

CHAPTER 5

Written Comments on the Draft EIR and Responses to Comments

This chapter contains copies of the comment letters received during the public review period on the Draft EIR, and the individual responses to those comments. Each written comment letter is designated with a number (1 through 179) in the upper right-hand corner of the letter. See Chapter 4 for a list.

Within each written comment letter, individual comments are labeled with a number in the margin. Immediately following each comment letter is an individual response to each numbered comment. Where responses have resulted in changes to the Draft EIR, these changes also appear in Chapter 2 of this Response to Comments Document.

Comment Letter 1

Sidnie Olson

From: Reid, Kelley E SPN [Kelley.E.Reid@usace.army.mil]
Sent: Tuesday, December 02, 2008 8:03 AM
To: Sidnie Olson; DEIRcomments
Subject: 301570: Marina Center - Balloon Tract

These are the first round of comments from the Corps.

From: Ammerman, David A SPN
Sent: Monday, December 01, 2008 3:56 PM
To: Reid, Kelley E SPN
Cc: Heidsiek, Carol A SPN; Shirley, Michael D SPN
Subject: Marina Center - Balloon Tract

Kelley -

After a quick review of elements of the City of Eureka's EIR draft for the Marina Center Project by Cue VI, LLC at what is locally known as the Balloon Tract between Broadway and Waterfront Drive, these are my comments which can be added or incorporated as part of official Corps comments to the EIR:

Biological Resources, Page 6 and also Page 19 - Tidewater Goby critical habitat was expanded January 2008 in the Federal Register to parts of Humboldt Bay, although critical habitat does not appear to be included on the maps immediately adjacent to the Eureka Marina, Clark Slough or adjacent to PALCO Marsh. For specific projects like the city's PALCO Marsh, I believe the U.S. Fish and Wildlife Service previously stated that tidewater goby is not present in this vicinity but the U.S. Fish and Wildlife Service (Greg Goldsmith) should be contacted anyway to confirm specific to this project and Clark Slough.

Page 11 - It says the Corps has not yet verified the Huffman GB wetland delineation. Is this still the case?

Paage 13 - ESA consultations - it correctly indicates how Corps would determine no effect or formal consultation if adversely affect but omits an in between process where the Corps may also determine "may effect but not likely to adversely affect" or NLAA during informal consultation. I also didn't see any mention of Essential Fish Habitat, probably no adverse affect with EFH anyway.

Pages 15-16 - citation of Section 404 in regs appears correct

Pages 25 and 29 - Regulatory Guidance letters are mentioned about wetland mitigation, however I see no reference to recent new Corps/EPA Compensation and Mitigation Rules, these should supercede what city has regarding wetland mitigation Corps processes now.

Regarding Hazardous Materials, contamination of hazardous materials or toxic substances on site, the city appears thorough on this issue. But due to the high profile of this controversial project and scrutiny by environmental groups such as Baykeeper and EPIC, the city, RWQCB, project proponent and consultants need to keep the review process transparent, keep people informed in regards to environmental remediation of the site. Remediation plans, processes and time lines need to be well documented, as public agencies and local environmental groups are often in disagreement and litigious regards to the level of contamination and how to deal with it.

Page IV/H-10 under "Hydrology and Ground Water" - Take a note about reference to FEMA FIRM maps regarding 100 year flood elevation. 6 feet baseline flood elevation, is that correct? Humboldt Bay tides can get up as high as 8.8 feet MLLW in certain times of the year.

12/15/2008

52

1-1

1-2

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1-6

1-7

Comment Letter 1

Transportation Systems - I ride city and county local transit buses on a semi-regular basis and I know the routes as of this date. All buses run 6 days a week and not 7 days a week, there is no Sunday service from any transit company although it probably should be considered if the Marina Center plans are approved eventually. The Red Route serves parts of Fourth Street but does not run along Fifth Street. City planners need to take the bus once in awhile to be savvy to the current schedules. The map in the EIR has some errors. The City Red Route both on weekdays and Saturdays goes southbound from Third and H, onto Fourth Street, stops at Fourth and D, then makes a turn west onto A Street, then onto Commercial, turns left in front of Englund Marine, and goes southbound on Waterfront Drive. On weekdays, the Red Route makes a left on Washington and a right stopping at Koster and Washington, then continues to Costco, then re-enters South Broadway at Wabash and stops at Del Norte Street stop. On Saturdays the bus takes a similar route, going past the Eureka Marina and then straight to Del Norte Street. This bus diversion on Saturdays and weekdays when it passes Englund Marine and the Eureka Marina, does not a stop at any of those locations. The only reason for the diversion is to keep the bus conform to a time schedule when it reaches Bayshore Mall.

1-8

I proposed that City Transit, if the Marina Center gets built, place a stop at the Wharfinger Building, where riders can walk right onto the Marina Center property, they have to cross Waterfront Drive to do so, which with a cross walk shouldn't be too hard. Koster and Washington is also close by but should add another stop like at the Wharfinger further north or at Englund Marine.

1-9

I am in favor of the reduced Marina Center alternative or use of the Shoreline alternative near the Samoa Bridges. I support development at either site, but combining residential units with office and retail space including a museum is putting too many eggs in one basket. Site remediation is imperative.

1-10

Thanks - Dave

12/15/2008

Letter 1: US Army Corp of Engineers (USACE) (David Ammerman)

- 1-1 The comment relates to the tidewater goby. The Draft EIR correctly deems the species as potentially present on page IV.D-5. The critical habitat statement on Draft EIR page IV.D-19 (first and second line of third paragraph) is revised as follows:

~~...the nearest critical habitat for the tidewater goby is in Southern California.~~ the USFWS expanded critical habitat in January 2008 to include parts of Humboldt Bay.

The project site does not have the essential elements of critical habitat for tidewater goby, and the proposed project would not destroy or adversely modify the expanded critical habitat.

- 1-2 The comment states that there has been no verification of the wetland delineation by the Army Corp of Engineers. A wetland delineation prepared by HBG pursuant to the California Coastal Act (CCA) definition of wetlands was submitted to the California Coastal Commission (CCC) in 2008. Wetlands were found within the Clark Slough muted tidal drainage, non-tidal drainages and manmade depressions, and compacted low-lying areas created by previous industrial activities within the rail yard and industrial areas. Wetlands included 1.06 acres of estuarine emergent wetlands (Clark Slough remnants) and 7.61 acres of palustrine emergent wetlands, for a total of 8.67 acres of wetlands. A wetland delineation using Corps of Engineers Clean Water Act Section 404 criteria has been submitted to the Corps. The delineation confirms the information provided in the Draft EIR that a portion of the wetlands identified according to the CCA criteria would be subject to the jurisdiction of the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. The Draft EIR indicates that areas subject to Corps jurisdiction would include 4.54 acres of palustrine emergent wetlands (a subset of the 7.61 acres of palustrine emergent wetlands found in the CCA delineation), in addition to the 1.06 acres of muted tidal wetlands of Clark Slough, for a total of approximately 5.60 acres of Corps jurisdictional wetlands and waters.

It should be noted that after circulation of the Draft EIR, additional site engineering and project planning revealed that while the overall acreage of wetlands and other waters to be filled or disturbed would remain the same (e.g., 5.6 and 8.66 acres under the Corps and CCA delineation methods, respectively), the ratio of wetlands to be permanently filled versus wetlands to be temporarily filled was adjusted slightly. For example, permanent fill of wetlands would increase to about 4.07 and 6.15 acres under the Corps and CCA methods, respectively; whereas, temporary fill of wetlands would be reduced to 0.47 and 1.45 acres under the Corps and CCA methods, respectively. The wetland reserve and mitigation ratios would continue to provide mitigation for these adjusted impact calculations at the levels outlined in the Draft EIR. For example, the wetland reserve is proposed to create, enhance, and preserve a total of about 8.98 acres. The wetland reserve

would create about 6.46 acres of new wetlands, which would mitigate for the permanently filled CCA wetlands at an approximate 1.05:1 (created:impacted) mitigation ratio. (The mitigation ratio for wetlands delineated under the Corps methodology would be much higher – 1.59:1.) Another 2.52 acres of wetlands and waters would be enhanced and permanently preserved which, when combined with the other wetlands to be restored, would amount to an overall preservation mitigation ratio of 1.46:1 (preserved:impacted) for CCA delineated wetlands. (Again, the preservation mitigation ratio for wetlands delineated under the Corps methodology would be much higher – 2.21:1.) In any event, the Draft EIR’s calculations of wetlands acreage were approximate. Consequently, the Draft EIR’s analysis and mitigation measures remain the same, and the project is anticipated to have a less-than-significant impact on wetlands and waters. So as to include the most recent and most conservative data, this Final EIR references these updated permanent and temporary wetland impact numbers, and not the numbers listed in the Draft EIR.

- 1-3 The comment asks that the EIR explain the steps the Corps may take regarding consultation. Under Section 7 of the federal Endangered Species Act, the Corps must consult with the USFWS or NMFS on any federal action that “may affect” listed species or designated critical habitat. If the action is not likely to adversely affect the species or critical habitat, the Corps, USFWS, and/or NMFS may conclude the consultation by making the not likely to adversely affect (NLAA) finding. Here, the project is anticipated to have “no affect” on listed species or designated critical habitat, although the federal agencies must ultimately decide that question for purposes of satisfying their duties under Section 7.

The comment also states that the Draft EIR does not mention Essential Fish Habitat, but that adverse effects on Essential Fish Habitat are unlikely. As discussed on page IV.D-6 of the Draft EIR concerning fish habitats, the comment is correct that no adverse affect on Essential Fish Habitat would be expected from the proposed project.

- 1-4 The comment states that the citation of Section 404 appears correct. The comment is noted.
- 1-5 The comment notes correctly that there is a new version of the Corps/EPA compensation and mitigation rules which should be cited on Draft EIR, page IV.D-29. The text on page IV.D-29 is edited as follows:

Mitigation Measure D-3b: Prior to site grading, the Project Applicant shall prepare a detailed Restoration Plan in accordance with the U.S. Army Corps of Engineers (Corps) *Habitat Mitigation and Monitoring Proposal Guidelines* and Regulatory Guidance letters 02-02 and 06-03; Federal Register, 2008. *Compensatory Mitigation for Losses of Aquatic Resources; Final Rule. Department of Defense, Department of the Army, Corps of Engineers 33 CFR Parts 325 and 332; and U.S. Environmental Protection Agency 40 CFR Part 230. April 10, 2008;* as well as the California Coastal Commission’s *Procedural Guidance for the*

Review of Wetland Projects in California's coastal zone: Chapter 2 Enhancement and Restoration....

Please note that another portion of Mitigation Measure D-3b is revised in response to comment 4-5. Please see Chapter 2, Errata, for the complete revised Mitigation Measure.

- 1-6 The comment states that the remediation plans, process, and timelines need to be well documented. The comment is noted. For further discussion of site remediation, please see Master Response 4 and Appendix S.
- 1-7 The comment requests confirmation of the flood elevation. As referenced on page IV.H-10, Chapter IV.H, Hydrology and Water Quality, the flood elevation is listed and confirmed as 6 feet. This is based on the most current and publicly available FEMA FIRM map.
- 1-8 The comment describes errors in the description of Transit Systems (text and figure) on pages IV.O-5 and IV.O-6 of the Draft EIR. The comment is correct; the Red Route, operated by Eureka Transit Service was altered to operate along Waterfront Drive to serve the Wharfinger Building. Mitigation Measure O-7d on page IV.O-47 of the Draft EIR is revised as follows:
- Mitigation O-7d:** The Project Applicant shall work with the Eureka Transit Authority to reinstate the bus stop at Koster and Washington Streets and improve the bus stops in front of the Wharfinger Building and at Seventh and California Streets, including paying their fair share to enhance the amenities of the stop (i.e., shelter, beach, and signage).
- 1-9 The comment recommends placement of a bus stop at the Wharfinger Building. Per response to comment 1-8, Mitigation Measure O-7d, is revised to reflect improvements to the existing transit stop in front of the Wharfinger Building.
- 1-10 The comment states a preference for the Marina Center Reduced Footprint Alternative or other off-site alternatives. Comment is noted. Alternatives are discussed in Chapter VI. Mitigation of hazards and hazardous materials are discussed in Chapter IV.G. Please also see response to comment 29-1, which discusses the benefits of the mix and intensity of uses in the proposed project.

Marina Center and greetings.

Sidnie Olson

From: Reid, Kelley E SPN [Kelley.E.Reid@usace.army.mil]
Sent: Friday, December 12, 2008 11:38 AM
To: Rganz@sns.com; DEIRcomments
Subject: Marina Center and greetings.

It's been several days, and a virus, since I browsed through the Draft EIR; however, I recall that the DEIR mentioned that a wetland delineation had not been confirmed by the Corps of Engineers.

As I recall, that statement is both accurate and misleading. A wetland report -as I recall- was only provided for the road network on the property in advance of requesting a NWP. Instead of confirming the jurisdiction of the roads without the data for the surrounding vegetated lands and instead of granting/confirming the NWP, the Corps noted the maintenance exemption was appropriate to the situation.

So, with respect to the DEIR, I really haven't had a complete wetland report to review. At least I don't recall it, and I don't find it in my files. Although the Corps strives to review permits within 120 days, I observe that it typically takes much longer. So, I should think that a wetland report and application should be submitted to the Corps soon so that we can begin the process. If the Corps' regulatory review requires changes to the project, those changes should--I would imagine--occur before the EIR is finalized.

I look forward to progressing on this project.

2-1

Letter 2: US Army Corp of Engineers (USACE) (Kelley Reid)

- 2-1 The comment states that there has been no wetland delineation for the entire project site submitted to the U.S. Army Corp of Engineers and that one should be submitted before the EIR is finalized. A wetland delineation (or assessment) at the CEQA stage needs only to provide the Lead Agency with sufficient information to determine the significance of potential impact to wetlands and develop appropriate mitigation measures, which is the case in this Draft EIR.

With respect to what has been submitted, Huffman-Broadway Group (HBG) on behalf of the Project Applicant submitted a Nationwide 3 (Maintenance) Pre-Construction Notification for the Balloon Tract Road Maintenance Project on October 2, 2006. The permit request was to repair and rehabilitate currently unserviceable access roads by repairing large potholes that impede emergency and maintenance vehicles from accessing the project site. The maintenance work projected fill impacts into 0.74 acres of potholes that may be regulated by Section 404 of the Clean Water Act. Accompanying the Pre-construction Notification was a request for the Corps to determine whether the subject potholes would be considered water filled depressions created in dry land and incidental to ongoing and continuous construction activity associated with maintaining access to the project site. As discussed in response to comment 1-2, a wetland delineation for the entirety of the project site has recently been submitted to the Corps. A Pre-Construction Notification for the environmental cleanup is being prepared and will be submitted to the Corps.

CALIFORNIA COASTAL COMMISSION

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Comment Letter 3

ARNOLD SCHWARZENEGGER, GOVERNOR



January 31, 2009

Sidnie Olson AICP, Principal Planner
City of Eureka
Community Development Department
531 K Street
Eureka, CA 95501

SUBJECT: Request for Comments on Draft Environmental Impact Report for *Marina Center* Mixed Use Project, Former Union Pacific Railroad Switching & Maintenance Yard, City of Eureka, Humboldt County, California (APNs 001-014-002, 002-021-009, 003-031-003, -007, -008, -012, -013, 003-041-005, -006, -007, & 003-151-001); CUE VI, LLC, Petitioner/Applicant; SCH # 2006042024

Dear Ms. Olson:

Thank you for the opportunity to comment on the draft environmental impact report (DEIR) for the above-referenced project. The Commission itself has not had the opportunity to review the document, but Commission staff has prepared the following comments.

The project entails the reclassification of property currently planned and zoned Public/Quasi-Public (PQP), and Light Industrial (LI) to Waterfront Commercial (WFC), General Services Commercial (GSC), Professional Office (PO), Light Industrial (LI) and Water Conservation (WC), with corresponding changes in zoning from Public (P) and Limited Industrial (ML) to Waterfront Commercial (CW), Commercial Services (CS), Office and Multi-Family Residential (OR), Limited Industrial (ML), Conservation Water (WC) districts over the majority of the approximately 43-acre property, consisting of a former railroad switching and maintenance yard and adjoining commercial-industrial sites in northwest Eureka. No amendments to the text policies and standards of the City's planning and zoning program are proposed.

Given their location within the California Coastal Zone, the proposed changes to land use and zoning designations of the property will require certification by the Coastal Commission of the changes as part of a Local Coastal Plan (LCP) amendment. The Commission's standard of the review for the amendments to the land use plan designation is whether the proposed changes meet the requirements of, and are in conformity with, the policies of Chapter 3 of the California Coastal Act (PRC §30200 *et seq.*). The Commission's standard of review for the amendments to the zoning designations is whether the proposed changes conform with, or are adequate to carry out, the provisions of the certified land use plan (as amended).

Once the changes to planning and zoning designations are presumably certified by the Commission, proposed physical development at the site would consist of the remediation of the petroleum hydrocarbons-, metals-, and volatile organic compounds-contaminated rail yard "brownfields" site and subsequent development of a mixed-use complex comprising over 500,000 square-feet of retail commercial, professional office, light industrial, multi-family

Comment Letter 3

Sidnie Olson -- City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 2 of 24

residential, and quasi-public (museum) uses, and related onsite and offsite road way, off-street parking, landscaping, lighting, and signage improvements. The project would also include development of a ±12-acre wetland restoration and enhancement area as well as perimeter pedestrian and bicycle pathways, and natural resources interpretative kiosk amenities.

The subsequent site improvements under the new designations will require the issuance of conditional use and coastal development permits, and other authorizations by the City of Eureka. Pursuant to Coastal Act Section 30603(a)(2), any site developments approved by the local government located within 100 feet of any wetland would be appealable to the Commission. The Commission's standard of review for hearing any such appeal, should one be filed, would be whether the development conforms to the standards set forth in the certified LCP and the public access policies of the Coastal Act.

Scope of Agency Comments

Pursuant to Section 15082(b) of the California Environmental Quality Act (CEQA) Guidelines (14 CCR §§15000 *et seq.*), the Coastal Commission as a consulted agency is to provide the lead agency with "...specific detail about the scope and content of the environmental information related to the ... agency's area of statutory responsibility." In addition to providing this information, the consulted agency must identify if it will be a "responsible" or "trustee" agency (or both) for the project. This designation will depend upon the physical location of the project site being studied and the types of entitlements involved in authorizing the development.

The entirety of the project site is located within the California Coastal Zone as defined in Chapter 2.5 of the California Coastal Act (Public Resources Code §30150 *et seq.*) and within the City of Eureka's certified coastal development permit jurisdiction and is subject to the policies and standards of the City's LCP. Accordingly, the Commission will function as both a trustee and responsible agency. The role of trustee agency is based upon the Commission's explicit jurisdiction by law over natural resources held in trust for the people of the State of California that could be affected by the project. The function of responsible agency derives from the role of the Commission in: (a) certifying LCPs for areas within the coastal zone under local governments' jurisdiction; (b) issuing coastal development permits (CDPs) within areas of Commission jurisdiction; or (c) hearing appeals on CDPs issued by local governments for certain classes of development in specified areas.

Organization of Comments

Under Sections 15251(c) and (f) of the CEQA Guidelines, the Secretary of Resources has certified the California Coastal Commission's regulatory program as a "functionally equivalent process" to CEQA. Accordingly, the adopted final EIR would be used as a technical background document in assessing the project's environmental effects and conformance with applicable policies and standards within City's LCP and/or the Coastal Act. The document would first be used in the review of the LCP amendment requested by the City, in terms of the changes in ultimate development potential the program modifications would afford. Secondly, assuming the requested changes to the City's coastal land use plan and zoning facilitating the proposed project are certified, the analysis within the environmental document would be considered in hearing any

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 3 of 24

future appeal of the coastal development permit for any development project undertaken at the site under the revised land use and zoning designations and/or changed plan policies and development regulations, should any such appeal be filed.

The comments provided below have been primarily directed to the evaluations pertaining to the potential effects relating to the LCP amendment portion of the project rather than those regarding the Marina Center development proposal proper. Although many of the comments relate to conformance with specific Coastal Act and LCP policy and standards, in keeping with the primarily “CEQA checklist” layout of the DEIR, the comments have been organized, where possible, consistent with the thematic format of the draft EIR with respect to the various classes of environmental effects. Pertinent LCP and Coastal Act sections (*italicized*), and general plan policies are cited, quoted or paraphrased accordingly.

The following comments are provided for lead and responsible agency consideration for reviewing the draft EIR:

Format and Scope of Analysis

As described in Chapter III, the Marina Center development project comprises two independent and consecutive sets of authorizations: (1) City-adoption of amendments to its LCP’s land use plan and zoning designations for the Balloon Track and adjoining properties (and any related textual plan policies or development regulations) and subsequent certification of these amendments by the Coastal Commission; and (2) issuance of a coastal development permit by the City (or the Coastal Commission on appeal) for remediation of hazardous materials contamination, subsequent construction of the site improvements, and sanctioning the uses therein. Action on any discretionary permit which is inconsistent with general plan and/or zoning provisions may not be acted on until requisite changes to such policies and standards have first been formally adopted by the City and certified by the Commission. As a consequence, processing the entitlements for such projects must be administered in a legally bipartite fashion: Concurrent processing of the conditional use and coastal development permit requests by the City conditioned upon the presumed future certification of an LCP amendment by the Coastal Commission would not be appropriate.

We fully acknowledge that it is the City’s intent to prepare an analysis that comprehensively assesses the specific environmental effects of the regulatory programmatic changes together with those associated with the physical construction, and land uses to be conducted at the Marina Center project site. However, there is no firm guarantee at this time that: (a) the City will adopt the amendments to its LCP; and (b) the Commission would certify those changes, such that the second component of the overall described project—the Marina Center development proper—could be legally authorized. In addition, plans for the project could be abandoned, substantially revised, and/or alternative development undertaken by others whether the plan and zoning provisions are amended or not. Thus, our comments are focused primarily on the proposed changes to the City’s LCP.

5-9

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 4 of 24

LCP Certification Review Process

As directed by Coastal Act Section 30510(b) and detailed within the Commission’s administrative regulations (14 CCR 13551 *et seq.*), an amendment to the City’s local coastal program must include “materials sufficient for a thorough and complete review,” including a “...discussion of the amendment’s relationship to and effect on the other sections of the certified LCP...” Typically, where not otherwise statutorily exempted, many local governments choose to include this analysis within their CEQA documentation.

The policy analysis within the DEIR does not adequately provide for a thorough and complete review of the proposed LCP amendment, neither in terms of the land use plan designation changes with Coastal Act Chapter 3 policies, nor with respect to the proposed zoning designation changes in terms of their consistency with and adequacy for carrying out the policies of the land use plan (as amended). We suggest that the City supplement the DEIR coverage within Chapter IV-I to include the consistency analyses that will be required by the Coastal Commission in assessing the proposed changes to its LCP for purposes of certification. To this end, the analysis should be augmented to first focus on, under a generic “ultimate build-out” scenario, the environmental effects the plan and zoning designation changes would have on: (1) the range and types of principally- and conditionally-permissible land uses; (2) the permissible intensity of development (e.g., minimum lot dimensions; maximum heights, coverage, floor-area, and residential densities; yard requirements and setbacks, etc.); and (3) the consistency of the changes in land use plan with the Chapter 3 policies of the Coastal Act (i.e., Public Resources Code Sections 30200 through 30265.5, inclusive); and (5) the amended zoning regulations’ (i.e., CZR §§10-5.2901 through 10-5.29316, inclusive)¹ consistency with, and adequacy to carry out, the land use plan as amended (i.e., *City of Eureka General Plan Policy Document* Policies 1.A.4-6, 1.D.1-6, 1.E.3, 1.G.3, 1.I.1, 1.L.11, 1.M.2-7, 3.A.7-8, 3.G.1-2, 4.A.4-7, 4.B.1, 5.B.1-11, 6.A.1-24, 6.B.2-5, 7.B.2-5, and 7.D.1, as applicable.)

3-1

Once, this primary LCP amendment analysis is completed, then the EIR should evaluate the environmental implications of specific development projects, such as the Marina Center, together with an appropriate set of feasible alternatives.

3-2

Additional further detail as to the scope of this supplemental analysis is provided under each effects heading section below.

III. Project Description

Site Remediation: From past discussions with the project proponents, it is the Commission’s understanding that most of the petroleum and other hazardous materials at the project site will not be removed to disposal facilities, but instead “capped” beneath buildings, parking lots, and other impervious surfaces, and effectively confined *in situ*, consistent with state and federal standards for sites intending to be developed with commercial and industrial land uses. However, although alluded to in several sections of the DEIR (e.g., Table I-1), no specific details

3-3

¹ Alternately cited as: “Title XV, Chapter 156 of the Eureka Municipal Code” (EMC).

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 5 of 24

have been provided with regard to the extent and scope of the hazardous materials remediation to be undertaken at the project site, and the full array of types and levels of contaminants to be either removed or retained/confined. The particular remediation methodologies to be used, the types and concentrations of contaminants, and the end-points to which clean-up would be taken significantly affect the overall extent of excavation, filling, and grading at the site, the degree to which environmentally sensitive habitat areas would be impacted, the traffic and air emissions generated during that project phase, and the permissible land uses that may subsequently be developed at the remediated site. As previously commented upon in their scoping letter of April 25, 2006, the Department of Toxic Substances Control (DTSC), a potential oversight responsible agency, observed that any such remedial actions to be undertaken as part of the project should be discussed within the EIR.

3-3
cont.

We acknowledge that an approved remedial action plan has yet to be secured from the North Coast Regional Water Quality Control Board, the apparent responsible oversight agency. Nonetheless, the information contained in such a plan, prepared consistent with the standards of Division 20, Chapter 6.8 of the California Health and Safety Code, and the alternatives evaluation criteria within the U.S. Environmental Protection Agency’s National Oil and Hazardous Substances Pollution Contingency Plan, will be crucial to the Commission for conducting a full assessment of the project’s effects on coastal resources, especially as relate to the proposed changed land use and zoning designations, for determining the feasible least environmentally-damaging alternative, and for ensuring that the Commission does not modify, adopt conditions, or take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality, as required by Coastal Act Section 30412(b).

3-4

Undergrounding Utilities: Several of the project rendering and photo visual simulations imply that some of the above-ground electricity and telephone utility poles and transmission lines would be removed as part of the project site improvements, presumably to be relocated into underground vaults. Although the DEIR states in several places that new utilities will be placed underground, there is no similar statement with respect to the applicant’s intentions regarding existing utilities. Please clarify if the project would include the undergrounding of these structures.

3-5

IV. Environmental Setting, Impacts, and Mitigation Measures

IV. A. Aesthetics

Applicable Coastal Act and LCP Policies and Standards

Coastal Act Section 30251 requires that “... the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance.” Permitted development is to be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize alteration of natural landforms, to be compatible with surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas.

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 6 of 24

The City’s General Plan *View Corridors and Architectural / Landscape Character* policies include the following applicable provisions:

- I.H.1. The City shall promote unobstructed view corridors to the waterfront from public streets and other public spaces through careful building siting and effective street tree maintenance.

Moreover, LUP Coastal Recreation and Access Policy 5.B.1, states, in applicable part:

The City shall provide public open space and shoreline access throughout the Coastal Zone, particularly along the waterfront... through all of the following: ...

- d. Consider and protect the scenic and visual qualities of coastal areas that are visible from scenic public vista points and waterfront walkways...

In addition, Section 10-5.2944 of the Zoning Regulations of the City for the Coastal Zone (herein “Coastal Zoning Regulations” or “CZR”)² establish numerous criteria for reviewing the potential effects of new development on visual resources. Development occurring in and near coastal scenic areas may be approved or conditionally approved only where it is established that: (1) alteration of natural landforms is minimized; (2) the project will be visually compatible with the character of the surrounding area; (3) the project is sited and designed to protect views to and along the ocean and scenic coastal areas; and (4) visual quality in visually degraded areas will be restore and enhance, wherever feasible. [Emphasis added.]

Comments

The DEIR coverage of visual resources impacts is limited to an assessment of the physical ramifications of the Marina Center site improvements, primarily in terms of the qualitative similarities and differences with surrounding buildings. No separate discussion of the potential impacts the stand-alone programmatic changes—namely the imposition of the various requested plan and zoning designations— would have on the siting and design of subsequent site improvements and whether such improvements could conditionally comply with the above-cited criteria. The DEIR should be supplemented to provide such analysis.

3-6

The DEIR should be supplemented to include a quantitative evaluation of the bulk and scale of development in the surrounding area, comparing and contrasting structural square-footages, heights, floor-area, and lot coverage with that for the proposed development project. Mitigation measures should be revisited, as necessary, to identify additional means to reduce any significant adverse effects to less-than-significant levels, including height and size restrictions, exterior treatments to the structures, landscaping, and creation of view corridors. Such information will be critical for determining whether the proposed big-box commercial buildings and other large structures are visually compatible with the character of the surrounding area as required by Section 30251 of the Coastal Act and by Section 10-5.2944 of the City’s Coastal Zoning Regulations.

² Alternately cited as: EMC Section 156.054.

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 7 of 24

IV. C. Air Quality

Applicable Coastal Act Policies and Standards

Coastal Act Section 30253 directs, in applicable part:

New development shall: ...

- (3) *Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.*

Section 30414 states, in applicable parts:

*(a) The State Air Resources Board and air pollution control districts established pursuant to state law and consistent with requirements of federal law are the principal public agencies responsible for the establishment of ambient air quality and emission standards and air pollution control programs. **The provisions of this division do not authorize the commission or any local government to establish any ambient air quality standard or emission standard, air pollution control program or facility, or to modify any ambient air quality standard, emission standard, or air pollution control program or facility which has been established by the state board or by an air pollution control district.**...*

*(c) The State Air Resources Board and **any air pollution control district may recommend ways in which actions of the commission or any local government can complement or assist in the implementation of established air quality programs.** [Emphases added.]*

Comments

The final EIR should discuss how the proposed LCP amendment and development project, with the attachment of specified mitigation measures would be consistent with requirements imposed by the North Coast Unified Air Quality Management District once that agency promulgates such standards. The mitigation and monitoring program should be augmented to include a robust set of measures, including but not limited to, market-based provisions for purchasing carbon offsets, exchanges, banking credits, and/or other transactions for inclusion within the project design towards achieving significant, incremental reduction in greenhouse gas emissions by the years 2020 and 2050, as set forth in the California Global Warming Solutions Act (AB32).

3-7

IV. D. Biological Resources

Applicable Coastal Act and LCP Policies and Standards

Section 30121 of the Coastal Act defines “wetlands” as:

‘Wetland’ means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Section 13577 of the Commission’s administrative regulations (14 CCR 13001 *et seq.*), in applicable part, further defines “wetlands” as:

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 8 of 24

(1) ...Land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:

- (A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;*
- (B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; **or***
- (C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.*

(2) For the purposes of this section, the term “wetland” shall not include wetland habitat created by the presence of and associated with agricultural ponds and reservoirs where:

- (A) the pond or reservoir was in fact constructed by a farmer or rancher for agricultural purposes; **and***
- (B) there is no evidence (e.g., aerial photographs, historical survey, etc.) showing that wetland habitat pre-dated the existence of the pond or reservoir. Areas with drained hydric soils that are no longer capable of supporting hydrophytes shall not be considered wetlands. [Emphases added]*

Section 30233 of the Coastal Act states, in applicable part

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

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (6) Restoration purposes.*

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 9 of 24

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

(e) *In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary...* [Emphases added.]

Coastal Act Section 30240 directs:

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

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

The central precepts of these policies and standards are iterated as Policies 6.A.1 through 6.A.14 within LUP Part II, Section 6 – *Natural Resources*, and in CZR Section 10-5.2942.³ In addition, Section 10-5.2910⁴ directs:

No diking, filling, or dredging shall be permitted in the coastal zone, unless determined to be consistent with the provisions of all applicable Coastal Zone Development Standards, Part 3 of this Article, and all applicable policies of the land use plan of this LCP.

Comments

The two wetland delineations independently conducted have been reviewed by the Commission’s staff biologist who provides the following observations:

Both delineators appropriately included a delineation utilizing the one-parameter definition in the Coastal Commission’s administrative regulations (as contrasted with the U.S. Army Corps of Engineer’s requirements that three wetland parameters be present). Similar wetland areas were identified by both delineators. The maps produced by the Huffman-Broadway Group were based on surveys using global positioning satellite (GPS) coordinates and are probably the more accurate. The wetlands that are present fall into two categories: seasonally wet depressions (i.e., palustrine emergent wetlands) that were created by human activities, and a remnant of Clark Slough (i.e., estuarine emergent wetlands) that is still connected to Humboldt Bay and receives muted tidal flows. The Clark Slough remnant covers about 1.06 acres (based on either CCC or ACOE definitions). There delineation discloses that are approximately 7.61 acres of CCC palustrine emergent wetlands, of which the proposed project would result in the permanent fill of about 5.54 acres of this ESHA. The project applicant proposes to create

³ Alternately cited as: EMC §156.052.
⁴ Alternately cited as: EMC §156.015.

