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Staff Report: August 26, 2005
Hearing Date: September 14, 2005
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 1-04-069

APPLICANT: JBL Associates

PROJECT LOCATION: 853 Seventh Street, Arcata, Humboldt County (APN 21-164-15).

PROJECT DESCRIPTION: Construction of a three-story, mixed-use commercial/professional office/residential building comprising 8,437 square feet of gross floor area within a 2,985-square-foot building footprint and extending to a 25.8-foot overall height. Associated site improvements include development of a 25-space off-street parking facility, landscaping, and a native plant landscaped open space streamside setback area along the banks of Jolly Giant Creek.

LAND USE PLAN DESIGNATION: Commercial General (C-G)

ZONING: Coastal Central Business District with Wetlands and Creek Protection Combining Zone (C-CBD:WCP).

LOCAL APPROVALS RECEIVED: City of Arcata Design Review No. 045-037-DR and City of Arcata Coastal Development Permit No. 045-037-CDP.

OTHER APPROVALS REQUIRED: None.

SUBSTANTIVE FILE
DOCUMENTS:

City of Arcata Local Coastal Program.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve with conditions the proposed construction of an 8,437-square-foot gross floor area mixed-use commercial/residential building. The project site is located on a developed parcel in the City of Arcata's central business district within the Commission's original permit jurisdiction area. The purpose of the project is to provide ground-level professional office space and five dwelling units on the second and third floors.

The project raises two principal concerns regarding Coastal Act issues, ensuring the protection of: (1) coastal water quality; and (2) environmentally sensitive habitat areas.

Although the proposed building would be sited on a property that is currently covered in impervious pavement and compacted gravel surfaces, its construction could result in impacts to coastal water quality from the entrainment and entry of sediment into Jolly Giant Creek and, in turn, into Arcata Bay from ground-disturbing excavation activities. Recommended Special Condition No. 1 requires that: (1) construction of the site improvements be managed to prevent the entry of materials into coastal waters; (2) all debris associated with the demolition / site preparation phase of the project be promptly removed from the site and taken to an appropriate disposal facility licensed to receive construction wastes; and (3) the streambank planting be performed consistent with established stream restoration techniques to prevent bank destabilization and erosion. Furthermore, Special Condition No. 2 requires the applicant to prepare and submit for the Executive Directors approval a stormwater runoff and erosion control plan, incorporating appropriate construction-phase and permanent water best management practices to prevent potential impacts to water quality. As conditioned, staff believes the project would be consistent with Section 30231 of the Coastal Act.

The project site is located along a segment of Jolly Giant Creek and the development would maintain a 25-foot-wide buffer from the creek. Although the buffer is narrow, staff believes that in this case, a 25-foot buffer will be adequate to protect the habitat for the following reasons:

- The potentially affected environmentally sensitive area is located in an urbanized setting surrounded by existing high intensity commercial, public facility, civic, and residential development.

- The subject creek/slough has been extensively modified through tidal gating, channelization, and containment within closed, subsurface box culverts that has effectively fragmented the hydro-geomorphic integrity of the streamcourse, reducing its primary habitat function to that of affording fish passage between Humboldt Bay and less impacted reaches within the upper watershed.
- There is no evidence of nesting, feeding, breeding, resting, holding and other significant habitat utilization by resident or migratory fish or wildlife along the subject creek reach.
- The complexity and density of vegetation cover within the riparian corridor and on surrounding lands is low.
- The creek and riparian vegetation is recessed in a narrow, deeply entrenched channel which, in and of itself, provides vertical separation between the nominal habitat amenities it affords and the effects of adjoining development and human activity.
- The subject lot is oriented along the creek in such a manner that application of a wider buffer would likely preclude feasible development of a use allowed in the zoning district in which the property is located.
- The adjoining project site has been extensively graded, paved, and stripped of vegetation, and it currently utilized as a parking lot. As a result, the proposed project comprises in-fill redevelopment rather than development within an otherwise undeveloped natural area.
- The proposed project improvements have incorporated design features to minimize impacts to the stream from light, noise, and human activity.

While staff believes that, based upon the information submitted by the applicant, the adequacy of the 25-foot-wide buffer proposed to be established between the development and the riparian environmentally sensitive habitat areas on the project site has been generally demonstrated, additional protection can be afforded to the creek through restrictions on the design of external site lighting. Special Condition No. 3 would require any exterior lighting on the sides of the building and parking lot oriented toward the riparian ESHA be low-wattage with a downcast-directed shielding to prevent further cumulative impacts to the fish and wildlife habitat resources of Jolly Giant Creek. In addition, Special Condition No. 4 would prohibit the planting of exotic invasive vegetation that could impact the biological integrity of ESHA both on and off site.

Special Condition No. 5 would impose a restriction that future development on the site that otherwise might be exempt as improvements to a structure other than an existing single family residence or public works facilities, requiring that a coastal development

permit amendment be secured to enable the Commission to review whether such future development would adversely affect the ESHA.

Finally, Special Condition No. 6 would require the applicants to record the conditions of the permit as deed restrictions within the title for the property, to provide constructive notice to future tenants and owners of the limitations applied to further development and uses at the site.

Staff believes the proposed project as conditioned is consistent with the Coastal Act and recommends approval. The motion to adopt the staff recommendation of approval with conditions in found on page 3.

STAFF NOTES

1. Jurisdiction and Standard of Review.

The proposed project is located within the incorporated boundaries of the City of Arcata within the developed urbanized Central Business District. The City of Arcata has a certified LCP, but portions of the site are within an area shown on State Lands Commission maps over which the state retains a public trust interest. These portions of the project site are on filled former tidelands corresponding to the reclaimed former margins of the tidal slough reaches of Jolly Giant Creek / Butchers Slough that are subject to the public trust and within the Commission's coastal development permit jurisdiction. These portions correspond roughly to a 112.5-foot by 75-foot quarter-elliptical area comprising the southeastern half of the property that would contain the majority of the proposed parking lot, approximately 550 square-feet of the 2,985-square-foot building envelope for the mixed-use commercial/residential building, and the stream bank native vegetative plantings (see Exhibit No. 3). All other portions of the project site are within the City of Arcata's permit jurisdiction. The City has already approved a coastal development permit for those portions of the project. The City's approval was not appealed to the Commission.

The standard of review that the Commission must apply to the portion of the project segments within its permit jurisdiction is the Chapter 3 policies of the Coastal Act.

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

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. 1-04-069 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 the majority of the Commissioners present.

Resolution to Approve Permit:

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

II. STANDARD CONDITIONS: See attached.

III. SPECIAL CONDITIONS:

1. Construction Responsibilities and Debris Removal

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

- (a) No construction materials, debris, or waste shall be placed or stored where it may be subject to entering waters of Jolly Giant Creek/Butchers Slough or Humboldt Bay;
- (b) All construction debris, including general wastes from the excavation of asphaltic-concrete and Portland cement paving at the site, shall be removed and disposed of in an upland location outside of the coastal zone or at an approved disposal facility; and
- (c) Installation of the streambank native vegetation shall be performed consistent with the standards for native plant restoration within Part XI – Riparian Habitat Restoration of the California Department of Fish and Game's "Salmonid Stream Habitat Restoration Manual," 1998 3rd edition.

2. Erosion and Runoff Control Plan

A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-04-069**, the applicant shall submit, for review and approval of the Executive Director, a plan for erosion and run-off control.

- 1) The run-off, spill prevention and response plan shall demonstrate that:
 - (a) Run-off from the project site shall not increase sedimentation in coastal waters;
 - (b) Run-off from the project site shall not result in pollutants entering coastal waters; and
 - (c) Best Management Practices (BMPs) shall be used to prevent the entry of polluted stormwater runoff into coastal waters during the construction of the authorized structures, including but not limited to the following:
 - (i.) Stormwater runoff diversion immediately up-gradient of the excavation for building foundations; and
 - (ii.) Use of relevant best management practices (BMPs) as detailed in the "California Storm Water Best Management (New Development and Redevelopment, Construction, and Industrial/Commercial) Handbooks, developed by Camp, Dresser & McKee, *et al.* for the Storm Water Quality Task Force (i.e., BMP Nos. EC1-Scheduling, EC2-Preservation of Existing Vegetation, SE1-Silt Fence and/or SE9-Straw Bale Barrier, NS3-Paving and Grinding Operations; NS9-Vehicle and Equipment Fueling, NS8-Vehicle and Equipment Washing and Steam Cleaning, NS10-Vehicle and Equipment Maintenance and Repair; SC42-Building Repair and Construction, WM1-Material Delivery and Storage, WM2-Material Use, SC11-Spill Prevention and Control, MW8-Concrete Waste Management, SC41-Buildings Grounds Maintenance; SC43-Parking/Storage Area Maintenance; SD11-Roof Runoff Controls; SD32-Trash Storage Areas; MP40-Media Filter; and WE1-Wind Erosion Control; see <http://www.cabmphandbooks.com>).
- 2) The plan shall include, at a minimum, the following components:
 - (a) A schedule for installation and maintenance of appropriate construction source control best management practices (BMPs) to prevent entry of stormwater run-off into the construction site and the entrainment of excavated materials into run-off leaving the construction site;

- (b) A schedule for installation, use and maintenance of appropriate construction materials handling and storage best management practices (BMPs) to prevent the entry of polluted stormwater runoff from the completed development into coastal waters; and
 - (c) An on-site spill prevention and control response program, consisting of best management practices (BMPs) for the storage of clean-up materials, training, designation of responsible individuals, and reporting protocols to the appropriate public and emergency services agencies in the event of a spill, shall be implemented at the project to capture and clean-up any accidental releases of oil, grease, fuels, lubricants, or other hazardous materials from entering coastal waters.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Design Restrictions**

All exterior lights, including any lights attached to the rear and sides of the buildings or installed within the parking lot shall be oriented away from the riparian environmentally sensitive habitat areas (ESHA) adjoining the project parcel shall, be the minimum necessary for the safe ingress and egress of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel or into the ESHA buffer area.

