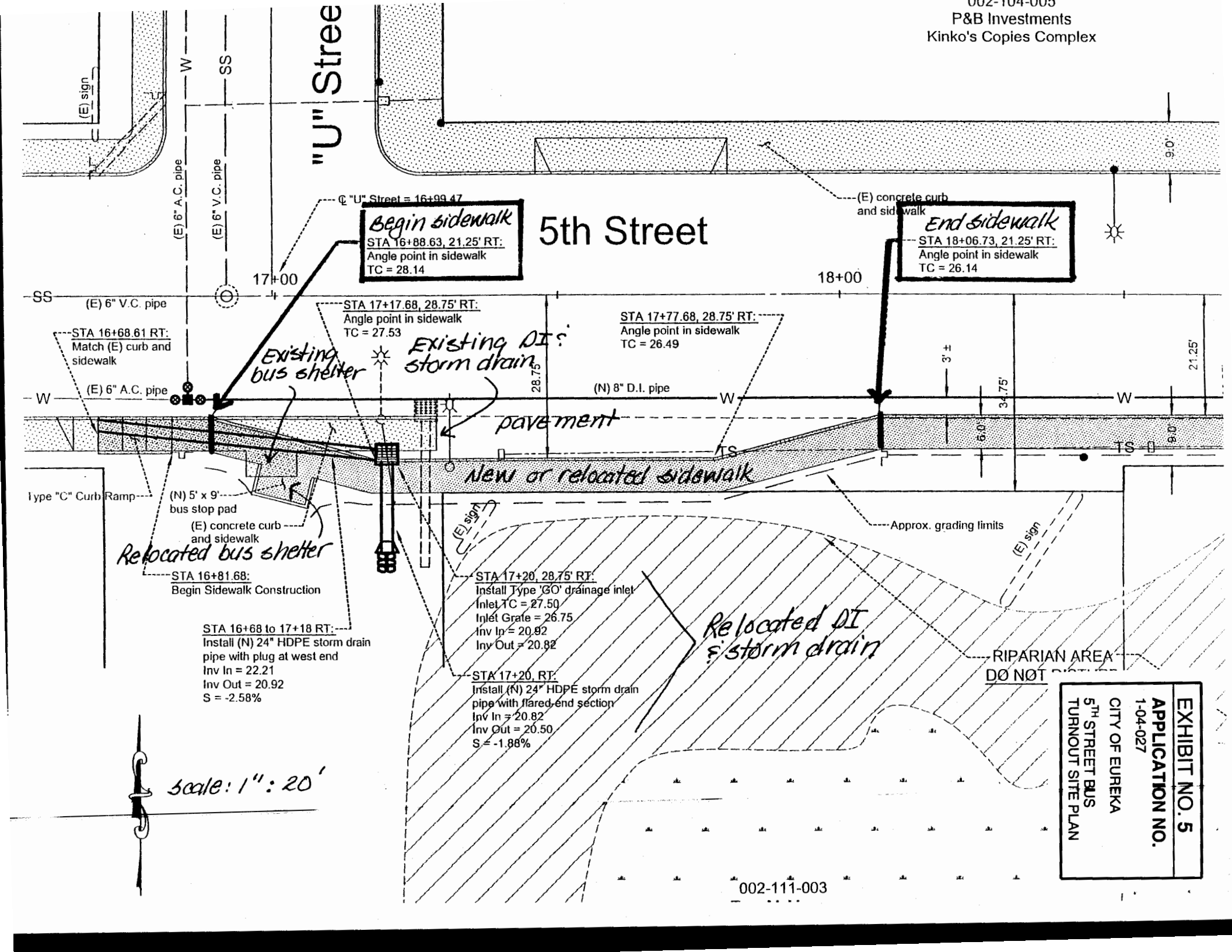


EXHIBIT NO. 4
APPLICATION NO.
1-04-027
CITY OF EUREKA
"V" STREET SITE PLAN
Scale: 1": 20'
5th Street
002-104-004
P&B Investments
Kinko's Copies
Alley
(E) concrete curb and sidewalk
(E) 6" V.C. pipe
(E) 2" steel pipe
(E) 3" steel pipe
SS
W
G
(N) 8" D.I. pipe
"V" Street
79+00
N 01°48'00" E
STA 78+52 - Match See Sheet 4
STA 79+06.30, 28.00' RT:
End of curve
TC = 20.68
Begin Sidewalk
STA 78+52.56 to 81+10.50:
Reconstruct "V" Street
See Sheet 8 for additional construction information
Existing DI & storm drain
STA 78+93.54, 31.50' RT:
Point of reverse curvature
TC = 19.75
(E) concrete curb and sidewalk
C5
C4
C3
35.0'
STA 78+52.56, 43.00' RT:
Beginning of curve
TC = 18.00
relocated sidewalk
STA 78+80.78, 35.00' RT:
Beginning of curve
TC = 18.84
STA 79+71.20, 30.26' RT:
Survey Control Point #3
(See Control Point Table)
Relocated DI & storm drain
STA 78+71.56, 35.00' RT:
Install Type 'GO' drainage inlet and (N) 18" HDPE storm drain pipe with flared-end section
Inlet TC = 18.35
Inlet Grate = 17.67
Inv In = 15.50 ±
Inv Out = 15.20
S = 11.0%
STA 79+81.53, 28.00' RT:
Center of 20' driveway
(N) Pedestrian Barrier
Approx. grading limits
STA 78+60.56, 35.00' RT:
End of curve
TC = 18.00
002-134-006
State of California
ESHA
9.0'
60'
002-134-005
Sandoval
Cocina Michoacana
Alley (vacated)
20.0'
P.U.E. retained


002-104-005