5-12

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 10 of 24

additional tidal estuarine wetlands as mitigation for the proposed wetland fill⁵. A mitigation ratio of at least 1:1 is proposed. The possibility of additional mitigation in the form of off-site creation, restoration, or preservation is also suggested. A 50-foot buffer around the created and restored wetlands is proposed.

Only a portion of the wetlands that are present are proposed to be dredged or filled — it apparently is not necessary to remediate soil contamination throughout the site. To analyze the impacts of the project and the project’s consistency with land use policies, it is important that each wetland be individually characterized with respect to contamination and proposed remediation. The DEIR should be supplemented to provide this information.

3-8

With respect to the proposed 1:1 compensatory replacement ratio, were the proposed development a permitted use under the LCP or otherwise allowable, the mitigation that has been proposed would be qualitatively appropriate. In this landscape setting, a well-constructed, relatively large tidal wetland would have a greater natural resource value than the existing small, scattered, and degraded seasonally wet depressions. However, since there would be temporal losses of habitat functions during restoration and creation activities and since there would be uncertainty concerning the success of the mitigation, a mitigation ratio greater than 1:1 would be appropriate.

3-9

As regards the project proposal to include a 50-foot buffer around the restored wetlands, Policy 6.A.19 of the Land Use Plan and CZR Section 10-5.2942.15⁶ require that the minimum width of a buffer shall be 100 feet, unless the applicant for the development demonstrates on the basis of the type and size of the adjacent development, and/or proposed mitigation measures, that a smaller buffer will protect the resources of the habitat area. Technical Services biological staff find that it is unlikely that a buffer of 50 feet would be sufficiently protective of wildlife, especially given the probable high level of use of the proposed trails around the restored wetlands.

3-10

The DEIR should be supplemented to address the above-described permissible use and adequate mitigation inconsistencies.

Comments addressing Coastal Act and LCP consistency of the proposed dredging, diking, and filling of wetlands follow under the Land Use and Planning sub-heading, below.

IV.F/G. Geology and Soils / Hazards and Hazardous Materials

Applicable Coastal Act and LCP Policies and Standards

Section 30253 of the Coastal Act states:

⁵ Although Figure IV.D-3 suggests two categories of mitigation wetlands (2.68 ac Clark Slough Channel and adjacent tidal wetlands and 6.3 ac merely captioned “wetland”), Table IV.D-3 specifies that both areas will be muted tidal wetlands.
⁶ Alternately cited as: EMC §156.052(O).

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 11 of 24

New development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Coastal Act Section 30232 directs:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Parallel provisions to these policies and standards are incorporated in the LCP as Policies 4.A.4., 7.B.2., 7.B.3.-5, 7.D.1, through 7.E.4 within LUP Part II, Section 4 – *Public Facilities and Services* and Section 7 – *Health and Safety*, and in CZR Section 10-5.2943.⁷

Comments

In addition to echoing the hazards avoidance and risk minimization provisions of Coastal Act Section 30253, LUP Policy 7.B.5 and CZR Section 10-5.2943.3 direct the City to require the preparation of a geology and soils report, with particular content and coverage, “at the time of project application” for certain specified high density residential and other high occupancy development⁸ located in areas of significant liquefaction potential. The proposed residential, office, retail commercial, and restaurant components of the Marina Center development meet these project review criteria and thus require preparation of a geology and soils report. Additionally, as discussed in the *Geology, Soils, and Seismicity* sub-chapter, the site is historically known to be subject to significant liquefaction. Notwithstanding the citation of use of an unpublished 2006 “geotechnical characterization report” of the site, a timely geology and soils report has not been prepared and made available for review. Mitigation Measure F-1a proposes to further defer the preparation of until after adoption of the EIR. Preparation of the requisite site stability analysis should be expedited and made available as part of the environmental review process. Specific mitigation measures (i.e., pre-construction site preparation, foundation & structural design, and grading & drainage recommendations) to reduce any significant adverse impacts to less-than-significant levels should also be identified.

3-11

3-12

With respect to the DEIR’s coverage of hazardous substances impacts, please refer to the above comments under the III. Project Description – Site Remediation sub-heading.

IV. H. Hydrology and Water Quality

⁷ Alternately cited as: EMC §156.053.

⁸ These project types are defined as: (1) residential development having a gross density of eight or more units per acre; (2) office buildings of 10,000 square-feet or larger in size; and (3) visitor-serving facilities of 5,000 square-feet or larger in size.

5-13

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 12 of 24

Applicable Coastal Act and LCP Policies and Standards

Coastal Act Section 30230 states:

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.

Section 30231 continues on to direct:

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.

Section 30253 of the Coastal Act states:

New development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Equivalent provisions are set forth within the LUP’s *Stormwater Drainage, Aquatic Resources and Marine, Wetland, and Riparian Habitat*, and *Geological Hazards* sub-sections, and within CZR Sections 10-5.2912 and 10-5.2943.

Comments

The impact analysis identifies a number of mitigation measures (i.e., erosion/sediment control plans; dry-weather scheduling; inlet protection; soil stockpile management; dust abatement; material delivery, storage, and use protocols; monitoring; swale bio-filtration; prohibitions on certain herbicides and pesticides) to be taken to prevent and reduce address water quality impacts from stormwater-entrained pollutants and sedimentation both during the construction phase and long-term during the development’s economic life. These water quality best management practices (BMPs) should serve to prevent significant impacts to receiving coastal waters both on- and off-site from site development sources.

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 13 of 24

Although Mitigation Measures H-4a and H-5a provide for collecting and conveying site runoff to appropriately designed drainage facilities and treatment of stormwater within drop inlet vaults, no preliminary analysis has been provided with regard to the initial sizing and types of these facilities. As regards post-construction water quality measures, in acting on past LCP amendment and permit applications, the Commission has utilized water design standards developed cooperatively with the State Water Resources Board and regional water quality control boards for treating, filtering, and infiltrating stormwater runoff up to and including the 85th percentile, 24-hour and/or one-hour storm event for a given area, for flow- and volumetric-based BMPs, respectively. The DEIR should be supplemented to address how such design goals could be implemented at the project site (see enclosure.)

3-13

With respect to water-borne hazards, namely coastal flooding, tsunami inundation, and the implications of global sea-level rise, the DEIR utilizes data derived from 1986 flood mapping 1993 and 1995 tsunami modeling, and 2006 sea-level projections. These sources are somewhat dated and more current scientific information is available and should be utilized in analyzing these impact types. The more recent and site-specific data developed and collated by the members of the Redwood Coast Tsunami Work Group⁹ and prepared for the Samoa Town Plan EIR (“Revised Tsunami Vulnerability Evaluation – Samoa Town Master Plan, Humboldt County, California,” GeoEngineers, Inc. and PlanWest Partners, Inc., ©2006, and revisions) should be considered in assessing potential tsunami inundation risks, including the establishment of appropriate floor elevations for residential development at the site.

3-14

As regards sea-level rise, in December 2008, a staff briefing was presented to the Coastal Commission on recent developments in the fields of climate change and global warming (see: http://documents.coastal.ca.gov/reports/2008/12/F3_5-12-2008.pdf). Much of the presentation regarding predicted global sea-level rise followed from the 2007 release of the fourth assessment report by the United Nations - World Meteorological Organization’s Intergovernmental Panel on Climate Change (IPCC) (see: <http://www.ipcc.ch/ipccreports/assessments-reports.htm>) and various scientific papers published after its release (e.g., Rahmstorf, S. 2007. “A Semi-Empirical Approach to Projecting Future Sea-Level Rise,” *Science*, v315, 368-370, DOI:10.1126/science.1135456 and W. T. Pfeffer, et al. “Kinematic Constraints on Glacier Contributions to 21st-Century Sea-Level Rise,” *Science* 321, 1340 (2008); DOI:10.1126/science.1159099.) These materials, as well as the pending 2008 *California Climate Action Report*, should be consulted in the preparation of a supplemental quantitative assessment of the effects of global sea-level rise on site stability and the exposure of persons and property to natural and anthropogenic hazards at the project site, including the effects such future inundation may have on the management of hazardous materials and contamination retained/confined at the project site.

3-15

IV. I Land Use and Planning

Applicable Coastal Act and LCP Policies and Standards

Section 30253 of the Coastal Act states, in applicable part

⁹ See <http://www.humboldt.edu/~geology/earthquakes/retwg/> for contact information.

5-14

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 14 of 24

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

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- (6) Restoration purposes.
- (7) Nature study, aquaculture, or similar resource dependent activities...

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary... [Emphases added.]

Coastal Act Section 30240 directs:

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

The central precepts of these policies and standards are iterated as Policies 6.A.1 through 6.A.14 within LUP Part II, Section 6 – *Natural Resources*, and in CZR Section 10-5.2942.¹⁰ In addition, Section 10-5.2910¹¹ directs:

No diking, filling, or dredging shall be permitted in the coastal zone, unless determined to be consistent with the provisions of all applicable Coastal Zone Development Standards, Part 3 of this Article, and all applicable policies of the land use plan of this LCP.

¹⁰ Alternately cited as: EMC §156.052.

¹¹ Alternately cited as: EMC §156.015.

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 15 of 24

Coastal Act Section 30250(a) directs, in applicable part:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

Coastal Act Section 30252 continues on to state:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Moreover, Section 30255 of the Coastal Act directs that:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

City of Eureka General Plan Policy 3.F.2 states:

The City shall work with the North Coast Railroad to determine if feasible locations for switching operations can be located outside the city, allowing the current balloon track area to be used for industrial or commercial development purposes.

In addition, Section One of the City's Land Use Plan (LUP) titled *Land Use and Community Design* contains numerous policies that relate to the proposed plan and zoning redesignations and site development. The policies most germane to the proposed development project include the following:

LUP *Land Use and Development Framework* Policy 1.A.2 states:

Within the coastal zone, the City shall ensure that coastal-dependent developments have priority over other developments on or near the shoreline. Except as provided elsewhere in this General Plan, coastal dependent development shall not be sited in a wetland.

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 16 of 24

Coastal-related developments shall generally be accommodated proximate to the coastal-dependent uses they support.

General Plan Policy 1.L.1 states, in applicable part:

The City shall discourage new commercial development within the city that will adversely affect the economic vitality of the Core Area...

General Plan Policy 1.L.8 states:

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

LUP *Commercial Development* Policy 1.L.11 states, in applicable part:

The City shall protect and, where feasible, upgrade facilities serving the commercial fishing and recreational boating industries... [Emphasis added.]

General Plan Policy 1.L.12 states:

The City shall promote the concentration of automobile-oriented retail development in the ASC designated area at the west end of 6th and 7th Streets. In particular, the City will support the establishment and retention of auto dealerships in this area. The City shall also discourage the establishment of new dealerships outside of this area.

LUP *Industrial Development* Policy 1.M.5 states:

If efforts to develop a multi-purpose terminal at Dock B are unsuccessful, the City will support the development of a non-coastal industrial park in the Dock B area, including the "balloon track" and the Wright-Schuchart site. In developing such an industrial park, the City would retain the Dock A area for possible long-term cargo terminal development.

LUP *Industrial Development* Policy 1.M.8 states, in applicable part:

The City shall encourage coastal-dependent industrial facilities to locate or expand within existing sites...

General Plan Policy 1.M.8 states:

The City shall require that new industrial and heavy commercial development projects have convenient and safe access to major transportation facilities (highways, railroads, waterfront facilities) to minimize unnecessary and disruptive traffic through residential and other sensitive sections of the city.

General Plan Policy 1.N.9 states:

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 17 of 24

The City shall strive to provide high quality public facilities, utilities, and services throughout the urbanized area of Eureka and shall ensure that such facilities, utilities, and services are compatible with surrounding development.

LUP *Water Transportation* Policy 3.G.1 states, in applicable part:

The City shall protect and, where feasible, upgrade facilities serving the commercial fishing and recreational boating industries... Proposed recreational boating facilities shall, to the maximum extent feasible, be designed and located so as not to interfere with the needs of the commercial fishing industry.

Comments

As set forth in Policy 3.F.2 cited above, it is clear that the City's General Plan acknowledged a phase out of the former railroad uses on the proposed project site to be replaced with other commercial and/or industrial development. While such visioning may have been included within the City's long range planning program, the City must nonetheless ensure that any such change in use be consistent with all provisions within the LCP, including both land use plan policies and standards, and zoning regulations. Although this analysis was conducted for the land use plan policies (i.e., Table IV.I-2), other than with respect to the intent and purpose of the proposed new zoning designations, no similar analysis was conducted for the relevant coastal zoning regulations. A summary of each proposed zoning districts development standards was provided, however no analysis accompanied this summary with respect to the project's consistency with those standards.

3-16

The Coastal Act and LCP policies and standards enumerated in each environmental effect subsection categorically set out the more prominent issues that need to be addressed as part of the environmental review of the proposed LCP amendment and development project. Overall, with respect to analyzing conformance with these policies and standards, the EIR should bear in mind the following questions:

- Can the uses which would become permissible as a result of the amendment to the LCP be legally developable at the proposed location, taking into account site-specific conditions and characteristics and the setting (i.e., the presence or proximity of protected ESHA, surrounding development types and densities, shoreline adjacency, hierarchy of land use priorities, etc.)?
- Will the changes in site plan and zoning designations result in displacing or thwarting the development of other requisite, needed, or planned-for higher priority uses to other locations or timelines that could more effectively be provided for at the proposed project site and/or in a more expeditious timeframe?
- Are adequate community services, public utilities, and other support infrastructure available to serve the uses at this location under the proposed revised plan and zone categories?

3-17

3-18

3-19

5-16

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 18 of 24

- Will the development types that would be facilitated under the amended land use and zoning designations integrate in a non-conflicting manner with established and/or planned surrounding uses?

3-20

Permissibility of the Filling, Dredging, and Diking of Wetlands: The DEIR asserts that the wetlands on the site are neither a "sensitive natural community" under CEQA nor "Environmentally Sensitive Habitat Areas" (ESHA) as defined by the Coastal Act and the City's LCP. However, the Eureka LCP identifies all wetlands as ESHA. Land Use Plan Policy 6.A.6 and Section 10-5.2942.3(2)¹² explicitly declare "wetlands and estuaries" to be "environmentally sensitive habitat areas." Table IV.I-2 of the Draft EIR concludes that the project is "Consistent" with LUP Policy 6.A.7 despite the fact that this policy restricts development in ESHA to resource dependent uses.

3-21

Two of the more salient policies in the LUP regarding wetland impacts are Policy 6.A.9, which requires that any diking, filling or dredging of wetlands be a "permitted use," and Policy 6.A.14, which enumerates all "permitted uses." The Draft EIR in Table IV.I-2 asserts that the project is "consistent" with Policy 6.A.9 and that the project is "potentially inconsistent" with Policy 6.A.14. In fact, the project appears to be "inconsistent" with both policies since only the proposed wetland restoration component is a "permitted use."¹³

3-22

With regard to consistency to Section 30233 of the Coastal Act, wetland restoration is included as a permissible use for wetland fill. However, as the DEIR acknowledges on page IV.1-14, the filling of wetlands for the purpose of site remediation is not listed as one of the permissible uses for filling of wetlands under Section 30233. The DEIR should also have indicated that filling of wetlands for the proposed reuse of the site for commercial and non-coastal dependent industrial development are also not included in the list of permissible uses for filling wetlands under Section 30233.

3-23

Despite these inconsistencies of the project with the uses permitted by Section 30233 for fill in wetlands, the DEIR concludes that the project is nonetheless consistent with the Coastal Act because the project would purportedly attain the overall objective of the Coastal Act to enhance and preserve coastal resources, presumably because wetland enhancement would be performed at Clark Slough and the project would not result in a net loss of wetlands. The DEIR cites the conflict resolution provisions of Section 30007.5 of the Coastal Act and erroneously suggests that this section of the Coastal Act could be used to override the acknowledged inconsistency of the project with Section 30233.

3-24

Section 30007.5 of the Coastal Act does not provide a basis for overcoming the inconsistencies of the project with the wetland fill policies in the manner suggested in the DEIR.

¹² Alternately cited as: EMC §156.052(C)(1)(b).

¹³ See also comments under Land Use and Planning regarding the invocation of Coastal Act Section 30007.5, the Commission's conflict resolution "balancing provisions" for resolving the permissible use inconsistencies.

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 19 of 24

The Coastal Act provides that development may only be permitted where the development may be undertaken in conformity with all coastal resource, public access, and public recreation protection policies of the Act and/or an applicable local coastal program. The "conflict resolution process" provided by Coastal Act Section 30007.5 may only be invoked where an unavoidable conflict exists between competing Coastal Act policies. For example, construction of an impoundment for irrigation on a stream that supports threatened salmon could present a conflict between Coastal Act policies that seek to maintain agricultural production on the one hand and policies that require protection of habitat supporting sensitive species on the other hand. The Commission is required to resolve such conflicts in the manner that is most protective of significant coastal resources. The conflict resolution process is not applicable in cases where a proposed development is simply inconsistent with the Coastal Act absent a conflict between competing Coastal Act policies. In these cases, the development is simply prohibited.

In order to use the conflict resolution mechanism of Section 30007.5, the Commission must first identify a conflict between Chapter 3 policies of the Coastal Act. If there is no conflict between policies, Section 30007.5 is not applicable. Further, the conflict must be one that inevitably arises out of an attempt to meet another Chapter 3 policy. Thus, the Commission must find that in meeting the requirements of one Chapter 3 policy, it is impossible to meet the requirements of another Chapter 3 policy. More precisely, the Commission must find that denial of an LCP amendment due to a Chapter 3 inconsistency necessarily will itself result in an inconsistency with a Chapter 3 policy.

References in the DEIR to the conflict resolution section of the Coastal Act (Section 30007.5) are misleading because in this case there is no conflict between restoring wetlands at the site and limiting fill to only the uses permissible under Section 30233 of the Coastal Act. As discussed previously, if the City were to approve the proposed LCP amendment, the Commission would review for consistency with the Coastal Act the proposed re-designation of the bulk of the site in the LUP from "Public/Quasi Public," to various commercial and non-coastal dependent industrial uses, as well as the proposed corresponding changes to the zoning district applicable to the site. In reviewing the re-designation and rezoning of the site, the Commission could act in several ways that would not result in an inconsistency with a Chapter 3 policy. Wetland restoration is a use that could be allowed under the current Public/Quasi Public land use designation. Thus, denial of the LCP amendment would not preclude wetland restoration from occurring on the site and denial would not lead to a proposed project going forward that would fill wetlands for other uses that are not permissible under Section 30233. In addition, the Commission could consider various alternative land use designations for the areas proposed to be filled that allow for uses that are permissible for wetland filling under Section 30233 such as coastal dependent industry and wetland restoration development, including the designations of Coastal Dependent Industrial or Conservation Water. All of these courses of action would avoid a conflict with Chapter 3 policies. Therefore, the Commission could not use Section 30007.5 in the manner suggested in the DEIR because denial of the proposed LCP amendment due to its inconsistency with the wetland fill provisions of Section 30233 of the Coastal Act would not itself result in an inconsistency with another Coastal Act policy.

Priority Uses: The discussion in the DEIR concerning consistency with Coastal Act policies fails to address the need for use of the site for priority uses under the Coastal Act.

3-24
cont.

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5-17

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 20 of 24

The Coastal Act contains numerous policy provisions relating to the protection of near shore areas for a variety of highly valued and functionally dependent uses that could not feasibly be provided or developed elsewhere. These include public accessways and related support facilities, water-oriented public and private recreation, coastal-dependent industrial operations, including aquaculture and commercial fishing-related uses, and other manufacturing or processing works requiring waterfront siting. The Coastal Act also includes other provisions for fostering the siting and development of visitor-serving facilities as a second-tier priority development type, provided such use and/or development does not adversely impact higher priority uses and developments, particularly those that are functionally-dependent upon shoreline-proximate locations. Section 30222 of the Coastal Act states:

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

In reviewing development proposals involving differing uses on locations within waterfront areas, the comparative coastal-dependency of the prospective proposed use, the relative availability of sites for coastal-dependent development, and the current and projected needs of the area need to be fully considered if significant impacts to high-priority coastal-dependent uses are to be avoided.

The proposed commercial and industrial land uses proposed for the site are not priority uses under the Coastal Act. In evaluating the proposed LCP amendment that would change the Public LUP and zoning designations to a mix of commercial and industrial designations, the Commission will need to evaluate the proposed amendment against the priority use policies of the Coastal Act and whether the proposed commercial and industrial uses would occupy land that is needed to serve priority uses. Given the proximity of the site to the waterfront and its location across Waterfront Drive from the Eureka Boat Basin, the need to evaluate the potential use of the site for priority uses is especially important. The DEIR should examine such potential uses as use of the site for coastal dependent industry, as a support area for shipping terminal uses, and for recreational boating uses. One of the most comprehensive analyses of port or harbor related development potential of Humboldt Bay performed in recent years is the Port of Humboldt Bay Harbor Revitalization Plan, prepared by consultants for the Humboldt Bay Harbor, Recreation and Conservation District in February, 2003. The City of Eureka and Humboldt County also participated in the study. The study identifies the project site as a site that should be considered particularly for use as a dry-boat storage facility for the storage of recreational boats on land. The study notes the proximity of the site to the boat launching ramp at the Eureka Boat Basin and suggests the utility of the site for such a priority use. The proximity to the marina, the recreational amenities of the waterfront, and its location across Waterfront Drive from Wharfinger building where many public and private meetings of various groups are held also suggest that the site may have particular utility for visitor serving uses, such as lodging and restaurants. The DEIR should fully evaluate the demand and feasibility for the use of the site for these specific uses as well as the range of priority uses identified in the Coastal Act.

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cont.

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
 Marina Center Mixed Use Project Draft Environmental Impact Report
 January 31, 2009
 Page 21 of 24

IV.N. Recreation (and Coastal Access)

Applicable Coastal Act and LCP Policies and Standards

Section 30212.5 of the Coastal Act states:

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

Coastal Act Section 30213, in applicable part, directs:

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

Section 30222 of the Coastal Act states:

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

Coastal Act Section 30223 goes on to direct that:

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

In addition, Coastal Act Section 30234 states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land. [Emphasis added.]

Coastal Act Section 30252 continues on to state, in applicable part:

The location and amount of new development should maintain and enhance public access to the coast by... (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

LUP Coastal Recreation and Access Policy 5.B.3, in applicable part, states:

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
 Marina Center Mixed Use Project Draft Environmental Impact Report
 January 31, 2009
 Page 22 of 24

The City... where feasible, shall provide... facilities serving, commercial and recreational boating, including party and charter fishing boats.

LUP Coastal Recreation and Access Policy 5.B.9 states:

The City shall ensure that public access support facilities are distributed throughout the Eureka Coastal Zone. Offstreet parking shall be provided in the waterfront area; however, it shall not be located immediately adjacent to the shoreline, unless there is no feasible alternative. [Emphasis added.]

LUP Table 5-2, which sets forth the City’s coastal access inventory, identifies the project site directing, in applicable part, as follows:

Access Point/Area	Description of Proposed Access
Across the Northwestern Pacific Railroad right-of-way from Waterfront Drive to Old Town	The City shall, in conjunction with the California Public Utilities Commission and the Northwestern Pacific Railroad, prepare a implementable long-range plan for pedestrian and vehicular at-grade access, consistent with requirements of this General Plan, in order to maximize public access opportunities and ensure public safety.

Comments

As with much of the bulk of the DEIR, its analysis centers on the pedestrian and bike path amenities that would be provided by the proposed development project and does not separately address the impacts associated with the changes in plan designations and zoning. This assessment is especially pertinent to potential impacts to recreation opportunities and coastal access given: (1) the site’s proximity to the Eureka Public Marina; (2) the existing “Public/Quasi-Public” land use and “Public” zoning designations being specifically intended for providing such facilities more so than any other alternate land use and zoning category; and (3) the project locale having been identified in other City and regional planning documents as a potential site for development of a variety of similar facilities including “tourism / marine science cluster” (e.g., public aquarium, marine lab, cruise dock, naval vessel museum, and related activities) and “dry boat storage.”

3-26

Alternatives

Applicable Coastal Act and LCP Policies and Standards

Coastal Act Section 30233(a) reads, in applicable part:

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative... [Emphases added.]

Coastal Act Section 30260 directs, in applicable part:

Comment Letter 3

Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 23 of 24

Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section ... if (1) alternative locations are infeasible or more environmentally damaging... [Emphases added.]

Comments

In the interest of avoiding and minimizing adverse impacts to coastal resources, the Coastal Act in several contexts requires a thorough assessment of alternatives both to designations for specific classes of land uses as part of reviewing for certification LCPs, port plans, public works plans and UC/CSU long range development plans, and in the siting and design of development projects. With regard to the requested land use plan and zoning amendment, these evaluations of the range of feasible alternatives in the DEIR were effectively limited down to three options: (1) the proposed Marina Center project (and a reduced project variant); (2) the “no project” wherein the existing P/QP and P designations would be retained; and (3) reclassifying the site’s zoning to “Light Industrial” (no corresponding land use plan designation for which the MG zoning would implement was disclosed.) Given the recent economic down-turn of the last three financial quarters and the current and pending availability of several large retail commercial properties, the alternatives section of the DEIR should be revisited to evaluate which if any or several of these existing developed sites could accommodate the proposed retail commercial, professional office, and commercial services uses.

3-27

Errata

In addition to responding and providing supplemental evaluation of the potential environmental effects set forth in the above comments, the DEIR contains several erroneous statements which should be corrected within the final document:

- The coastal zone boundary in proximity to the project site is not the centerline of Broadway and Third Streets. Rather, pursuant to a motion adopted by the Commission on March 1, 1977 in conjunction with the jurisdictional maps prepared per Section 30103(b) of the Coastal Act, “where the Coastal Zone boundary follows road or railroad rights-of-way, the boundary of the Coastal Zone shall be the inland boundary of the improved right-of-way as it exists as of January 1, 1977, or as modified by closure or additional improvement thereafter provided that it shall not be more than 100 yards inland from the center line.” [Emphasis added.] (Chapter IV, Section I *Land Use and Planning*, p. IV.I-3)
- The City of Eureka’s LUP has been amended multiple times since the September 1998 certification; the 1998 LUP is not the “current City of Eureka Land Use Plan.” (Chapter IV, Section I *Land Use and Planning*, p. IV.I-10)
- Although the area is the subject of several land use policies, the Westside Industrial Area Study has never been transmitted to the Coastal Commission for certification review for inclusion as part of the LCP. (Chapter IV, Section I *Land Use and Planning*, p. IV.I-71)

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Comment Letter 3

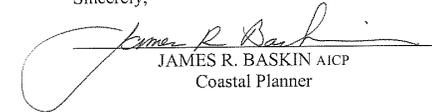
Sidnie Olson – City of Eureka Community Development Department
Marina Center Mixed Use Project Draft Environmental Impact Report
January 31, 2009
Page 24 of 24

- In its administration of the requirements of Coastal Act Section 30233, the Coastal Commission considers excavation, the extrication of earthen materials, and other forms of grading not otherwise comprising “filling” or “diking” as forms of “dredging.” (Numerous citations)

3-31

Thank you for the opportunity to provide comments as part of the preparation of the environmental analysis. Please call if you have any questions regarding this letter.

Sincerely,


JAMES R. BASKIN AICP
Coastal Planner

Encl: 85th Percentile Design Goal Implementation Considerations and Eureka WFO weather station precipitation data

RSM/JRB:jb/lt

Letter 3: California Coastal Commission (James Baskin)

Attachments to Letter 3 are included in Appendix U.

- 3-1 The comment suggests that Draft EIR Chapter IV.I, Land Use and Planning, include a supplemental consistency analysis that would be required by the Coastal Commission in assessing the proposed changes to the Local Coastal Program for purposes of certification. Please see Master Responses 3 and 5 for further discussion and analysis of the issues raised by the commenter. Generally, a consistency analysis is not necessary for CEQA unless it reveals a physical change in the environment that is not addressed in other sections of the EIR. Here, the physical changes and resulting environmental impacts associated with project site remediation, wetland restoration, and the Marina Center project are addressed throughout the EIR (e.g., under Chapter IV.D, Biological Resources and IV.H, Hydrology & Water Quality).
- 3-2 The comment on analysis of the LCP amendment is noted. The Draft EIR evaluates the environmental impacts of the project, as it must do under CEQA. It may – though it need not – provide the policy analysis and other findings that may ultimately be needed for an amendment to the City’s certified LCP. Here, the Draft EIR goes the extra step and did analyze some of the policy issues raised by the LCP amendment necessary to enable the proposed project as well as to analyze the specific environmental impacts of the proposed project’s physical development.
- 3-3 The comment states that the Draft EIR should provide more detail regarding specific Remedial Action Plans. For further discussion of project site remediation, please refer to Master Response 4 of this document and to Appendix S, which includes a recently completed Supplemental Interim Remedial Action Plan (SIRAP) for the project site. This Plan has received conditional concurrence by the North Coast Regional Water Quality Control Board staff.
- 3-4 The comment states that the information in the Remedial Action Plan, to be secured from the Regional Water Quality Control Board, would be crucial to the Coastal Commission in its assessment of the project. For further discussion regarding project site remediation, please refer to Master Response 4 of this document.
- 3-5 The comment questions the location of future utility lines that would serve the project site. The proposed project would place existing above-ground electricity and telephone utility poles and transmission lines on the project site underground. Off-site utility poles and transmission lines serving the project site would not be placed underground.
- 3-6 The comment states that the Chapter IV.A, Aesthetics, of the Draft EIR should include a quantitative discussion of height and bulk based on specific square footages of nearby buildings and properties in comparison with the proposed project and the proposed approvals and entitlements.

The existing visual character of the project's surroundings, and the potential impact of the proposed project, is discussed qualitatively under Impact A-3 beginning on page IV.A-6 of the Draft EIR. The proposed zoning amendments are discussed in Chapter IV.I, Land Use and Planning. Please also see Master Response 3 for additional discussion of Coast Act Policy Considerations, including those pertinent to protecting scenic coastal resources.

CEQA does not require a quantitative comparison of height and bulk of the proposed project and the surrounding built context in discussing aesthetics. (See, e.g., CEQA Guidelines Section 15064.7(a) (thresholds may be "quantitative, qualitative or performance" based).) The photo-simulations of the proposed project and the description of the surrounding context provided in Chapter IV.A, however, provide an adequate representation of the buildings visual attributes for the purpose of assessing the project's environmental effects on aesthetics.

The comment also states that there is no separate discussion in the Draft EIR of the potential impacts the proposed planning and zoning changes may have on whether subsequent project site improvements could conditionally comply with certain General Plan and LUP policies pertaining to aesthetics. The Draft EIR discusses the environmental impacts of the proposed project, including the proposed planning and zoning changes, and a range of alternatives. That discussion reveals that project site improvements can be designed in keeping with the proposed planning and zoning changes that comply with the policies pertaining to aesthetics.

- 3-7 The comment suggests that the Final EIR discuss how the proposed project would be consistent with requirements to be promulgated and imposed by the North Coast Unified Air Quality Management District (NCUAQMD). While the comment is unclear, it appears to be referencing the scoping plan and other activities currently under consideration by NCUAQMD and the California Air Resources Board (CARB) to address greenhouse gas (GHG) emissions. The NCUAQMD regulations and programs that would be applicable to the proposed project are presented in the Draft EIR on pages IV.C-7 and IV.C-8 and pages IV.C-12 through IV.C-15. The proposed project would be consistent with requirements imposed by NCUAQMD and CARB applicable to new development, even though the project would result in a significant and unavoidable impact to PM10 emissions in the air basin. NCUAQMD and CARB are not currently considering any other requirements that would necessarily be inconsistent with the proposed project. Still, it would be premature and speculative to evaluate any NCUAQMD or CARB requirements that have not yet been proposed or promulgated.

The comment also suggests that mitigation measures should be included in the Final EIR that require the purchase of carbon off-sets, exchanges, and/or banking credits to reduce (GHG) emissions as set forth in Assembly Bill 32 (AB 32). As disclosed on pages IV.C-19 through IV.C-22, the Draft EIR determined that the project would not conflict with State goals identified in AB 32 based on three separate analyses. These analyses support the findings that the project's cumulative impacts related to GHG emissions would be less

than significant. Since no significant GHG emissions impacts are identified, no further mitigation measures to offset the proposed project's GHG emissions would be required.

It is important to note that the purchase of carbon off-sets, exchanges, and/or banking credits would not be an appropriate strategy to mitigate indirect GHG emissions associated with the project. Such mitigation offsets typically apply to stationary industrial sources where emissions are readily quantifiable and attributable to the emissions source on an ongoing basis. The proposed project includes no traditional stationary sources. Instead, the bulk of project-associated GHG emissions come from mobile sources like cars and trucks. It would be inappropriate and technically impossible to quantify those sources over the life of a project (10, 20, or even 50 years), and there would be no way for the project itself to impose that sort of mitigation on drivers coming in and out of the project site. Further, if imposed on the Project Applicant and not the mobile sources themselves, that mitigation would be too costly and disproportionate, as not all of those vehicle trips could be attributable to the proposed project (see responses to comments 9-9 and 16-22 concerning significance thresholds and project's GHG emissions). Such mitigation would not satisfy the standards of nexus and proportionality (CEQA Guidelines Section 15041(a)). The offset programs suggested by the comment are still in development, and would be difficult for the City to enforce given the current state of the carbon credit market in California. For example, the City would not be able to demonstrate or verify that the money paid by the Project Applicant to offset the project's GHG emissions would actually achieve the level of emissions reductions sought for the project.