4. **Final Landscape Plan**

- A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-04-069**, the applicant shall submit, for the review and approval of the Executive Director, a plan for landscaping to screen the parking lot and the perimeter of the building.

- 1. The plan shall demonstrate that:

- (a) Only native and/or non-invasive plant species shall be planted. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be employed or allowed to naturalize or persist on

the site. No plant species listed as a "noxious weed" by the governments of the State of California or the United States shall be utilized within the bounds of the property;

- (b) All planting will be completed within 60 days after completion of construction;
- (c) All required plantings will be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan; and
- (d) The use of rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used.

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

- (a) A map showing the type, scientific and common name, planting size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features; and
- (b) A schedule for installation, maintenance and upkeep (i.e., pruning, fertilizing, weeding) of the landscaping plants.

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

5. **Future Development Restriction**

This permit is only for the development described in Coastal Development Permit No. 1-04-069. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 1-04-069. Accordingly, any future improvements to the structure authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 1-04-069 from the Commission

or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. Deed Restriction

PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-04-069, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

7. Conditions Imposed By Local Government.

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

IV. FINDINGS AND DECLARATIONS.

A. Project Description.

The proposed project consists of: (1) a three-story mixed use commercial/residential building comprising 8,437 square feet of gross floor area within a 2,985-square-foot building footprint and extending to a 25.8-foot overall height; (2) related extension of public utility and community services connections; (3) construction of perimeter walkways and a 25-space off-street parking area with an approximately 6,743 square-foot area of existing pavement; and (4) installation of site landscaping consisting of placing a minimum of four native red alder (Alnus rubra), twelve red-flowering currants (Ribes sanguineum), and eight swordfern (Polystichum munitum) along the banks of Jolly Giant Creek of the portion of Jolly Giant Creek that flows through the southwestern corner of the site, and numerous other ornamental shrubs and groundcovers around the building, within the parking lot (see Exhibit No. 4). Other than excavations related to development of the foundation for the mixed-use building and grubbing of the parking lot, no grading or filling of the lot is proposed. All development proposed under the permit application

is to be completed in approximately three months over the course of the 2005 summer-early fall dry weather season.

B. Site Description.

The roughly 1/3-acre project site is located within the City of Arcata's municipal boundaries along the south side of Seventh Street between "H" and "I" Street within Arcata's central business district grid. Although the property lies approximately 1/2 mile northward from the current shoreline of Arcata Bay --- the northern lobe of Humboldt Bay, the parcel is situated along the banks of the tidally-influenced lower reaches of Jolly Giant Creek / Butchers Slough. In the 1860s, this former tidal slough ran to the base of the Brizard Company warehouse situated on the present day Arcata Plaza and served as a canal for small vessel drayage alongside the Union Wharf, Rail Track, and Plank Walk Company's railroad trestle that once extended over 1 1/2 miles across the mudflats to the then-deepwater channels of Arcata Bay. The slough has subsequently been tide-gated and channelized, with much of the watercourse now passing through culverts beneath the City's streets.

With the exception of the short "daylighted" reach of Jolly Giant Creek that passes through the southwesterly corner of the property and laterally along the western side of the property on an adjacent lot, the majority of the site is generally flat in topography and denuded of vegetation with its developed portions graded to drain northerly toward the parcel's Seventh Street frontage. The eastern half of the site is paved in asphaltic-concrete with the western half developed with a compacted gravel surface. The property is currently utilized as a private off-street parking area for surrounding commercial and professional office uses on adjoining parcels.

The proposed project is located within the incorporated boundaries of the City of Arcata within the developed urbanized Central Business District. The City of Arcata has a certified LCP, but portions of the site are within an area shown on State Lands Commission maps over which the state retains a public trust interest. These portions of the project site are on filled former tidelands corresponding to the reclaimed former margins of the tidal slough reaches of Jolly Giant Creek / Butchers Slough that are subject to the public trust and within the Commission's coastal development permit jurisdiction. These portions correspond roughly to a 112.5-foot by 75-foot quarter-elliptical area comprising the southeastern half of the property that would contain the majority of the proposed parking lot, approximately 550 square-feet of the 2,985-square-foot building envelope for the mixed-use commercial/residential building, and the stream bank native vegetative plantings (see Exhibit No. 3). All other portions of the project site are within the City of Arcata's permit jurisdiction. The City has already approved a coastal development permit for those portions of the project. The City's approval was not appealed to the Commission.

Based upon a site assessment performed by Commission staff, approximately 450 square feet of riparian and emergent wetlands occur on the southwesternmost corner of the parcel corresponding to the unfilled portions of the site underlain by native soils (see Exhibit No. 5). Vegetation cover on this portion of the site is dominated by red alder (Alnus rubra) with a thick understory of Himalaya blackberry (Rubus discolor), both facultative wetland species.

The proposed mixed-use building would be constructed on the upland unpaved area along the parcel's northwestern side. All portions of the proposed project, including its foundations excavations-at-depth would be located a minimum of 25 feet from the outer edge of the wetlands on the southwestern side of the parcel.

No coastal access and recreational amenities exist along Jolly Giant Creek or in close proximity to the project site. The Arcata Marsh and Wildlife Sanctuary, the Butcher Slough Restoration Project, and the Arcata Marsh Interpretative Center, the closest nearby access and coastal recreational facilities, are located approximately ¼ mile to the south. The project site has a General Commercial (C-G) land use designation and is zoned Coastal Central Business District with Wetlands and Creek Protection Combining Zone (C-CBD:WCP). Adjoining land uses included an electrical power sub-station, an auto repair shop, professional offices, retail sales and services, a single-family residence, and the Arcata Post Office.

C. Local Government Approval.

As new, non single-family residential development, the project is subject to discretionary design review approval by the City. On August 14, 2004, the City's Design Review Commission (DRC) approved Design Review Permit No. 045-037-DR finding the proposed new construction consistent with the visual resources policies of its Land Use and Development Guidelines. On June 17, 2005, the City's Zoning Administrator conditionally approved Coastal Development Permit No. 045-037-CDP for the portions of the project within the City's jurisdiction. Neither the DRC's or the Zoning Administrator's actions were appealed to the City Council (see Exhibit No. 5). Following a ten working-day appeal period before the Commission, and the project's local agency conditional approval became effective on July 22, 2005.

D. Protection of Marine Resources and Coastal Water Quality.

Section 30231 of the Coastal Act addresses the protection of coastal water quality in conjunction with development and other land use activities. Section 30231 reads:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and the protection of human health shall be maintained and, where feasible, restored through, among other means,

minimizing adverse effects of wastewater discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantially interference with the surface water flow, encouraging, wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.
[Emphasis added.]

The project site is located in proximity to Jolly Giant Creek/Butchers Slough, a tidally influenced coastal waterway. As described further in Site Description Findings Section IV.B above, approximately 450 square feet of emergent scrub-shrub and riparian wetlands occupy the southwestern quarter of the property. The site of the proposed commercial/residential building would be situated approximately 25 feet from the outer edge of the on-site wetlands.

The development would not directly affect the water quality of wetlands, streams, and coastal waters to a significant adverse degree as the development would not result in a substantial increase in the volume or intensity in stormwater runoff as project site that has previously been paved, compacted, illuminated, and graded to drain a portion of the parking lot runoff into the creek. To the contrary, in approving the permit for the portions of the development within its permitting jurisdiction, the City required the applicant to direct site runoff away from the creek through the use of tie-line roof drains and site grading, so that flows would be conveyed to the east and pass through a sand media filtration system before being discharged into the City's stormwater sewer system.

With respect to indirect environmental effects on riparian resources, although located within an urbanized setting with existing development onsite, impacts to coastal land and water resources could result if not adequately mitigated. During construction of the proposed building foundation, stormwater runoff across the building site could entrain excavated soil or other materials. In addition, accidental releases of hazardous materials associated with construction and building materials handling and storage, or site maintenance activities could similarly occur. If not properly intercepted and cleaned up, these materials could be conveyed into Jolly Giant Creek and, in turn, into other coastal waters. Accordingly, the Commission attaches Special Condition Nos. 1 and 2. Special Condition No. 1 requires that demolition debris and construction waste associated with project construction not be placed or stored where it may enter wetlands or coastal waters. Furthermore, Special Condition No. 1 requires that all construction debris, including general wastes from the demolition of the commercial buildings and any excavated asphaltic-concrete paving at the site be removed and disposed of in an upland location outside of the coastal zone or at an approved disposal facility.

Special Condition No. 2 requires that an erosion and runoff control plan be reviewed and approved by the Executive Director prior to permit issuance. The plan is required to address and identify a variety of best management practices to address accidental spill prevention and source control contingencies associated with construction of the

commercial structure and parking areas, and long-term uses at the site. The plan will serve to further prevent and reduce potential releases of polluted runoff or hazardous materials into coastal resource areas.

The requirements of Special Condition No. 2 will ensure that the biological productivity and quality of coastal waters will be maintained. Therefore, as conditioned, the project is consistent with Section 30231.