P&B Investments
Kinko's Copies Complex
"U" Street
(E) sign
W
SS
(E) 6" A.C. pipe
(E) 6" V.C. pipe
℄ "U" Street = 16+99.47
Begin sidewalk
STA 16+88.63, 21.25' RT:
Angle point in sidewalk
TC = 28.14
5th Street
(E) concrete curb and sidewalk
End sidewalk
STA 18+06.73, 21.25' RT:
Angle point in sidewalk
TC = 26.14
17+00
18+00
SS
(E) 6" V.C. pipe
STA 17+17.68, 28.75' RT:
Angle point in sidewalk
TC = 27.53
STA 17+77.68, 28.75' RT:
Angle point in sidewalk
TC = 26.49
STA 16+68.61 RT:
Match (E) curb and sidewalk
Existing bus shelter
Existing DI & storm drain
28.75'
(N) 8" D.I. pipe
3' ±
34.75'
21.25'
W
(E) 6" A.C. pipe
pavement
6.0'
9.0'
TS
New or relocated sidewalk
Type "C" Curb Ramp
(N) 5' x 9' bus stop pad
(E) concrete curb and sidewalk
Relocated bus shelter
Approx. grading limits
(E) sign
STA 16+81.68:
Begin Sidewalk Construction
STA 17+20, 28.75' RT:
Install Type 'GO' drainage inlet
Inlet TC = 27.50
Inlet Grate = 26.75
Inv In = 20.92
Inv Out = 20.82
Relocated DI & storm drain
STA 16+68 to 17+18 RT:
Install (N) 24" HDPE storm drain pipe with plug at west end
Inv In = 22.21
Inv Out = 20.92
S = -2.58%
STA 17+20, RT:
Install (N) 24" HDPE storm drain pipe with flared end section
Inv In = 20.82
Inv Out = 20.50
S = -1.88%
RIPARIAN AREA
DO NOT
Scale: 1": 20'
002-111-003
EXHIBIT NO. 5
APPLICATION NO.
1-04-027
CITY OF EUREKA
5TH STREET BUS
TURNOUT SITE PLAN