As discussed in Impact C-6 in the Draft EIR, implementation of Mitigation Measure C-2a would require the Project Applicant to develop and implement transportation management programs designed to reduce traffic congestion and automobile use in order to reduce total mobile source emissions that would be associated with the project, which represent approximately 86 percent of the overall GHG emissions that would be associated with the project. In addition, compliance with energy conservation and other local measures would substantially reduce the emissions of GHG attributable to the project through vehicle emissions reductions, vehicular trip reductions, recycling programs, and increases in building and appliance energy efficiencies. Consequently, no further analysis or mitigation is warranted.

- 3-8 The comment states that, as only a portion of the wetlands present are proposed to be dredged or filled, it is apparently not necessary to remediate soil contamination throughout the project site. The comment also states that to analyze the project's impacts and its consistency with land use policies, it is important to characterize each wetland with respect to contamination and the proposed remediation.

The comment's premise is not correct. All wetlands present within the site are proposed to be excavated or filled as part of the remediation and wetland restoration work. As discussed in the Draft EIR and SIRAP (Appendix S of this Final EIR), investigation and sampling have revealed that contamination extends across the project site, including the

wetlands within it. The nature and extent of the contamination, including the wetland areas, has been investigated and characterized in detail, and in a manner suitable for planning and designing appropriate remedial measures.

The SIRAP itself is designed to implement appropriate measures to address current contamination levels, and includes soil excavation, site grading, and placement of clean material on specified portions of the site. For example, about 0.5 acres of palustrine emergent wetlands within the southwest corner of the project site and about 1.0 acre of estuarine wetlands within the Clark Slough remnant would be temporarily excavated, dewatered, and/or disturbed during soil remediation and construction of the 11.89-acre Wetland Reserve Area.

For the 4 acres of delineated palustrine emergent wetlands and associated upland areas lying north and east of the proposed wetland reserve and Clark Slough remnant (a total of about 32 acres referred to here as the Upland Remediation Area), there are five discrete areas that would require significant excavation. The lateral extent of that excavation cannot be determined until the excavation and testing of removed soils can be completed. These excavation areas include or are surrounded by a portion of the 4-acres of palustrine emergent wetlands located within the Upland Remediation Area. This hot-spot excavation would remove some soils with particularly elevated concentrations of identified contaminants, but would not remove all contamination at the site. Excavation of the entire site is not proposed, nor is it feasible or necessary.

Grading and clean cover are needed over the remainder of the Upland Remediation Area, including both wetlands and uplands. The clean cover material would form a protective barrier that prevents people and wildlife from coming into contact with any remaining contaminants underneath. It would also promote natural infiltration of storm water and eliminate the existing stormwater from leaving the site through the southern ditches and pipes. The contamination, proposed remedial measures, and wetlands are sufficiently delineated and characterized to evaluate the project's remediation activities and environmental impacts.

See also Master Responses 3, 4, and 5, which provide further detail and information regarding site characterization and site remediation plans and the project's consistency with the applicable land-use policies.

- 3-9 The comment recognizes that a well constructed, relatively large tidally influenced wetland would have greater natural resource value than the existing small wet depressions, but says there would be temporal loss of habitat functions during restoration and creation, so a mitigation ratio greater than 1:1 would be appropriate.

The project proposes to mitigate the permanent filling of 6.15 acres of coastal wetlands, in part, by creating, enhancing, and preserving wetlands on the adjoining reserve, thus offsetting the loss of wetlands at a ratio slightly higher than 1:1 (about 1.05:1). This ratio is sufficient in this case given several considerations as indicated on page IV.D-22 to 23 of the Draft EIR: (1) the project site is well-located for creation of a high-quality

estuarine reserve, requiring only enhancement of existing estuarine wetland resources, (2) opportunities for creating functional estuarine wetlands are rare, and therefore particularly valuable; here the project site is uniquely suitable for estuarine wetland creation, and (3) existing palustrine wetlands are of such poor quality that the restored wetlands are anticipated to be of much higher quality than those currently onsite. Furthermore, the wetland creation is proposed to occur concurrently with remediation of the project site (see also Master Response 4), and thus the temporal loss would be brief and insignificant.

- 3-10 The comment states that LCP policy requires 100 foot buffer zones between wetlands and development, unless the Project Applicant demonstrates that a smaller buffer would protect the resources. The commenter further notes that a 50-foot buffer is likely not adequate, especially given the expected use of trails by the public around the restored wetlands.

As the comment notes, smaller buffer areas can be appropriate where they still protect the resource in question. For example, the buffer is adequate if it protects the habitat area from the potential adverse environmental impacts caused by the development. Such determination may consider a number of factors, including the distance necessary to ensure that sensitive species of plants and animals will not be disturbed significantly by the permitted development (e.g., due to the nesting, feeding, breeding, resting, or other habitat requirements of resident and migratory fish and wildlife species). Other factors may include the susceptibility of the parcels to erosion, the existence of topographic features such as hills or bluffs that buffer the habitat areas, or the type and scale of development.

The proposed project, as designed, includes a buffer area of at least 50 feet between the commercial and other land uses developed as part of the Marina Center project and the restored wetlands consistent with the LCP. According to LCP Policy 6.A.19:

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

The proposed estuarine mitigation/restoration area is protected by wetland buffer zones on all sides, and buffers of less than 100 feet are proposed where existing streets, existing rail rights of way, or planned pedestrian trails adjacent to Clark Slough necessitate doing so, or where other measures are included to protect the resource from surrounding land uses (e.g., placement of berms and planning of vegetation). There are no sensitive species onsite, and the habitat in Clark Slough is only marginally suitable. Under these limited circumstances, in keeping with the buffer zone requirements of the LCP, the project proposes to provide visual screening (e.g., earthen berms and native vegetation to

minimize disturbing water birds), as described on page 45 of the Biological Assessment report prepared by HBG and required by Mitigation Measure D-3c of the Draft EIR, which would achieve the purposes of the buffer to protect the resources of the reserve. In addition, there are other mitigation measures proposed in the EIR that help protect the resources in the Clark Slough remnant, as well as the species that the project hopes to attract with the creation of the wetland reserve (see, e.g., Mitigation Measures A-4a and D-3e concerning project lighting and Mitigation Measures H-3b and H-4a concerning erosion control and drainage). In any event, these reduced buffers would not compromise the biological integrity of the proposed estuarine wetland or its function, which would be improved significantly with the proposed wetland reserve in place as compared to the existing configuration.

- 3-11 The commenter states that a timely soils and geology report has not been prepared and made available for review.

A geotechnical investigation (*Geotechnical Characterization Report, Balloon Tract* dated March 2006) has been completed for the proposed project site which adequately identified the range of seismic risks and other geologic hazards present at the project site. That investigation was available for public review during the public comment period on this EIR. The “site specific investigations” called for in Mitigation Measures F-1a would result in further specificity about project site conditions and would determine among the various feasible measures that are standard in the industry which would be the most effective in reducing the potential impacts. This approach of prescribing future site specific investigations is standard practice within the geotechnical engineering industry. The site conditions regarding subsurface materials have not changed at the project site since preparation of the 2006 report and therefore those findings remain relevant.

Site-specific investigations would be used to obtain site specific data such as the depths of artificial fill and Bay Mud to be used along with the proposed loading (size of building) that would allow engineers to identify the design parameters for the spacing and dimensions of the deep foundation systems appropriate for each specific structure within the project. This approach to mitigation is accepted practice in implementing CEQA. The CEQA Guidelines (Section 15126.4b) state:

Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specific way.

In compliance with CEQA, the Draft EIR identifies the areas with potential geologic impacts (i.e., seismic shaking, liquefaction and damage due to low-strength or expansive soils) and specifies a mitigation measure requiring compliance with the performance standards prescribed in the California Building Code. Because each project element may require a separate design specific to its situation and conditions of hazard, Mitigation

Measure F-1a is necessarily generic. The mitigation measures in the Draft EIR establish a basis of commitment by the City and Project Applicant to effectively reduce geologic hazards, such as those associated with earthquakes or slope instability by specific measures meeting or exceeding the performance standards in the California Building Code. While these measures are known to be effective, it is impractical, if not impossible to dictate at this time the sort of geotechnical stabilization, building foundation, and other construction methods that may be used for each building when the individual buildings have not yet been designed.

- 3-12 The comment states that specific mitigation measures to mitigate significant impacts should be identified. Please see response to comment 3-11, above.
- 3-13 Noting that Mitigation Measures H-4a and H-5a provide for conveying project site runoff to appropriately designed drainage facilities and treatment of stormwater within drop inlet vaults, the comment states that the Draft EIR should be supplemented to address how such design goals could be implemented at the project site. On much the same basis as discussed in response to comment 3-11, under CEQA, the application of the performance standards (maximum flow of 1 cubic feet per second or runoff volumes that do not exceed pre-project flows) contained in Mitigation Measure H-4a and H-5a provide the mitigation necessary to reduce the potential impacts of increased impervious surfaces at the project site to less-than-significant levels. These standards can be achieved in a number of different ways according to industry practices (such as reducing impervious surfaces, street-cleaning programs, bio-swales, oil/water separators), and with the incorporation of the City of Eureka's recommendations for approval, the design is assured to meet state, regional, and local requirements. Without specific site plans and building designs it is impractical to impose detailed design criteria for treating, filtering, and infiltrating stormwater runoff. To ensure mitigation measures are effective Mitigation Measure H-4 in the Draft EIR has performance standards. Mitigation Measures H-4 and H-5a have been revised. See Chapter 2, Errata.
- 3-14 The comment states that some of the sources used for evaluating water-borne hazards appear dated and that more current information should be used. In particular, the comment notes that more recent and site-specific data have been developed by the Redwood Coast Tsunami Work Group and for the Samoa Town Plan EIR, and that those sources should be considered in assessing tsunami risks and establishing appropriate floor elevations for residential development at the project site.

Information developed by the Redwood Coast Tsunami Work Group (RCTWG) and the Samoa Town Plan EIR has been considered in preparing this EIR. In fact, the Draft EIR presents a map of tsunami inundation potential from the RCTWG, which is based on the most current available data. That map shows the project site as being located in a Moderate tsunami inundation hazard area, which is acknowledged in the EIR discussion. Mitigation measures, including development of a formal evacuation plan and preclusion of habitable spaces on ground floors, are included. The Humboldt Earthquake Education Center, discussed in the EIR text, was a predecessor of the RCTWG.

In addition, the tsunami hazard assessment reports and third party peer reviews for the Samoa Town Master Plan on the Samoa Peninsula (opposite the Eureka Channel from the project site) were reviewed. Those studies conclude that the tsunami hazard is significant at the Samoa Peninsula, and define a 30-foot (msl) elevation for habitable development. That is, habitable floors must be located above 30 feet msl (this does not appear to preclude development in lower elevation areas, but lower floors in these areas would not be habitable). The results of the Samoa tsunami assessment are relevant to the Marina Center site, but are not strictly applicable. Due to the difference in exposure levels between the two sites (the Samoa Peninsula has a higher exposure level to direct wave impact), it does not appear appropriate to apply the 30-foot standard on the inner shore of Humboldt Bay. As discussed in the EIR, the Samoa Peninsula is likely to block direct impact of all but the largest tsunamis. Therefore, the most likely inundation scenario involves overtopping of the southern end of the North spit and rapid rise of floodwaters within the bay. Even under the worst-case scenario, the Samoa Peninsula would be expected to provide a dampening effect should it be overtopped by large tsunami waves.

Policy criteria regarding tsunami standards have not been developed for the City of Eureka, so there is no clear regulatory guideline. City code (Eureka Municipal Code, Chapter 150, Section 150.016 (B) and Chapter 156, Section 156.021 (A)) does require that bayfront development occur with floor elevations above 12.5 feet. In consideration of the recognized tsunami inundation hazard at the project site, the EIR stipulates that habitable dwelling spaces not be developed on the ground floor of the Marina Center which, when first floor heights are taken into consideration, would place a minimum floor height for habitable space at least 20 feet above msl. Structural considerations are outlined to ensure that Marina Center improvements would withstand inundation and potential surge, scour and/or hydraulic uplift (the intent is to provide safe haven and opportunities for vertical evacuation, even in the event of local tsunamis with a short lead time). The Draft EIR accurately evaluates the risk and concludes that with mitigation incorporated, the risks associated with tsunamis and other hazards would be less than significant.

- 3-15 The comment suggests that relatively recent reports regarding climate change contain predicted and projected figures for sea-level rise that should be consulted in an evaluation of its effect on the public at the proposed project site including its effect on the existing contamination at the project site.

The December 2008 California Coastal Commission staff briefing and the 2009 California Climate Action Report discuss the lack of a definitive consensus of the amount of sea level rise that would occur, as was also discussed in the Draft EIR on page IV.H-9 in Chapter IV.H, Hydrology and Water Quality. These two reports include estimates of sea level rise that range from 20 to 55 inches by the year 2100 (from Dr. Rahmstorf in the 2008 briefing) and a range of 23 to 55 inches by the year 2100 (from the 2009 California Climate Action Report). However, as stated in the 2008 briefing, “direction on sea level rise to coastal permit project applicants is in flux. The old process of taking historic trends is no longer sufficient, and an upper planning limit has not been established.

Guidance is being done on a case-by-case basis, with hope that some written direction can be provided in 2009.” As stated in the Draft EIR in Chapter IV.I, Land Use and on page IV.H-15, the proposed project would have to adhere to the Coastal Zoning regulations, which implement the policies of the Land Use Plan portion of the adopted Local Coastal Program, codified in Chapter 156 of the Eureka Municipal Code (EMC), and are also referenced as Article 29, Part 1, Section 10-5.29 et. seq. of the zoning regulations of the City for the coastal zone. Even so, the project elevations are well above the projections for sea level rise, and thus sea level rise is not anticipated to change the analysis in the EIR. With adherence to the Local Coastal Program policies (that would include the most recent scientific data regarding projected sea level rise), the potential impact would therefore be less than significant.

In terms of the effects of sea level rise on the existing contamination at the project site, with implementation of the proposed project, the existing contamination would be remediated to the levels required by the Regional Water Quality Control Board as further discussed in Master Response 4. Please also see response to comment 3-14 regarding tsunami hazards and responses to comments 3-7, 8-2, and 22-3 regarding sea level rise.

- 3-16 The comment states that the Draft EIR should have included an analysis of each of the proposed zoning districts and their conformance with land use plans and policies, particularly the provisions of the Local Coastal Program. Please see Master Response 3, which discusses further the proposed Implementation Plan amendment (Zoning designation amendments) of the Local Coastal Program and their consistency with the Land Use Plan of the Local Coastal Program.

The comment further states that while the Draft EIR provides a summary of each proposed zoning district’s development standards it does not include an analysis of the proposed project’s consistency with those standards. As noted in Master Response 3, an analysis of all possible future uses of the project site should the Coastal Commission approve the LCP Amendment but the Project Applicant fail to proceed with the Marina Center project would be unreasonable and speculative. The Draft EIR need only evaluate the proposed project and a reasonable range of alternative projects, which it does. Nevertheless, the proposed Marina Center project shows compliance with the development standards specified within the zoning districts that would be adopted for each area of the project.

- 3-17 The comment questions whether uses that would become permitted pursuant to the proposed project’s Local Coastal Program amendment would also be legally developable pursuant to other regulations, including the presence or proximity of protected ESHA, surrounding development types and densities, shoreline adjacency, and hierarchies of land use priorities, among other site-specific conditions and contextual setting characteristics.

The purpose of CEQA is to analyze the proposed project’s potential environmental effects, including pertinent policy implications, and not to gauge the project’s ability to

clear certain political, regulatory, or other legal constraints. While the feasibility of alternatives and mitigation measures must be evaluated in an EIR, CEQA does not require that the EIR evaluate the feasibility of the proposed project. Nevertheless, the proposed project's ability to be legally developed with respect to protected ESHAs, surrounding development types and patterns, shoreline proximity, and land use priorities are discussed throughout the EIR. It is beyond the scope of the Draft EIR to analyze the legality of every potential alternative use that could be developed on the project site under the proposed zoning and land-use designation; the EIR need only evaluate the proposed project and a reasonable range of alternatives. Please refer also to Master Response 3 and 5.

- 3-18 The comment asks whether changes in the site plan and zoning designations would displace or thwart development of other requisite, needed, or planned high-priority uses to other locations or timelines that could more effectively and expeditiously be provided for at the project site.

The plans and policies applicable to the project site are discussed throughout Chapter IV.I, Land Use and Planning. Development of the project site for one use naturally precludes (for a time at least) development of the project site for other uses and, in that sense, may displace or perhaps thwart any such development for other uses that otherwise might have occurred on the project site. The comment does not identify any requisite, needed, or planned high-priority uses of this sort. The City too is not aware of any, particularly given the site characteristics and constraints, ownership, and applicable policies. Further discussion of any such uses and associated environmental impacts would be speculative. Moreover, there do not appear to be any other currently planned or needed priority land uses that would be displaced as a result of this project. For example, in 1993 the City of Eureka Harbor Commission prepared a Waterfront Revitalization Program Report, which assessed 32 projects designed to revitalize the waterfront. The Final Program Report identified the pedestrian/bicycle trail extension along the waterfront from K Street south and west to Del Norte Street as a high priority project. Portions of this trail have already been completed. There was also general support for rebuilding Dock B, which is located on waterfront property west of the project site and across the railroad tracks and two roadways. Because such a project would have too high an impact on City services and human resources, however, the report recommended that the City lease Dock B "and adjacent uplands" to the Humboldt Bay Harbor, Recreation, and Conservation District for development of a multi-purpose, publicly-owned dock. The recommendation was never adopted, and this project has never been pursued in part because of cost considerations, lack of current demand, and availability of more suitable alternative sites. Other elements of the Revitalization Report are generally consistent with the proposed project, and so the project would be implementing rather than displacing priority uses.

- 3-19 The comment asks whether there are adequate community services, public utilities, and other support infrastructure available to serve the uses at the project site under the proposed revised plan and zone categories. As discussed in Chapters IV.M. Public Services and IV.Q, Utilities and Service Systems of the Draft EIR, the proposed project

would have a less-than-significant impact on community services, public utilities, and other support infrastructure. See also Master Response 3.

- 3-20 The comment asks whether the Draft EIR should have included an analysis of the development types that would be facilitated under the proposed land use designation and zoning amendments, and whether those uses would “integrate in a non-conflicting manner” with nearby and planned uses. The discussion of the proposed project’s relationship to existing and planned uses is included in the Draft EIR under Impacts I-1 and I-4, beginning on pages IV.I-11 and IV.I-81. See also Master Response 3.
- 3-21 The comment notes that the Draft EIR states that wetlands on the project site are not a “sensitive natural community” under CEQA nor an “environmentally sensitive habitat area” (ESHA) under the Coastal Act and the City’s LCP, and states that the LCP Policy 6.A.6 identifies all wetlands as ESHA. The comment adds that the Draft EIR concludes the project is consistent with LCP Policy 6.A.7 even though this policy restricts development in ESHA to resource dependent uses.

LCP Policy 6.A.6 provides that wetlands within the Coastal Zone are ESHA and are shown on maps available for review at the City Community Development Department; the policy further provides that not all ESHA are shown on the maps and such ESHA that may exist shall be identified as part of any project application. LCP Policy 6.A.7 provides that the City shall ensure that ESHA are protected against significant disruption of habitat values and only uses dependent on such resources are allowed in such areas. Designation of an area as ESHA is pertinent to determining whether certain policies of the Coastal Act and LCP apply to that area and whether proposed activities in that area are consistent with those policies. Designation of an area as ESHA does not itself have a direct bearing on evaluating a project’s environmental impacts on that area under CEQA; that evaluation is based on the actual physical characteristics of the area, and not on any label attached to it for other technical or regulatory purposes. As discussed in the Draft EIR, the palustrine wetlands scattered within the upland areas of the project site do not exhibit the essential elements of ESHA as set forth in the Coastal Act in that neither the plant nor animal life or their habitats present on the project site are rare or especially valuable because of their special nature or role in an ecosystem and would not be easily disturbed or degraded by human activities and developments. Indeed these palustrine wetlands were created by human activities and developments, and they provide only minimal habitat value and perform only marginal wetland functions. In fact, the existing wetlands may harm wildlife by exposing the wildlife to contaminants.

For much the same reason, as discussed in the Draft EIR, the palustrine wetlands are not sensitive natural communities within the meaning of CEQA. Dominated by invasive, non-native plant species, the project site lacks suitable habitat for sensitive or special-status species. The project site is subject to a Clean-up and Abatement Order from the RWQCB. Implementation of the SIRAP (see Appendix S) and creation of the wetland reserve would result in the permanent filling of 6.15 acres of the existing wetlands and

would result in the creation of about 6.46 acres of new wetlands of higher quality and slightly greater acreage in a reserve along Clark Slough.

Whatever the legal or regulatory designation of wetlands onsite, under CEQA, the EIR must evaluate the project based on its existing environmental setting and baseline. In determining whether the project would trigger the significance criteria set forth in Appendix G concerning sensitive natural communities, the Draft EIR evaluates several legal and technical designations of the project site, including the Coastal Act's definition of ESHA. Because the project site does not encompass any sensitive natural community, the project would not result in a significant impact under this threshold.

Please also see Master Response 3 and 5 for a discussion of the project's consistency with LCP policies.

- 3-22 The comment states that the proposed project is not a permitted use pursuant to LUP policies 6.A.9 and 6.A.14, which require that any diking, filling, or dredging of wetlands be a "permitted use" and lists such uses, respectively.

Please see Master Responses 3 and 5. As stated there, the proposed project would include LUP amendments that would allow the development of a broader range of uses than is currently allowed. The Draft EIR is therefore accurate in stating that the uses of the proposed project would be consistent with LUP policy 6.A.9 and potentially inconsistent with LUP Policy 6.A.14. The amendments to the LUP proposed as part of the project would ensure consistency with LUP Policy 6.A.14. It should also be noted that the majority of zoning designations for the project site under the current LCP are not on the list of specified uses under LUP Policies 6.A.9 or 6.A.14.

Please also see Master Response 5 for a discussion of permitted uses under Coastal Act.

- 3-23 The comment states that the Draft EIR should have stated that filling of wetlands for the proposed reuse of the project site for commercial and non-coastal-dependent industrial development is not included in the list of permissible uses for filling wetlands under Section 30233 of the Coastal Act.

The Draft EIR lists on pages IV.I-13 and IV.I-14 the permissible uses pursuant to Coastal Action Section 30233. "Commercial and non-coastal-dependent industrial uses" are not included in this list. The Draft EIR is therefore clear in listing permissible uses. Given the broad and long list of non-permissible uses pursuant to Section 30233, it is both more efficient and clear for the Draft EIR to list permissible uses instead of non-permissible uses. The particular discussion of filling wetlands for the purposes of project site remediation is included because it relates to the overall project and the attainment of the overall goals of the Coastal Act. See also Master Response 5.

- 3-24 The commenter opines that the conflict resolution provisions of Section 30007.5 of the Coastal Act would not serve to resolve the project's inconsistency with Section 30233, which pertains to the filling of wetlands and permissible uses. Please see Master

Response 5 for further discussion and analysis of how conflict resolution provisions of the Coastal Act can apply to the proposed project.

3-25 The commenter states that the Draft EIR, in discussing consistency with Coastal Act policies, fails to address the needs for priority uses of the project site under the Coastal Act. Please see Master Responses 3 and 5 and response to comment 3-18.

3-26 The commenter states that the Draft EIR's analysis centers on pedestrian and bike path amenities provided by the proposed development project and does not separately address the impacts associated with proposed changes in plan designations and zoning.

The analysis includes more than the pedestrian and bicycle facilities to be provided by the proposed project. As stated on Draft EIR page IV.N-2, under Impact N-1, the proposed project is in proximity to thousands of acres of state and national parks. In addition, the proposed project would not affect the existing ratio of 5.6 acres of local park space per 1,000 residents. Also, as stated on Draft EIR page IV.N-3, under Impact N-2, the project would include creation of a wetland reserve that would provide recreation opportunities.

Recreation impacts associated with changes in land use designation and coastal zoning are discussed in Chapter IV.I, Land Use and Planning. As stated on Draft EIR pages IV.I-49 and IV.I-50 in Table IV.I-2, Policy Consistency Analysis, the proposed project would improve access to Humboldt Bay, the adjacent Marina and boardwalk.

As stated in Table IV.I-1 on page IV.I-2, some of the project site parcels are currently designated for Public/Quasi-Public (PQP) land use in the Local Coastal Program Land Use Plan (which is basically the General Plan for the Coastal Zone) and lie within Public (P) coastal zoning districts. As stated in Table IV.I-1, in Figures IV.I-1 and IV.I-2, and on pages IV.I-6 and IV.I-75 through IV.I-80, the proposed project would require a Local Coastal Program amendment. Therefore, the Draft EIR is clear that the proposed project is not consistent with the current PQP land use designation and the P coastal zoning district controls.

The project site may be identified in other City or regional planning documents as a potential site for development of tourism and/or marine science industries. These documents, however, do not regulate the land uses of the project site. Those land uses are regulated by the City's General Plan, Zoning, and Local Coastal Program. Please also see Master Responses 3 and 5 for responses related to the Local Coastal Program and Coastal Act land use regulations.

3-27 The commenter states that the recent economic conditions have led to more vacant retail space, and that the Alternatives Chapter of the Draft EIR should be revisited, with a new alternative formulated that would reuse existing vacant retail space. The comment is noted. Please see Master Response 1, specifically the subsection entitled "New Recessionary Conditions." The Draft EIR screened two dozen potential alternatives, including several off-site alternatives to arrive at a reasonable range of alternatives for more detailed consideration and analysis. The project site is uniquely situated in an area

transitioning from industrial to other uses, and is within reasonable proximity to Old Town and Downtown. Despite the economic downturn, there are no current vacancies that would accommodate this sort of mixed-use development.

- 3-28 The commenter states that the coastal zone boundary was incorrectly described in Chapter IV.I, Land Use and Planning. The correction to the location of the coastal zone boundary has been acknowledged per Section 30103(b) of the Coastal Act. The third paragraph on page IV.I-3 of the Draft EIR is revised as follows:

The coastal zone boundary follows the ~~center line~~ inland boundary of the improved right-of-way of Broadway north to Third Street then east along the ~~centerline~~ inland boundary of the improved right-of-way of Third Street; consequently all property west of Broadway and north of Third Street, including the streets themselves, is located in the coastal zone. References to the general plan for properties in the coastal zone are to the Land Use Plan portion of the Local Coastal Program.

The City acknowledges that the Eureka LCP has been amended multiple times since September 1998. As outlined in the LCP Status Report, the LCP has been modified four times since the approval of the 1998 LCP.¹

- 3-30 The commenter claims that the Westside Industrial Area Study was not sent to the Coastal Commission for certification review for inclusion as part of the Local Coastal Program. The comment is noted. The Draft EIR does not state that the Westside Industrial Area Study is part of the LCP. The Draft EIR states that the Study is included in the adopted General Plan, and that it recommends strategic changes to the Local Coastal Program.
- 3-31 The commenter notes that in the administration of Section 30233 of the Coastal Act, the Coastal Commission considers excavation, the extrication of earthen materials, and other forms of grading not otherwise comprising “filling” or “diking” as forms of “dredging.” Comment noted. Coastal Act Section 30233 is cited four times in the Draft EIR: on pages IV.D-17, IV-I-13, IV.I-14, and VI-6. In each instance, a summary of the intent of Section 30233 as applied to the proposed project is included—such as Section 30233’s relevance to dredging, diking, and filling of wetlands—to avoid reprinting the entire Section 30233 word-for-word within the Draft EIR. These summaries are not meant to imply that Coastal Act Section 30233 does not apply to other activities, such as mineral extraction [30233(a)(6)], restoration purposes [30233(a)(7)], and incidental public service purposes [30233(a)(5)].

¹ California Coastal Commission. 2008. LCP Status Report, Actions through June 30, 2008. October 10, 2008.

Comment Letter 4

Comment Letter 4



State of California - The Resources Agency
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ARNOLD SCHWARZENEGGER, Governor



January 27, 2009

Ms. Sidnie L. Olson, Senior Planner
Community Development Department
City of Eureka
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RECEIVED
JAN 29 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Dear Ms. Olson:

Marina Center Draft Environmental Impact Report (DEIR),
Eureka, Humboldt County, California

The Department of Fish and Game (DFG) has reviewed the Draft Environmental Impact Report (DEIR; State Clearinghouse #2006042024) received on December 3, 2008, for the proposed Marina Center Mixed Use Development Project (project). As a trustee for the State's fish and wildlife resources, DFG has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary to sustain their populations. As a responsible agency, DFG administers the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources. DFG offers the following comments and recommendations on this project in our role as a trustee and responsible agency under the California Environmental Quality Act (CEQA, California Public Resource Code §21000 et seq.).

Project Description

The project site is 43 acres and consists of 11 parcels. The project site has been vacant since the late 1980s but historically had been used as a railroad switching, maintenance, and freight yard. The project site is a brownfield with soil and groundwater contamination characterized by long-chain petroleum hydrocarbons and metals. The site contains several old building foundations, rail cars, soil piles, and a transmission tower. The remnants of Clark Slough and wetlands (one to three parameters) occur throughout the project site and are described in Section IV D-31 of the DEIR as "meager and highly disturbed." The preferred alternative proposes to develop some of the wetlands (5.54 acres). Creation of an estimated 11.89-acre wetland reserve (8.98-acre estuarine wetland preserve and 2.91 acres of associated upland buffer) around Clark Slough is the proposed mitigation for wetland loss.

Ms. Sidnie L. Olson
January 27, 2009
Page Two

Humboldt Bay

Eureka is situated between the two largest tributaries to Humboldt Bay: Eureka Slough (formed by the confluence of Freshwater and Ryan sloughs) and the Elk River. Humboldt Bay is California's second largest estuary and vital fish and wildlife habitat. Humboldt Bay is a biodiversity hotspot and provides refuge and nursery habitat for more than 120 fish species, many with important commercial and recreational fisheries value. The Bay and its wetlands and dunes are habitat for at least 20 State- and federally-listed species and California Species of Special Concern (SSC). Humboldt Bay is California's largest producer of cultured oysters and a critical nursery for juvenile Dungeness crab. Due in part to significant declines in the salmon fisheries, Dungeness crab is now a mainstay of the local fishing industry accounting for more than 50% of the economic value of Humboldt County's fishing industry (Prosperity 2007).

The lower reaches of all the major tributaries entering Humboldt Bay are utilized by anadromous salmonids, including: coho salmon (Oncorhynchus kisutch), State- and federally-threatened; Chinook salmon (O. tshawytscha) (Eureka Slough only), federally-threatened; Coastal cutthroat trout (O. clarki clarki), SSC; and Steelhead (O. mykiss), federally-threatened.

Recent studies performed by the DFG Natural Stocks Assessment Project (Wallace 2006) have shown that juvenile salmonids use Freshwater Creek Slough as rearing habitat, in particular young-of-the-year (yoy) coho salmon, yoy Chinook salmon, and, to a lesser extent, juvenile steelhead and cutthroat trout, as well as, numerous other marine fish and invertebrates. While residence time may vary between sloughs, years, and species, yoy coho salmon used Freshwater Creek Slough extensively, and yoy coho salmon residing in the upper slough were larger than their cohorts residing upstream in Freshwater Creek (Wallace 2006).

These studies illustrate that juvenile coho throughout the Humboldt Bay watershed exhibit redistribution, primarily downstream, to over-winter in low gradient habitat in freshwater-estuary ecotone ringing Humboldt Bay (Wallace 2009). For example, DFG studies found that coho salmon smolts in Freshwater and Eureka sloughs moved into accessible adjacent habitat including other sloughs, marshes, and tidal meanders. They also found that marked coho salmon smolts from Freshwater Creek and Slough moved into the lower portion of Elk River Slough during their residence time in Humboldt Bay. These findings strongly suggest that juvenile coho will move into non-natal habitat around Humboldt Bay if they have access to that habitat. As such, the restoration and creation of the wetlands reserve (i.e., Clark Slough and associated wetlands) should include a "fish-friendly" tide gate that allows for safe passage of juvenile salmon and marine species.

5-34

4-1

Comment Letter 4

Comment Letter 4

Ms. Sidnie L. Olson
January 27, 2009
Page Three

Ms. Sidnie L. Olson
January 27, 2009
Page Four

Native eelgrass (*Zostera marina*) beds are highly productive nurseries and refuge areas that are widely recognized for their critically important ecological function in Pacific Northwest estuaries (Phillips 1984). Pursuant to Title 14, California Code of Regulations, §30.10, native eelgrass is protected and under the Magnuson-Stevens Fishery Conservation and Management Act is considered Essential Fish Habitat. Eelgrass is documented in Clark Slough (Goldsmith 2006); however, the DEIR does not disclose this. Furthermore, *Z. japonica* was discovered in Humboldt Bay in 2002 and is an emerging issue that threatens many aspects of the Bay's ecosystem. The DEIR includes a five-year monitoring plan for the wetland reserve. The plan should include avoidance measures or mitigation for any impacts to eelgrass, monitoring for *Z. japonica*, as well as a general goal to increase the area of native eelgrass within the wetland reserve.