D. Protection of Environmentally Sensitive Habitat Areas (ESHA)

Section 30240(b) of the Coastal Act requires that environmentally sensitive habitat areas (ESHAs) be protected against any significant disruption of habitat values potentially resulting from adjacent development. Section 30240(b) of the Coastal Act states in applicable part:

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

The portion of the subject property proposed for development does not contain any known environmentally sensitive habitat. The building site for the new commercial structure would be located approximately 25 feet from the outer boundary of the riparian wetlands on the southwestern portion of the parcel. The buffer area would be cleared of non-native invasive species, chiefly Himalayan blackberry, and replanted with a variety of native tree and shrub species.

Adequacy of ESHA Buffers

Ecologically, a buffer is a transition zone between one type of habitat and another. Buffers provide an area of refuge for plants and animals between their normal or preferred habitat and human activities. Buffers also serve to lessen the impacts caused by road and paved area runoff, landscape fertilizing, and spills of other household hazardous materials that could severely reduce a wetland's ecological value and the quality of the water flowing outward or downward into surface or sub-surface waters.

As a matter of practice, the Commission, as well as numerous other local government entities, often apply a 100-foot-wide buffer as a "default" minimum width for buffers between environmentally sensitive areas and development sites. The application of this criterion has developed from numerous biological studies regarding the minimum spatial distance necessary to insulate and shield an environmentally sensitive resource area from significant adverse impacts of development, including habitat disruptions due to noise, light and other human activities, prevent water quality impacts of stormwater runoff from developed sites, and to afford geotechnical stability. On a case-by-case basis, depending upon the intensity of the effects of development project and the sensitivity of the resource

area being affected, greater buffer widths may be required. Conversely, based upon site-specific conditions, buffers of less than a 100-foot width may be authorized when the adequacy of the buffer to protect the affected environmentally sensitive area has been demonstrated.

Although the Coastal Act or the Commission's administrative regulations do not specify particular factors that should be considered in determining whether a proposal to use a wetland buffer of any given width would be adequate for avoiding adverse impacts to wetland resources, at least the following criteria are relevant:

1. Biological significance of adjacent lands;
2. Sensitivity of species to disturbance;
3. Susceptibility of parcel to erosion;
4. Use of natural topographic features to locate development;
5. Use of existing cultural features to locate buffer zones;
6. Lot configuration and location of existing development; and
7. Type and scale of development proposed.

1. Biological significance of adjacent lands.

The project setting consists of a 12,125-square-foot lot within an established central business district with frontage along a fully improved (curb, gutter, and sidewalk) 50-foot-wide sub-collector street grid. The portion of the project parcel adjacent to the riverine wetlands and riparian corridor habitat areas are composed of cleared paved and gravel surfaced parking lot. Beyond these areas, the property is surrounded by high intensity urban development, including an electrical power sub-station, a U.S. Post Office, various retail sales and services establishments, professional offices, and a single-family residence. The property is situated approximately ½ mile north from the shoreline of Humboldt Bay, and roughly ¼ mile feet from the restored freshwater ponds and saltmarsh that comprise the Arcata Marsh and Wildlife Sanctuary.

As discussed in Site Description Findings Section No. IV.B, with the exception of short discontinuous "daylighted" stretches, much of the lower reaches of Jolly Giant Creek between it's State Route 255 and Highway 101 crossings has been channelized into closed box culverts beneath the street network of downtown Arcata. As a result, the watercourse as a surface geomorphic feature is highly fragmented and, with the possible exception of serving as a transit reach for anadromous fish, has lost most of its habitat potential as a wildlife corridor.

Given the overall urbanized setting, the fragmentation of the streamcourse, the size, low diversity, and lack of structure within the vegetation on the streambanks, and the absence of vegetative cover on the developed portions of the lot, the project parcel does not provide any appreciable habitat, nor serves as a wildlife transit corridor to other similar habitat areas in the project site's vicinity. Accordingly, the biological significance of the land areas surrounding the environmentally sensitive areas on the property is low.

2. Sensitivity of species to disturbance.

The width of the buffer area should also be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Factors relevant to this analysis include the following: (a) nesting, feeding, breeding, resting or other habitat requirements of both resident and migratory fish and wildlife species; and (b) an assessment of the short-term and long-term adaptability of the various species to human disturbance.

Although efforts continue to restore Jolly Giant Creek, especially in terms of enhancing the in-stream habitat suitability through the removal of barriers, stabilizing streambank erosion, and the placement of hold and cover large woody debris, most of these efforts have been pursued in the more upstream open reaches of the creek outside of the immediate downtown area. While some daylighting of the creek has been accomplished on the lower reaches, these efforts have been largely impromptu, undertaken as either part of targeted redevelopment projects or by altruistic landowners (see LCP Amendment No. ARC-MAJ-1-01, McBain, Trush and Woo, Applicants, and Coastal Development Permit No. 1-02-020, City of Arcata, Applicant). Moreover, due to the private ownership pattern, its central business district location relative to sites planned for high intensity sales and service uses, and the limited availability of public funds for acquiring and restoring coastal streams, full restoration of Jolly Giant Creek, especially through downtown Arcata where property assets command premium price, remains an distant goal. As a result, for the foreseeable future, the lower creek will remain essentially a transit reach for migratory fish offering little in the way of in-stream habitat amenities between the Butcher Slough Restoration Site and the open stretches of the creek above Humboldt State University.

With respect to utilization by terrestrial species, no evidence was found within the aquatic wetland and riparian corridor ESHA on the parcel for nesting, feeding, breeding, resting, holding and other signification habitat utilization by resident or migratory wildlife. Of the species observed or evidence encountered during the site visit by staff, all were "common habitat species," such as passerine songbirds, raccoon, skunk, etc., that do not exhibit significant aversion to human presence and activity. Accordingly the sensitivity of the species utilizing the ESHA portions of the subject property to the proposed development project is low.

3. Susceptibility of parcel to erosion.

A determination regarding the sufficiency of the width of the buffer area is also dependent, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided. As described in greater detail within the Site Description Finding Section IV.B above, approximately 91% of the project parcel is currently paved or otherwise covered with drainage directed away from the creek and toward the site's street frontage.

The uncovered portions of the property site containing the wetland and riparian vegetation habitat areas are relatively flat and underlain with well-drained, competent sandy loam soils reflective of the area's reclaimed history. No problematic soils (i.e., highly erodible or clay-rich materials with high shrink-swell properties) underlie the site. Approval of the proposed development plans have been conditioned upon the use of appropriate stormwater runoff and erosion control measures for preventing and reducing significant adverse impacts to the environmentally sensitive areas at the project site. Accordingly the susceptibility of the subject parcel to erosion is low.

4. Use of natural topographic features to locate development.

Hills and bluffs adjacent to environmentally sensitive habitat areas should be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from environmentally sensitive habitat areas. Similarly, bluff faces, hillsides, and other such terrain breaks should not be developed, but should be included in the buffer area. Although the creek and riparian wetlands have been heavily modified over the last 140 years, the side slopes of the creek effectively serve as a topographic feature that buffer the wetlands and riparian vegetation below from the urban uses above.

The portion of Jolly Giant Creek flowing through the corner of the project parcel lies approximately 10-to 12 feet below the level of the developed portions of the lot with entrenched, 100% slope stream banks. The steep side slopes of the creek would be included in the proposed reduced-width buffer. This topographic feature would serve to improve the effectiveness of the proposed reduced-width buffer by providing a vertical component to the buffer.

5. Use of existing cultural features to locate buffer zones.

Cultural features, (e.g., roads and dikes) should be used, where feasible, to buffer habitat areas. Where feasible, development should be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the environmentally sensitive habitat area. The project site's uplifted marine terrace setting beyond the creek edges to the easterly and northerly property lines is

effectively featureless with respect to cultural features. Accordingly, the Commission finds that there are no such features at the site that could be incorporated into the development buffer to bolster its effectiveness and support use of a reduced-width buffer.

6. Lot configuration and location of existing development.

With respect to the roles the physical layout of a parcel and the surrounding development pattern have in determining the proper width of an ESHA buffer, it should be noted that the proposed development is an in-fill project at a site that that been intensively developed in the past and is presently utilized as an accessory substitute off-street parking facility for established surrounding businesses. Thus, little opportunity exists to configure the development in a manner that will accommodate a larger buffer width without significantly reducing the remaining area on the parcel available for development.

The subject 113-foot-wide x 125-foot-deep project site parcel is oriented with its long axis running parallel to Jolly Giant Creek. Application of a 100-foot-wide setback, as might typically be applied in instances of development adjacent to an open coastal waterway, would effective reduce the developable area on the lot to a narrow roughly 20-foot-wide by 75-foot-long area along the eastern side of the parcel. Therefore, imposition of a 100-foot-wide buffer would effectively deprive the parcel of a building site for development of a use provided for under the City's zoning ordinance.

In addition to these factors, the buffers provided between other existing development in the surrounding area has already compromised the habitat values of the creek. As was discussed in the Site Description Findings Section IV.B above, much of lower Jolly Giant Creek has been channelized and contained within subsurface culverts where no effective buffer has been provided. Furthermore, on the open-air portions of the creek, residences and other structures have been constructed directly over the creek or within mere feet of the watercourse. Given the close proximity of these structures to the stream and the related human activity, even if the subject development were to provide a 300-foot buffer no appreciable protection to the resource would result.