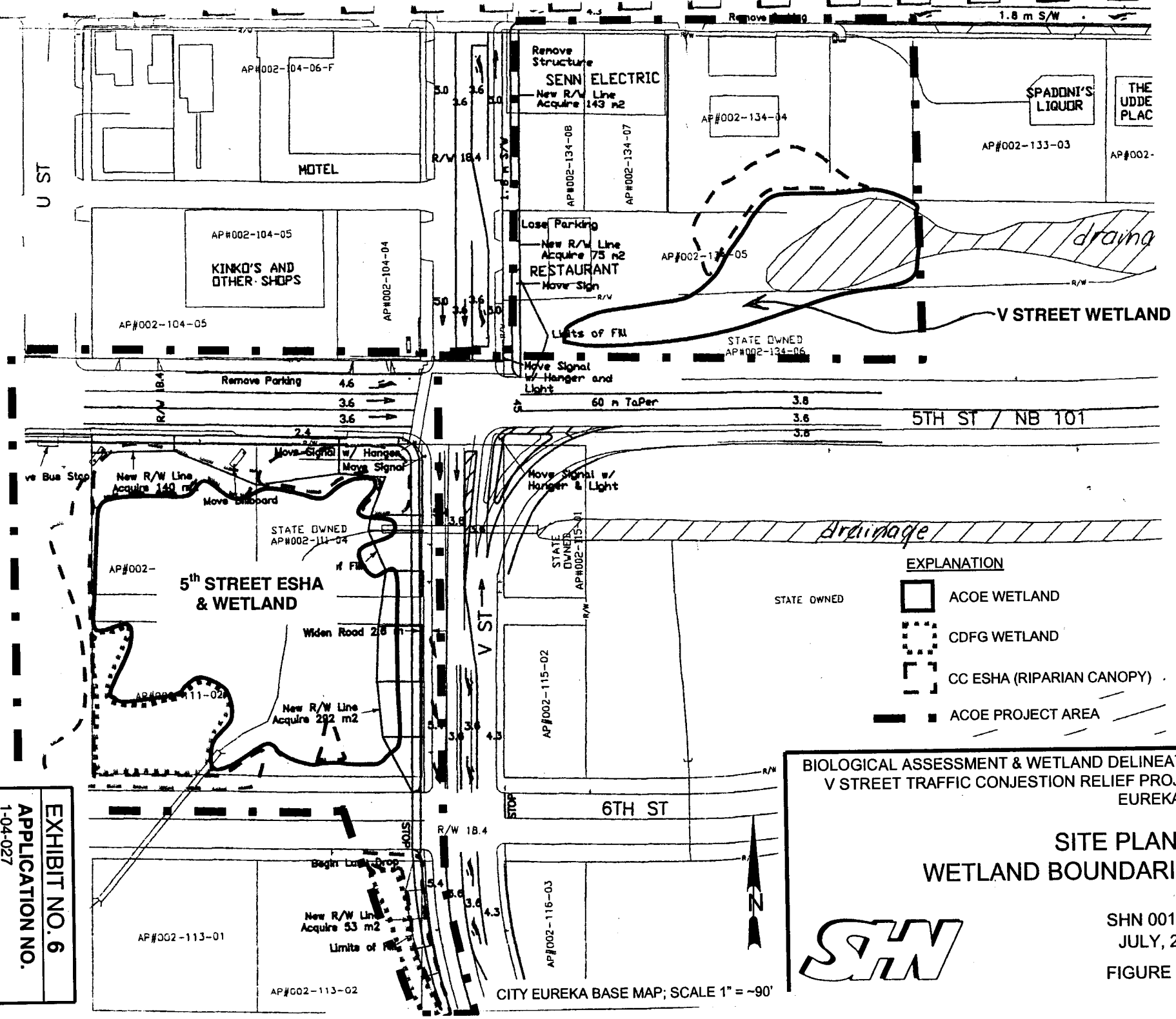