4-2
4-3

Climate Change and Sea Level Rise

Consistent with the intent of CEQA, local lead agencies have a very important role to play in California's fight against climate change. Local lead agencies can encourage well-designed, sustainable private projects by analyzing and disclosing to the public the environmental benefit of such projects in any required environmental document (Brown 2008). The project as proposed is estimated to generate 20,000 metric tons per year of CO₂ emissions (i.e., greenhouse gasses; GHG) from operations.

Average expected sea level rise, determined from several climate models, ranges from 10-80 cm over the 2000-2100 period (Projecting Future Sea Level 2005). A higher sea level will have significant effects on Humboldt County, including more coastal land becoming flood-prone and salt water intrusion into existing freshwater areas. Increased sea level elevation, especially in combination with storm-driven surges, extreme waves, intense low-pressure winter storms and high tides, is predicted to result in extensive flooding in coastal regions of California (Projecting Future Sea Level 2005).

4-4

Assembly Bill 32 (AB 32), the California Global Warming Solutions Act of 2006, recognizes that California is a substantial source of GHG emissions. While the project as described falls below current reporting standards for industrial stationary sources for CO₂ emissions in relation to AB 32 goals, mitigation for the project (wetland reserve) and the project infrastructure itself may be impacted over time from climate change and related rising sea levels. The DEIR should address the prognosis of sea level rise in relation to the current project, the potential for additional GHG Reduction Measures (See: OPR 2008), and the viability of Clark Slough wetland reserve in perpetuity.

Trash Removal

The DEIR recognizes the removal of trash and debris as part of the Stormwater Management Plan. DFG concurs this is appropriate given the known adverse impact of these materials on fish and wildlife likely to frequent the project area. However, the associated mitigation measure suggests that trash removal would occur each year before the start of the rainy season. It is unlikely that trash removal occurring at such a limited frequency will adequately address the likely volume of wind-blown trash that will be inadvertently generated from the proposed mixed-use development. The Final EIR should include a trash removal plan that ensures the wetland reserve is free of trash in perpetuity.

4-5

Recommendations:

1. The Final EIR shall address mitigation and enhancement for eelgrass habitat in Clark Slough.
2. The five-year monitoring plan described in Mitigation Measure D-3b shall also include monitoring for the non-native eelgrass, *Z. japonica*. The project shall notify DFG as soon as possible if *Z. japonica* is detected in Clark Slough, and coordinate with DFG for eradication.
3. DFG shall be provided an opportunity to review and comment on the draft restoration plan for the wetland reserve before it is made final.
4. The final project shall include "fish-friendly" tidegate modifications and the Final EIR shall discuss how the project would improve estuarine habitat for all species, including salmonids.
5. A trash removal program shall be developed that is adaptive, comprehensive, and proportional to trash generated and will ensure the wetland reserve is trash free in perpetuity.
6. The Final EIR shall address the prognosis of sea level rise in relation to the current project, the potential for additional GHG Reduction Measures (See: OPR 2008), and the viability of Clark Slough wetland reserve in perpetuity.

4-6

Comment Letter 4

Comment Letter 4

Ms. Sidnie L. Olson
January 27, 2009
Page Five

If you have any questions or comments regarding this matter, please contact Environmental Scientist Michael van Hattem at (707) 445-5368 or Environmental Scientist Vicki Frey at (707) 445-7830 or write to them at 619 Second Street, Eureka, California 95501.

Sincerely,


GARY B. STACEY
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cc: See Page Six

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Ms. Sidnie L. Olson
January 27, 2009
Page Six

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Letter 4: California Department of Fish and Game (Gary Stacey)

- 4-1 The comment states that the wetlands restoration and creation should include a “fish-friendly” tide gate. The existing tidal gate was constructed within the past ten years and is maintained by the City of Eureka for flood control. It is outside of the control of the Project Applicant. The proposed project would reserve the southwest corner of the project site for restoration of the existing remnants of Clark Slough (Draft EIR, page IV.D-22.). The tidal flows into Clark Slough are currently muted by a gate. Although muted tidal influence would remain and is consistent with the proposed wetland reserve, no new tide gate is proposed as part of the project. It should be noted that the Clark Slough remnant does not currently serve as habitat for juvenile coho salmon, and is somewhat removed from the two major tributaries to Humboldt Bay: Eureka Slough and the Elk River. Given the fact that the Clark Slough remnant is adjacent to Entrance Bay, it is unlikely that juvenile coho would use the remnant even if restored to full tidal influence.
- 4-2 The comment states that eelgrass has been documented in Clark Slough and is protected under the Magnuson-Stevens Fishery Conservation and Management Act (FCMA), and notes that the Draft EIR does not disclose this. Also, the comment notes that *Z. japonica* was discovered in Humboldt Bay in 2002 and is an emerging issue for the Bay’s ecosystem.

Eelgrass has been identified under the FCMA as an important element of essential habitat for groundfish, Pacific salmon, and coastal pelagic fish, but is not itself considered a protected species. Eelgrass is present in the portion of Clark Slough lying between Waterfront Drive and the railroad tracks. Eelgrass is not present within the Clark Slough remnant east of Waterfront Drive. Neither of these areas serves as habitat for groundfish, Pacific salmon, or coastal pelagic fish.

The Slough habitat on the project site is transitional in nature and is not expected to sustain a viable eelgrass population. Eelgrass grows in intertidal and subtidal waters, and thus it is unlikely to be present or to survive in abundance in the Clark Slough remnant because it has only limited tidal influence, low salinity, and lack of clarity. Given these characteristics, eelgrass would not be considered an appropriate species to include in the Slough restoration planning. Further, the proposed wetland restoration work would not involve dredging or other work within the remnant channel where the eelgrass was identified. Therefore, the project would not adversely affect this habitat; instead, the project is expected to enhance eelgrass habitat.

Likewise, *Zostera japonica* has not been identified in the Clark Slough remnant. *Z. japonica* is a non-native, invasive species of eelgrass, and has been detected on Indian Island in Humboldt Bay. The proposed wetland reserve is proposing to introduce only

native plant species, and has both adaptive management and non-native invasive species control components designed to address such invasive species (Draft EIR, page IV.D-29, Mitigation Measures D-3b and D-3f).

- 4-3 The comment states that the wetland monitoring plan should include measures to address eelgrass. As noted above in response to comment 4-2, eelgrass grows in intertidal and subtidal waters; it is unlikely to be present to any significant degree in the Clark Slough remnant. Nonetheless, eelgrass may be considered as one of the native plant species to be included in the reserve design. Further, Mitigation Measure D-3 already includes an extensive monitoring, adaptive management, and non-native invasive species control program that would address non-native eelgrass as well.
- 4-4 The comment outlines the various studies concerning global climate change and sea level rise, and possible effects associated with those global phenomena. The comment acknowledges that while the project may fall below current reporting standards for industrial stationary sources in relation to AB 32 goals, the Draft EIR should address the potential for sea level rise to affect the proposed project, the potential for additional greenhouse gas (GHG) reduction measures (OPR 2008), and the viability of the Clark Slough wetland reserve in perpetuity.

Sea level rise is discussed on page IV.H-9 in Chapter 4, Hydrology and Water Quality. A maximum rise of 28 inches is mentioned in the Draft EIR, which is relatively similar to the 80 cm (31 inches) figure stated in the comment. Given the elevation of the uplands surrounding the Clark Slough remnant, sea level rise is not expected to have any effect on the viability of the wetland reserve within the foreseeable future. Further discussions of sea level rise and global climate change are provided in responses to comment 3-7, 3-15, 8-2, and 22-3.

- 4-5 The comment requests that a more robust trash removal strategy be included in the detailed restoration plan. While trash removal is implied as part of the maintenance required referenced under Mitigation Measure D-3b, this measure has been revised to include the following additional text (underlined):

...The plan shall include, at a minimum: details of methods for site selection, preparation, and remediation; exotic plant removal; excavation, grading, and rip-rap removal; establishment of hydrological function; planting materials and methods; establishment of native species; creation of an effective buffer; maintenance and trash removal; monitoring; contingency plans; and plans for long-term funding for wetland monitoring and maintenance.

Please note that another portion of Mitigation Measure D-3b is revised in response to comment 1-5. Please see Chapter 2, Errata, for the complete revised Mitigation Measure.

In addition, Mitigation Measure D-3d (page IV.D-29 of the Draft EIR), also requires funding for long-term management and protection of the wetland reserve.

- 4-6 The comment makes a series of recommendations concerning eelgrass, non-native and invasive species, a fish-friendly tidegate, the trash removal program, and sea level rise and climate change, each of which echoes the recommendations contained in comments 4-1 through 4-5, above. The comment also requests that the Department of Fish and Game be provided the opportunity to review and comment on the restoration plan before it is finalized. A copy of the restoration plan would be included with the application for streambed alteration as applicable.

Comment Letter 5

Comment Letter 5

DEPARTMENT OF TRANSPORTATION
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1-HUM-101-78.026
Eureka Marina Center DTIS
SCH# 2006042024

Sidnie Olson, Principal Planner
Community Development Department
City of Eureka
531 K Street
Eureka, CA 95501

Dear Ms. Olson,

We have reviewed the Draft Environmental Impact Report (DEIR) and Appendices, including the Traffic Impact Study (TIS) for the proposed Balloon Track Mixed Use Development, dated November 2008.

The proposed project includes 313,500 square feet of Retail/ Service; 28,000 square feet of Nursery/ Garden; 104,000 square feet of Office; 72,000 square feet of Multi-Family Residential (54 units); 70,000 square feet of Light Industrial; 14,000 square feet of Restaurant; and 12,000 square feet of Museum. The project site includes approximately a quarter mile of frontage on Broadway (SR 101). The project is expected to generate an additional 15,666 daily trips on local roads, including 792 trips in the a.m. peak hour and 1,369 trips in the p.m. peak hour.

Our comments here should not be considered to be exhaustive, but cover the areas of relative importance from a transportation perspective. We have the following comments:

Project Phasing/ Mitigation (DEIR p. III-14, Section C)

Traffic impacts from the project are proposed to be mitigated through a combination of measures that would complement each other and provide improved operations on Broadway as a linked system. These measures are listed on page 54 of the TIS: "Mitigation Needed at Project Opening (Assuming Full Development of All Uses)." We concur with this approach in concept, as analysis has shown that the Broadway corridor operates as a complex system.

It is noted in both the TIS and the DEIR text that all 30 measures listed on page 54 of the TIS may not be necessary (required) to be completed at once if the project is constructed in phases. However, a detailed phasing plan has not been developed.

Ms. Sidnie Olson
01/30/09
Page 2

Since the required mitigation measures work in conjunction with each other—improving traffic flow up and down 101 as a coordinated system—they can not be implemented piecemeal. A separate TIS will have to be developed for any Phasing Plan, so that appropriate measures are identified and constructed in association with each planned phase. If the project is to be constructed in phases, we recommend that development of a detailed Phasing Plan and supplemental TIS be required as a condition of approval for the project

Right of Way/ Geometrics

As we've noted in previous correspondence, a number of identified measures appear to require more right of way than exists. As design details are confirmed, surveys will be required in order to confirm right of way assumptions and needs. Among the most likely locations where right of way issues may occur are:

The addition of east and westbound left turns lanes on Washington at Broadway appears to require widening and/ or prohibition of parking.

The new signal at Hawthorne and Broadway calls for 58' cross section on Hawthorne. The existing width is about 35' on the east side of Route 101, and about 44' on the west side of Route 101. While the TIS indicates an existing 60' right of way width for Hawthorne, topographic constraints may impact design.

At the Route 101/ Harris Ave. intersection the TIS proposes to shift the southbound lanes "at least 6 feet" to the west, in order to give an adequate turning radius for Surface Transportation Assistance Act (STAA) vehicles. As we've previously noted, this would at least require a design exception for reduced lane and/or shoulder width, and may require a more complex engineered solution in order to avoid impacting the existing right turn lane into the mall.

Future (2025 plus project) scenario calls for 3 southbound lanes from Vigo St. to the mall. In some areas there does not appear to be enough existing width to do this.

Encroachment Permit Process

All improvements within Caltrans right of way will require an encroachment permit. It appears that the total cost for mitigation within Caltrans right of way will exceed three million dollars, and would therefore require a separate Project Study Report (see Chapter 9, Article 8 of the Project Development Procedures Manual: http://www.dot.ca.gov/hq/oppd/pdpm/other/PDPM-Chapters.pdf).

We strongly recommend that the developer submit preliminary engineering design plans for all proposed street and signal improvements/modifications to both Caltrans and the City as early as

5-40

5-1

5-1 cont.

5-2

5-3

Comment Letter 5

Ms. Sidnie Olson
01/30/09
Page 3

possible, so that any potential design issues can be addressed in a timely manner. Potential issues may include Design Exceptions and Traffic Handling/ Stage Construction Plans, which require Caltrans approval.

5-3
cont.

Safety Considerations

Overall, there are many improvements with potential safety benefits included as part of the proposed project mitigation. We know that reducing the congestion on Broadway will also improve safety and reduce collisions.

However, we do not agree with the following conclusions stated in the Accident Analysis (Appendix P, Page 16):

- "...the expected reduction of accidents overall is 15 percent."
- "It is estimated that there will be 16.6 fewer accidents per year at the study intersections..."

5-4

These conclusions have not been substantiated within the document. It is stated that the Highway Safety Improvement Program (HSIP) Guidelines were used to develop the collision reductions. However, the HSIP Guidelines are for locations with a singular improvement. The project and mitigation measures represent a system of modifications, and cannot be reduced to a singular accident collision reduction percent. In addition, it is not appropriate to make the claim that a specific number of accidents will be reduced. In fact, with the introduction of new signals, some types of collisions will likely increase while the severity will be decreased. Given the complexity of the project and mitigation measures this conclusion is not appropriate without an equally complex model of the system.

Recently a Pedestrian Safety Audit was completed by Caltrans, the City of Eureka, and FHWA. One of the safety issues that were identified was the long distance between crossings on Broadway. It was recommended that Harris St., Hawthorne St., and Clark St. be signalized to allow safer crossings for pedestrians. It was discovered during this process that Clark St. has a particularly high number of pedestrian crossings. Given the future increases expected in pedestrian activity, and the recent findings during the Pedestrian Safety Audit, signalization at Clark St. should be considered.

5-5

Other Comments (TIS)

Page 3, Paragraph 3 states that bicycles desiring to travel east on Seventh Street will need to cross Broadway at Sixth Street, then travel south on the sidewalk to the bike lane on Seventh Street. This recommendation, although likely to occur, is unacceptable, as bicycles would be traveling in the wrong direction and on the sidewalk.

5-6

5-41

Comment Letter 5

Ms. Sidnie Olson
01/30/09
Page 4

Our previous comments (October 5, 2007) noted that a dedicated Right turn lane would be required on Eastbound Hawthorn due to the predicted increases in right turn volumes, (from 14 to 259 p.m. peak hour). This lane is not noted in Mitigation Measure O-1c, but is now noted in the TIS text on page 54, #16. This should also be reflected in Figure 13 (and Page IV.O-38 of the DEIR).

5-7

Page 54, Mitigation 8: Raised Median on Broadway at 7th Street.

Some consideration should be given to evaluating the raised median as a pedestrian refuge. This may include extending the raised median to Clark Street and further south to accommodate the frequent mid-block pedestrian crossings.

5-8

Appendices G, H, and K are extremely difficult to read due to their size and quality, as this is the final documentation supporting the TIS, consideration should be given to making them readable.

5-9

Appendix M concerns the use of gates. Gates are no longer mentioned in the TIS or the DEIR. There is no need to include this Appendix.

5-10

Appendix H does not include the Greater Eureka Travel Model (GEATM) use and calibration documentation referred to in the TIS text. As the use of the GEATM for this project is repeatedly referenced both in the TIS and the DEIR, consideration should be given to including the documentation of its use.

5-11

Page 54, Mitigation #9 (DEIR Mitigation Measure O-1h). This mitigation also effectively prohibits left turns onto Commercial Street from southbound Broadway. No mention of this is included in these documents. The Commercial Street intersection has been omitted from this study; although, it is directly across from the project site.

5-12

The TIS as presented includes minimal intersection analysis for the year 2025. A few 2025 intersection analyses are provided in the appendices, all of the impacted intersections should be included. The Cumulative 2025 + Project volumes as shown appear flawed. For example: Figure 10, Baseline 2010 + Project, Intersection #1 (Broadway/4th Street) shows peak hour volumes of 86 and 96 vehicles per hour (vph) in the AM and PM period respectively. As projected in Figure 15, Cumulative 2025 + Project, the same peak hours show a reduced AM volume of 71 vph and the same PM volume. Many other intersections do not add the expected diverted traffic to certain movements including Wabash Avenue and Broadway, and Hawthorn and Broadway.

5-13

Other Comments (DEIR)

Table II-1

Comment Letter 5

Comment Letter 5

Ms. Sidnie Olson
01/30/09
Page 5

Ms. Sidnie Olson
01/30/09
Page 6

We concur with the need for Mitigation Measures O-A through O-K to be required as part of the entitlements for the entire project, as analyzed in the TIS. In addition, we concur with the need for the other improvements described on page IV.O-26, "Proposed Project Access and Off-site Improvements." All of these measures are listed on page 54 of the TIS: "Mitigation Needed at Project Opening (Assuming Full Development of All Uses)."

5-14

The description of the proposed 6th Street offset intersection on page IV.O-26 states that relocation of the southern Crivelo's driveway "is desirable. . . ." We concur with the finding in the TIS (page 54, #7) that the driveway *must* be relocated.

5-15

We recommend that the explanation for why the raised median is needed (also on page IV.O-26) be replaced with the verbiage found in #8, page 54 of the TIS.

5-16

Page IV.O-1 to O-4. There is no description regarding Hawthorn Street. We recommend that a description of this street be included since a signal is proposed to be installed at Hawthorn Street and Broadway and it is proposed to be a major exit route for traffic exiting the project area. The pavement on Hawthorne Street west of Broadway is dilapidated and should be improved. If not improved, traffic will not be inclined to use this route to exit the project.

5-17

Page IV.O-38. (Figure 13 in the TIS): In the "With Project" plan, eastbound and westbound Washington Street should have left turn lanes (consistent with IV.O-37).

5-18

We look forward to continued collaboration with City staff and consultants on this challenging project.

Sincerely,



REX A. JACKMAN
Chief, System and Community Planning
Caltrans District 1

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Kurt Gierlach
Scott Morgan, State Clearinghouse

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5-42

Letter 5: State of California Department of Transportation (Caltrans), District 1 (Rex Jackson)

- 5-1 The comment refers to the necessary implementation of mitigation measures in sync with development of the proposed project, states that a detailed phasing plan would need to be developed, and recommends that such a phasing plan and supplemental traffic impact study be required as a condition of project approval.

As the comment notes, no detailed phasing plan has been prepared for the project beyond the first phase of site remediation and wetland restoration. As the Draft EIR emphasizes on pages III-14 and III-15, once a phasing plan is developed, project mitigation measures must be evaluated to ensure that the project implements those feasible mitigation measures necessary to address the project's impacts associated with each phase. It is acknowledged, for example, that improvements along U.S. 101 (Broadway and the Fourth/Fifth Street couplet through Downtown) would need to be coordinated.

To the degree that any mitigation measures are phased along with the project (as opposed to built up-front), funding and implementation of transportation measures would be detailed in a development agreement, or other similar reimbursement or credit agreement, between the developer, the City of Eureka, or Caltrans subsequent to certification of the EIR. In the meantime, it is impracticable, if not impossible, to outline the necessary phasing for transportation improvements because the phasing scenarios have not been developed and ultimately would depend on market conditions and other business-related factors. Nonetheless, the Draft EIR evaluates the worst-case scenario – full build-out of the project by 2010. Consequently, no additional conditions of approval are necessary at this time.

- 5-2 The comment raises concerns about available right-of-way to accommodate mitigation measures identified in the Draft EIR at specific locations.

Washington Street and Broadway: At this intersection, the width of Washington Street west of Broadway is measured to be about 44 feet curb-to-curb, and east of Broadway it is 40 feet curb-to-curb. There is parking allowed on Washington Street both east and west of the intersection. With installation of left turn lanes, parking would be allowed along only one curb side; the specific side has not been decided. The properties adjacent to Washington Street include Don's Rent-All, Leon's Car Care, Kentucky Fried Chicken, and the Home Remodeling Center, which all have off-street parking. City records show that the Washington Street right-of-way is 60 feet wide, with eight-foot-wide sidewalks on each side of the street west of Broadway, and 8- to 12-foot-wide sidewalks east of Broadway. Consequently, the right-of-way appears to be sufficient to accommodate the proposed transportation improvements at this intersection and roadway segment.

Hawthorne Street and Broadway: Hawthorne Street is 36 feet curb-to-curb east of Broadway, where widening would be needed to provide four lanes of traffic and a six-

foot-wide sidewalk. City records shows that the right-of-way is 60 feet with an eight-foot-wide sidewalk area west of Broadway and twelve feet of sidewalk width east of Broadway. On the northeast corner, the distance from the existing curb to the NAPA Auto Parts Store building is about 32 feet. The north side of Hawthorne Street east of Broadway may require a slope easement at the NAPA Auto Parts Store. A retaining wall along Hawthorne Street could be considered. In any event, the right-of-way appears to be sufficient to accommodate the proposed transportation improvements at this intersection.

Broadway, Vigo Street to Bayshore Mall: A field check was completed for Broadway roadway width. It was verified that restriping to shift six feet is within the existing curbs, and no widening would be needed for the new signal at Harris Street. A Caltrans design exception would be required for the non-standard roadway shoulder design. The existing roadway width along this section is measured to be about 72 feet. The southbound lanes could be restriped so that the left turn radius can increase for the STAA truck turning. Also, the southbound stop bar for the left turn lane could be moved north by 10 feet to increase the left turn radius. Moving the stop bar provides a wider area for receiving the left turn on Harris Street. A short retaining wall may be needed at the point where Harris Street receives left turns from southwest-bound Broadway.

The roadway shoulders would be used for restriping for the additional southbound through lane south of Vigo Street. A Caltrans design exception would be required for the non-standard roadway shoulder design. With a curb-to-curb section of 72 feet, Broadway could be restriped to provide three southbound lanes without additional roadway widening.

As stated on Draft EIR pages IV.O-40 to O-42, and O-54, each of these improvements would require approval from Caltrans.

- 5-3 The comment states that all improvements within Caltrans right-of-way would require an encroachment permit, and that based on the estimated cost to construct the mitigation measures identified in the Draft EIR (and Caltrans' Project Development Procedures Manual), implementation of the mitigation measures would require a separate Project Study Report.

It is acknowledged that an encroachment permit would be required prior to construction of improvements within Caltrans right-of-way. The City of Eureka (and the Project Applicant) would work with Caltrans to ensure that engineering design plans for all street and traffic signal improvements/modifications can be reviewed in a timely manner. The estimated construction cost of all improvements within Caltrans right-of-way is less than \$3 million, and therefore, a Project Study Report would not be required.

- 5-4 The comment questions statements made in the Draft EIR and the methodology used related to accident reduction associated with the proposed project.

In addition to the method used in the traffic study, the following three additional methods are used to estimate accident reduction expected due to improvement of U.S. 101 through Eureka:

1. Federal Highway Administration (FHWA): Desktop Reference for Crash Reduction Factors;
2. Institute of Transportation Engineers (ITE): Traffic Safety Toolbox; and
3. Texas Transportation Institute (TTI): Texas Roadway Safety Design Spreadsheet.

The FHWA and ITE methods are similar to the method used by Caltrans in their estimation of safety benefits of the Highway Safety Improvements Program, where reduction factors are used for categories of improvements. The TTI methodology is a spreadsheet that estimates accident rate changes on the basis of operational and geometric improvements. The average for reductions from these three methods was found to be 9.7 percent, with the highest at 15 percent.

There is no fully analytical method to develop and calibrate an accident reduction model based on current geometric conditions, traffic patterns, and traffic controls, which could then be used to forecast the expected number of accidents after changes in geometric conditions, traffic patterns, and traffic controls. Such a method exists for estimating levels of service (average delay in response to traffic conditions, controls and geometrics), but not for accident forecasting. While the methods have limitations, the method for analyzing the traffic safety-related impacts applied to the proposed project is one of the best methodologies available, and demonstrates that in many cases, safety would be improved, which supports the Draft EIR's finding (see pages IV.O-43 and IV.O-44) that the proposed project would have a less-than-significant impact on traffic safety.

- 5-5 The comment states that signalization of Clark Street at Broadway should be considered. It is acknowledged there are difficulties in pedestrian circulation along and crossing Broadway, primarily caused by existing high traffic volumes. Raised medians, improved warnings, street narrowing measures, lighting, etc. have all been demonstrated to reduce pedestrian-related accidents. Recommendations for similar problems have been made in several recent publications including articles in *ITE Journal* (January 2004 and May 2007), and a handbook jointly published by FHWA, NHTSA and the Pedestrian and Bicycle Center in March 2009 entitled *How to Develop a Pedestrian Safety Action Plan*. In those articles, it has been noted that installation of unsignalized pedestrian crossings at multi-lane, high-volume arterial urban streets should be avoided. This is because high traffic volumes offer no safe crossing gaps, even when considering one direction of traffic at a time, along with the potential of the multiple threat exposure from having more than one lane in each direction. If median islands are constructed, they should probably be the Danish offset type so that pedestrians walk facing oncoming traffic in the median and they cross half the street at a time.

- No pedestrian or vehicle signal warrants were met at the intersection of Broadway and Clark Street. The potential queues on southbound Broadway at 14th Street and northbound Broadway at Washington Street could extend beyond any unsignalized pedestrian crosswalk on Broadway at Clark Street. Pedestrians should not be expected to cross two or more lanes, through a stopped or slow-moving queue of vehicles. In short, while the need is understood, the suggested improvements are not technically warranted and would not serve to lessen the proposed project's impacts further.
- 5-6 The comment criticizes the location of the proposed bicycle route crossing Broadway at Sixth Street. With the Marina Center project, an alternative route is available by guiding bicyclists to exit the Marina Center site from the Fourth Street access drive, go south on Broadway to Fifth Street, turn left on Fifth Street to go east, turn south on B Street, and then turn onto Seventh Street connecting to the existing Class II bike lanes on Seventh Street. The out-of-the-way problem already exists for the bicyclist travelling from Waterfront Drive wishing to access the existing bike lanes on Seventh Street, in that they must either go east on Washington Street to Summer Street and then to Seventh Street, or they can go south on Commercial Street to get to the Seventh Street bike lane. Therefore, the project would improve bicycle circulation by opening a route directly across the project site from Waterfront Drive to Fourth Street and Broadway. It should be noted, the project does not propose to circulate bicycles on the sidewalk.
- 5-7 The comment points out discrepancies in how the lane configuration on the eastbound Hawthorne Street approach to Broadway is described and depicted in the Draft EIR and the March 31, 2008 Traffic Impact Study (TIS).
- Page 55 of the TIS (Appendix P of the Draft EIR), in item 16, incorrectly states, "On the eastbound approach, provide one eastbound right turn and one eastbound through-turn lane... ." This is a typographical error in the report. The statement should have read, "On the eastbound approach, provide one eastbound through-turn lane...."
- A dedicated eastbound right-turn lane as suggested by the comment would not be needed to achieve acceptable service levels at this intersection. The Draft EIR and Mitigation Measure O-1c, therefore, correctly omit a dedicated eastbound right-turn lane on Hawthorne Street. As shown in Tables IV.O-8 (Mitigated 2010 Conditions) and IV.O-10 (2025 Conditions) of the Draft EIR (and in the corresponding Tables IV and VII of the TIS), with implementation of Mitigation Measure O-1c, the intersection of Broadway and Hawthorne Street would operate at LOS B (an acceptable level) or better during both peak hours, and therefore no further mitigation is necessary.
- 5-8 The comment states that installation of a raised median should be considered as a pedestrian refuge on Broadway at Seventh Street. Installation of a raised median on Broadway between Sixth Street and Washington Street would create a hazardous situation for pedestrians wishing to cross Broadway, with or without the proposed project. Traffic queues are, and would continue to be, present during many signal cycles in the peak and off-peak hours. Also, the total volume of traffic approaches, and

sometimes exceeds, 1,000 vehicles per lane per hour, or one vehicle every 3.6 seconds in each lane. This would make it difficult for pedestrians to find any safe crossing gaps. It should be noted that the distance between the existing crosswalks across Broadway from Washington Street to Sixth Street is approximately 575 feet, which is less than the 600-foot maximum walking distance between controlled pedestrian crossings that is generally accepted.

5-9 The comment states that appendices of the Traffic Impact Study, which is Appendix P of the Draft EIR, are difficult to read. Appendix G entries are in pencil. They have been darkened with black ink and reprinted, and forwarded to Caltrans. Appendix H includes model plots that are produced directly by the modeling software, and cannot be improved at the scale presented in the report. The best plots are 24 inches by 36 inches, which have been provided to the City for their files (available for review). Appendix K has been reprinted and was forwarded to Caltrans.

5-10 The comment states that Appendix M of the Traffic Impact Study should be deleted from the report because the subject addressed in that appendix is no longer under consideration.

The comment is correct, and Appendix M is deleted from the Traffic Impact Study.

5-11 The comment states that use of the Greater Eureka Travel Model (GEATM) is referenced both in the Draft EIR and the supporting Traffic Impact Study (TIS), and the comment requests that documentation of the use of the GEATM be included in those documents.

The GEATM was used as the baseline for modeling the 2010 traffic scenario and all traffic intersections and roadway segments under existing conditions, as well as the basis for forecasting future distribution of project-generated trips on the road network. Consequently, the GEATM is so referenced.

5-12 The comment states that Mitigation Measure O-1h would prohibit left turns onto Commercial Street from southbound Broadway and the Draft EIR does not include this information. The first sentence of Mitigation Measure O-1h, page IV.O-41 of the Draft EIR, is revised as follows to clarify the turn prohibition from Broadway to Commercial Street:

The ~~p~~Project ~~a~~Applicant shall obtain an encroachment permit from Caltrans and shall cause to be completed improvements necessary to prohibit southbound left turns from Broadway to eastbound Seventh Street ~~(and to Commercial Street)~~, and instead, shift these turns to the southbound left turn lane at Washington Street, one block to the south....

5-13 The comment states that Cumulative 2025 + Project volumes as shown appear flawed. All study intersections are included in the Traffic Impact Study Appendix F for 2025 plus project conditions. What may be misleading is that an additional scenario is included in the 2025 plus project scenario for adversely affected intersections without mitigation

(which is not reported in the text of the traffic study, because the assumption is that if the project exists in 2025, project mitigations would have occurred as a requisite conditions of development). However, the small differences between volumes for 2025 in Figure 15 and the volumes in the Synchro analysis included in the appendix are acknowledged. The differences are the result of conducting LOS analysis prior to final adjustments in estimates for 2025 volumes. Figure 15 has been updated to report on the latest 2025 volume estimates and is consistent with the volumes used in the Synchro analysis. In all cases the minor differences in volumes result in no significant changes in LOS – that is, none of the LOS D results move into LOS E (on U.S. 101), or from LOS C to LOS D (at city intersections). In addition, the traffic consultant has since added Marina Center in the now-accepted 2030 version of the Greater Eureka Area Travel Model (GEATM), which includes both Marina Center and Ridgewood Village. In all cases, the 2030 volumes with both projects are slightly lower than the extrapolated volumes in the Marina Center Draft EIR. In other words, the traffic report for Marina Center represents slightly higher traffic volumes than the 2030 GEATM forecasts. This includes the added volumes returning to Broadway via 14th Street, Wabash Avenue, Del Norte Street and Hawthorne Street with all Marina Center outbound traffic rerouted to Waterfront Drive / Railroad Avenue.

- 5-14 The comment expresses agreement with Mitigation Measures O-1a through O-1k identified on pages IV.O-X to IV.O-Z in the Draft EIR, as well as other improvements described on page IV.O-D.

The opinion about the validity of improvement measures that would be constructed and in-place under project conditions is acknowledged.

- 5-15 The comment expresses agreement with the Traffic Impact Study's (TISs) finding that construction of an offset intersection at Broadway and Sixth Street must include relocation of the southern driveway of the used car lot (Appendix P of the Draft EIR).

The Draft EIR used the conditional “may include” language in recognition of the fact that the Project Applicant does not control the pertinent property. Further, such relocation would not be necessary to maintain acceptable levels of service. Nevertheless, the specific design for the intersection location has not yet been prepared, and any proposed intersection construction on U.S. 101 would require an encroachment permit and approval from Caltrans.

- 5-16 The comment recommends that the Draft EIR's explanation (on page IV.O-26) for the raised median extending south of Seventh Street be replaced with text in the Traffic Impact Study.