Thus, based upon the configuration of the project site parcel, the location of the structures that would result from the proposed development, and the pattern and extent of existing development on the subject property and on adjoining properties, the Commission finds that application of a buffer width greater than that proposed by the applicants would not result in appreciable greater protection for the limited habitat resources afforded by the reach of Jolly Giant Creek that passes through and alongside the project site.

7. Type and scale of development proposed.

The type and scale of the proposed development will, to a large degree, determine the size of the buffer area necessary to protect the environmentally sensitive habitat area. For example, due to domestic pets, human use and vandalism, residential developments may not be as compatible as light industrial developments adjacent to wetlands, and may therefore require wider buffer areas. However, such evaluations should be made on a case-by case basis depending upon the resources involved, and the type and density of development on adjacent lands.

As discussed in Project Description Findings Section IV.A above, the specific development proposed for the site entails the construction of a three-story mixed use commercial/residential building, a 25-space off-street parking area, and installation of site landscaping, including native plant restoration along the banks of Jolly Giant Creek of the portion of Jolly Giant Creek. The development has been designed to orient ingress and egress to the parking lot and building from the eastern side of the lot away from the creek. No door openings or decking would be developed on the western side of the building. In addition, an enclosed trash storage receptacle and bicycle parking rack would be installed between the edge of the parking lot and the creek further screening the stream resources from light and noise associated with the parking facility.

Summary of Site-specific Factors Influencing Buffer Adequacy

Based on the foregoing analysis, the Commission finds that the proposed 25-foot-wide buffer would be adequate for reducing the potential significant adverse impacts to environmentally sensitive habitat areas from the development to less than significant levels for the following reasons:

- The affected environmentally sensitive area is located in an urbanized setting surrounded by existing high intensity commercial, public facility, civic, and residential development.
- The subject creek/slough has been extensively modified through tidal gating, channelization, and containment within closed, subsurface box culverts that has effectively fragmented the hydro-geomorphic integrity of the streamcourse, reducing its primary habitat function to that of affording fish passage between Humboldt Bay and the less impacted reaches within the upper watershed.
- There is no evidence of nesting, feeding, breeding, resting, holding and other significant habitat utilization by resident or migratory fish or wildlife along the subject creek reach.
- The complexity and density of vegetation cover within the riparian corridor and on surrounding lands is low.

- The creek and riparian vegetation is recessed in a narrow, deeply entrenched channel which, in and of itself, provides vertical separation between the nominal habitat amenities it affords and the effects of adjoining development and human activity.
- The subject lot is oriented along the creek in such a manner that application of a wider buffer would likely preclude feasible development of a use allowed in the zoning district in which the property is located.
- The adjoining project site has been extensively graded, paved, and stripped of vegetation, and it currently utilized as a parking lot. As a result, the proposed project comprises in-fill redevelopment rather than development within an otherwise undeveloped natural area.
- The proposed project improvements have incorporated design features to minimize impacts to the stream from light, noise, and human activity.

Additional Resource Protection Measures

As proposed, no portion of the revised development would be sited in the environmentally sensitive habitat area. However, the Commission does note that while the physical presence of the commercial and residential uses in closer proximity to the outer edge of the ESHA buffer would not impact or otherwise obviate the adequacy of the protection provided by the buffer, exterior lighting installed on the sides of the building or within the parking lot that were oriented toward the ESHA could contribute to cumulative impacts to the environmentally sensitive areas on and adjoining the project parcel. To reduce these potential cumulative adverse effects to less-than-significant levels, the Commission attaches new Special Condition No. 3. Special Condition No. 3 sets design restrictions on the installation of exterior lighting on the easterly-facing portions of the residence and garage, requiring that all such lighting be low-wattage in intensity, down-cast, and shielded so as to prevent the light from being directed into the ESHA buffer area.

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, in addition to the protections afforded by the special conditions discussed above, the Commission attaches Special Condition Nos. 4 and 5. Special Condition No. 4 requires the applicant to utilize only native and/or non-invasive plant species in any future landscaping developed at the site. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, may be employed or allowed to naturalize or persist on the site. Furthermore, no plant species listed as a "noxious weed" by the governments of the State of California or the United States shall be utilized within the bounds of the property.

As conditioned, the proposed development would be sited and designed to protect the riparian ESHA against any significant degradation of the resource and would be compatible with the continuance of the habitat. However, the Commission notes that future minor incidental development normally associated with multiple-family residential or commercial development, such as additions to the residences, construction of outbuildings, decks and patios, or installation of additional landscaped areas, could be sited and designed in a manner that could compromise the value of the buffer and have potentially adverse impacts on the environmentally sensitive habitat area. Many of these kinds of development are normally exempt from the need to obtain a coastal development permit under Section 30610(b) of the Coastal Act. Thus, the Commission would not normally be able to review such development to ensure that impacts to sensitive habitat are avoided.

To avoid such impacts to coastal resources from the development of otherwise exempt additions to existing homes, Section 30610(b) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(b) of the Coastal Act, the Commission adopted Section 13253 of Title 14 of the California Code of regulations. Section 13253(b)(6) specifically authorizes the Commission to require a permit for improvements to structures other than existing single-family residences or public works facilities that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements would require a development permit. As noted above, certain additions or improvements to the approved residence could involve a risk of adverse impacts to the ESHA on the site.

Therefore, in accordance with provisions of Section 13253 (b)(6) of Title 14 of the California Code of Regulations, the Commission attaches Special Condition No. 5 which requires a coastal development permit or a permit amendment for all additions and improvements to the development on the subject parcel that might otherwise be exempt from coastal permit requirements. This condition will allow future development to be reviewed by the Commission to ensure that future improvements will not be sited or designed in a manner that would result in significant adverse impacts to the ESHA on the site. Special Condition No. 6 also requires recordation of a deed restriction to ensure that all future owners of the property are aware of the requirement to obtain a permit for development that would otherwise be exempt. This requirement will reduce the potential for future landowners to make improvements at the development site without first obtaining a permit as required by this condition.

Conclusion

Based upon the analysis presented above, and as proposed and conditioned to require: (1) specific mitigation measures to further protect the environmentally sensitive areas from the construction and uses associated with the subject commercial and residential development, including the approval of an erosion and stormwater runoff control plan,

construction performance standards, and specified design limitations; (2) any permit-exempt improvements to structures other than a single-family residence or public works facilities to obtain a permit amendment; and (3) constructive noticing to prospective future owners of the presence of environmentally sensitive resource areas on the property and the limitations on development thereupon be recorded in a deed restriction to be recorded against the parcel informing future owners of the conditions attached to the approval of the development, the Commission finds that the project will be sited and designed to prevent impacts which would significantly degrade the ESHA on the property and will be compatible with the continuance of the habitat consistent with Section 30240 of the Coastal Act.

H. California Environmental Quality Act.

Section 13906 of the Commission's administrative regulation requires Coastal Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect that the activity may have on the environment.

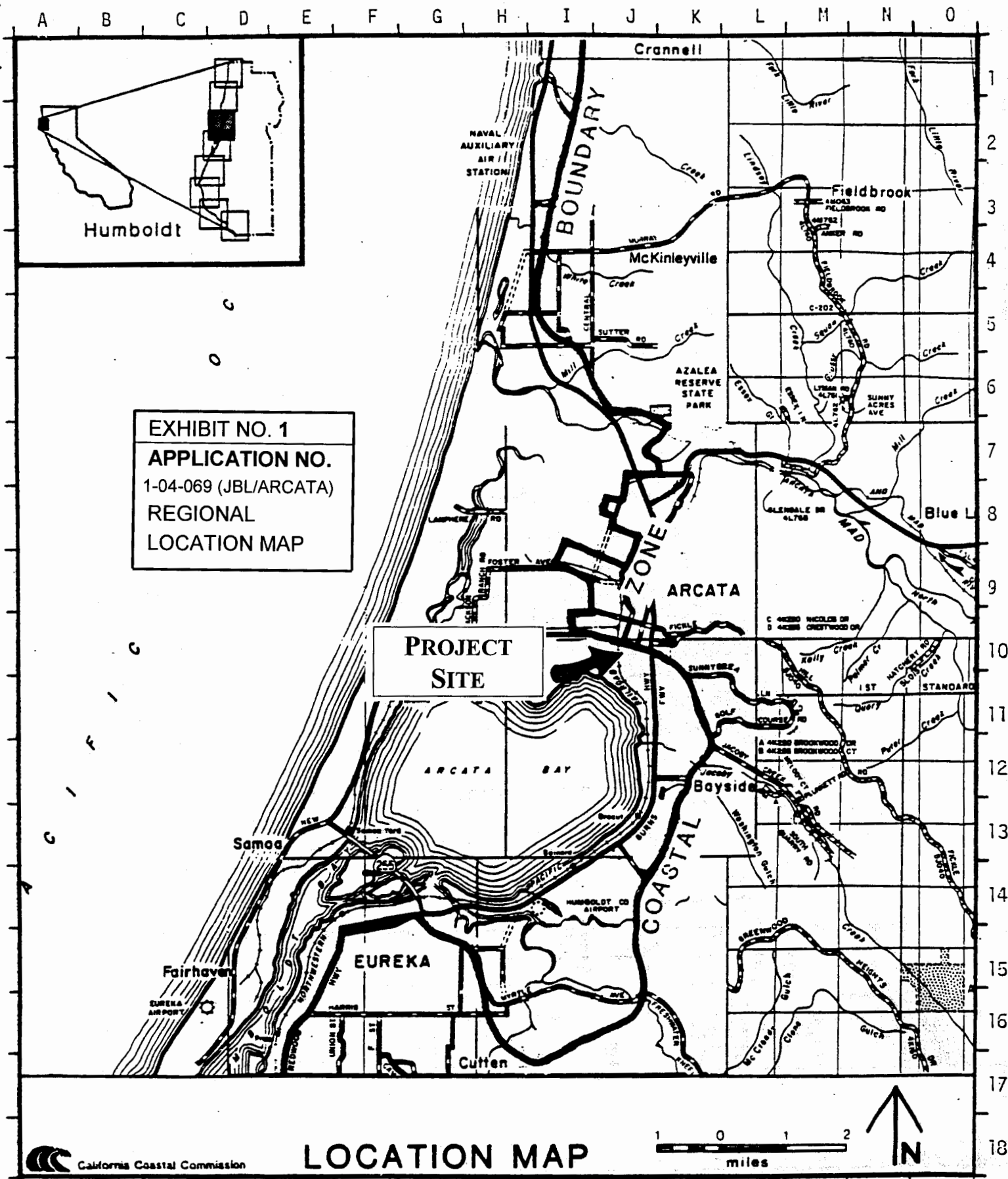
The Commission incorporates its findings on conformity with LCP policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed project has been conditioned so as to be found consistent with the Coastal Act. As specifically discussed in these above findings which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been made requirements of project approval. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