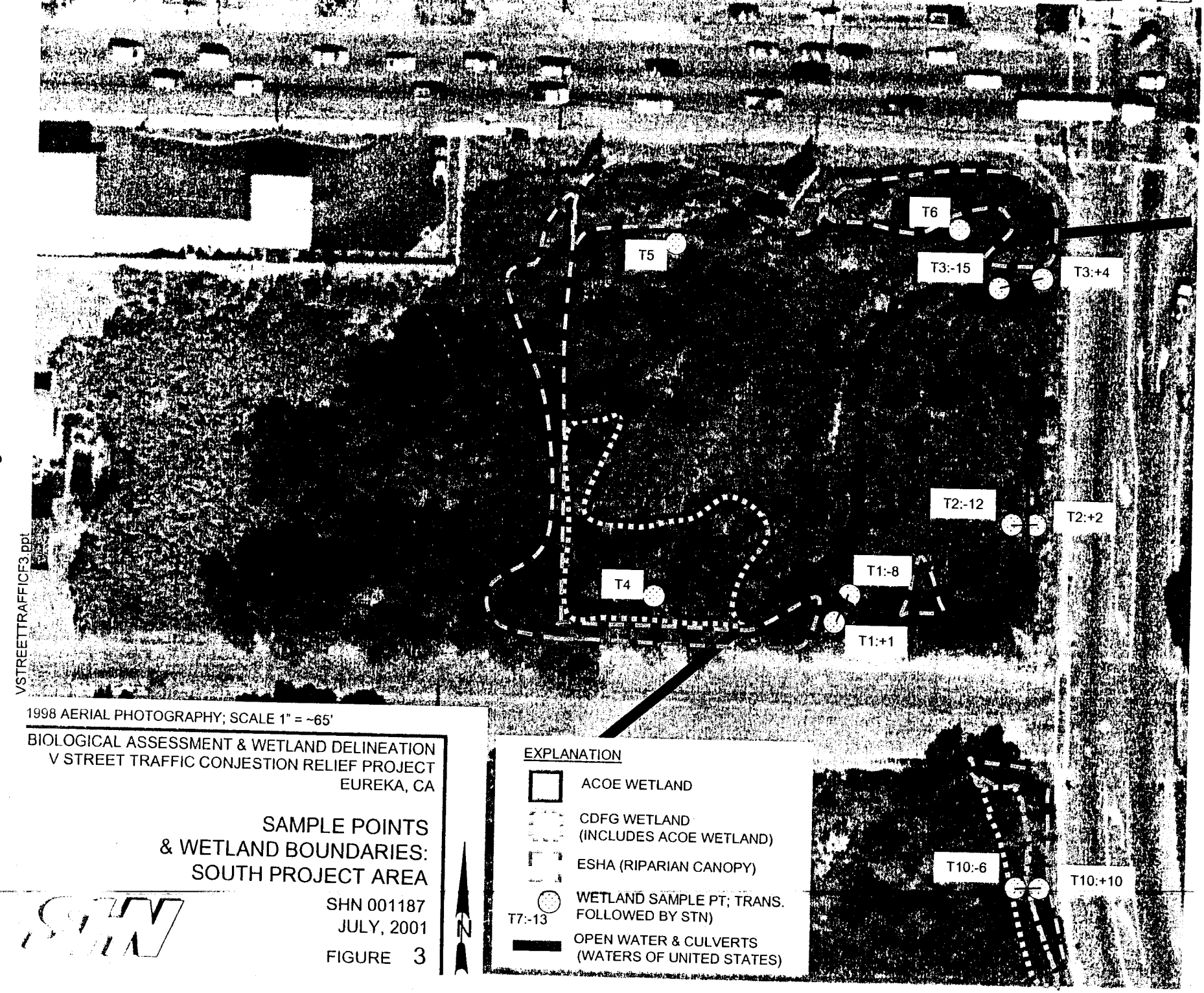