The third sentence of the second full paragraph on page IV.O-26 of the Draft EIR is revised as follows to clarify the reason why the raised median would be needed:

The modification of the Broadway/Sixth Street signal and intersection also includes restriping Broadway for a northbound left turn lane at the project access drive at

Sixth Street, ~~and~~ the installation of a raised median extending south of Seventh Street ~~and prohibition of to prohibit~~ southbound left turns from Broadway to eastbound Seventh Street.

- 5-17 The comment states that there is no description of Hawthorne Street in the Setting section of Chapter IV.O, and states that Hawthorne Street's pavement condition must be repaired to accommodate project-generated traffic. The following paragraph is added to page IV.O-4 of the Draft EIR:

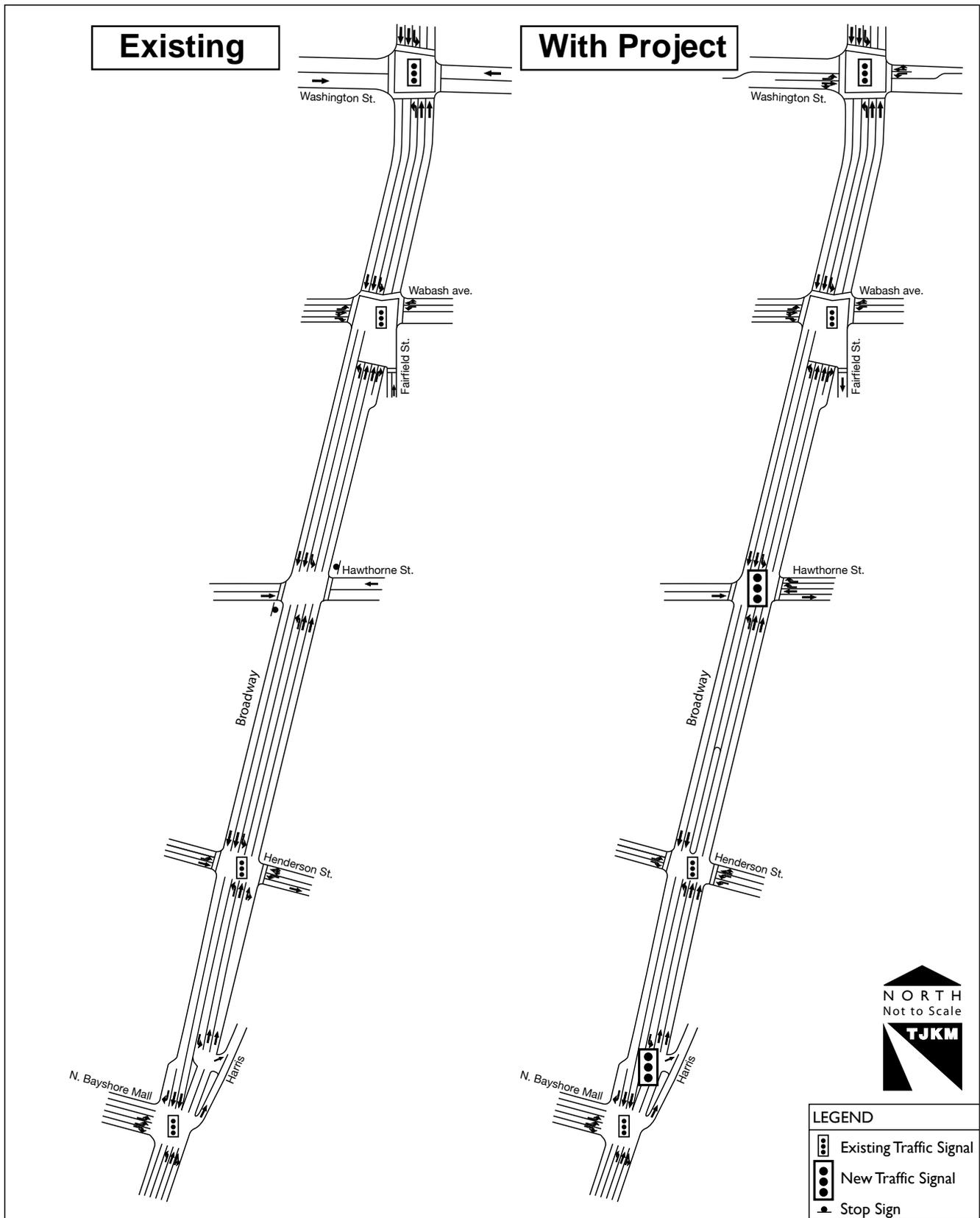
Hawthorne Street

Hawthorne Street is a two-lane roadway extending east and west. It begins at Felt Street on the west and extends east to 'C' Street. Hawthorne Street is stop controlled at Broadway. The street is 42 feet wide west of Broadway, and 36 feet wide east of Broadway. Parking is allowed on both sides of the street, both east and west of Broadway. There is an approximately two percent uphill grade east of Broadway to Fairfield Street.

The existing pavement on Hawthorne Street is a baseline condition. While it may result in some rerouting of traffic to other roadways that currently have better pavement, it would not do so to a degree that would change the surrounding levels of service estimated with the proposed project. The street is included as part of the City's regular road maintenance program. The current condition of the roadway does not preclude expanded vehicle travel.

- 5-18 The comment requests that the depiction of the "With Project" lane configuration on Washington Street at Broadway be consistent on Figures IV.O-11 and IV.O-12 of the Draft EIR.

Figure IV.O-12 is revised (see next page) to show the "With Project" lane configuration on Washington Street at Broadway consistent with Figure IV.O-11.



SOURCE: TJKM Transportation Consultants

Marina Center Mixed-Use Development Project . 205513

Figure IV.O-12 (Revised)
 Broadway 2010 Improvements (South)

Comment Letter 6

Comment Letter 6

Sidnie Olson

From: Kasey Ashley [KAShley@waterboards.ca.gov]
Sent: Monday, January 26, 2009 8:59 AM
To: Sidnie Olson
Subject: Marina Center Draft EIR
Attachments: Comments Draft EIR.doc



Good Morning Sidnie,

I only read three parts of this huge document. my comments are attached. You will also get these in a letter from our agency along with other comments.

ka

5-51

Comments on Marina Center Project Draft EIR
SCH #2006042024

III. Project Description

Infrastructure

The text in this section indicates that new infrastructure would be constructed. During this construction, trench excavation soil and groundwater from construction dewatering will be required to be sampled in order to determine the properly permitted site for disposal.

6-1

Site Remediation

The text lists activities that could be required in a remedial action plan (RAP). As the Rap has not been developed, it is premature to list any potential activities unless the list of activities includes all possible remedial actions that occur at any given site.

6-2

G. Hazards and Hazardous Materials

Other Substances

The extent of dioxin contamination has not been investigated and needs to occur prior to site construction activities.

6-3

Health Risk Assessment

Text in the first paragraph of this section states "The groundwater at the site is not a current source of drinking water." While this is a factual statement, one of the beneficial uses of the groundwater as defined in the North Coast Region's Water Quality Control Plan (Basin Plan) is for municipal supply.

6-4

Project Impacts

In the event that the site is determined to have restricted land use due to contaminated soils being left in place, a deed restriction will be required to be filed with the County Recorder's Office.

6-5

Mitigation Measure G-1b

The text indicates that three samples of the backfill material will be analyzed by a laboratory to ensure that the backfill meets the site clean-up standards. Depending on the amount of backfill material, three samples may not be an adequate number of samples.

6-6

Mitigation Measure G-1c

Text indicates that during construction of the Marina Center suspected residual contamination could be detected by a hydrocarbon odor or visually. In addition, field sampling equipment needs to be used during construction to identify possible contamination. This equipment needs to consist of a photo-ionizing detector (PID).

6-7

Comment Letter 6

Mitigation Measure G-1d

The Integrated Waste Management Board may have comments on the reuse of contaminated soils at the site. 6-8

Table II-1 Summary of Impacts and Mitigation Measures for the Proposed Marina Center Project

Text under Impact G-1 states "A RWQCB-approved site remediation has been completed and a soil and groundwater management contingency plan would be prepared for the property." This statement is not factual. Regional Water Board staff have concurred with several interim remedial measures in the past, however the final remedial action plan has not been submitted for our review and concurrence. 6-9

Letter 6: California Water Resources Control Board (Kasey Ashley)

- 6-1 The comment states that during construction, excess water would be required to be sampled to ensure proper disposal. The construction activities of the proposed project would comply with all controls and testing established by the RWQCB under its Cleanup and Abatement Order, as well as any condition may part of Water Quality Certification issued in conjunction with the 404 permit. Such compliance is referenced under Mitigation Measure D-3a and would be incorporated into the required Storm Water Pollution Prevention Plan (SWPPP) (Draft EIR, pages IV.H-13, H-15, and H-17).
- 6-2 The comment states that it is premature to list remediation activities because a Remedial Action Plan has not been developed. The examples of activities that could be required in a Final Remedial Action Plan (FRAP) are included in the Draft EIR to provide a layperson with an understanding of what a FRAP may entail. Further, since publication of the Draft EIR, the Project Applicant has prepared a Supplemental Interim Remedial Action Plan (SIRAP) which has been approved by the RWQCB. That SIRAP, which is part of Phase 1 of the proposed project, details certain remedial activities that must be undertaken by the Project Applicant to comply with the RWQCB's 2001 Cleanup and Abatement Order No. R1-2001-26. The SIRAP and final cleanup of the project site is still conditioned on a FRAP, which must also be approved and carried out under the supervision of the RWQCB and as required under the Cleanup and Abatement Order. Please also see Master Response 4 and new Appendix S for updated information on site remediation plans for the proposed project.
- 6-3 The comment states that the extent of dioxin contamination has not been investigated and needs to occur before construction of the project. Sampling for dioxin has occurred and is proposed to occur in the SIRAP. Dioxins in sediment samples from onsite ditches and the Clark Slough remnant are discussed on Draft EIR page IV.G-6. Further, Mitigation Measure G-1b states that prior to commencement of construction activities, the Project Applicant must complete characterization and remediation of all contaminants to the satisfaction of the RWQCB. This includes dioxin. See also responses to comments 23-4 and 23-5 and Master Response 4 for additional discussion of dioxin and the proposed remediation for the project site.
- 6-4 The comment states that while it is true that the groundwater at the project site is not currently a source of drinking water, one of the beneficial uses of groundwater is for municipal supply. The Draft EIR on page IV.H-14 acknowledges that one of the beneficial uses of groundwater in the Humboldt Bay Basin Plan is for municipal uses. This project does not propose to take any action that would change or reduce the beneficial uses associated with groundwater or surface waters specified in the Humboldt Bay Basin Plan. All ongoing monitoring and remediation would continue under the supervision of the RWQCB.

6-5 The comment states that a deed restriction may be required if contamination is left in place that would restrict land uses. The comment is noted. As stated in Mitigation Measure G-1b, construction of the proposed project would not commence until the Final Remedial Action Plan has been approved by the RWQCB. Conditions imposed as part of that Final Remedial Action Plan would be fully implemented.

6-6 The comment states that three samples of backfill material may not be adequate depending on the total amount of backfill material placed. The excavations outlined in the SIRAP are limited to a few discrete areas, and the amount of backfill material is not anticipated to be significant. Generally, the higher the volume of soil being imported, the fewer samples per ton should need to be collected. Consequently, three samples for each excavation area are believed to be sufficient. Nonetheless, the text on Draft EIR page IV.G-20 is revised to state:

...~~Three samples~~At least one sample for every 500 cubic yards of the backfill material....

6-7 The comment states that a photo-ionizing detector could be used during construction to identify possible contamination. Specific monitoring protocols may vary depending on the level of site disturbance associated with construction, which in turn can only be determined once the final site designs and construction methods are developed and finalized. The Final Remedial Action Plan and associated monitoring protocols must be reviewed and approved by the RWQCB. Nonetheless, the text on Draft EIR page IV.G-20 is revised to state:

...could be detected by a hydrocarbon odor, photo-ionizing detector (PID), or visually....

6-8 The comment states that the Integrated Waste Management Board may have comments regarding the reuse of soils at the project site. The text for Mitigation Measure G-1d on Draft EIR page IV.G-21 is revised to state:

Mitigation Measure G-1d: Possible reuse of ~~contaminated~~ excavated soils as subgrade fill material shall require approval from the local environmental oversight agency (Humboldt County Department of Health), Integrated Waste Management Board, or successor agency, and/or RWQCB.

6-9 The comment requests correction of the status of RWQCB approvals. The RWQCB has approved a series of interim remedial measures, including those contained in the SIRAP. As set forth in Master Response 4 and in response to comment 6-2, above, regulatory closure of the project site is still subject to a Final Remedial Action Plan, which plan cannot be developed and approved until final site designs and construction methods are determined. That Final Remedial Action Plan must be submitted to the RWQCB for its review and concurrence. The discussion under Impact G-1 in Draft EIR Table II-1 on page II-16 is revised to state:

A RWQCB-approved interim site remediation has been completed and a soil management and groundwater management contingency plan would be prepared for the ~~property~~-project site. The site is still subject to a Final Remedial Action Plan to be reviewed and approved by the RWQCB.

Comment Letter 7

Comment Letter 7



California Regional Water Quality Control Board
North Coast Region

Bob Anderson, Chairman



Arnold Schwarzenegger
Governor

Linda S. Adams
Secretary for
Environmental Protection

www.waterboards.ca.gov/northcoast
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

January 30, 2009

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DEPARTMENT OF
COMMUNITY DEVELOPMENT

Ms. Sidnie L. Olson
Eureka Community Development Department
531 K Street
Eureka, CA 95501

Dear Ms. Olson:

Subject: Regional Water Board Comments on the Draft Environmental Impact Report (DEIR) for the Marina Center Project, Eureka, Humboldt County, SCH No. 2006042024

Thank you for the opportunity to comment on the DEIR for the Marina Center Project. We appreciate the chance to respond and express concerns early in the environmental review process relating to our own statutory responsibility. The North Coast Regional Water Quality Control Board (Regional Water Board) is a responsible agency for this project, as defined by the California Environmental Quality Act (CEQA) having jurisdiction over the quality of ground and surface waters (including wetlands) and the protection of the beneficial uses of such waters. The DEIR identifies probable environmental impacts and suggests mitigation measures to minimize the significance of those impacts.

We have reviewed the document prepared for the Marina Center Project and offer the following comments and recommendations, in our role as a trustee and responsible agency under CEQA.

General Comments

Overall, we strongly support the efforts of City staff and other interested parties in developing the document. While there are a number of very positive mitigation measures in the DEIR, we are concerned that development related impacts will result in significant degradation to surface and ground water quality. Specifically, impacts related to loss of riparian and wetland areas, storm water pollution, hydromodification and site remediation will need to be mitigated to the fullest extent possible. In order to ensure that water quality objectives are met in the future, it is critical that impacts from new development be fully mitigated. Growth-related development in the area has contributed to the impairment of water quality, often through the discharging of pollutants to surface water and ground waters. Appropriate best management practices

5-56

7-1

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Ms. Olson

-2-

January 30, 2009

(BMPs) for the prevention of pollution must be implemented and monitored to ensure protection of water quality. The Regional Water Board is responsible for protecting the quality of waters of the State, which include all ground and surface waters within the State.

7-1
cont.

Specific Comments

D. Biological Resources

1. Impacts to wetlands and waters of the State

The Regulation of Wetlands Section on page IV. D-17 does not discuss the Water Quality Control Plan for the North Coast Basin (Basin Plan) (http://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/083105-bp/070605_Basin_Plan.pdf). The DEIR needs to acknowledge the definition of waters of the state which is: Water Code Section 13050 (e) "Waters of the state" means any surface water or groundwater, including saline waters, within the boundaries of the state" and includes but is not limited to all waters of the United States.. The Final EIR (FEIR) must identify all surface waters that could be impacted by the proposed project, including, but not limited to wetlands, springs, drainage channels, creeks, and the Clark Slough. The FEIR must clearly identify all potential adverse impacts to these waters and mitigation measures that will be implemented to protect them. These impacts should first be adequately evaluated to see if any can be avoided or minimized. All efforts to first avoid and second to minimize impacts to waters of the State must be fully exhausted prior to deciding to mitigate for their loss. If after careful and adequate evaluation, the project's impacts to waters of the State are deemed unavoidable, then compensatory mitigation (for acreage, function and value) will be necessary for any unavoidable impacts. For example, seasonal wetland impacts must be mitigated by seasonal wetland mitigation; linear watercourse impacts must be mitigated by linear watercourse mitigation. Our staff may require a greater than 1:1 mitigation ratio as a condition of approval for this project.

7-2

7-3

7-4

For unavoidable impacts to waters of the State, water quality certification under section 401 of the Clean Water Act and/or Waste Discharge Requirements (Dredge/Fill) from the Regional Water Board will be necessary. United States Army Corps of Engineers Clean Water Act Section 404 permits and Department of Fish and Game stream alteration agreements may also be necessary.

7-5

2. Storm water

H: Hydrology and Water Quality

Page IV.H-19 states that "the proposed project would result in the conversion of nearly 29 acres of the approximately 43-acre site into impervious surfaces and would result in an increase in peak discharge from the project site...without proper mitigation, development of the project site could increase the levels of NPS urban pollutants and litter entering Humboldt Bay. An increase in NPS pollutants could adversely affect the beneficial uses of the bay."

7-6

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Comment Letter 7

Ms Olson

-3-

January 30 2009

Mitigation Measure H-4a: The project applicant shall prepare a drainage plan indicating the specifics of the project drainage system. The drainage plan shall demonstrate that the culverts are adequately sized and configured to address peak runoff and protect against a 10-year storm event. The drainage plan shall ensure that any increase in storm water drainage runoff in a 10-year storm event remains below 1 cfs. Alternatively, if the 1 cfs threshold cannot be maintained in a projected 10-year storm event, the drainage plan shall provide a retention/siltation basin that limits storm water runoff to pre-project flows. The plan shall be submitted to and approved by the City of Eureka, and recommendations from the City shall be adopted by the project applicant prior to issuance of a building permit.

Mitigation Measure H-5a: The applicant shall treat storm water at drop inlets that capture runoff from roof drains, paved pedestrian areas, and parking, prior to connection to the City's storm drain system. The project applicant shall prepare and implement a permanent maintenance program for storm water treatment facilities on the project site.

Mitigation Measure H-5b: The project applicant shall incorporate grassed swales (biofilters) into the project landscape plan, to the extent feasible, for runoff conveyance and filtering of pollutants. The maintenance of biofilters on the project site shall be the responsibility of the project applicant.

Mitigation Measure H-5c: The applicant shall ensure that only USEPA-approved herbicides and pesticides are used on the site in any area that might drain to aquatic environments.

These mitigation measures rely extensively on filters and other proprietary storm water BMPs. The Regional Water Board has been directed by the State Water Board, in a resolution adopted on May 6, 2008, (http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2008/rs2008_0030.pdf) to incorporate low impact development (LID) in regulatory actions. We recommend that the mitigation measures provide guidance to develop the project in accordance with LID strategies to treat storm water to the maximum extent practicable in accordance with the City's storm water permit coverage and for ease of further permitting by our agency. Filters may not be effective in treating storm water and require higher maintenance than landscape-based BMPs.

The quality of storm water runoff is directly correlated to the extent of impervious surfaces within a watershed. We strongly encourage disconnection of impervious areas from storm drain systems and routing to vegetated areas where possible. We support infiltrating treated storm water runoff into the ground as a means of treating it and recharging ground water supplies. This helps to buffer low summer/fall flows which in turn help to reduce water scarcity and creek temperatures. Please see the attached list of Storm Water and LID resources we have included for your benefit in proceeding with this project.



7-6
cont.

7-7

5-57

Comment Letter 7

Ms Olson

-4-

January 30 2009

All newly installed impervious surfaces (runway, roads, roofs, sidewalk, etc.) must incorporate post-construction storm water BMPs to remove any contaminants, and to attenuate peak flows, before discharge to waters of the State. We strongly encourage the use of LID techniques to address potential storm water impacts as close to the source as possible. Dry detention basins (particularly those with limited detention times) are not effective for pollutant removal. Permeable pavements can have significant benefits as long as subdrains are not needed. LID techniques promote healthy aquatic systems and can reduce flood and drainage control costs over time. Post-construction storm water treatment controls are vital in protecting water quality from the effects of increased storm water runoff from new development.

Hydromodification

Recent studies have confirmed that increased impervious surfaces within a watershed will lead to alteration of the natural hydrology expressed as higher winter flows (peak flows) and lower summer/fall flows (base flows). Alteration of the natural flow regime (hydromodification) can result in increased stream temperatures associated with base flows, alteration of the channel morphology (e.g. widening or incising of stream channel) associated with increased peak flows, adverse impacts to native riparian vegetation and reduction in ground water recharge capabilities. The design and construction of new development projects using LID can protect natural flow regimes and reduce the impacts of hydromodification and thus help prevent adverse impacts to stream and wetland systems.

3. Clean ups Comments on Marina Center Project Draft EIR

III. Project Description

Infrastructure

The text in this section indicates that new infrastructure would be constructed. During this construction, trench excavation soil and groundwater from construction dewatering will be required to be sampled in order to determine the properly permitted site for disposal.

Site Remediation

The text lists activities that could be required in a remedial action plan (RAP). As the Rap has not been developed, it is premature to list any potential activities unless the list of activities includes all possible remedial actions that occur at any given site.

G. Hazards and Hazardous Materials

Other Substances

The extent of dioxin contamination has not been investigated and needs to occur prior to site construction activities.

7-8

7-9

7-10

7-11

Comment Letter 7

Ms. Olson

-8-

January 30, 2009

Health Risk Assessment

Text in the first paragraph of this section states "The groundwater at the site is not a current source of drinking water." While this is a factual statement, one of the beneficial uses of the groundwater as defined in the North Coast Region's Water Quality Control Plan (Basin Plan) is for municipal supply.

7-12

Project Impacts

In the event that the site is determined to have restricted land use due to contaminated soils being left in place, a deed restriction will be required to be filed with the County Recorder's Office.

7-13

Mitigation Measure G-1b

The text indicates that three samples of the backfill material will be analyzed by a laboratory to ensure that the backfill meets the site clean-up standards. Depending on the amount of backfill material, three samples may not be an adequate number of samples.

7-14

Mitigation Measure G-1c

Text indicates that during construction of the Marina Center suspected residual contamination could be detected by a hydrocarbon odor or visually. In addition, field sampling equipment needs to be used during construction to identify possible contamination. This equipment needs to consist of a photo-ionizing detector (PID).

7-15

Mitigation Measure G-1d

The Integrated Waste Management Board may have comments on the reuse of contaminated soils at the site.

7-16

Table II-1 Summary of Impacts and Mitigation Measures for the Proposed Marina Center Project

Text under Impact G-1 states "A RWQCB-approved site remediation has been completed and a soil and groundwater management contingency plan would be prepared for the property." This statement is not factual. Regional Water Board staff have concurred with several interim remedial measures in the past, however the final remedial action plan has not been submitted for our review and concurrence.

7-17

4. Wastewater

Q. Utilities and Service Systems

The City of Eureka City's Elk River Waste Water Treatment Plant (WWTP) operates in accordance with the National Pollutant Discharge Elimination System (NPDES) permit requirements administered by our agency. The permit was issued in 2004 and is valid through March 2009. The permit sets limitations on the treated effluent quality and quantity discharged into Humboldt Bay.

As stated, the WWTP operates at approximately 70 percent of the permitted capacity in dry weather conditions and at 100 percent of the permitted capacity during peak wet

Comment Letter 7

Ms. Olson

-6-

January 30, 2009

weather events. We are concerned that the City's WWTP capacity for the development of this project may be inadequate. This project will need to demonstrate adequate capacity for planned growth resulting from this project.

7-18

5. Required Permits for this Project

The following summarizes project permits that may be required by our agency depending upon potential impacts to water quality:

Water Quality Certification (401 Certification): Permit issued for activities resulting in dredge or fill within waters of the United States (including wetlands). All projects must be evaluated for the presence of jurisdictional wetlands and other waters of the State. Destruction of or impacts to these waters should be avoided. Under the Clean Water Act Sections 401 and 404, disturbing wetlands requires a permit from the United States Army Corps of Engineers (ACOE) and a State 401 water quality certification. To determine whether wetlands may be present on any proposed construction site, please contact Jane Hicks of ACOE at (415) 977-8439. If wetlands or other waters of the State are present, please contact Mark Neely at (707) 576-2689. Alterations or work within or adjacent to streambeds or lakes may also require a 1602 Lake and Streambed Alteration Agreement from the California Department of Fish and Game (CDFG). Removal of riparian vegetation also requires this permit. We recommend that all applicants contact CDFG for additional information on these requirements.

7-19

Waste Discharge Requirements (WDRs) or a Conditional Waiver of WDRs: Under authority of the California Water Code, the Regional Water Board may issue WDRs for any project which discharges or threatens to discharge waste to waters of the State. Projects that impact waters of the State (including any grading activities within stream courses or wetlands) require permitting by the Regional Water Board. The Regional Water Board may also require permits for discharges of post-construction storm water runoff and on-site septic systems accepting 1,500 gallons or more per day. An application may be printed from the State Water Resource Control Board website at: www.swrcb.ca.gov/sbforms/.

7-20

General Construction Activity Storm Water Permit: Land disturbances on proposed projects of one acre or more require a general construction storm water permit. If the land disturbance will be in excess of one acre, the owner of the property will need to apply for coverage under this permit prior to the commencement of activities on-site. This permit requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) that identifies BMPs to minimize pollutant discharges from the construction site. The permit also requires inspections of construction sites before and after storm events, and every 24 hours during extended storm events. The purpose of the inspections is to identify maintenance requirements for the BMPs and to determine the effectiveness of the

7-21

5-58

Comment Letter 7

Ms Olson

-7-

January 30, 2009

implemented BMPs. Owners may call our office to receive a permit package or download it off the Internet at www.waterboards.ca.gov.

↑ 7-21
| cont.

If you have any questions or comments, please contact me at (707) 570-3761 or by email at MDougherty@waterboards.ca.gov

Sincerely,



Mona Dougherty
Water Resources Control Engineer

121208_AJT_Marina Center_DEIR.doc

cc: Mr. Scott Morgan, State Clearing House, P.O. Box 3044,
Sacramento, CA 95812 RE: SCH No. 2006042024

Michael G. van Hattem, Coastal Conservation Planning Northern Region,
California Department of Fish and Game, 619 Second Street, Eureka, Ca 95501

California Environmental Protection Agency

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Comment Letter 7

Ms Olson

-8-

January 30, 2009

Low Impact Development Resources

Puget Sound LID manual:
http://www.psp.wa.gov/downloads/LID/LID_manual2005.pdf

Resolution of the California Ocean Protection Council Regarding Low Impact Development:
http://www.resources.ca.gov/copc/05-15-08_meeting/05_LID/0805COPC05_%20LID%20Res%20amended.pdf

Low Impact Development Center:
<http://www.lowimpactdevelopment.org/>

Green Infrastructure Municipal Handbooks:
<http://cfpub2.epa.gov/npdes/greeninfrastructure/munichandbook.cfm>

Marin County's LID manual:
http://www.mcstopp.org/acrobat/GuidanceforApplicantsv_2-5-08.pdf

San Diego County's LID manual – has a section on LID for roads:
<http://www.sdcounty.ca.gov/dplu/docs/LID-Handbook.pdf>

Low Impact Development – Sustainable Storm Water Management:
http://www.waterboards.ca.gov/water_issues/programs/low_impact_development/

EPA Green Infrastructure Basic Information:
<http://cfpub.epa.gov/npdes/greeninfrastructure/information.cfm>

Managing Wet Weather with Green Infrastructure:
http://cfpub.epa.gov/npdes/home.cfm?program_id=298

State Water Board Funded Projects That Include Low Impact Development:
http://www.waterboards.ca.gov/water_issues/programs/grants_loans/low_impact_development/

City of Portland's Sustainable Storm Water Management Program – LID for streets:
<http://www.portlandonline.com/bes/index.cfm?c=34598>

Low Impact Development Center – Green Highways and Green Infrastructure:
http://www.lowimpactdevelopment.org/green_highways.htm

Streetscape improvements and water quality design:
<http://www.lowimpactdevelopment.org/nhb/lid.htm>

Low Impact Development for Roads - Washington State Green Building for Transportation Infrastructure webpage: <http://www.metrokc.gov/kcdot/roads/eng/lid/militarys272/index.cfm>

LID Urban Design tools – has design software for different BMPs:
<http://www.lid-stormwater.net/homedesign.htm>

LID design fact sheet:
<http://www.coastal.ca.gov/nps/lid-factsheet.pdf>

LID Training Program for Local Transportation Projects:
http://www.lowimpactdevelopment.org/epa03_transportation.htm

Storm Water Management and LID at EPA headquarters – BMP choice and design:

California Environmental Protection Agency

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Comment Letter 7

Ms. Olson

-9-

January 30, 2009

http://www.epa.gov/owow/nps/lid/stormwater_hq/

<http://sustainablesites.org/>

A Review of Low Impact Development Policies: Removing Institutional Barriers to Adoption:
http://www.waterboards.ca.gov/lid/docs/ca_lid_policy_review.pdf

Storm Water Resources:

The CASQA Construction BMP manual:
<http://www.cabmphandbooks.com/Construction.asp>

This is our MS4 website that has storm water and LID links:
http://www.waterboards.ca.gov/northcoast/water_issues/hot_topics/santa_rosa_ms4_npdes_stormwater_permit/

State Water Board Storm Water Program:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/

Erase the Waste Campaign – California Storm Water Toolbox:
http://www.waterboards.ca.gov/water_issues/programs/outreach/erase_waste/

State Water Board Storm Water Grant Program:
http://www.waterboards.ca.gov/water_issues/programs/grants_loans/prop84/index.shtml

The San Francisco Regional Water Board storm water website:
http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/avail_docs.shtml

EPA Storm Water Program:
http://cfpub.epa.gov/npdes/home.cfm?program_id=6

Federal Funding Sources for Watershed Protection:
<http://cfpub.epa.gov/fedfund/>

California Stormwater Quality Association:
<http://www.casqa.org/>

Stormwater Manager's Resource Center:
<http://www.stormwatercenter.net/>

Post Construction BMPs:
<http://www.stormwaterauthority.org/library/library.aspx?id=190>

For more information, please contact Mona Dougherty at mdougherty@waterboards.ca.gov or John Short at jshort@waterboards.ca.gov

Letter 7: California Water Quality Control Board (Mona Dougherty)

- 7-1 The comment expresses general concerns regarding wetlands, riparian habitats, hydromodification, and stormwater pollution, and the comment encourages the use of best management practices (BMPs) in relation to stormwater.

For further discussion of loss of riparian and wetland areas, please see Chapter IV.D. Biology. For further discussion of stormwater, please see responses to comments 7-7, 7-8, and 16-44 and 16-47 of this document. Responses to comments 7-7 and 7-8 relate to best management practices that would be identified to mitigate stormwater impacts. For further discussion of site remediation, please see Master Response 4 and new Appendix S. Use of appropriate BMPs is discussed on pages IV.H-15, -17 and -18, Chapter 4, and included in Mitigation Measures H-3a and H-3b for control of stormwater both during construction and post-construction phases of the proposed project.

By hydromodification, the comment is presumably referring to the process whereby urbanization of an area changes the watershed. For example, urbanization can change the course of a stream by increasing the percentage of rainfall that becomes runoff during any given storm. Here, the area in question is already urbanized, and the Clark Slough remnant already accepts municipal stormwater and stormwater from the project site. It is largely rip-rapped or degraded, and thus is not likely to be affected by increases in stormwater. And the Draft EIR already includes an analysis of stormwater and Mitigation Measure H-4a which requires a drainage plan to either limit peak runoff at below 1 cubic-foot per second (cfs) or below pre-project flows. Consequently, the proposed project is not anticipated to have any significant adverse effects related to hydromodification.

- 7-2 The comment notes that the Draft EIR does not discuss the Basin Plan, and that the Draft EIR needs to acknowledge the definition of “waters of the State.”

The Water Quality Control Plan (Basin Plan) for the North Coast region is discussed on pages IV.H-13 and H-14 of the Draft EIR. To address waters of the State, the Draft EIR is revised on page IV.D-17 as follows:

Regional Water Quality Control Board

The Regional Water Quality Control Board (RWQCB), North Coast Region, regulates waters of the state under the Porter-Cologne Act. “Waters of the state” means “any surface water or groundwater, including saline waters, within the boundaries of the state.” (Cal. Wat. Code, Section 13050(e).) Under Section 401 of the Clean Water Act, the RWQCB has review authority over Section 404 permits.

- 7-3 The comment states that the Final EIR must identify all surface waters that could be impacted by the proposed project. The Draft EIR in Chapters IV.D, IV.G, and IV.H identifies all surface waters (and all waters of the state) that could be effected by the

proposed project, including the Clark Slough remnant, onsite wetlands, and Humboldt Bay itself. There are no other surface waters that would be affected by the proposed project.