V. EXHIBITS.

1. Regional Location Map
2. Vicinity Map
3. Jurisdictional Map (excerpt)
4. Project Site Plans and Elevation Views
5. Review Agency Correspondence

APPENDIX A
STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. 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 amount of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of 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.



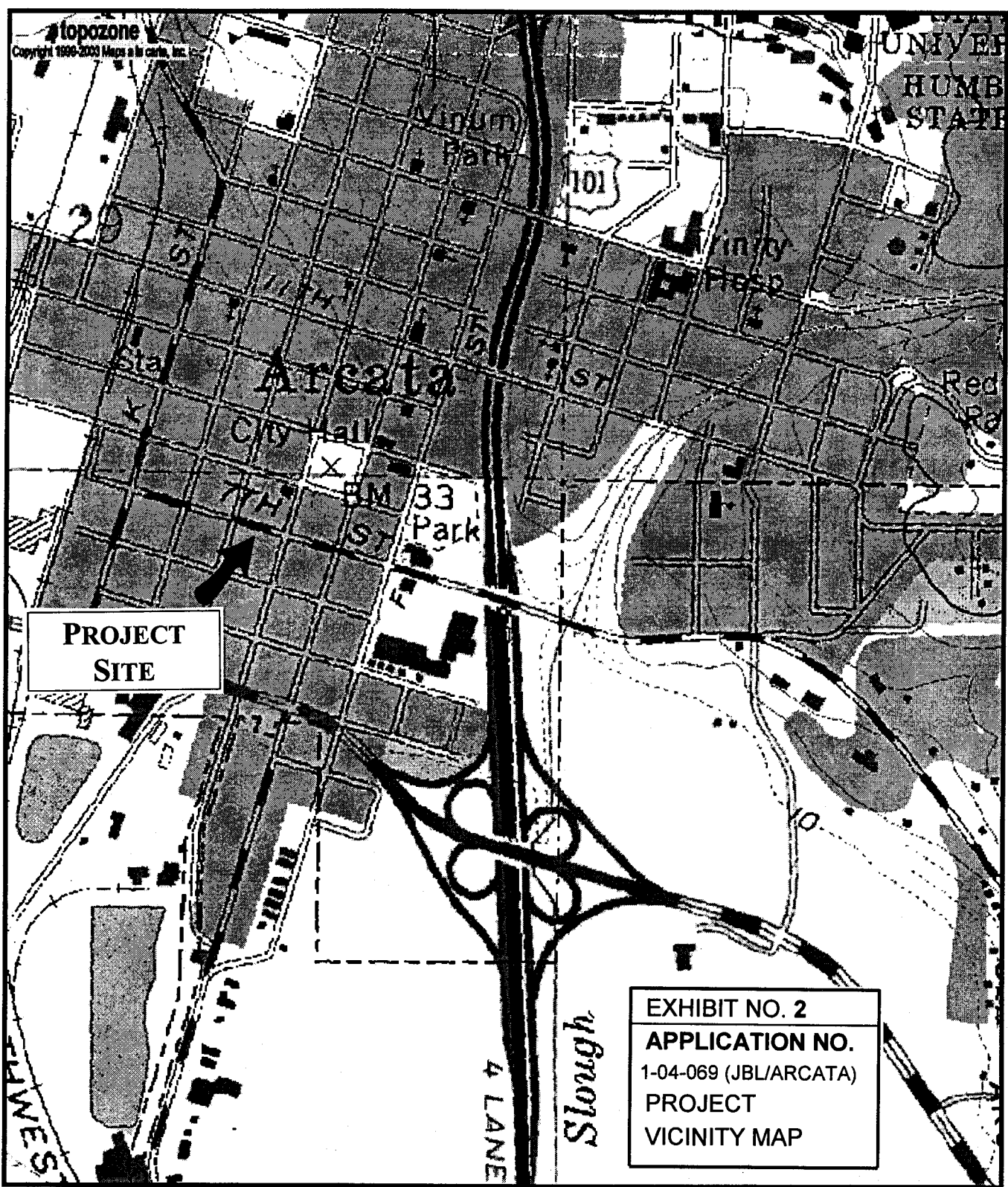
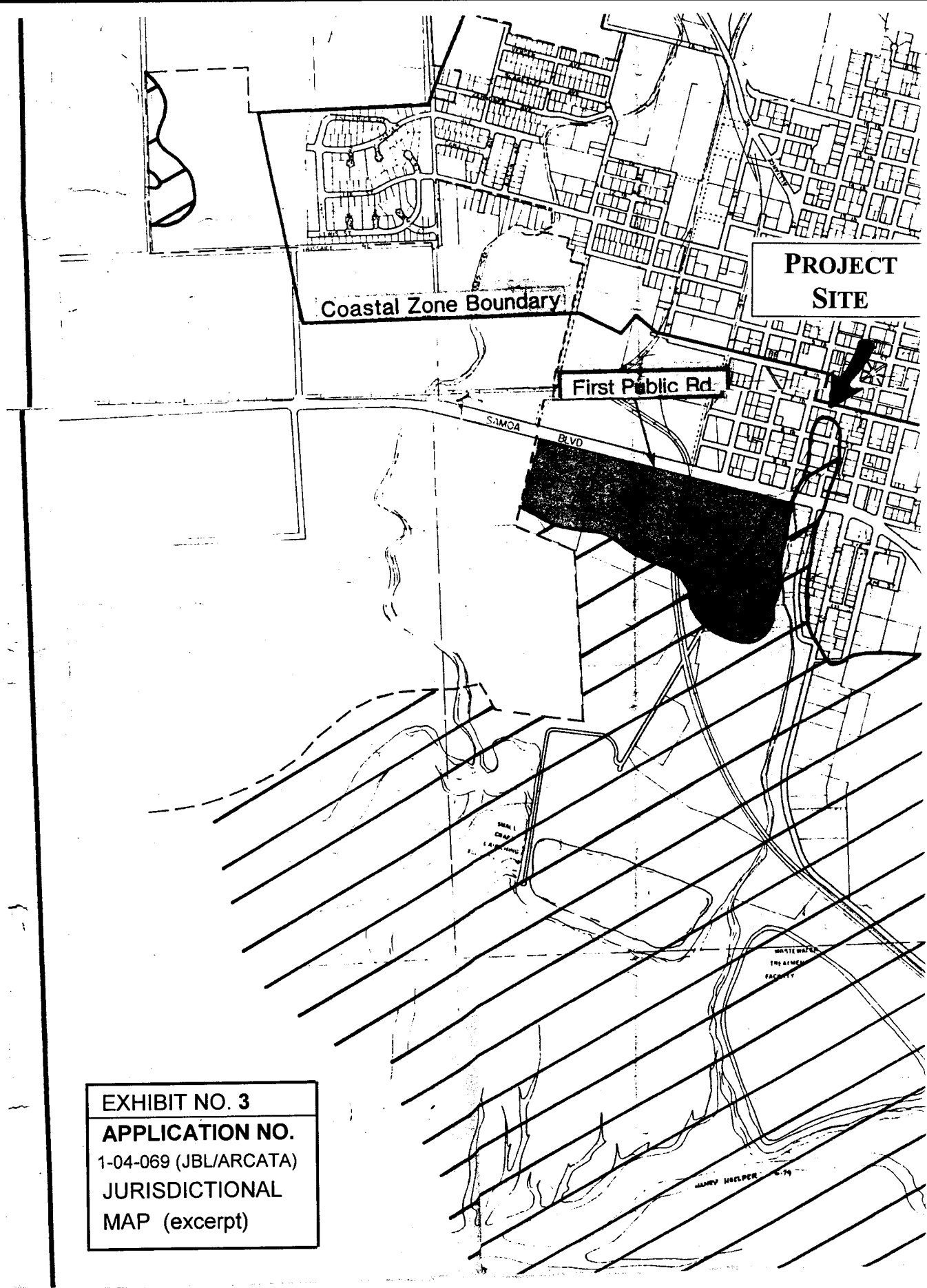


EXHIBIT NO. 2
 APPLICATION NO.
 1-04-069 (JBL/ARCATA)
 PROJECT
 VICINITY MAP

0 0.1 0.2 0.3 0.4 0.5 km
 0 0.09 0.18 0.27 0.36 0.45 mi
 Map center is UTM 10 408747E 4524504N (WGS84/NAD83)
ARCATA SOUTH quadrangle
 Projection is UTM Zone 10 NAD83 Datum

* M
 G
 M=16.25
 G=-0.709



**PROJECT
SITE**

Coastal Zone Boundary

First Public Rd.