EXHIBIT NO. 6
APPLICATION NO. 1-04-027
CITY OF EUREKA
ESHA & WETLAND MAPS (1 of 3)

BIOLOGICAL ASSESSMENT & WETLAND DELINEATION
V STREET TRAFFIC CONJESTION RELIEF PROJECT
EUREKA, CA

SITE PLAN & WETLAND BOUNDARIES

SHN 001187
JULY, 2001
FIGURE 2



VSTREETTRAFFICF3.ppt

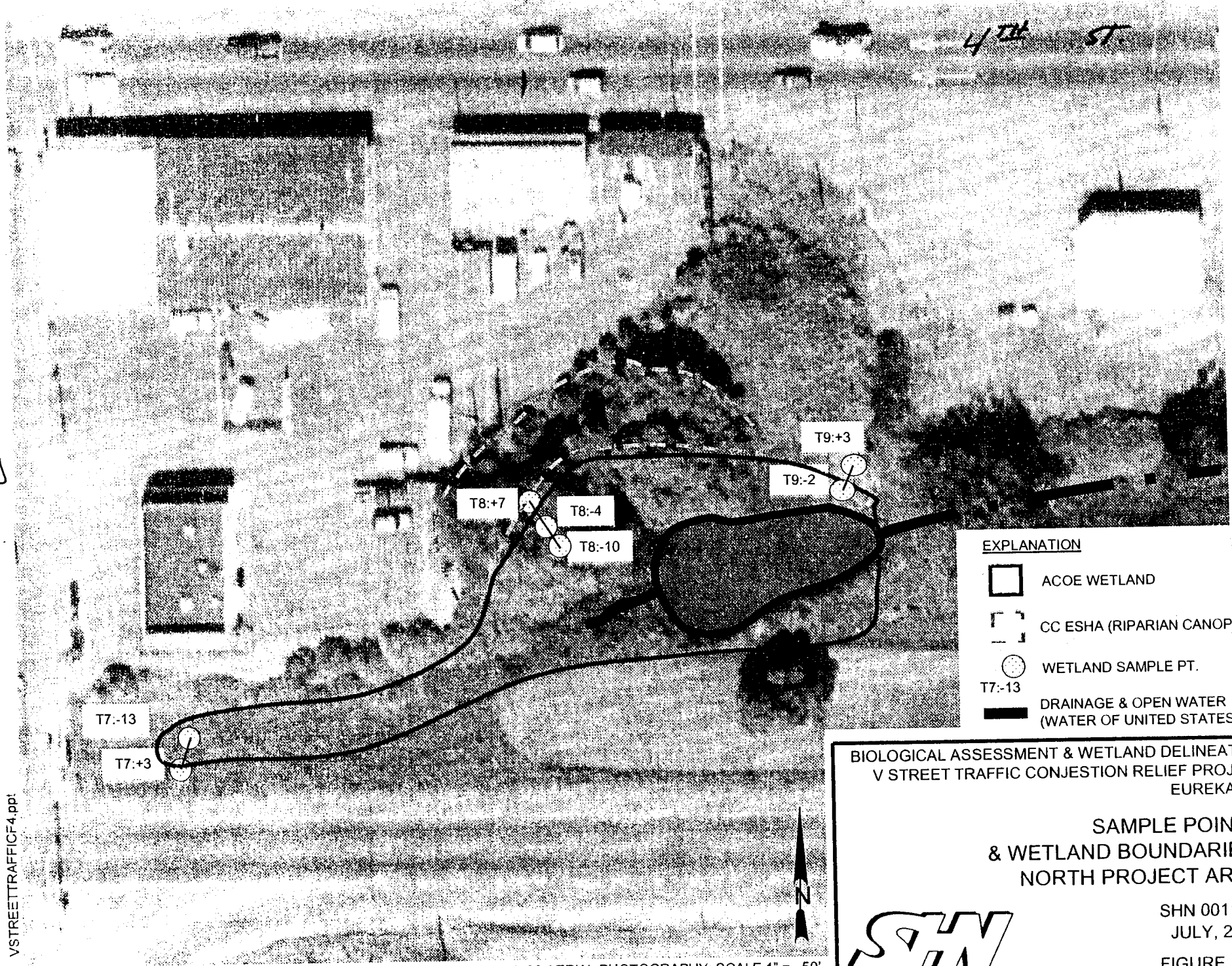
1998 AERIAL PHOTOGRAPHY; SCALE 1" = ~65'

BIOLOGICAL ASSESSMENT & WETLAND DELINEATION
V STREET TRAFFIC CONJESTION RELIEF PROJECT
EUREKA, CA

SAMPLE POINTS
& WETLAND BOUNDARIES:
SOUTH PROJECT AREA

SHN 001187
JULY, 2001

FIGURE 3



1998 AERIAL PHOTOGRAPHY; SCALE 1" = ~50'

BIOLOGICAL ASSESSMENT & WETLAND DELINEATION
V STREET TRAFFIC CONJESTION RELIEF PROJECT
EUREKA, CA

SAMPLE POINTS & WETLAND BOUNDARIES: NORTH PROJECT AREA

SHN 001187
JULY, 2001

FIGURE 4

VSTREETTRAFFICF4.ppt