- 7-4 The comment states that the Final EIR must clearly identify all potentially adverse impacts to surface waters from the proposed project and, if impacts cannot be avoided or minimized after careful and adequate evaluation, provide in-kind compensatory mitigation (e.g., seasonal wetlands created for seasonal wetlands impacted). The comment notes that RWQCB staff may require a greater 1:1 mitigation ratio for these waters.

The Draft EIR carefully evaluated all of the proposed project's potentially adverse impacts to surface waters and all waters of the State, provided a series of mitigation measures, and then concluded that the proposed project's impacts on these waters would be less than significant (e.g., Draft EIR, Chapters IV.D, IV.G, and IV.H). The comment fails to point out any deficiencies in the existing analysis and mitigation measures. It should be noted, however, that the mitigation already includes a slightly greater than 1:1 mitigation ratio for onsite wetlands and waters, though some of those mitigations would be out-of-kind. A 1:1 ratio and out-of-kind mitigation are entirely reasonable in this instance due to a number of factors, including (i) the degraded and disturbed nature of the existing wetlands and waters onsite; (ii) the temporary nature of the impacts; (iii) the fact that the project site is highly conducive to the creation of high-quality estuarine wetlands, as opposed to seasonal wetlands which currently occur at the project site; and (iv) the significant increase in wetland function and value expected from the wetland reserve over the existing, largely man-made depressions and ditches that are filled with invasive, non-native plant species. Opportunities for creating functional estuarine wetlands are rare, and therefore particularly valuable; here, the project site is uniquely suitable for estuarine wetland creation. For further discussion of the mitigation ratio and out-of-kind wetlands, please review the Draft EIR, pages D-21 through D-30, and responses to comments 3-8, 3-9, 87-1, and 179-17.

- 7-5 The comment states that for unavoidable impacts to waters of the State, a Section 401 water quality certification and/or waste discharge requirements will be necessary. The comment also notes that a U.S. Army Corps of Engineers 404 permit and CDFG streambed alteration agreement may also be needed.

The Draft EIR evaluates the proposed project's potentially significant impacts on waters of the State, including the Clark Slough remnant and wetlands onsite, and specifically notes that a 401 water quality certification and 404 wetland permit will be required (Draft EIR, pages IV.D-21 through -30). A streambed alteration agreement under Section 1600, *et seq.*, of the California Fish and Game Code will probably be needed for the restoration work proposed for the Clark Slough remnant. The same effects analysis and mitigation would apply.

- 7-6 The comment summarizes information provided in the Draft EIR about stormwater and states that mitigation measures should include low-impact development guidance to

address stormwater quantity and quality to the maximum extent practicable under the City's stormwater permit coverage. The comment also notes that filters may not be effective in treating stormwater and require higher maintenance than landscape-based BMPs.

As identified in the Draft EIR, Chapter IV.H and Mitigation Measures H-4 and H-5, the Project Applicant must prepare a detailed drainage plan which would specify those BMPs and design features to address both stormwater quantity and quality in accordance with the requirements of the City's municipal stormwater permit. Mitigation Measure H-5b, for example, requires use of grass swales or biofilters to the extent practicable, which would qualify as landscape-based BMPs. Additionally, the stormwater drainage plan would be subject to review by City and other agencies to ensure compliance with the City's municipal stormwater permit. Nonetheless, revisions in the proposed project's mitigation can help clarify these requirements. Please see response to comment 23-16 and the revised Mitigation Measure H-5a, as well as the following revisions to Mitigation Measure H-5b on Draft EIR page IV.H-20:

Mitigation Measure H-5b: ~~The project applicant shall incorporate grassed swales (biofilters) into the project landscape plan, to the extent feasible, for runoff conveyance and filtering of pollutants. The maintenance of biofilters on the project site shall be the responsibility of the project applicant. The Project Applicant shall incorporate low impact development (LID) strategies, such as grass/vegetative swales (biofilters) and other landscape-based BMPs into the project landscape, design plan, and final drainage plan.~~

- 7-7 The comment strongly encourages disconnection of impervious areas from storm drain systems and routing to vegetated areas where possible, and supports infiltrating treated stormwater runoff into the ground. See also response to comment 7-6, above.
- 7-8 The comment states that specific stormwater treatment practices must be incorporated into the proposed project, and again raises generally the possible effects associated with hydromodification. Please see responses to comments 7-1, 7-6, and 7-7. Post-construction BMPs are required in mitigation and as part of the project to address stormwater quality and quantity. LID technologies and strategies would be considered, though specific design features and treatment measures would depend on the final site design and project configuration.
- 7-9 The comment states that during construction, dewatering would be required to be sampled. The comment is noted. The construction activities of the proposed project would comply with controls and testing agreed upon with the RWQCB. Please see response to comment 6-1.
- 7-10 The comment states that it is premature to list remediation activities because a Remedial Action Plan has not been developed. The comment is noted, although the remediation activities were listed as a sample of what actions could be taken. Please see response to

- comment 6-2, as well as Master Response 4 and new Appendix S, which address site remediation, as well.
- 7-11 The comment states that the extent of dioxin contamination has not been investigated. Please see response to comment 6-3, which explains the investigation of dioxin contamination to date.
- 7-12 The comment states that the Basin Plan has designated municipal use as a beneficial use of groundwater. The comment is noted. Please see response to comment 6-4.
- 7-13 The comment states that a deed restriction would be required if contamination is left in place that would restrict land uses. As stated in Mitigation Measure G-1b on Draft EIR page IV.G-20, construction of the Marina Center would not commence until final approval of site remediation has been approved by the RWQCB. This would include any deed restriction, if such a restriction is required by the RWQCB. Please see response to comment 6-5.
- 7-14 The comment states that three samples of backfill material may not be adequate for analysis. Please see response to comment 6-6, which includes text changes to the Draft EIR to address the comment.
- 7-15 The comment states that a photo-ionizing detector could be used during construction to identify possible contamination. Please see response to comment 6-7, which includes text changes to the Draft EIR to address the comment.
- 7-16 The comment states that the Integrated Waste Management Board may have comments regarding the reuse of soils at the project site. Please see response to comment 6-8, which includes text changes to the Draft EIR to address the comment.
- 7-17 The comment requests correction of the status of RWCQB approval. Please see response to comment 6-9, which includes text changes to the Draft EIR to address the comment.
- 7-18 The comment states concern regarding the capacity of the wastewater treatment plant. As stated on Draft EIR page IV.Q-1, the City of Eureka's Elk River Wastewater Treatment Plant (WWTP) operates in accordance with North Coast Regional Water Quality Control Board (RWQCB) permit requirements. The WWTP has a permitted average dry weather capacity of 5.24 mgd, and a peak wet weather capacity of 32 mgd. Please see responses to comments 80-1 through 80-13 regarding the average dry and peak wet weather capacities of the wastewater treatment plant, as well as Chapter 2 of the Final EIR, which includes staff-initiated changes related to the permitted capacity of the WWTP.
- 7-19 The comment is a summary of the 401 Certification that would be required of the proposed project. The Draft EIR, Chapter IV.D, includes information on 401 water quality certifications.

- 7-20 The comment is noted that the RWQCB may require Water Discharge Requirements (WDRs) for the proposed project. Since the proposed project must also obtain a 404 permit under the federal Clean Water Act and associated 401 water quality certification from the RWQCB and obtain coverage under the general construction stormwater permit, separate WDRs are not anticipated. The Draft EIR, Chapter IV.H, references the RWQCB's waste discharge requirements.
- 7-21 The comment states that a General Construction Activity Storm Water Permit would be required. The Project Applicant would apply for a General Construction Activity Storm Water Permit at the appropriate time by preparing a SWPPP and filing a notice under the general permit. The SWPPP and construction-related permitting are outlined in Chapters IV.D, IV.G, and IV.H of the Draft EIR.

Comment Letter 8

Comment Letter 8

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



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January 30, 2009

File Ref: SCH# 2006042024

PROCEIVED
FEB 06 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

City of Eureka
Attn: Sidnie L. Olson
531 K Street
Eureka, CA 95501

Subject: Marina Center Mixed Use Development Project, Draft Environmental
Impact Report (DEIR), City of Eureka

Dear Ms. Olson:

Staff of the California State Lands Commission (CSLC) has received the above
referenced Draft Environmental Impact Report. For this project, the CSLC is both a
trustee agency and a responsible agency under the California Environmental Quality
Act (CEQA).

By way of background, the State acquired sovereign ownership of all tidelands,
submerged lands, and beds of navigable waterways upon its admission to the United
States in 1850. Known as "sovereign lands," these lands include tide and submerged
lands adjacent to the entire coast, the offshore islands, and the inland bays and
estuaries of the State from the ordinary high water mark to three nautical miles offshore.
The CSLC has jurisdiction and management authority over all ungranted tidelands,
submerged lands, and the beds of navigable river, sloughs, lakes, etc. The CSLC
retains residual and review authority for sovereign lands legislatively granted in trust to
local jurisdictions. All granted and ungranted lands are subject to the Public Trust, such
that restrictions on the use of tide and submerged lands apply in order for the State to
maintain the lands for waterborne commerce, navigation, fisheries, water-related
recreation, habitat preservation, and open space.

The California Legislature has granted in trust to the City of Eureka the State's
interested in filled and unfilled sovereign lands involving portions of the project area
pursuant to Chapter 82, Statutes of 1857, no minerals reserved, and Chapter 225,
Statutes of 1945, as amended, with minerals reserved to the State of California. Any
proposed uses involving granted tidelands must be consistent with the public trust
generally, and with the applicable granting statute(s).

The Marina Center falls within these lands granted to the city of Eureka and there
is a disagreement between the CSLC and the project proponent over the extent of the
legislatively granted lands in the Balloon Track. The DEIR acknowledges (beginning on

Sidnie Olson

Page 2

January 30, 2009

page IV.E-4) that the extent of sovereign and public trust lands within the proposed
development footprint is not clear. The parties have been holding ongoing discussions
to resolve this matter and contemplate entering into a title settlement agreement,
wherein the interest of the parties will be defined as well as the uses to which the
legislatively granted lands can be dedicated. In the interim, this comment letter is
written assuming that much of the property is either sovereign or retains a public trust
easement. The proposed development of the brownfield, that of mixed-use including
office, multi-family, light industrial, restaurant, and a museum, may not provide water-
dependant uses as required by the public trust easement. The project applicant should
continue discussions with the CSLC's legal and land management divisions to resolve
this issue.

8-1

In the event that a lease is required for the use of sovereign lands, the City's
environmental document will be used by the CSLC for that discretionary action. Staff of
the CSLC has concerns about the adequacy of the DEIR with regard to mitigation for
greenhouse gases (GHGs) and wetlands.

- 1) The DEIR states that the GHG emissions produced by the project, 20,000 metric
tons of CO2(e) per year, are less than significant with mitigation measures C-2a
and C-2b. These two mitigation measures were designed to reduce criteria
pollutants, and incidentally, will also reduce some GHG emissions. However, the
contribution of 20,000 metric tons of CO2(e) per year to this global issue remains
unmitigated. The mitigation and monitoring program should be enhanced to
include measures that will fully mitigate the direct GHG emissions produced by
this project (including construction of the buildings and of the wetland). As an
example, an appropriate mitigation measure for fully offsetting direct GHG
emissions would be "The applicant shall, 60 days prior to the start of
construction, provide a plan for the CSLC Executive Officer's review and
approval to purchase carbon offsets from the California Climate Action Registry
(CCAR), the local Air Pollution Control District (APCD), or other source that is
approved by the CSLC and is consistent with the policies and guidelines of the
California Global Warming Solutions Act of 2006 (AB 32)."
2) The project proposes to permanently fill 5.54 acres of freshwater wetlands and
mitigate those impacts, at a 1:1 ratio, with the creation of out-of-kind estuarine
wetlands. Details for the wetland creation/restoration project are lacking, and
need to be further developed in the DEIR to ensure adequate mitigation.
Typically, a greater than 1:1 ratio is proposed for creating out-of-kind mitigation,
and we would suggest that the applicant work with the Department of Fish and
Game to arrive at a more appropriate ratio.
3) Once the appropriate mitigation ratio is determined, a conceptual wetland
restoration plan for the southwest corner of the Marina Center project should be
developed. This plan should depict locations for different types of wetland, i.e.,
open tidal channels, saltmarsh, etc., with a list of the target species. The target
species should then serve as the basis for quantitative performance standards

8-2

8-3

8-4

5-66

Comment Letter 8

Sidnie Olson

Page 3

January 30, 2009

Comment Letter 8

Sidnie Olson

Page 4

January 30, 2009

(such as 80% coverage by *Salicornia* sp. within 5 years, or 90% of fish species-richness within 5 years) that be used to determine if the mitigation measures (D-3a, b, c, d, f) are adequate and, ultimately, if the wetland creation/restoration project is successful. A quantitative performance standard should also be proposed that addresses the invasive species that are problematic in Humboldt Bay wetlands. In addition, a performance bond should be required to ensure that the outcome of the ultimate wetland mitigation has met its performance standards. Funds should also be provided to ensure the long-term management of the wetlands. If the wetland creation/restoration project occurs on sovereign lands, the mitigation plan should be submitted to CSLC for review and approval.

8-4 cont.

4) Success of the wetland restoration project at this location will be largely dependant upon the substrate and the hydrology. There was inadequate information in the DEIR to evaluate whether or not the substrate is appropriate for a wetland and to evaluate the impacts of the contaminated site and the non-point pollution of the watershed on the water quality of the proposed wetland. The DEIR should be modified to fully disclose such aspects of the restoration project or provide performance standards for both substrate and hydrology. In addition, the DEIR should describe how the tidal gates or structure(s) will be re-designed to provide adequate tidal flushing for this constricted tidal prism.

8-5

5) A small buffer area is proposed around the wetland creation/restoration site. This buffer should not only be adequate to protect the new site from the surrounding land uses, but should also provide adequate space for the wetland to "retreat" toward the upland areas as the sea-level continues to rise. Without building into the design the extra area to account for sea-level rise, the resultant marshes will ultimately not provide the intended ecological functions and values.

8-6

6) It is our understanding that the old rail yard is known to be contaminated and that the area may be capped, rather than having the contaminated materials removed. However, there are few details in the DEIR regarding the actual level contamination and the proposed remediation for the site, and therefore, it is difficult to determine the levels of remaining contaminants that may influence the surrounding wetlands. Specific details regarding the proposed remedial actions on the site need to be included in the DEIR.

8-7

7) The current and past uses of the adjacent property south of the proposed Marina Center project are industrial in nature. The DEIR should evaluate the impact of the adjacent properties on the water quality of the wetland. It is unclear whether such run-off would be treated prior to entering the wetland or if the wetland will be used to ameliorate the run-off. In the event the restored wetlands are used as a temporary surface water attenuation basin, the DEIR should discuss how the excess water will be treated and discharged out of the wetland and the need, if any, for a discharge permit.

8-8

5-67

Thank you for the opportunity to provide comments on the Marina Center. If you have questions regarding CSLC's jurisdiction, please contact Grace Kato, Public Land Manager, at (916) 574-1227 or at katog@slc.ca.gov. If you have any questions on the environmental review, please contact Christopher Huitt, Staff Environmental Manager, at (916) 574-1938 or by e-mail at huittc@slc.ca.gov.

Sincerely,

Gail Newton, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
G. Kato - CSLC
C. Huitt - CSLC

Letter 8: California State Lands Commission

- 8-1 The comment explains the status of ongoing settlement discussions on the extent of sovereign or public trust lands at the property, and states that in the interim the comment assumes much of the property is either sovereign or public trust lands and that the proposed uses – office, multi-family, light industrial, restaurant, and museum – might not provide water-dependent uses as required. The comment suggests that the Project Applicant continue to work with the State to resolve this issue.

As outlined in the comment and pages IV.E-4 through IV.E-8 of the Draft EIR, it is uncertain whether and to what extent there are any public trust lands within the project site. The Project Applicant is in discussions with California State Lands to resolve any possible title issues. It should be noted, however, that portions of the project site were historically salt marsh, with some tidal sloughs running within them. The surface of salt marsh lands, though, is often above the elevation of ordinary high water, and to that extent the lands would not be subject to the public trust doctrine. What is more, the mere fact that lands may historically have been tide or submerged lands does not end the matter. Much of the present Downtown of Eureka, for example, for several blocks inboard of the shoreline, was historically of such a character, but has been ruled not to be subject to the public trust. Those lands were validly conveyed by the State into private ownership, and any initial impressments with the public trust have long since been terminated.

Even if impressed with the trust, courts and commentators have disagreed about how it should be applied. For example, the public trust doctrine has been interpreted to mean that the lands are held in trust for the public purposes of commerce, navigation, fisheries, and, more modernly, recreation and environmental protection. However, the public trust doctrine does not dictate a particular use, nor does it favor one use over another. The public trust doctrine, therefore, would not prohibit a Lead Agency from favoring a particular public trust use, even if that use would result in greater environmental degradation. For example, oil production has been held a proper public trust use, as has the building of a YMCA hotel for sailors and seamen. Such policy decisions would be weighed by decision-makers in evaluating whether to approve a proposed project, but are not the sort of policy issues contemplated under CEQA. Indeed, there are a host of public trust uses – including maritime industrial uses – that would have more significant adverse effects on the environment than the proposed project.

Here, the Project Applicant is proposing to amend the land-use zoning for the project site to General Service Commercial, Waterfront Commercial, Limited Industrial, and Water Conservation, and to restore and enhance the Clark slough remnant, wetlands, and other habitat values of the project site. There are a number of public trust-consistent uses that could be developed under the Project Applicant's proposed zoning designations, including maritime industrial uses. But the proposed project also would create new estuarine and palustrine emergent wetlands that, along with the nature trail, would

provide opportunities for water-oriented recreation along the reserve and slough remnant. And as a consequence of the site remediation and other measures to manage stormwater, the project would protect public trust values within Humboldt Bay and along the waterfront over the long-term. To the extent that there are any physical changes to the environment that involve public trust lands or resources, however, those physical changes are addressed in the various chapters of the Marina Center EIR and no further information is required.

- 8-2 The comment indicates that the 20,000 metric tons of greenhouse gas (GHG) emissions that would be associated with the project should be completely offset through mitigation requirements, such as the purchase of carbon off-sets, exchanges, and/or banking credits. As described in response to comment 3-7, project impacts related to GHG emissions are found to be less than significant, and carbon off-sets, exchanges, or banking credits would not be an appropriate strategy for mitigation of emissions associated with the project. CEQA requires mitigation measures for significant impacts. Accordingly, since no significant GHG emissions impacts are identified, no mitigation measures to completely offset project related GHG emissions are identified.
- 8-3 The comment states that details of proposed wetland creation and restoration are lacking and that they need to be further developed to ensure adequate mitigation. The comment is noted. Please see responses to comments 7-2 through 7-5, above, which discuss the permitting process for filling of wetlands. The details of the wetland reserve are sufficient for the Lead Agency to make a determination about the significance of any associated impacts and the presumed success of the implementation. There are adequate safeguards in the form of the detailed Restoration Plan itself (to be submitted before any grading occurs) its long-term monitoring provisions, and specific performance criteria in the mitigation itself (see Draft EIR, Mitigation Measure D-3b, page IV.D-29).

The proposed project would likely require a streambed alternation agreement from CDFG for work related to restoring the Clark Slough remnant. Mitigation associated with that agreement would be developed in consultation with CDFG.

For further discussion of the mitigation ratio and out-of-kind wetlands, please review the Draft EIR, pages D-21 through D-30, and responses to comments 3-8, 3-9, 87-1, and 179-17.

- 8-4 The comment states that the Draft EIR should provide an appropriate mitigation ratio and then develop a conceptual wetland mitigation plan for the southwest corner of the property. The comment further states that the plan should depict the location of different wetland types, include specific performance standards (coverage of vegetation or richness fish species), and address invasive species. The comment additionally maintains that there is a need for performance bond to ensure funds for long-term management.

As indicated in response to comment 3-9, the mitigation ratio of 1.05:1 is considered sufficient in this case given several considerations as indicated on page IV.D-22 to 23 of

the Draft EIR. The concepts for a restoration plan in the southwest corner of the property are included in the Biological Assessment report prepared by HBG and in the Draft EIR. An estuarine slough channel would be restored in the location of the existing remnant of Clark Slough would result in a total of about 8.98 acres of estuarine wetlands surrounded by 2.91 acres of uplands. A mitigation plan would be developed as part of the process for obtaining the wetland fill permit from the U.S. Army Corps of Engineers and a Coastal Development Permit from the City of Eureka. This mitigation/restoration plan is specified in Mitigation Measure D-3b of the Draft EIR, and would contain requirements for compliance monitoring and reporting, including monitoring activities and performance criteria to measure success of the mitigation/restoration. A long-term management strategy and funding mechanism are also identified under Mitigation Measures D-3b and -3d, and Mitigation Measure D-3a contains the applicable performance standard: any restored or replacement wetlands must provide functions and values “equal to or greater than the affected wetlands.” To ensure that this performance standard applies to on and off-site wetland mitigation as intended, the following clarifying language shall be added to the EIR at page IV.D-25:

Mitigation Measure D-3a: The ~~p~~Project ~~a~~Applicant shall obtain the requisite 404 permit and 401 certification from the Corps and RWQCB, which shall, at a minimum, require the ~~p~~Project ~~a~~Applicant to ensure that functions and values of replacement wetlands are equal to or greater than the functions and values of the wetlands affected by the project according to one or a combination of the following approaches deemed acceptable to the applicable regulatory agencies (e.g., Corps, RWCQB, and Coastal Commission):

8-5 The comment requests additional site-specific information to determine the feasibility of the site restoration proposed. The planned restoration is sufficient for the Lead Agency to make a determination about the significance of any associated impacts and the presumed success of the implementation. There are adequate safeguards in the form of the detailed Restoration Plan itself, to be submitted before any grading occurs, and its long-term monitoring provisions (see Draft EIR, Mitigation Measure D-3b, page IV.D-29). The substrate for the wetlands would be the natural substrate at a level that promotes restoration of estuarine wetlands. Likewise, the existing hydrology, combined with the estuarine wetland creation, would be sufficient for the wetlands reserve, as the existing hydrology is adequate for the existing wetlands.

8-6 The comment states that the wetlands are proposed to be surrounded by a small buffer area. The buffer area should be adequate to protect wetlands from surrounding land uses, and it should allow space for wetland to retreat toward uplands with sea level rise.

The wetland reserve is proposed to include a 2.91 acre buffer surrounding the existing and proposed wetlands. The buffer is adequate to protect the resource, particularly given the features proposed to screen and protect the resource from surrounding land uses (e.g., Mitigation Measures D-3c, D-3d, and D-3e). According to current estimates, sea level rise as outlined on page IV.H-9 of the Draft EIR is expected to increase between 3.9 and

28.3 inches by the end of this century. Given the significant elevation from the slough levels to the surrounding upland and wetland areas (approximately 8 feet or more), and even if actual sea level rise significantly exceeds current estimates, sea level rise is not expected to have any affect on the proposed wetland buffer areas within the foreseeable future.

8-7 The comment states that there are few details regarding existing levels of contamination and specific details regarding proposed remediation actions. Please see Master Response 4 and new Appendix S for further detail regarding these topics.

8-8 The comment requests further details regarding the treatment of runoff from adjacent industrial properties and whether that runoff would enter the wetland on the project site.

Stormwater treatment and conveyance from neighboring industrial properties is part of the baseline condition. Through the project Mitigation Measures H-5a through H-5c, the quality of stormwater runoff from the project site entering Clark Slough would be improved. The Clark Slough wetland reserve is not intended to serve as treatment for adjacent industrial stormwater runoff.

For further discussion of site remediation and wetland restoration plan implementation, please see Master Response 4 and Appendix S.

Comment Letter 9

Comment Letter 9



COMMUNITY DEVELOPMENT SERVICES
PLANNING DIVISION
COUNTY OF HUMBOLDT

<http://co.humboldt.ca.us/CDS/Planning>

County of Humboldt
Department of Community Development Services
Page-Specific Comments on the Marina Center Draft Environmental Impact Report
(SCH # 2006042024)
January 30, 2009

January 30, 2009

David Tyson, Manager
City of Eureka
531 K Street
Eureka, CA 95501

Subject: Marina Center Draft Environmental Impact Report

Dear Mr. Tyson:

Thank you for the opportunity to provide comments on the Marina Center Draft Environmental Impact Report (SCH # 2006042024). Our page-specific comments are attached. Comments from the Department of Public Works are being forwarded under separate cover.

Thank you conducting an open and thoughtful review process. We would like to assist your efforts in any way possible. Questions your staff may have on our comments may be addressed to Michael Wheeler at 268-3730 or mwheeler@co.humboldt.ca.us. I will also make myself available to elaborate upon or discuss our comments at your request.

Sincerely,

Original Signed

Kirk Girard
Director

Enclosure: Page-specific comments

Page III-4, Paragraph 4. The project seeks to maximize the view from the project site to Clark Slough, the small boat basin, Humboldt Bay, and the Waterfront, but makes no mention of impacts to existing coastal views. The DEIR should include discussion on the effects on views to the project from coastal resources.

9-1

Page III-6, Residential Uses. For a mixed-use project of this scale, the proposed residential component is not in balance with other uses. The average residential density of the developed part of the City is calculated to be approximately 9.5 units per acre¹. This compares to the proposed residential density of slightly more than one unit per acre on the project site, about 16% of the average for the City.

9-2

There do not appear to be areas within the City to accommodate the housing needs of those employed on the project site, so the result will be a project that must rely on residential development outside of the City to support the proposed new uses. The residential land inventory in the City's 2004 Housing Element shows there is a potential of only 308 units on vacant land to accommodate the City's 544 new units needed during the 2001 – 2007 time period. This places an undue portion of the requisite residential development (with its attendant service and infrastructure requirements) as a burden on the County and adjacent communities, which must provide the necessary residential support for the project.

9-3

The project is labeled "smart growth" and infill development, however, it does not include an appropriate mix of uses that would limit and self-mitigate traffic impacts and related environmental effects. The proposed project would require most of the housing for the employees of the proposed new commercial and industrial establishments to be located offsite, and may increase traffic and the need for additional public services in the unincorporated County without assessing or providing any mitigation to offset the resultant increased demand and costs for services and infrastructure. This is a significant impact that is not addressed or mitigated in the DEIR. Additionally, the project as proposed is contrary to addressing the City's fair share housing requirements, as it makes no effort to address the housing needs for low and very low income housing needs that would be generated by the project. State law requires an adequate residential land inventory to meet Fair Share Housing requirements. The DEIR should determine if an adequate inventory is available under current conditions and projected conditions through 2025 and evaluate project alternatives at this location accordingly. If the relative lack of housing proposed at this location will require or accelerate annexation of additional lands or place a housing burden on adjacent jurisdictions, the environmental effects of this displacement should be analyzed.

9-4

9-5

Page III-14, Project Phasing and Development Agreement. The project description is incomplete, as it does not include any details of project phasing. A project of this magnitude will likely require phasing of mitigations in relation to planned buildout. Phasing agreements and mitigation requirements may be reflected in a development agreement, however, the details of the development agreement are unknown at this time. A project phasing plan, with associated mitigations, triggered by ministerial development milestones or discretionary review of subsequent phases, is necessary for complete impact analysis. If

9-6

¹ According to the County's GIS system, there are approximately 1,240 developed acres within the City of Eureka. This includes areas set aside for residential, commercial and industrial development, roads, sidewalks, schools, and playgrounds. And Table IV.L-1 of the DEIR reports there are 11,765 dwelling units within the city.

5-72

Comment Letter 9

this detail is anticipated in the development agreement, the agreement should be available for review during the DEIR review process. If not, the development agreement could require a subsequent environmental review.

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cont.

Page IV.A-7, Impact A-3. While the project is brownfield redevelopment, it does convert a vacant and largely vegetated parcel into a developed mix of commercial, residential and industrial uses in buildings up to 5 stories high. The discussion on visual impacts of the proposed development and the potential for improving the aesthetic of the development in relation to the current open space views seems to be limited to a general discussion of the potential for landscaping. Additional design mitigations or project alternatives may be feasible to retain some of the open space character this location provides to the Broadway and Waterfront Drive corridors and the Bay. As previously mentioned, there is little analysis of existing coastal views into the site and how these would be protected or enhanced under project development. The visual simulation depictions of Figures IV.A-4 A and B and Figures IV.A-5 A and B show that the project buildings would block bay views within the project development site. Finally Figures IV.A-6A and B show that the project development would block views of the forested hillsides from within the project site. The County recognizes the beneficial aesthetic effects of redevelopment of this site but nonetheless they anticipated affects should be fully described and made a part of the project.

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Page IV.A-16, Conclusion and Mitigation. The project may require visual mitigation, as it would result in substantial changes in visual character due to construction of new buildings and parking facilities (see above). Appropriate mitigation could include, setbacks, design review or vegetative screening of the project site through appropriate landscaping.

9-8

Page IV. C-20, Second Paragraph. The DEIR states that relatively small projects will not individually have an overall affect on global climate change. Admittedly, thresholds of significance for climate emissions have not been firmly established under CEQA but the California Attorney General has taken the position in several instances that jurisdictions have an obligation (particularly for General Plan Amendments) to implement all feasible mitigations to reduce greenhouse gas emissions consistent with the legislature’s determination of environmental significance and AB32 goals. While project emissions will not be significant in relation to state or world sources, they could be locally significant in relation to greenhouse gas emission strategies adopted by jurisdictions within the County. Patterns of development, job-housing balance and retail sales distribution will be significant factors in mitigating local emission greenhouse gases. The DEIR should estimate green house gas emissions associated with the proposed project and implement feasible mitigations.

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Page IV. C-21, Third Paragraph. The DEIR states: “It is not possible to know at this time whether the project tenants would have longer or shorter commutes relative to their existing homes; whether they would walk, bike, and use public transportation more or less than under existing circumstances; and whether their overall driving habits would result in higher or lower tailpipe emissions.” The DEIR should use an estimate of the required sales volume per square feet of anchor retail floor space to estimate the population base necessary to support the project and distribute average daily trips and emissions to population centers accordingly. Using existing development patterns, the DEIR should also project the anticipated geographic distribution of employee housing needed to support new jobs created by the project or transferred to the project from other locations within the County. The centralization of jobs and retail will result in an increase in overall daily traffic volumes and emission rates as trips to distributed neighborhood commercial areas and town centers are replaced by trips to Eureka.

9-10

Page IV.D-4, Second Paragraph. The biological survey for mammals fails to mention that there was any effort to survey for bats. There are some special status bats species that could be present in the area. According to information on page IV.G-4 there are several metal frame warehouses on the property.

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Comment Letter 9

These could potentially harbor some bat species. The biological surveys and discussion section in the DEIR should be augmented to address this issue.

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cont.

Page IV.E-10, Second Paragraph and Mitigation Measure E-2a (Page IV.E-17). This section describes the need to have a procedure to handling inadvertent archaeological discoveries, but also concludes that there is a known, highly sensitive cultural site (Wiyot Tribe village site) within the project area. While monitoring and data recovery may be acceptable as mitigation for potential inadvertent discovery of unknown sites, it would not necessarily be an acceptable method for mitigating the potential impacts of known sites. The first approach in CEQA mitigation should be to avoid the impact to a known sensitive resource. Efforts should focus on delineation of the site and avoidance and/or capping to protect the resource rather than a priori disturbance and after the fact data recovery. We recommend consultation with the State Office of Historic Preservation on proper methods for mitigation of known cultural sites.

9-12

Page IV.I-11, Second Paragraph. The DEIR’s discussion of Smart Growth principles is comprehensive but the analysis of these principles in relation to project characteristics is general in nature. The affect of large format retail on regional traffic patterns and countywide average daily traffic volume is not discussed in relation to the project. Large format retail requires a large market area for financial support. The proposed Home Depot Center or subsequent large format retail tenants will draw customers from other decentralized retail locations in the County, such as those in Fortuna and McKinleyville. The affect of the project may be a decrease in the Smart Growth characteristics of these communities; for example their utilization of investments in infrastructure, efforts to improve the jobs-housing balance, improve walkability and enhance town center characteristics. The project may also increase overall countywide average daily traffic volume as residents in these communities drive from neighborhood and local retail centers to a large format retail center. Additionally, if the project creates a further imbalance between jobs and housing within Eureka or within the County, the net affect could be an increase in the demand for housing in the unincorporated area or other jurisdictions resulting in a distributed pattern of development and a related increase in overall countywide average daily traffic volume. The DEIR should use an estimate of the required sales volume per square feet of anchor retail floor space to estimate the population base necessary to support the project and distribute average daily trips accordingly. Using existing development patterns, the DEIR should also project the anticipated geographic distribution of employee housing needed to support new jobs created by the project or transferred to the project from other locations within the County. In addition to analyzing environmental affects, these data can be used as a basis for a fiscal impact analysis on surrounding jurisdictions.

9-13

Page IV.I-12, Last Paragraph. The project relationship to the surrounding community is not fully disclosed. According to the circulation analysis, the project would generate significant amounts of new traffic on Broadway and proposes to force 20% of Broadway traffic onto Waterfront Drive. Because of the poor level of service for traffic on Broadway, it is anticipated that there would be increased usage of alternate routes throughout the City and County; for example F Street to Fairway to Herrick. The DEIR fails to analyze or mitigate this impact but this affect is occurring at present and is likely to increase dramatically over the next twenty years based on the DEIR traffic analysis.