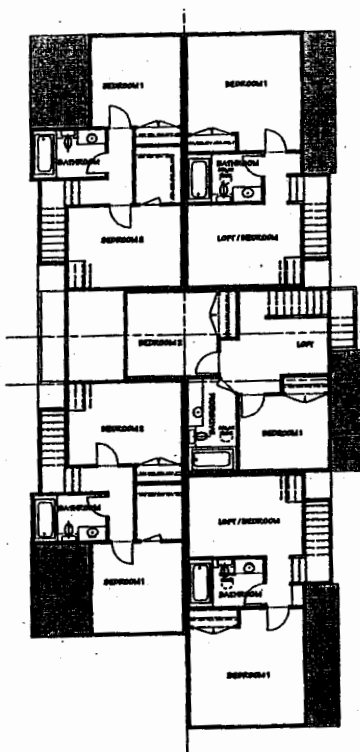
SAN JOA BLVD

SAN I
CREEK

WASTE WATER
TREATMENT
FACILITY

EXHIBIT NO. 3
APPLICATION NO.
1-04-069 (JBL/ARCATA)
JURISDICTIONAL
MAP (excerpt)

2 of 4

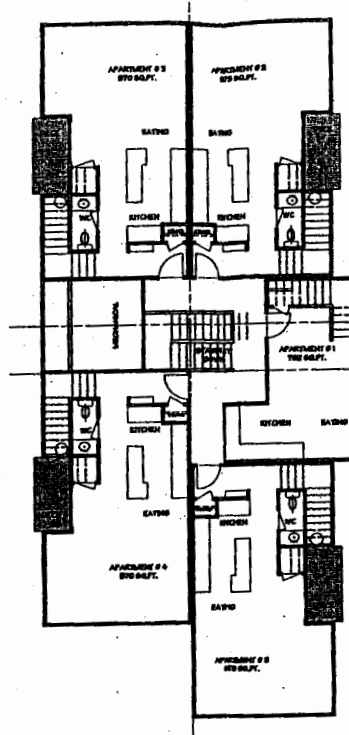


THIRD FLOOR PLAN

1/8" = 1'-0"



NORTH

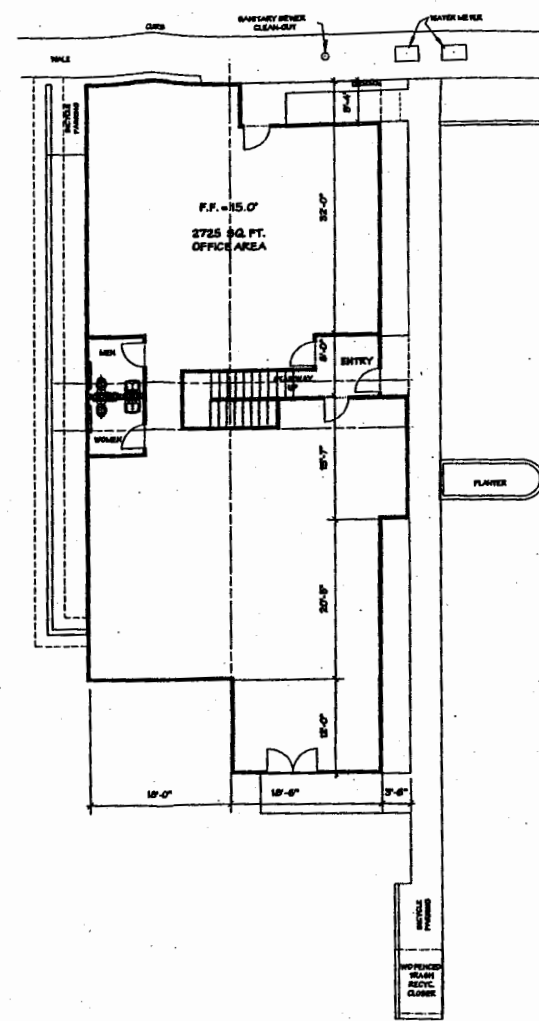


SECOND FLOOR PLAN

1/8" = 1'-0"



NORTH



FIRST FLOOR PLAN

1/8" = 1'-0"



NORTH

RECEIVED

OCT 28 2004

CITY of Arcata
Planning & Building Dept.

K. BOODJEH ARCHITECT
ARCHITECTURE AND PLANNING
P.O. BOX 501 ARCATA CA 95521

7TH. STREET MIXED USE

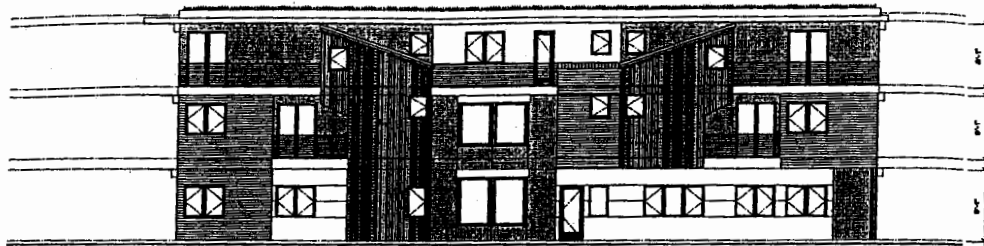
APN 021-184-015
7TH STREET, ARCATA, CA

FLOOR PLANS
NOTES

DATE:
JULY 28, 2004
SCALE:
1/8" = 1'-0"
JOB #:

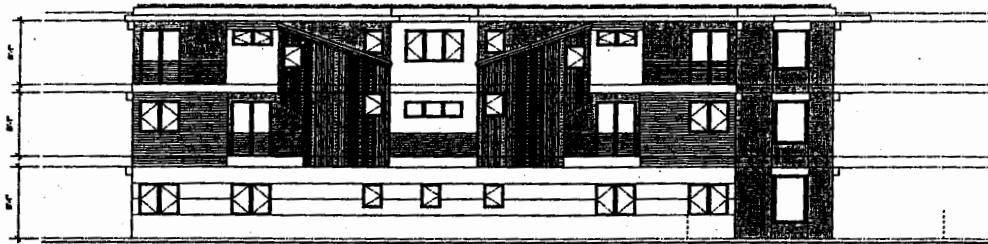
A.3

ATTACHMENT B



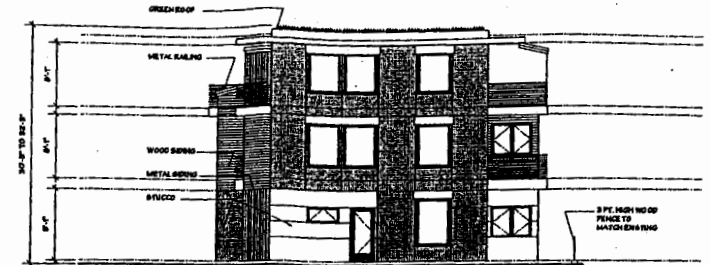
EAST ELEVATION (PARKING LOT)

1/8" = 1'-0"



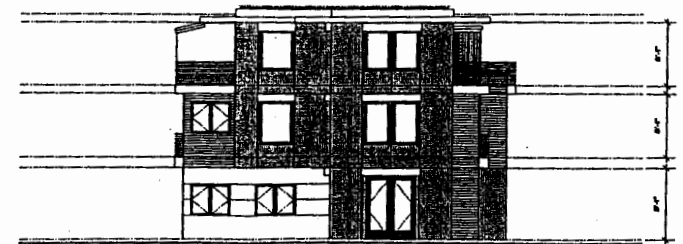
WEST ELEVATION

1/8" = 1'-0"



NORTH ELEVATION (7th ST.)

1/8" = 1'-0"



SOUTH ELEVATION

1/8" = 1'-0"

3 of 4

RECEIVED
OCT 22 2004
CITY of Arcata
Planning & Development Dept.