9-14

Also not fully discussed in this section, is the use of coastal property for large format retail in relation to competing land uses such as coastal dependent industrial, visitor serving recreation, commercial and housing. The alternative analysis discusses these issues in relation to the primary project objectives as opposed to consistency with Local Coastal Plans and the Coastal Act.

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Page IV.I-14. We urge the City to discuss the potential filling of wetlands on the property with staff of the Coastal Commission to determine if the balancing provisions of the Coastal Act (Public Resources Code Section 30007.5.) are applicable.

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Comment Letter 9

Comment Letter 9

Page IV.I-16, Policy 1.A.2. Project Compliance Discussion. It is stated that “there are no coastal-dependent developments competing for this or any similar parcels of land in the area.” The proposed development may foreclose future opportunities for coastal-dependent developments in the area. The DEIR could prepare this analysis based on a review of documents that have analyzed the potential future demand for coastal uses on Humboldt Bay, such as the Port of Humboldt Bay Harbor Revitalization Plan, February 2003.

9-17

Pages IV.I-17 through IV.I-23. - Discussion of Core Area, Concentrated Mixed-Use Core Policies, Waterfront Policies, Core-Area Residential Policies, Core Public-Open Space Policies, View Corridor Policies, Architectural/Landscape Policies, etc.) All of these policies, which the City has developed for the Concentrated Mixed-Use Core, are cited as being “Not Relevant” because the project site is not located in the identified “Core” of Eureka. Alternatively, the project could be viewed, given the fact that it involves an amendment to the General Plan, as a potential expansion of the Core area. Alternatively, the Core policies could be analyzed as a means to evaluate the compatibility of the project with the identified Core. At a minimum, this analysis would inform the DEIR land use compatibility finding and may result in changes to the project that would enhance the projects compatibility with the desired characteristics of central Eureka.

9-18

Pages IV.I-26 and IV.I-27. Policies 1.L.4 and 1.M.2, are important land use considerations. 1.L.4 was intended to protect the integrity of existing commercial centers out of a concern that static retail growth combined with new retail development would create dislocation and urban decay. Commercial development designed to support increases in population growth or new housing development may not cause dislocation affects but large format “category killers” (ERA letter of October 17) such as Home Depot or Best Buy must dislocate existing retailers in a low retail sales growth area for profitable operation. The conclusions of the applicants’ analysis of economic impact and urban decay (CBRE 2006) would at least provide a starting point for discussion of this land use policy. 1.M.2 was intended to reserve land for industrial growth and job creation. An analysis of the projected long-term demand for this land use in the City would assist in evaluating the compatibility of the project with this policy.

9-19

Page IV.I-30, Public and Quasi-Public Facilities. City policies related to this category are deemed “Not Relevant” as they relate to the location of public facilities. The project proposes to rezone public land in the City and develop it for non-public uses. To evaluate land use compatibility, the policies of this section should be assessed, comparing the existing potential for public facilities at this location in relation to the proposed project.

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Page IV.I-31, Production of New Housing Policies. The proposed project may not be consistent with Goal 1.A. as it does not numerically provide or promote the development of new housing in proportion to Eureka’s fair share requirements and residential inventory requirements. The amount of housing to be provided by the project is out of balance with the housing demands created by the project and the need for an adequate residential inventory within the City of Eureka.

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The proposed commercial and industrial developments will create numerous employment opportunities for new workers which will require more housing, and the amount of housing provided would not fulfill this need. This will result in workers having to commute from outlying areas, and will generate significant traffic and traffic safety impacts in those areas where the workforce for the proposed project will reside. These potential impacts should be analyzed in the DEIR, and appropriate mitigation measures implemented to reduce those potentially significant impacts to the maximum extent feasible.

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To meet Goal 1.A., the project should balance housing opportunities and commercial development, and provide sufficient residential development to meet the increased demands on housing that would result from the project. The residential land inventory within the City should be assessed through 2025 to

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determine if there is adequate land to accommodate residential needs. If a potential shortfall exists, the General Plan amendment and the proposed project should be re-reviewed for compatibility with this goal.

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Also to ensure compatibility, housing types should include a mix of units to accommodate households at the various income levels expected from the proposed commercial and industrial establishments.

cont.

Page IV.I-34 and IV.I.35, Goal 3.A, Policy 3.A.5 and 3.A.10. Taken together this goal and these policies are intended to address the need to stay ahead of traffic demands through planning, funding and implementation of improvements. They are deemed “Consistent” or “Not Relevant” to the proposed project. Policy 3.A.10 requires the City to work with HCAOG, Caltrans and the County, to review options for long-term solutions to congestion on U.S. 101. The proposed project will add an additional 15,669 weekday vehicle trips to a congested Broadway/U.S. 101 corridor. The project will therefore consume existing capacity of transportation facilities placing renewed urgency and importance on the need to cooperatively design and fund new capacity or changes in design to accommodate growth. If existing capacity is consumed (albeit potentially better regulated through signaling) without identifying and funding new capacity or alternative transportation necessary to mitigate cumulative impacts and provide for future growth, the project will not be sufficiently mitigated or consistent with this goal and these policies. The project’s relationship to this goal and these policies should be more thoroughly discussed to make a land use compatibility determination.

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Page IV.I-80, Last Paragraph. Potential land use inconsistencies are not deemed significant environmental impacts because of a conclusion that the inconsistent land use policies were not “adopted for the purpose of avoiding or mitigating an environmental effect.” In the case of general plan and other land use policies, adopted policy alternatives that reduce impacts can be considered “mitigations” and should be monitored for consistency with environmental determinations (CEQA Guidelines Section 15097). For example, the current Eureka General Plan includes a discussion (Page 13 and 14) of the affects of declining retail activity in the downtown area based on competition from outlying retail areas including Bayshore Mall, Henderson Center and the Westside Industrial Area. It concludes that continued competition may undermine the attractiveness of the downtown area for tourism. In this light, Policy 1.L.4: “The City shall encourage consolidation and upgrading of established commercial centers over the development of new shopping center within the Planning Area.” can be considered a policy alternative designed to mitigate the potential blighting affects in the downtown area. Using similar reasoning, Policies 3.A.5, 3.A.6 and 3.A.10 (relating to mitigations to address cumulative traffic impacts) should be considered land use policies or alternatives adopted for the purpose of avoiding or mitigating an environmental effect.”

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Page IV.I-81, Cumulative Impacts. To adequately assess cumulative impacts, the DEIR should consider other potential development projects, particularly retail projects, in the planning stages in the County, including the County’s General Plan Update, the Forster-Gill General Plan amendment and the City of Fortuna’s General Plan Update. Proposals within these project areas should be considered in the “immediate vicinity” of the proposed project because the traffic impacts and retail market territory will overlap.

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Page IV.L-5, Impact L-1. The discussion fails to note that while the project would contribute to the City of Eureka’s fair share of housing, it would not meet the goal of providing housing sufficient for project demands. The project would also result in lost jobs in the County and shift existing County employment to the City without providing sufficient housing. This result would mean a greater number of commuters going into the City, exacerbating an already stressed traffic situation on U.S. 101.

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Page IV.O-9 and following. The County Department of Public Works will be providing comments on the circulation analysis under separate cover, however, in our Department’s experience with similar

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Comment Letter 9

Comment Letter 9

projects of a regional nature, we believe that the traffic analysis is too focused and does not include a sufficient number of intersections in the analysis. The intersections of Hwy 255 with 4th and 5th Streets should have been addressed as well as the previously mentioned alternative route through the County of F Street to Fairway to Herrick. The project could also result in significantly increased traffic on the Arcata-Eureka U.S. 101 alternative of Samoa Blvd. to Hwy 255 through Manila and over the Samoa Bridge. The shortcoming in scope of the traffic analysis (City scale versus regional scale) fails to reveal potentially significant impacts to road infrastructure within the County.

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cont.

Page IV.P-3., Fourth Paragraph. The discussion regarding the lack of a potential impact of the project on existing retail trade rests in part on the assumptions of the applicant's 2006 impact analysis (CBRE - as updated in November 2008). The analysis concludes the addition of the proposed retail volume may result in dislocation and vacancies; but a low vacancy rate and alternative demands for closed stores will prevent urban decay. The continued downturn of the economy has overtaken this conclusion (even with the 2008 update). Unfortunately, vacancy data, demand for vacant property, income levels, and retail sales growth must be reassessed prior to final adoption of the EIR.

9-29

Page IV.P-4, Cumulative Impacts, Impact P-2. With respect to home improvement stores there should be an assessment of customer base for this type of store, the square footage of commercial space currently available for this existing business and current existing or planned square footage for this type of store. Assuming Home Depot remains the permanent anchor tenant in the proposed project, dislocations will likely occur in local hardware stores, particularly when combined with the opening of a Lowe's in Fortuna (as analyzed in CBRE 2006). If dislocations are projected, the analysis should evaluate specific store closure and the potential for re-use of those buildings at those locations. In some cases, local hardware stores are anchor tenants of neighborhood commercial centers which could affect the viability of surrounding businesses.

9-30

While changes of tenancy in the anchor retail location would require additional environmental review, the entitlements for large format retail construction will result in a reasonably foreseeable and probable change in tenancy over the life of the constructed improvements. Limiting analysis to the array of retail uses described in CBRE 2006 Table 2 and deferring analysis of the probability of re-tenancy may not be consistent with the cumulative impact analysis required by Title 14, Article 20, Section 15355 (b). The Lead Agency project description should also be modified to reflect the probability of re-tenancy over the useful life of the proposed improvements.

9-31

Page IV-Q-1, Utilities and Service Systems-Wastewater. The Elk River Wastewater Treatment Plant is an important regional asset because it serves approximately 35 percent of the County's current population and is intended to serve a substantial portion of the County's potentially developable land. The City of Eureka collection systems is equally important to the region for the same reason. The environmental setting does not fully describe the contract between the City of Eureka and the Humboldt Community Services District for wastewater collection and for treatment at the Elk River Wastewater Treatment Plant. The environmental setting should describe the City's plans to expand the Elk River Wastewater Treatment Plant to accommodate development within the boundaries of HCSD and the City. The environmental setting should also describe any capacity problems that may be experienced by the City of Eureka collection system. To the extent that the City system is experiencing collection problems, such problems should be described in relation to the location of the Marina Center and the timing of any planned improvements in relation to the proposed Marina Center build-out schedule.

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Page IV-Q-4 through 5, Utilities and Service Systems-Wastewater. The analysis of wastewater impacts does not describe the potential affects on the wastewater collection system from the proposed

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project. This section should describe current and historic wastewater flows from the project site and compare such flows to the proposed Marina Center project.

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cont.

This section compares the assumed wastewater flows of the Marina Project to total permitted peak dry weather flows. It would be more appropriate to compare project wastewater flows to available permitted average dry weather capacity, minus capacity allocated to HCSD. It may also be appropriate to compare assumed project wastewater flows to the available average dry weather capacity upon renewal of the NPDES, minus capacity allocated to HCSD. Wastewater system capacity should be analyzed in relation to planned and proposed projects, including the Ridgewood Village project and the Humboldt County General Plan Update.

9-34

Page VI-3, Basic Objectives. Objective 1: "Strengthen Eureka as the retail and employment center of Humboldt" Unfortunately, given the job transfer and retail dislocation characteristics of the proposed project, the proposed project will weaken the retail and employment position of other cities and the unincorporated areas of the County. The DEIR should carefully analyze physical changes to the environment that may result from this transfer, for example greenhouse gas emissions.

9-35

Page VI-4, List of Potential Alternatives. The alternatives should include a Marina Center project with greater residential development. By placing a greater amount of residential development (200+ units) near to where these newly created jobs will be, there would be less traffic generated by the project. This would also allow create an opportunity for the City to have a wider mix of housing types, including low income and very low income housing. It would also provide residential development opportunities in proximity to the waterfront and Old Town Eureka. A critical mass of residential development along the waterfront would increase the desirability and long-term economic viability of these important regional assets. The accompanying hazardous materials risk assessment (SHN 2006) indicates residential development is a feasible alternative at the site.

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Letter 9: County of Humboldt, Community Development Services Planning Division (Kirk Girard)

9-1 The comment requests that the EIR include a discussion of existing coastal views to the project site. As discussed on Page IV.A-7, Impact A-3 of the Draft EIR, the proposed project would substantially alter the visual quality of the project site, including the views of the project site from Humboldt Bay. Please see Master Response 8, which addresses the view of the project site from Humboldt Bay.

9-2 The comment states that the proposed residential uses are not in balance with the other proposed uses of the project. According to the U.S. Census Bureau, the City of Eureka has a total area of 14.4 square miles, of which 9.4 square miles, or 6,016 acres, is land. As stated in the General Plan (page 13), very little vacant developable land remains within Eureka's city limits. Using the total acreage provided by the U.S. Census Bureau, the 11,765 housing units (2005) are spread among 6,016 acres of land, for a residential density of 1.95 units per acre.

Concentrations of uses, market forces, and real estate development patterns of distinct uses have taken place over the course of the City's history. The result is that industrial uses have concentrated in properties in the western portion of the city, a mix of uses are along the northern portion of the city, and high- and medium-density residential neighborhoods are located farther inland. Simply comparing the proposed project's residential density of 1.25 units per acre to that of the entire City ignores these trends and unfairly suggests that the entire developed area of the City of Eureka, block-by-block, maintain a consistent residential density that this project would not meet.

The area of the city between Broadway, 15th Street, and Humboldt Bay is almost entirely historically industrial in use, and therefore has a residential density at or near zero units per acre. This area includes the project site. If residential density is compared in this manner, the proposed project's residential density greatly exceeds that of similar properties nearby. The mixed-use nature of the project site was chosen as a transition area to provide more sustainably compatible development.

9-3 The comment states that the proposed project would place undue burden on existing housing stock to house employees of the proposed project. As stated on Draft EIR page IV.L-6, under Impact L-1, "the City of Eureka, and Humboldt County as a whole, has a higher unemployment rate than the statewide unemployment rate. This level of unemployment indicates that there is an increasing unmet demand for employment, and that new jobs that would result from the proposed project could be absorbed within the City of Eureka, other nearby cities and unincorporated county areas. Therefore, it is not expected that the project would result in a substantial impact with respect to population growth based on the projected new employment opportunities." Therefore, the project would not place an undue burden on the County and adjacent communities to provide necessary residential and infrastructure development.

- 9-4 The comment states that the proposed project is not an appropriate mix of uses to be labeled smart growth. One of the main principles of smart growth is the concentration of growth in the center of a city to avoid urban sprawl. The proposed project satisfies a number of smart growth principles. For example, it concentrates development in the center of town, is an in-fill development of a brownfield site, includes a mix of uses, and promotes multi-modal transportation to and through the City in the form of the trail along Waterfront Drive and complete streets through the proposed roadway extensions, as described in the Chapter III, Project Description, of the Draft EIR.

The comment also states that the Draft EIR does not discuss traffic impacts that would be generated by project-generated traffic coming from unincorporated areas of Humboldt County, as well as the funding of public services in these unincorporated areas. Project-related and cumulative regional traffic impacts are addressed. Please see Master Response 7 regarding employees traveling to the project site. This includes potential impacts that would fall within unincorporated areas of Humboldt County. The proposed project would have less-than-significant transportation impacts in those areas.

Please see Master Response 1 and response to comment 16-178 regarding the funding of public services. As stated in those responses, the proposed project would result in a net increase in tax revenue for the City and state. Those revenues would be allocated by the City Council and state legislature in annual budgetary review. In addition, it would be speculative to assume that employees of the proposed project would live in unincorporated areas of Humboldt County. The mixed-use and multi-modal components of the proposed project are intended to encourage project employees to live near where they work, within the City limits.

- 9-5 The comment states that the Draft EIR should include a discussion of fair share housing requirements of the State of California as related to the proposed project site and the City of Eureka.

Neither State law nor California Department of Housing and Community Development policy requires any local inclusionary housing ordinance within a jurisdiction's Housing Element. The City of Eureka is expected to meet its low income housing needs through its compliance with its Regional Housing Needs Assessment (RHNA) planning for its General Plan.

The proposed development of market rate housing is necessary to meet the project's key objective to "develop an economically viable mixed use project." As a result of the former industrial use and activity at the project site, the property is currently considered an urban brownfield by the United States Environmental Protection Agency. Consequently, any future project site redevelopment involves major clean-up and restoration costs which further reduce the project's ability to support any below-market-rate housing development.

- 9-6 The comment states that the project description is incomplete because it does not include details about project phasing. The comment suggests that a project phasing plan and

associated mitigations would be necessary to complete the impact analysis and that, if a development agreement that spells this out is not available for review, the development agreement could require a subsequent environmental review.

Phase 1 of the proposed project does not require a development agreement. As acknowledged on pages III-14 and 15 of the Draft EIR, the proposed project is expected to be constructed in phases. Phase 1 is outlined both in the Draft EIR and in Master Response 4. Subsequent phases – including actual entitlement and construction of the Marina Center development – are not yet identified. Construction phasing depends on a number of factors, including the pace of permitting, success of the environmental cleanup, market forces, and other factors, and construction of the project would remain subject to the City Council's future consideration of all necessary approvals and entitlements (e.g., zoning, General Plan, and Local Coastal Plan amendments).

Until those subsequent phases are determined, it is impractical, if not impossible to undertake the level of analysis concerning the individual phases and project mitigations that the comment is suggesting. Still, the EIR contemplates the worst-case scenario of potential environmental impacts by assuming that full build-out of the project would occur in 2010. There is also more than sufficient information available now to accurately assess the potentially adverse environmental effects of the project. Furthermore, once the project phasing is identified, the Project Applicant must complete a project phasing plan that specifies those mitigation measures identified for each phase to ensure that potentially significant impacts are addressed consistent with this EIR. Before the City approves the phasing plan and associated discretionary entitlements (e.g., a Development Agreement), the phasing and mitigation plan would be evaluated to ensure that there are no changes to the project, changes to surrounding circumstances, or other new information that triggers the need for supplemental or subsequent environmental review under Section 21166 of the Public Resources Code. (Draft EIR, at III-14 and -15.)

- 9-7 The comment questions the adequacy of the aesthetics analysis and states that views should be discussed in greater detail. As discussed on page IV.A-7, Impact A-3 of the Draft EIR, the proposed project would substantially alter the visual quality of the project site by constructing one- to five-story structures as part of the project. See Master Response 8 for further discussion related to views of and through the project site from the waterfront. As depicted in Figures IV.A-4a and 4b and IV.4-5a and 5b, the view from the U.S. 101 corridor through Eureka would be substantially altered with the proposed project.

Currently, the view of the project site is dominated by low-lying vegetation and single-story warehouses. Although Humboldt Bay is located in the background, the waterfront itself is not visible and it is not readily apparent through visual corridors that it is there. The pulp mill on the Samoa Peninsula is the dominant building in the background view from Broadway. The pulp mill and the other industrial warehouse buildings that would be obscured by the proposed project are not considered visual resources in the Eureka General Plan or by the general community. The proposed project would be beneficial to public views of the waterfront as it would provide opportunities for coastal views along

the western portion of the Fourth Street extension and the interpretive trails in the restored Clark Slough.

Regarding retention of the open space character of the project site, as stated in the Project Description, the proposed project would include an approximately 11-acre wetland, which would retain some of the site's existing open space character.

In addition, as stated in the outline on page III-18, under *F. Project Entitlements and Approvals*, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka.

9-8 The comment states that the proposed project could require “visual mitigation.” As stated in the outline on page III-18, under *F. Project Entitlements and Approvals*, and reiterated on page IV.A-6 of the Draft EIR under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the exterior design, materials, textures, and colors to help ensure that the proposed project is visually harmonious to its surroundings. Also, buffers, landscaping, wetland restoration, and waterfront biking and recreational trails are part of the proposed project design, and they would enhance the visual quality of the project site. No further mitigation is necessary.

9-9 The comment acknowledges that there are no specific significance thresholds for climate change under CEQA, though the Attorney General has argued in some instances (particularly for county or citywide general plans) that agencies have the obligation to implement all feasible mitigation to reduce greenhouse gases (GHG) “consistent with the legislature’s determination of environmental significance and AB 32 goals.” The comment further suggests that while project-related GHG emissions may not be significant in relation to state or world sources, “they could be locally significant in relation to GHG emissions strategies adopted by jurisdictions within the County.” “Patterns of development, job-housing balance and retail sales distribution” would all be significant factors. Finally, the comment recommends that the Draft EIR “estimate” the project’s GHG emissions and implement feasible mitigation measures.

The Draft EIR does, in fact, estimate the proposed project’s GHG emissions (Draft EIR, Impact C-6 on page IV.C-21 and Appendix C showing the calculated GHG emissions associated with the proposed project). The Draft EIR concludes, however, that the emissions associated with the proposed project would not be cumulatively significant. Thus, no mitigation measures specific to GHG emissions are identified. Nonetheless, several measures included in the Draft EIR to mitigate the project’s air quality impacts would likewise benefit and reduce the project’s GHG emissions (Draft EIR, Chapter IV.C, Mitigation Measures C-2a and C-2b). The EIR therefore already includes feasible mitigation measures that would help address global climate change.

The comment acknowledges that the project’s GHG emissions may not be significant when considering state or worldwide sources, but that the project’s emissions could still be

“locally significant.” Climate change is a global phenomenon, resulting from worldwide sources (including sources in nature). Global GHG emissions and the attendant effects of those emissions on climate change can be attributed to every nation, region, and city, and virtually every individual on Earth. Given the scope of global climate change, however, no single development project would have an individually discernable effect on global climate change. Therefore, the challenge in assessing the significance of an individual project’s incremental contribution to global climate change is to determine whether a project’s individual GHG emissions—which can fairly be characterized as miniscule relative to global GHG emissions—would result in a cumulatively considerable contribution to global climate change and climate change’s effects on the physical changes in the environment associated with global climate change (e.g., sea level rise, flooding, or drought). Thus, it would be incorrect to characterize the project’s effects on climate change as “locally significant,” but not cumulatively significant. Further, no jurisdictions within Humboldt County have adopted a GHG emissions strategy that would conflict with the proposed project, and so the project’s significance in relation to global climate change cannot be measured by evaluating local programs in any event.

The comment acknowledges as well that there are no specific significance thresholds for climate change under CEQA. Generally, CEQA Guidelines Section 15064(h)(1) requires a lead agency, when assessing a project’s cumulative impacts, to evaluate whether “the incremental effects of an individual project are significant when viewed in connection with the effects of past project, the effects of other current projects, and the effects of probable future projects.” Each agency, however, is encouraged under the Guidelines to “develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects.” (CEQA Guidelines Section 15064.7(a).) Because there are no established methodologies or thresholds for determining the impacts of a single development project on global climate change, however, lead agencies must develop and apply their own thresholds for each individual project.

Here, the Marina Center Draft EIR relies on a significance threshold that has been used in other cases, and even by State agencies. [For example, see the California Department of Water Resources’ *East Branch Extension Phase II Final EIR*, January 2009, pages 3.2-24 to 3.2-26 (the State applied the 25,000 metric tons per year significance threshold and found that the project had a less than significant impact associated with global climate change).] Essentially, the threshold states that the project’s cumulative effects on global climate change would be significant if the project would:

Conflict with the State goal of reducing greenhouse gas emissions in California to 1990 levels by 2020, as set forth in AB 32, the California Global Warming Solutions Act of 2006 (Draft EIR, page IV.C-5).

To evaluate the proposed project’s effects on global climate change, the Draft EIR looked at a number of factors, including the project’s inherently energy efficient design. The design element captures the sort of factors referenced in the comment (e.g., patterns of development, the jobs-housing balance, and retail sales distribution). As an infill, mixed-use project in the heart of the largest population and employment hub in Humboldt

County and the North Coast region, the Marina Center combines office, retail, and residential uses so as to reduce the most significant source of GHG emissions related to the project—vehicle miles traveled. For example, GHG emissions from projected growth within the Greater Eureka Area would be less with this sort of infill development than it would if the same growth occurs in outlying areas of the air basin where vehicle trips would be longer. Moreover, the project’s emphasis on creating relatively higher-density, mixed use would be expected to make walking and other non-vehicular travel more viable than would be the case for similar population and employment growth in lower-density, single-use neighborhoods (please see also response to comment 9-35, which explains that Eureka has available housing and workforce capacity for project employees, and would not necessarily result in job transfers or relocations). Consequently, while the Draft EIR quantifies GHG emissions expected from all vehicles traveling to or from the project site, these vehicle trips may not constitute “new” trips. Instead, the proposed project could actually reduce overall vehicle trips and help the State achieve its overall GHG reductions goals in line with AB 32. Please also see response to comment 9-35, concerning the retail and employment-related vehicle trips.

It should also be noted that in addition to remaining below the significance thresholds in the Draft EIR, the proposed project is also consistent with a number of other statewide strategies under way to help meet the State’s AB 32 goals. One example involves the California Air Pollution Officers Association (CAPCOA), a non-profit association of air pollution control officers from all 35 local air quality agencies throughout California. CAPCOA recently published a series of model land-use policies to help cities and counties reduce GHG emissions (CAPCOA, *Model Policies for Greenhouse Gases in General Plans*, June 2009). The CAPCOA publication urges local governments to adopt a number of general plan policies that would help reduce GHG emissions, including the following proposed policies:

Infill: The City / County will encourage high-density, mixed-use, infill development and creative reuse of brownfield, under-utilized and/or defunct properties within the urban core.

Mixed-Use Development: The City / County will plan for and create incentives for mixed-use development.

Transit-oriented Brownfield Redevelopment: The City / County will promote the development of brownfield sites and other underused or defunct properties near existing public transportation.

Residential Wood Burning: The City / County will establish or enhance local ordinances that prohibit solid fuel wood-burning devices in mixed-use high-density development.

(CAPCOA, *Model Policies*, pages 73-74, 77, 92.) The proposed Marina Center Project satisfies each of these model policies designed to reduce statewide GHG emissions in line

with AB 32: (i) the proposed project is a high-density, mixed-use, infill development that would creatively reuse a brownfield within the urban core of Eureka; (ii) the proposed project would develop a brownfield site adjacent to existing public transportation; and (iii) Mitigation Measure C-2b would prohibit wood-burning devices. Thus, the proposed project would implement CAPCOA's model policies, which are again designed to help achieve the statewide goal of reducing GHG emissions in California to 1990 levels by the year 2020.

Finally, the comment references the Attorney General's recent litigation efforts as justification for imposing additional mitigation on these sorts of projects. In settling its CEQA cases on climate change, however, the Attorney General has actually been forcing local agencies to accept additional infill development as a strategy for reducing GHG emissions. For example, in a recent settlement with the City of Stockton over the city's general plan update, the parties recognized that: "development on the urban fringe of the City must be carefully balanced with accompanying infill development to be consistent with the state mandate of reducing GHG emissions, since unbalanced development will cause increased driving and increased motor vehicle GHG emissions." (Memorandum of Agreement between the City of Stockton, California Attorney General, and the Sierra Club, dated Sept. 5, 2008.) Thus, again, the Marina Center Project would be generally consistent with those strategies for achieving the State's reduction goals under AB 32, and no further analysis or mitigation is warranted.

- 9-10 The comment appears to identify an alternative method to estimate trip lengths that would be associated with the project in order to calculate greenhouse gas (GHG) emissions and concludes that the project would result in an increase in overall daily traffic volumes and associated emissions rates. Although the trip lengths used for the Draft EIR emissions analysis are estimated using a slightly different approach (the URBEMIS air emissions model calculates the trip lengths based on geographic area and on information provided by the applicable metropolitan planning organization), the overall daily traffic volumes and associated GHG emissions would increase under the project as disclosed in the Draft EIR on page IV.C-20. But the mixed-use design of the proposed project would actually contribute less overall emissions when compared to "business-as-usual."

The project's location near the Downtown area of Eureka, which is the population and retail hub of Humboldt County, would indicate that physical changes—such as GHG emissions—would be more beneficial to the environment than locations elsewhere. As described in response to comment 16-286, an estimated \$4.3 million in credit card purchases were made at the Crescent City Home Depot in 2008 by residents of the Greater Eureka Area. This suggests that vehicular miles driven, and consequently GHG emissions, would be significantly reduced as a result of a local Home Depot.

- 9-11 The comment states that the biological survey for mammals fails to mention that there was any effort to survey for bats. HBG prepared a Biological Assessment (Appendix G in Draft EIR) for the property which outlines the steps taken to evaluate potential impacts to

candidate, sensitive, or species status species. (Huffman-Broadway Group, Inc., *Biological Assessment, Marina Center Project* (March 2008), at pages 1-2.) HBG reviewed pertinent literature, including the California Natural Diversity Data Base (CNDDB), to identify whether populations of endangered, threatened, or rare species might occur onsite or in the project vicinity, including sensitive bat species. The project site was surveyed by HBG biologists between August 2005 and January 2008 to characterize habitat and wildlife resources onsite.

The Biological Assessment identified two bat species that might occur onsite: California myotis (*Myotis californicus*) and the big brown bat (*Eptesicus fuscus*). (HBG Biological Assessment, Table 2.) These two species are common species, however, and therefore would not be considered “candidate, sensitive, or special status species” under the significance thresholds in Appendix G of the CEQA Guidelines or the corresponding threshold in the Draft EIR, page IV.D-18. Two species of bat that are also common and widespread in California – the long-eared myotis (*Myotis evotis*) and Yuma myotis (*Myotis yumanensis*) – were identified in the California Natural Diversity Data Base as occurring or having occurred in Humboldt County or the Eureka or adjacent quadrangles. (Draft EIR, Appendix D, page D-8; HBG Biological Assessment, Table 4.) Optimal habitats for the Yuma myotis are open forests and woodlands; whereas the long-eared myotis is largely found in brush, woodland, and forests habitats, and possibly prefers coniferous woodlands and forests. The long-eared myotis and Yuma myotis are unlikely to occur onsite due to their preferences for brush, woodland, and forest habitats and the lack of suitable habitat onsite. (See, e.g., HBG Biological Assessment, Table 4.) No bats were observed during species surveys conducted between August 2005 and January 2008, nor have any bats been observed in follow up visits by consulting biologists and hydrologists. Moreover, while the project site does contain four metal-framed structures and two wood-framed buildings, some of those structures are currently occupied. These structures are also not the preferred habitat for those bat species that might occur onsite, and the structures are located in an area surrounded primarily by industrial activity and roadways. The proposed project is not anticipated to have any significant adverse effect on special-status bat species and therefore no further information is needed in the EIR.

- 9-12 The comment states that additional mitigation measures should be included in the EIR to address potential excavation of cultural resources. It encourages delineation of subsurface cultural resources and avoidance of excavation in those areas. Please see Master Response 9 for further discussion on how archaeological resources potentially present on the project site would be addressed.

Please also see responses to comments in letter 69, particularly response 69-1, which states that while two Wiyot sites may exist on or near the project area, the archaeological field survey completed by Roscoe & Associates revealed that neither of these sites is apparent on the ground surface. Project engineering plans and soil remediation plans have not yet been finalized for the proposed project; therefore it is not clear exactly where ground-disturbing activities would occur within the greater project area. Once these plans are finalized a subsurface investigation would be completed to help determine the

presence or absence of cultural resources associated with the two Wiyot ethnographic village sites which may or may not exist on the project site. Please see Master Response 9 for revised mitigation measures including subsurface investigations.

- 9-13 The comment states that the proposed project does not conform to all principles of smart growth and that the inconsistencies are not adequately analyzed in the Draft EIR. As stated on Draft EIR page IV.I-12 of the Draft EIR, the proposed project “embodies most of the major principles of smart growth, including infill of a brownfield in the city center using a mixture of land uses in a walkable environment adjacent to open space.” Although big box stores are frequently associated with urban sprawl, that association is not always accurate, especially when development adheres to some of the smart growth characteristics listed above. For example, there are several big box stores in Manhattan (including two Home Depot stores), San Francisco, and Chicago—three places known for high-density, compact development.

As outlined in Chapter IV.O, Transportation, the trip generation for the proposed project is based on published rates and the trip distribution is based on the countywide traffic model. Trips generated by employees of the proposed Home Depot are captured in the transportation analysis conducted for this Draft EIR. The potential impacts of traffic and other impact categories are discussed throughout the Draft EIR, no matter whether or not these impacts are related to smart growth principles.

- 9-14 The comment questions the traffic analysis and mitigation measures, specifically related to F Street. The Greater Eureka Area Traffic Model was calibrated to the segment and intersection counts. The origin and destination functions of the model were also verified through an independent origin-destination study for the nearby Costco store. The model plots in Appendix H show project trips throughout Eureka, including F Street. The traffic consultant for the Draft EIR has since reviewed project-generated volumes onto Herrick Avenue from the U.S. 101 interchange. The model indicates that, in 2030, the Marina Center project would add about 13 and 17 trips to Herrick Avenue during the a.m. and p.m. peak hours, respectively. This constitutes an insignificant contribution to this impact, and thus no further analysis or mitigation is required.