REVISIONS:

K. BOODJEH ARCHITECT
ARCHITECTURE AND PLANNING
P.O. BOX 601 ARCATA CA 95521

7TH. STREET MIXED USE
APN 021-184-018
7TH STREET, ARCATA, CA

**EXTERIOR ELEVATIONS
NOTES**

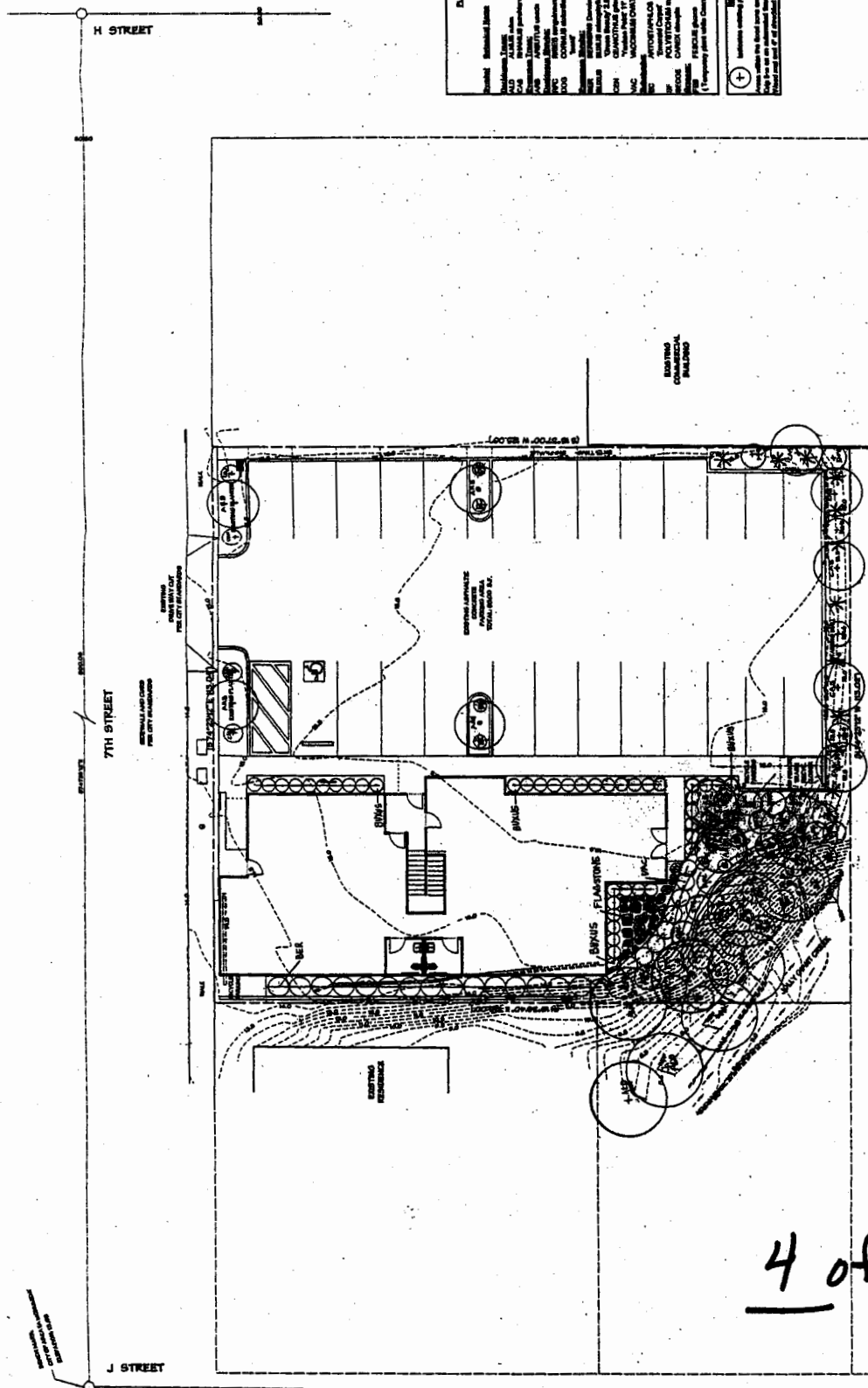
DATE:
JULY 28, 2004
SCALE:
1/8" = 1'-0"
JOB #:

1/8" = 1'-0"
A.4
BY: JMB

LANDSCAPE PLAN

7TH. STREET MIXED USE

NANCY REHG LANDSCAPE DESIGN

LANDSCAPE PLAN ARCH. 021 • 154 • 015

4 of 4

CITY OF ARCATA
ACTION OF THE ZONING ADMINISTRATOR

Following a public hearing conducted on June 17, 2005, the Zoning Administrator approved a Coastal Development Permit for the project noted below.

PROJECT INFORMATION

Project : Coastal Development Permit to allow a three-story mixed-use commercial/residential development comprising two (2) offices at first floor level and five (5) 2-story residential units on the second and third floors, a 25-space parking lot and landscaping along Jolly Giant Creek.

Application Type: Coastal Development Permit (CDP)

Location: 853 7th Street, Arcata; between H and I Streets
(APN: 021-164-015)

Owner/Applicant: JBL & Associates / K. Boodjeh Architect

File Number: 045-037-CDP

Zoning/ Gen Plan: Coastal Central Business District Commercial; Wetland and Creek Protection Zone (C-CBD; WCP). Commercial Central. (G-C)

Coastal Status: Partially in the Coastal Zone

Environmental: The project meets the conditions of Class 32 projects described in Section 15332 In-Fill Development Projects, under Article 19 Categorical Exemptions of the California Environmental Quality Act.

CONDITIONS OF APPROVAL:

The approval is subject to the conditions stated in Attachment C, Exhibit 1, which is available for review at the Community Development Department.

FINDINGS:

The project is approved based on the findings stated in Attachment C, Exhibit 2, which is available for review at the Community Development Department.

APPEALS:

The action of the Zoning Administrator with respect to this project may be appealed to the Planning Commission. Appeals shall be filed in the office of the Community Development Department within ten (10) working days following the Coastal Commission's receipt of the final notice of the appropriate review authority's decision. Appeals shall be addressed to the Planning Commission on the prescribed form, shall state the reasons for the appeals, and shall be accompanied by the applicable filing fee. The appeal period to the Arcata Planning Commission for this action ends **at 5:00 p.m. on July 1, 2005.**

DATE APPROVED: June 17, 2005

DATE OF THIS NOTICE: June 20, 2005

EFFECTIVE DATE OF PERMIT: July 5, 2005

EXPIRATION DATE OF PERMIT: July 5, 2006 unless permit has been activated

ATTEST:



Thomas D. Conlon

Community Development Department Director

CC: Owner, Applicant, Persons requesting such notice

EXHIBIT NO. 5
APPLICATION NO.
 1-04-069 (JBL/ARCATA)
 REVIEW AGENCY
 CORRESPONDENCE

(Page 1 of 8)

CONDITIONS OF APPROVAL

As Approved by the Zoning Administrator on June 17, 2005

The Coastal Development Permit, File # 045-037-CDP, to allow construction of a three-story mixed-use commercial/residential development comprising two (2) offices at first floor level and five (5) 2-story residential units on the second and third floors, with parking and landscaping, is approved subject to the following conditions. The Conditions of Approval are arranged according to the timing of compliance and the City Department that establishes compliance.

- A. **AUTHORIZED USES AND DEVELOPMENT:** Approval is granted for a Coastal Development Permit to construct a three-story mixed-use commercial/residential development comprising two offices at first floor level and five (5) 2-story residential units on the second and third floors, with parking and landscaping.
- B. **PRIOR TO ISSUANCE OF ANY BUILDING PERMIT:** The following conditions shall apply prior to any building permit, including grading, for the project:

Community Development Department:

- B-1 **NOTICE OF EXEMPTION.** The applicant shall pay all fees associated with posting a Notice of Exemption with the Humboldt County Clerk's office within three days of permit approval.
- B-2 **BUILDING PERMIT REQUIRED.** Any necessary building permits, including grading permits, shall be obtained prior to commencing construction on the project.
- B-3 **WETLAND EASEMENT, NOTICE OF :WCP ZONE.** The owners shall cause to be recorded, with the Humboldt County Records Office, an open space easement, in favor of the City, for the identified creek area, and a notice declaring the presence of the :WCP combining Zone on the property. The notice shall be in a form prescribed by the City of Arcata and shall contain information regarding the location and nature of the :WCP Zone, and any applicable restrictions thereto. Prior to recordation, the easement shall be submitted to the City Council. The notice shall be recorded at the expense of the applicant.
- B-4 **DESIGN REVIEW COMPLIANCE.** The subject property shall comply with the Preliminary Comments of the Design Review Commission (DRC) of August 11, 2004, and as subsequently modified by the DRC's Final Action. Subsequent changes to this Final Action will require an approved Amendment

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to DRC Action. Certificate of Occupancy will not be issued until staff verifies such DRC compliance.

- B-5 DESIGN REVIEW REQUIRED FOR GRADING. All development is subject to review by the Design Review Commission as specified in the Land Use and Development Guide. Design Review Commission approval is required prior to any grading activities on subject site.
- B-6 LANDSCAPE PLAN. The applicant shall obtain approval from the Design Review Commission for all proposed landscaping. Landscaping shall constructed and maintained in accordance with the approved plan and to the satisfaction of the Community Development Department.
- B-7 COASTAL DEVELOPMENT PERMIT COMPLIANCE. Plans for building permits shall comply with the conditions of approval of the Coastal Development Permit.
- B-8 PARKLAND IN-LIEU FEES. Parkland in-lieu fees in the amount of \$3,888.00 per residence shall be paid to the City of Arcata. This amount is based upon the fair market value of an acre of land that has been appraised at \$360,000. The applicant may submit a revised appraisal prior to issuance of a Building Permit to be reviewed and approved by the Director of Community Development Department.
- B-9 BUILDING DESIGN / SEISMIC HAZARDS. All structures and improvements on the site shall be designed and constructed to meet the standards in the highest seismic zone (UBC Seismic Zone 4) using the latest edition of the Uniform Building Code (UBC). Development shall adhere to the recommendations contained in the Geotechnical Soils Investigation Report (LACO Associates, July 2004). All structures shall conform to the LACO Report. Developer shall employ appropriate compaction techniques to reduce potential liquefaction impacts, employing measures to reduce the impact of potential consolidation under anticipated structural loads. Fill placement, excavations, and grading during construction shall be monitored to check for fill. If uncontrolled fill is encountered during construction, notify project engineer and evaluate conditions. Foundations must be engineered in areas susceptible to lateral spreading prior to residential construction.
- B-10 FIRE DEPARTMENT REQUIREMENTS. Conditions include the following:
 - (1) An automatic sprinkler system will be required, per CBC 904.2.9 (2001 Edition), and;
 - (2) One (1) hour separation between offices and apartments, per CBC Table 3B (2001 Edition)

Public Works Department

- B-11 ENCROACHMENT PERMITS. The applicant shall obtain Encroachment Permits from the Public Works Department for all work performed within City rights-of-way.
- B-12 CONNECTION FEES. Connection fees must be paid for water and sewer connections.
- B-13 DRAINAGE FEES. All applicable Drainage Impact and Maintenance fees must be paid to the satisfaction of the Public Works Director.

C. DURING CONSTRUCTION

Community Development Department:

- C-1 HOURS OF CONSTRUCTION. Construction activity shall be limited to the hours of 8:00 am to 7:00 pm on weekdays and 9:00 am to 5:00 pm on Saturdays. In addition, hours of operation of heavy equipment (eg, cement and grading equipment) during any construction shall be limited to the hours of 8:00 am to 5:00 pm weekdays. Heavy equipment related construction activities shall not be allowed on Saturdays, Sundays and/or holidays.
- C-2 GRADING PERMIT REQUIRED. A grading permit shall be obtained from the Community Development Department prior to any grading or vegetation clearing activities on the site. Applicant shall submit a Grading Plan, including an Erosion and Sediment Control Plan (long form) that includes typical storm water pollution prevention measures and Best Management Practices (BMP's) as recommended in the *Caltrans Storm Water Quality Handbook*. If any spoil material is transported off-site, the grading permit shall include the amount of spoil material, method of transport, (including control of fugitive dust), and the destination of the spoil material. The applicant shall provide the Community Development Director with copies of all required approvals and or permits from federal, state and local jurisdictions, including written approval from the affected property owners prior to any material leaving the site. The Community Development Director, the City Engineer and the Environmental Services Director shall review and approve the Grading Plan. Applicant shall submit applicable City fees for review of the Grading Plan (and Erosion and Sediment Control Plan). The adopted Plan, or updates thereof, shall be implemented during the construction of all development phases by the applicant and by subsequent purchasers. The Grading Permit plot plan shall show the locations of the wetland and setback areas. The wetland and setback area shall be clearly marked on the ground. The following statements shall appear on the Grading Permit plot plan:

- DISCOVERY OF PREHISTORIC OR ARCHAEOLOGICAL RESOURCES. Should concentrations of archaeological or paleontological materials be encountered during construction or grading operations, all ground-disturbing work shall be temporarily halted on the site and the Community Development Department contacted. Work near the archaeological finds shall not be resumed until a qualified archaeologist has evaluated the materials and offered recommendations for further action. Prehistoric materials which could be encountered include: obsidian or chert flakes or tools, locally

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darkened midden, groundstone artifacts, depositions of shell, dietary bone, and human burials. Should human remains be uncovered, State law requires that the County Coroner be contacted immediately. Should the Coroner determine that the remains are likely those of a Native American, the California Native American Heritage Commission must be contacted. The Heritage Commission consults with the most likely Native American descendants to determine the appropriate treatment of the remains.

- **DUST CONTROL DURING CONSTRUCTION.**

1. Water all active construction areas twice per day and use erosion control measures to prevent water runoff containing silt and debris from entering the storm drain system.
2. Cover trucks hauling soil, sand, and other loose material.
3. Pave, water, or apply non-toxic soil stabilizers on unpaved access roads and parking areas.
4. Sweep paved access roads and parking areas daily.
5. Sweep streets daily if visible material is carried onto adjacent public streets.

- C-3 MAINTENANCE OF CONSTRUCTION SITE.** The construction site shall be maintained in a clean and orderly fashion, free of debris. Solid waste generated during construction shall be disposed of in an appropriate manner. Such waste shall include, but not be limited to: concrete forms, waste concrete and asphalt, empty containers of building materials, and excess building materials.

Public Works Department

- C-4 RUNOFF AND DRAINAGE.** Roof and surface runoff must not be directed back into the Jolly Giant Creek. Drainage shall be directed to the east, away from the creek and be via sand filter and existing trench, and must be approved by the Public Works Department. Filtration system conditions for the approved project, including the parking lot, will be required and shall be approved, installed and maintained to the satisfaction of the Public Works Department and the City of Arcata.

Environmental Services Department:

- C-5 EXCAVATED MATERIAL TO BE DEPOSITED OFF-SITE.** All excavated material shall be hauled off-site to a location where the permits to place the material have been obtained.
- C-6 WORK TO BE COMPLETED PRIOR TO OCTOBER 15th.** Work shall be completed prior to October 15th, or as approved by the Department of Environmental Services.
- D. PRIOR TO OCCUPANCY.** The following general conditions shall be met prior to occupancy of the building and commencing operation of the approved use.

5 of 8

Community Development Department:

- D-1 INSPECTION AND CERTIFICATE OF OCCUPANCY. Following project completion, and prior to occupancy of the premises and commencing operation, the applicant shall obtain inspection and approval by the City Building Inspector.
- D-2 CERTIFICATE OF COMPLETION. Upon completion of the project, including fill removal and re-vegetation, the applicant shall obtain an inspection from the Community Development Department staff to verify conformance with the conditions of approval described herein. Upon finding that the project is complete and conforms to the conditions described herein, staff will provide the applicant with a Certificate of Completion for the approved project.
- D-3 INSPECTION TO ESTABLISH COMPLIANCE WITH COASTAL DEVELOPMENT PERMIT. Prior to occupancy of the building, the applicant shall obtain an inspection by planning staff to establish compliance with the conditions stated herein.
- E. **CONDITIONS REQUIRED IN WETLAND/CREEK BUFFER AREAS**
The project shall comply with the following *Mitigation In Coastal Wetland Buffer Areas* required by Section 1-0228, as applicable:

Environmental Services Department:

- E-1 Areas disturbed during construction, grading, etc. within the Required Creek Setback area shall be restored to original contours, and sufficiently and promptly replanted with native plant material or vegetation naturally occurring in the immediate areas;
- E-2 Development and construction shall minimize cut-and-fill operations and erosion and sedimentation potential through constructing temporary and permanent sediment basins, seeding or plating bare soil, diverting run-off away from graded areas and areas heavily used during construction, and where feasible, avoidance of grading during the rainy season, October 15th through April 15th.
- E-3 Activities involved in (1) and (2), above, shall include the use of mulch material. Mulch material shall have the following characteristics: be permeable to water but not to sediment; prevent erosion; and not contain any material (seeds, tubers, corms) that could generate non-native plant material that would out-compete existing or planned creek vegetation. Acceptable mulch materials include sterilized hay, rice, straw, pine needles, leaf litter, redwood chips, and fabric specially designed for this purpose.

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F. EFFECTIVE DATE AND EXPIRATION OF PERMITS

Community Development/Building Department:

- F-1 PERMIT ACTIVATION AND EXPIRATION. This Coastal Development Permit shall expire one (1) year from the date of its issuance unless said permit is activated. "Activated" shall mean when a building permit is issued and construction commenced. This permit may not be extended as permitted by the Arcata Land Use and Development Guide (LUDG) Section 1-0402.7 (or its equivalent).
- F-2 VIOLATION GROUNDS TO REVOKE PERMIT. The violation of any specification or condition of this Coastal Development Permit shall constitute a violation of the LUDG and may constitute grounds for revocation of this permit.
- F-3 INSPECTIONS. The applicant and subject property owner shall permit the City of Arcata or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

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FINDINGS FOR APPROVAL

As approved by the Zoning Administrator on June 17, 2005

The following findings are made in approving the Coastal Development Permit, File # 045-037-CDP. The findings are written in *italics*. A discussion of how the finding can be made, for the project request, will follow the stated criteria. This discussion will be bracketed ([]) and in normal type.

1. REQUIRED COASTAL DEVELOPMENT PERMIT FINDINGS PER LUDG SECTION # 1-0408.4

1-A *The proposed development conforms to the Certified Local Coastal Program.*

[The proposed project conforms with the base zoning designation of Coastal-Central Business District (C-CBD), and allows for a mixed use commercial/office/residential development located on an infill site.

The critical issues with respect to the Coastal Act are public access to the shoreline and protection of sensitive resources. These issues are reflected in Arcata's wetland Certified Local Coastal Program (LCP). The site is not located between "... *the nearest public road and the sea or the shoreline...*", in this case, Humboldt Bay. The subject property is located north of Samoa Boulevard. Coastal access is not an issue for this project.

Arcata's Local Coastal Program addresses *Wetland* protection of a sensitive coastal resource through the Arcata Land Use and Development Guide (Title IX of the Arcata Municipal Code), Section 1-0288, the *Wetland and Creek Combining (:WCP) Zone*. The :WCP standards required that activities, such as those proposed, be reviewed for effects on wetland or creek resources. In this case, Jolly Giant Creek is located at the south-west corner of the project site. The proposed development will not adversely affect the creek or coastal resources.]

2. ENVIRONMENTAL FINDINGS.

This project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 21084 "Categorical Exemptions" Public Resources Code states that (a) "The guidelines prepared and adopted pursuant to Section 21083 shall include a list of projects which have been determined not to have a significant effect on the environment and which shall be exempt from this division".

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15332 (a)-(e), which is intended to promote infill development within urbanized areas. The project meets the conditions of Class 32 projects described in Section 15332 (a)-(e) In-Fill Development Projects, under Article 19 Categorical Exemptions of the California Environmental Quality Act.

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