- 9-15 The comment states that the Land Use analysis should also include a discussion of the proposed project “in relation to” competing land uses, specifically coastal-dependent, industrial, visitor-serving, recreation, commercial, and housing uses, as well as uses consistent with the existing Local Coastal Program and the Coastal Act. The comment further states that the Alternatives analysis does not address these issues.

The proposed project’s compliance with the uses permitted in the Local Coastal Program and Coastal Act are discussed in Chapter IV.I, specifically under Impact I-2 and in Table IV.I-2. In addition, please see Master Responses 3 and 5 for detailed discussions of the Local Coastal Program and Coastal Act wetland fill provisions, respectively. CEQA requires an analysis of a reasonable range of alternatives. The Draft EIR includes such analysis, and the comment does not provide alternatives different from those already

evaluated and/or rejected. Please also see responses to comments 16-239 and 16-242, which address a reasonable range of alternatives.

- 9-16 The comment urges the City to discuss Coastal Act Section 30007.5 with Coastal Commission staff. The comment is noted. Please see Master Response 5 for additional discussion of the Coastal Act and its wetland fill policies. The Coastal Commissions comments on the Draft EIR are included in Letter 3, above. Please see responses to these comments, particularly responses to comments 3-23 and 3-31, which discuss Section 30007.5 as related to Section 30233.
- 9-17 The comment states that the proposed development may foreclose future coastal-dependent development in the area, and requests that the Draft EIR include an analysis of the proposed project in relation to previous studies prepared for the other portions of the Humboldt Bay area.

As stated in the Draft EIR, the proposed project is examined in relation to existing and proposed plans for the project site and nearby properties. There are no coastal-dependent developments competing for this or any other similar parcels of land in the area. In addition, as stated in Master Response 3, the project site is not on or adjacent to the Humboldt Bay, therefore, it is arguable whether coastal-dependent uses could even be developed on the property, regardless of whether or not demand exists for such developments. Please also see response to comment 3-18, which states that given the site characteristics and constraints, ownership, and applicable policies, there appear to be no other higher-priority uses that could be more effectively provided for at the project site in a more expeditious timeframe.

- 9-18 The comment states that the proposed project could be viewed as part of the Core Area, and therefore subject to General Plan policies pertinent to the Core Area. As stated on Draft EIR page IV.I-15, the City Council is ultimately responsible for determining whether an activity is consistent with the General Plan. Perfect conformity with the General Plan is not required; instead, the City Council must balance various competing considerations and may find overall consistency with the plan despite minor inconsistencies with specific provisions. Furthermore, the potential inconsistencies with General Plan goals and polices do not themselves create a significant environmental impact under the thresholds established in CEQA Guidelines Appendix G. These policies are, instead, expressions of community planning and organization preferences. The potential physical impacts of the project's inconsistency with specific policies are discussed and analyzed in other sections of the Draft EIR.

The project site is geographically located just outside the Core Area. As such, the proposed project is not subject to General Plan policies related to development within the Core Area. The City Council will consider the appropriateness of the proposed land uses and proximity of the project site to the Core Area when determining the consistency of the proposed project with the goals and policies of both the General Plan and Local Coastal Program.

- 9-19 The comment states that General Plan Policy 1.L.4 is an important land use consideration, and that the proposed project may be inconsistent because it does not consolidate and upgrade existing commercial centers, but instead creates a new commercial center. As stated in Table IV.I-2 on page IV.I-26, the proposed project is “Potentially Inconsistent” with this policy.

In addition, the comment states that General Plan Policy 1.M-2 is an important land use policy. Policy 1.M.2 calls for the promotion of development and upgrading of the Westside Industrial Area to accommodate industrial growth and the relocation of industry from unsuitable sites and areas. As stated in Table IV.I-2 on page IV.I-27, the proposed project is potentially inconsistent with this policy, and a detailed discussion of the Westside Industrial Area is provided beginning on page IV.I-71.

The comment is therefore noted, the potential inconsistency is disclosed, and no further response appears warranted. These are policy considerations, and not environmental impacts. The City Council will ultimately decide on appropriate land uses and consistency with the General Plan. In any event, the proposed entitlements intend to amend the General Plan to ensure the project’s consistency.

- 9-20 The comment states that the proposed rezoning of the project site makes it subject to General Plan policies related to the siting of public facilities. As outlined on page IV.I-30 of the Draft EIR, the policies related to Public and quasi-Public Facilities are not relevant to the proposed project, as the policies relate to the location and quality of public facilities. As stated in Chapter III, Project Description, the proposed project would require a Local Coastal Program amendment from the City Council. The Draft EIR therefore acknowledges that rezoning is required, and the proposed project’s inconsistency with existing PQP zoning is disclosed.

- 9-21 The comment is related to Goal 1.A of the General Plan. The proposed project, in and of itself, would not be required to meet Goal 1.A of the General Plan, which encourages the City “to provide adequate site and promote development of new housing.” As stated on page IV.I-31 of the Draft EIR, it would be consistent with the City’s goal in that it would provide a mix of housing on the project site.

- 9-22 The comment states that increased employment at the project site would create additional vehicular trips by employees living outside of walking distance. As outlined in Chapter IV.O, Transportation, the trip generation for the proposed project is based on published rates and the trip distribution is based on the countywide traffic model. Trips generated by employees of the proposed Home Depot are captured in the transportation analysis conducted for this Draft EIR. Furthermore, although the proposed project would create new jobs, it would not generate them on a scale that would require new housing (see Chapter IV.L, Population and Housing of the Draft EIR). Mitigation is already included in the Draft EIR and no further mitigation is required.

- 9-23 The comment states that the proposed project may not include enough residential units to meet the housing demand it would generate. As stated in response to comment 9-22, and

discussed in Chapter IV.L, Population and Housing of the Draft EIR, Impact L-1 specifically, the proposed project would accommodate approximately 122 persons in 54 dwelling units. The proposed project would generate approximately 1,092 net new jobs. As discussed on page IV.L-3, the City of Eureka and Humboldt County have a higher unemployment rate than the statewide unemployment rate. New jobs proposed by the project could be absorbed within the City and surrounding areas. It is not expected that the proposed project would result in a substantial impact with respect to population growth based on the projected new employment opportunities.

- 9-24 The comment states that policies requiring coordination with other government agencies are relevant to the proposed project due to the new vehicular trips that would be generated by the project. As outlined in Chapter IV.O, Transportation, the proposed project would generate 15,669 weekday vehicle trips. Mitigation Measures outlined in the Draft EIR were developed in conjunction with Caltrans District 1 to address the project's impacts to Broadway and the U.S. 101 corridor. Thus, no further information regarding this impact is needed and no further mitigation is needed.
- 9-25 The comment states that the last paragraph of page IV.I-80 indicates that land use inconsistencies are deemed insignificant because land use policies, such as policies included in the General Plan, were not adopted for the purposes of mitigating environmental effects.

The Draft EIR does not make this conclusion on page IV.I-80 or any other page of the document. Page IV.I-73 does note the inconsistency with a particular policy, in this case the Westside Industrial Area Study's objective of developing the project site as an industrial park, is not a significant environmental effect because this particular Westside Industrial Area Study policy was not adopted for the purpose of mitigating an environmental effect. In any event, the Draft EIR addresses the environmental effects of the proposed project.

- 9-26 The comment states that future projects or projects in planning stages should be included in the cumulative impacts analyses. Cumulative Impacts are discussed in the Impact Overview on pages V-3 through V-5, as well as in each impact category section.

As stated in the Traffic Impact Study (Appendix K), the background traffic growth for the cumulative traffic analysis was estimated at 1.5 percent per year according to historic growth patterns and based upon published Caltrans traffic data, as well as actual traffic count data. This results in a 33 percent increase over existing conditions when compounded annually. The Humboldt County General Plan Update, and the City of Fortuna General Plan Update, which are not project-specific, are included in this background growth. Added to this 33 percent increase was the traffic added by the list of known projects included in the cumulative impact analysis growth scenario (included in Table V-1 on page V-4). Future, regional cumulative traffic is analyzed in Chapter IV.O, Transportation, page IV.O-48 under Cumulative Impacts. The Ridgewood Village project (previously known as "the Forster-Gill project") and the City of Fortuna are more than 5 miles and 19 miles away from the project site, respectively, and thus are not within the

“immediate vicinity.” Please also see Master Responses 6 and 7 regarding trip distribution and cumulative traffic growth.

Regarding cumulative urban decay impacts, please see Master Response 1, which explains that there have been past periods of slow growth in Eureka, characterized by declining or flat retail sales on a per capita basis. These declines were counterbalanced by strong subsequent growth, with per capita inflation-adjusted taxable retail sales increasing annually in Eureka. Despite these irregular periods of decline, per capita retail sales in Eureka have increased on a real basis over time. The Humboldt County General Plan Update, and the City of Fortuna General Plan update, would not affect this trend.

Also, as stated in Master Response 1, to the extent that the proposed project causes residents to change their shopping patterns, the cities and unincorporated County areas surrounding Eureka may experience a loss of sales tax revenue due to the new competition of the proposed project. Fiscal impact analysis, however, is not a required CEQA topic. Consequently, the issue of sales tax distribution by municipal jurisdiction and how it might be affected by the project is not addressed in this Final EIR.

Finally, as stated in response to comment 80-5, the Ridgewood Village Project has only just begun the environmental review process. It is not clear, and indeed speculative, as to the amount of that development expected to occur within the foreseeable planning horizon. Consequently, it cannot, in its entirety, be considered a reasonably foreseeable probable future project warranting a full cumulative effects analysis.

The Draft EIR adequately addresses cumulative impacts (e.g., traffic and urban decay).

9-27 The comment relates to housing demand and employment. Regarding housing, the comment is referred to response to comment 9-5. Please see Master Response 1 regarding employment in the area related to the proposed project. The proposed project’s potential impacts to traffic are discussed in Chapter IV.O.

9-28 The comment states that the traffic analysis does not include a sufficient number of intersections. Study intersections in the Draft EIR were selected on the basis of consultation among the City of Eureka, Caltrans District 1, and the traffic consultant for the Draft EIR. Subsequently, the traffic consultant looked at potential impacts from project-generated traffic on intersections beyond the EIR study area, including U.S. 101 and State Route 255 (Fourth and Fifth Streets at R Street), F Street south of Downtown, and Herrick Avenue at U.S. 101 and at Elk River Road. For project trips at U.S. 101 and State Route 255, there would be about 40 trips in the a.m. peak hour and about 73 trips in the p.m. peak hour. At F Street south of Downtown, there would be about 5 trips in the a.m. peak hour and 9 trips in the p.m. peak hour. At Herrick Avenue at U.S. 101 and at Elk River Road, there would be about 13 trips in the a.m. peak hour and 17 trips in the p.m. peak hour.

Finally, a subsequent review of the LOS in 2025 with the Marina Center using the new 2030 version of the countywide model – a model that was not available at the time that the Marina Center traffic study was completed in 2008 – shows that R Street at Fourth

and Fifth Streets would operate better than LOS D in the a.m. and p.m. peak hours. Consequently, the project impacts associated with these intersections would remain less than significant, no additional mitigation would be required, and no changes to the Draft EIR text are necessary.

- 9-29 The comment questions the Urban Decay analysis in light of the recent economic downturn. Please see Master Response 1, under the subsection “New Recessionary Conditions.” CBRE reassessed the region’s economic conditions in light of the economic downturn, and found that its original analysis and conclusions in the Draft EIR still hold true.
- 9-30 The comment suggests methodologies for determining the potential for the proposed project to result in vacancy in other retail spaces in the City of Eureka. Please see Master Response 1, under the subsections “Vacancy in the City of Eureka,” as well as “Potential Local Store Closures.”
- 9-31 The comment states the Cumulative Impact analysis of Urban Decay should include the possibility of re-tenancy of the anchor tenant location in the project at an undetermined future date by some undetermined future tenant.

No future tenant is anticipated for the large anchor store beyond that analyzed in the EIR. It would be speculative of the Lead Agency to first predict changes in the anchor retail market—which is dynamic and in a continuous state of evolution—and then estimate every potential anchor tenant that would occupy the anchor retail space in the proposed project at some undetermined future date.

It is likely that any future tenant using the anchor tenant space would use it at the same intensity as the proposed home improvement tenant, which would generate a comparable level of environmental effects. For example, it is unlikely that a future tenant would choose to locate at the project site if it would not meet the square footage, parking capacity, and circulation requirements of the future tenant’s operations. In any event, physical changes in the project site to accommodate a future tenant may be subject to subsequent environmental review if the triggers under Section 21166 of the Public Resources Code are met.

A future tenant’s operations would likely generate comparable environmental effects to those of the proposed project, and those effects are incorporated into the urban decay cumulative impacts analysis.

- 9-32 The comment states that the Draft EIR should have included further discussion regarding the existing setting of the Elk River Wastewater Treatment plant. Please see staff-initiated changes to the Draft EIR, included in Chapter 2 of the Final EIR, and response to comments 24-25 through 24-28, which explain that (i) the nameplate capacity of the Elk River Wastewater Treatment Plant will remain at 5.24 mgd through the next permit cycle, (ii) the City of Eureka has not exceeded its agreed-upon allocated capacity from

the Elk River Wastewater Treatment Plant, and (iii) the proposed project would have a less-than-significant impact on wastewater treatment and conveyance.

- 9-33 The comment states that the Draft EIR should include an assessment of current and historic wastewater flows from the project site and compare them to the proposed project anticipated wastewater flows.

As stated on Draft EIR page IV.Q-2, “the project site is undeveloped and is [currently] not served by onsite wastewater infrastructure. However, wastewater infrastructure sufficient to serve the project is present along the project site boundaries.” In addition, as stated on Draft EIR pages IV.H-10 and IV.H-11, surface runoff on the project site is drained and channeled to ditches. This runoff is generated slowly, after long periods of intense rainfall, and is likely to infiltrate the subsurface, although some sheet flow enters municipal drainage facilities, which discharge at various points along the Humboldt Bay and sloughs surrounding the City.

Given that (1) the project site does not have onsite wastewater infrastructure, (2) most runoff on the site infiltrates into the ground, and (3) the nominal amount of surface runoff generated by the site does not all enter the wastewater conveyance or treatment system, the Draft EIR conservatively assumes that the project site does not currently generate measureable wastewater flows, and therefore all flows generated by the proposed project would be an increase above the existing conditions. Moreover, whatever wastewater flows are currently generated by the project site, however nominal, are included in the Elk River Wastewater Treatment Plant’s current operation at 81.2 percent capacity during dry weather conditions and at 100 percent capacity during peak wet weather conditions.

Regarding average dry weather flows (ADWF), please see response to comment 9-34, below, which explains allocated ADWF capacity at the wastewater treatment plant and the proposed project’s potential use of that capacity.

Finally, although historic uses at the project site may have had onsite wastewater infrastructure and/or been connected to the City of Eureka’s wastewater conveyance system, a discussion of the historic generated wastewater is not relevant to the environmental setting or analysis because it does not adequately describe existing wastewater flows generated by the project site, nor does it ensure a conservative impact analysis of project-generated wastewater flows.

- 9-34 The comment states that the wastewater capacity analysis should subtract out both capacity allocated to HCSD and capacity that could be used by other planned or developing projects.

As stated on Draft EIR page IV.Q-1, the Elk River Wastewater Treatment Plant (WWTP) provides service to both the City of Eureka and the surrounding unincorporated areas of the Humboldt Community Services District (HCSD). The WWTP permitted average dry weather capacity is 5.24 mgd. According to City Engineer staff-initiated changes to the

Draft EIR, the average dry weather capacity would remain at 5.24 mgd for the next permit cycle (2009–2013).

The HCSD contracts with the City of Eureka for sewer wastewater services and is allocated up to 30.5 percent of the WWTP permitted capacity for average dry weather flows to HCSD, which translates to 1.5982 mgd of the current WWTP permitted average dry weather capacity of 5.24 mgd. The remaining 3.64 mgd is allocated to the City of Eureka.

According to City Engineer staff-initiated changes to the Draft EIR (see Chapter 2), the proposed project would generate 58,563 gallons per day of wastewater, and this wastewater would be accommodated within the 5.24 mgd permitted capacity of the WWTP. Flow records indicate that in 2008 the City was utilizing about 83.6 percent of its contractual 3.642 mgd average dry weather flow capacity. The remaining capacity of 0.597 mgd, which equates to about 2,457 available connections for equivalent single-family dwellings (EDUs).

In January 2009, a revised estimate was provided of the number of wastewater EDUs the Marina Center development is anticipated to produce. The new total, 241 EDUs, is well below the previous estimate of 625 EDUs cited in the December 4, 2006 will-serve letter for the Marina Center development. The City's wastewater commitments to the Bayshore Inn Expansion (28 EDUs) and Lunbar Hills Unit 6 (56 EDUs) totals 296 EDUs. The County's General Plan update, including the Ridgewood Village (also known as Forster-Gill), was included in the master plan for the wastewater agency provider. As stated in response to comment 80-5, the Ridgewood Village project has only just begun the environmental review process. It is not clear, and indeed speculative, as to the amount of that development expected to occur within the foreseeable planning horizon. Consequently, it cannot, in its entirety, be considered a reasonably foreseeable probable future project warranting a full cumulative effects analysis.

Therefore, the balance of available uncommitted connections contractually available to the City at the WWTP is approximately 2,161 EDUs. Consequently, there is sufficient capacity at the WWTP to serve the Marina Center development within the City's contractual capacity.

In addition, the wastewater master plan looks at a 20-year planning horizon, and it lays out the anticipated improvements that will need to be constructed at the WWTP to stay ahead of the projected growth rate for the next 20 years. The improvements to the wastewater treatment system over the next 20 years are a part of the WWTP's regular maintenance process and would occur regardless of the proposed project. The City is currently securing funding to construct the required improvement projects in the entire wastewater system to through the next 5 years. In 5 years it will again renew its NPDES permit for another 5 years, and at that time will undertake another cycle of planning.

- 9-35 The comment states that the proposed project would weaken the retail and employment position of the City and County. As stated in Chapter IV.P, Urban Decay, the proposed project is anticipated to result in a net increase in employment, and it is not expected to

result in significant adverse urban decay or dislocation impacts. In addition, the Draft EIR analyzes the potential physical impacts of the proposed project, including increased employment on the project site, and no further analysis is required. Further, it is entirely speculative that job transfer or relocation would occur as suggested by the comment. Recent data indicate that there is an excess of currently unemployed local workers available to assume positions at the Marina Center. In addition, the local inventory of housing appears to be sufficient to accommodate new workers moving into the local area. Even if job transfer or relocation does occur, however, it may reduce greenhouse gas (GHG) emissions by co-locating jobs, retail, and housing in the urban core.

As stated in response to comment 9-10, the Greater Eureka Area is the population, government, and employment hub of Humboldt County. Therefore, the probability is high that the worker population for the proposed project would reside within reasonable proximity to the project site. Also, the project's location near the Downtown area of Eureka, which is the population and retail hub of Humboldt County, would indicate that physical changes—such as GHG emissions—would be more beneficial to the environment than locations elsewhere. As described in responses to comments 16-286 and 9-10, an estimated \$4.3 million in credit card purchases were made at the Crescent City Home Depot in 2008 by residents of the Greater Eureka Area. This suggests that vehicular miles driven, and consequently GHG emissions, would be significantly reduced as a result of a local Home Depot.

- 9-36 The comment states that the Draft EIR should include an alternative to analyze an increased residential component in the proposed project, stating that this could result in decreased vehicular trips and could result in a “critical mass of residential development” on the waterfront to ensure long-term economic viability.

Although some of the residents of the units in the proposed project could work in the Marina Center development, it is unlikely that all of the residents would choose to do so, due to a variety of economic, social, and practical factors. Therefore, pursuant to transportation impact methodology, the addition of 200 or more residential units to the project would not necessarily result in decreased automobile use because these residents would travel to employment locations outside of the project site on a daily basis, resulting in a net addition in the total number of vehicular trips generated by the proposed project.

It is beyond the scope of this EIR to determine the economic merits or thresholds of creating a “critical mass of residential development” on the project site. However, as stated in Chapter VI, Alternatives, alternatives selected for evaluation should meet the basic project objectives, which include the creation of a destination retail center, and seek to reduce the project's environmental impacts. Pursuant to transportation impact methodology, it is not possible to substantially increase the number of residential units in the proposed project and meet the objective of creating a major retail destination while also reducing the level of significant environmental impacts. Dislocating employment, housing, and retail would result in increased impacts. Therefore, an alternative with increased residential units is not explored.

Comment Letter 10

Comment Letter 10



ARCATA/EUREKA AIRPORT TERMINAL
McKINLEYVILLE
AVIATION 839-5401

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HUMBOLDT
MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579
AREA CODE 707/FAX 445-7409

PUBLIC WORKS BUILDING
SECOND & L ST., EUREKA

ADMINISTRATION	445-7481	NATURAL RESOURCES	445-7741
BUSINESS	445-7652	PAVING	445-7651
ENGINEERING	445-7377	ROADS & EQUIPMENT MAINT	445-7421
FACILITY MANAGEMENT	445-7493		

CLARK COMPLEX
HARRIS & H ST., EUREKA
LAND USE 445-7205

January 13, 2009

Ms. Sidnie L. Olson
Community Development Department
531 K Street
Eureka, CA 95501-1146

RECEIVED
JAN 15 2009

RE: **DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)**
MARINA CENTER MIXED USE DEVELOPMENT PROJECT, APN 003-041-007

Ms. Olson:

The Department is in receipt of the Draft Environmental Impact Report for the Marina Center Mixed Use Development Project prepared by ESA, dated November 2008. The Department offers the following comments:

1. A review of the Traffic Impact Study included within the DEIR suggests that that project will have significant impacts to the overall operational performance of Broadway that cannot be mitigated. This significant impact will still exist after completion of proposed mitigation measures outlined in the study.

As congestion on Broadway increases, traffic will seek other less congested routes to bypass the congestion on Broadway. One of these routes is the "F" Street / Fairway Drive / Herrick Avenue corridor. A portion of this route is within unincorporated Humboldt County. The Department recommends that the Traffic Impact Study address this corridor and recommend mitigation as necessary. In particular, the following intersections should be assessed: Herrick Avenue /Elk River Road; Herrick Avenue / Vance Avenue; Herrick Avenue / Meyers Avenue; and "F" Street / Oak Street.

10-1

2. It is hoped that the City of Eureka will address the cumulative impacts of traffic in the same manner that the City has requested the County to do. This was previously included within the Department's April 28, 2006 letter to you in regards to the Marina Center project.

10-2

If you have any questions please free to call me at (707) 445-7205.

Sincerely,

Robert W. Bronkall, PE, LS
Associate Engineer
Land Use Division
3033 H Street, Room 17
Eureka CA 95501

c Michael Wheeler, Senior Planner, Humboldt County Community Development Services
Department-Planning Division

5-93

Letter 10: County of Humboldt, Department of Public Works (Robert Bronkall)

- 10-1 The comment states that other routes and intersections would be impacted due to vehicles bypassing Broadway with the proposed project. A review of the 2030 model results, in which Marina Center traffic zones and trips are added, shows that very few project trips would be added to the routes and intersections identified by the comment. And the assigned trips would not result in any changes to the levels of service for the identified county intersections. Consequently, the project impact would remain less than significant, no additional mitigation would be warranted, and no changes to the Draft EIR text are necessary.
- 10-2 The comment states that cumulative traffic impacts should be addressed in the same manner as is required of the County. The Final Traffic Impact Study for the Proposed Balloon Track Mixed-Use Development prepared by TJKM dated October 24, 2007 does a clear and comprehensive job of addressing the cumulative traffic impacts of the proposed project. The section titled 'Cumulative + Project 2025 Conditions' on pages 42-46 of the study does a thorough analysis of service levels on all major streets and intersections affected by the project through the year 2025. City staff believes this analysis is similar in scope and breadth to what the County would be required to prepare for similar projects.

BEAR RIVER BAND of ROHNERVILLE RANCHERIA
27 BEAR RIVER DR. LOLETA, CA 95551 707.733.1900, fax 733.1972



Comments from Bear River Band of the Rohnerville Rancheria for the:

Marina Center Draft EIR

This is an exhaustive and thorough document that clearly defines the impacts related to the project. Following are specific comments regarding the mitigation measures related to this project.

Mitigation Measures E-2a and E-2b are not considered adequate mitigation measures by the Bear River Band.

E-2a:

- 1. The training of the construction crew should occur but should not be relied upon for site identification.
- 2. There should be a Native American monitor present during all ground disturbing activities in the areas defined as sensitive within the DEIR.
- 3. Monitoring shall not be used as a mitigation measure in and of itself. Monitoring shall be used as a tool after a complete sub-surface archaeological assessment of the sensitive areas has been completed.
- 4. A complete archaeological assessment of the sub-surface of the APE shall include standardized shovel test units and backhoe trenches within all sensitive areas. Hand excavations shall occur prior to mechanical excavations.
- 5. The best option for the Bear River Band of the Rohnerville Rancheria regarding the discovery and mitigation of significant cultural resources is to create a conservation easement.

11-1

E-2b:

- 1. All work shall be halted within 100' of any human burial until such time that the burial can be determined to be a single individual by a professional archaeologist. If a burial is discovered during project implementation it is more than likely that it will be part of a larger complex of burials.

11-2

Sincerely,


Nick Angeloff THPO
Bear River Band of the Rohnerville Rancheria

RECEIVED
JAN 22 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Letter 11: Bear River Band of Rohnerville Rancheria (Nick Angeloff)

- 11-1 Please see Master Response 9 for further discussion and information regarding protecting any significant archaeological resources that might be present on the project site, as well as clarifications added to Mitigation Measure E-2 that address some of the commenter's concerns. The training of the construction crew will occur for the entire site under Mitigation Measure E-2b. In addition to this training, subsurface testing, evaluation, and monitoring will be conducted by a qualified archaeological consultant for the areas designated as culturally sensitive. And while the mitigation does not require a Native American monitor to be present during all ground disturbing activities in the areas defined as sensitive in the Draft EIR, the enhanced Mitigation Measures E-2a and E-2b require that the assigned archaeological expert consult with the appropriate Native American group(s) on both the subsurface archaeological resources investigation for the sensitive area, as well as for the development of a treatment plan for the non-sensitive area.

The commenter states that monitoring should not be used as mitigation in and of itself, and that conservation easements are the best mitigation option. The subsurface testing and monitoring described above is not the only mitigation proposed in the EIR. Both the Draft EIR and the enhanced mitigation in Master Response 9 require the Project Applicant to prepare and implement a treatment plan to help protect or recover any archaeological resources deemed "historically significant" or "unique." While preservation in place with a conservation easement is generally a preferred mitigation measure, that is not always feasible. But Mitigation Measures E-2a and E-2b both contemplate the use of conservation easements as elements of the required treatment plan.

Finally, the commenter suggests that a complete assessment of the subsurface area of potential effects include standardized shovel test units and backhoe trenches within all sensitive areas, with hand excavations occurring prior to mechanical excavations. The enhanced Mitigation Measure E-2a(i) outlines the criteria for settling on a particular subsurface strategy. Standardize shovel test units and backhoe trenches are the most likely methods, though other methods should not be ruled out before the archeologist has the opportunity to review specific site development and remediation plans in conjunction with particular site characteristics. It should be noted that hand excavations may be infeasible where the investigations must occur several feet below historical fill (5 to 14 feet deep below current soil surface levels).

- 11-2 Please see Master Response 9. While already contemplated under the existing Mitigation Measure E-2b, the enhanced Mitigation Measure E-2c in Master Response 9 clarifies that an archeologist shall aid in determining whether the remains belong to a single individual or may be part of a larger complex of burials. To the extent that the remains are part of a larger complex of burials, the additional requirements in Mitigation Measure E-2c would be triggered in order to ensure that proper recovery or reburial arrangements are made with the descendants of the deceased or the California Native American Heritage Commission.

Comment Letter 12

Comment Letter 12

To:
City of Eureka
Community Development Department
Sidnie L. Olson, AICP
531 K Street
Eureka, CA 95501-1165
Email: solson@ci.eureka.ca.gov

Submitted by:
Patricia Clary
Programs & Policy Director
Californians for Alternatives to Toxics
315 P Street
Eureka, CA 95501
Email: pattv@alt2tox.org

Regarding: Draft Environmental Impact Report MARINA CENTER

Californians for Alternatives to Toxics (CATs) is a regional public-interest organization with members in Eureka and the Humboldt Bay Area who are concerned about the impacts of pollutants on their health and their use and enjoyment of the environment for work, study, recreation, culture, residence, education and other activities. Though regional in nature, CATs is based in Eureka and has a particular interest in activities that may impact the environment where CATs owns and office building and where its employees work.

In these comments, CATs will focus on parts of the Draft Environmental Impact Report relating to the analysis of the effects of toxic chemicals, particularly the use of herbicides and the impacts of vehical and truck emissions associated with the project.

HERBICIDE APPLICATIONS

The project would use herbicides in two of the mitigations proposed to reduce the impact to biological resources. The first is mitigation D-3f which regards implementation of a non-native invasive species control program for areas disturbed as a result of project activities.

Prior to construction, plants considered by the State of California to be exotic pest plants would be destroyed using methods which may include the application of an herbicide approved by the United States Environmental Protection Agency for use near and within aquatic environments.

The same mitigation of the mitigation - which in effect this is - is proffered in mitigation H-5c, where again, herbicides would be used to mitigate the impact, here of runoff water, using only herbicides registered by the EPA as the mitigation of the mitigation.

The California court of appeal has found that herbicide use that would occur as a result of the project must be independently evaluated and cannot rely solely on the existence of the regulatory program administered by the state [or, in this case, federal] agency to conclude the application of pesticides under the project would not result in significant adverse impacts.

No evidence is provided to support the feasibility of any proposed mitigation and in the case of using herbicides, the use of the chemical alone could result in rendering it infeasible, but the necessary evidence is not provided on which a decision could be made regarding this mitigation method.

Herbicides can have a profound negative impact in the environment. It hardly seems necessary to provide evidence to support the potential for adverse effects of herbicide use but we provide

5-97

12-1

citations below to documents about the environmental fate and effects of herbicides in the environment to inform the analysis of impacts.

CATs is particularly concerned about the mitigation to the mitigation proposed here, where in effect it is admitted that if herbicides are used their impact must be mitigated in that only those registered with the EPA or registered for aquatic uses with the EPA would be used.

Herbicides can impact endangered and other protected species, affect water quality, cause harm to workers and the public, affect the composition of soil organisms and wreak other havoc in the course of their use. Those impacts are what drive federal and state courts to rule that evaluation of the impacts of herbicides and other pesticides must be undertaken if these chemicals are to be used in a project. CEQA requires that if mitigation would cause a significant effect in addition to those caused by the project it must be analyzed. Since the impact is mitigated to a less-than-significant level in part by the use of herbicides, the EIR must also provide evidence of the herbicide's feasibility and how the mitigation will be monitored, just as is required for any of the mitigations.

12-1 cont.

AIR QUALITY

Air quality impacts C-1 to C-3 are described as "Significant and Unavoidable," yet -- though the public can only guess at this because the analysis is inadequate -- none of the mitigations described for these impacts can avoid these acknowledged impacts on air quality either technically or economically. The public is left guessing because no evidence is provided to support this apparent proposed finding of feasible mitigation. The California Environmental Quality Act (CEQA) requires that the feasibility of mitigations measures be supported with substantial evidence. In the current DEIR, no evidence is offered to support any claim regarding the feasibility of the proposed mitigations. None of the benefits are quantified to provide evidence that the significant impacts of the project would be avoided or reduced.

12-2

For example, Mitigation Measure C-2a provides for electrical outlets for cars, perhaps to reduce emissions by fueling electric or hybrid cars. No evidence is provided that this mitigation will accomplish anything, that it would be used, where outlets would be located, or how many would be available. How many cars would use the outlets? By what amount might air pollution be reduced? Because the location of these outlets depends on appropriateness and feasibility, the number installed could conceivably be one or none because decisions about appropriateness significant and feasibility are put off until the future. As with all other proposed mitigations to air quality impacts, no monitoring or enforcement of the mitigation is proposed, though such will be required for the project to go forward.

12-3

Another example of an inadequate mitigation is the proposal to provide bicycle and pedestrian travel zones. No evidence is offered to show how installing these paths would avoid or reduce impacts to air quality or how this mitigation would be monitored. Would the installation of bike and pedestrian paths be an overall benefit, or would local pedestrian, car and truck traffic be impacted, and thus air quality impacted, due to inadequate receiving bike and pedestrian lanes, by stop-and-go car and truck traffic responding to bike and pedestrian inputs?

12-4

The installation of synchronized traffic signals along Hwy 101 in the project area is not a mitigation that can be attributed to the project because these signals would have been installed anyway. What's more, how do we know this mitigation would reduce air quality impacts since no evidence is provided to show this would likely be the result? The EIR assumes that installing synchronized traffic signals will reduce air quality impacts but does not reveal the feasibility of the mitigation - the how or why - or to what degree - it will or will not avoid or reduce impacts to air quality.

12-5

Not only is significant evidence of the feasibility of the mitigations not provided as required under CEQA, no monitoring or enforcement plan for the mitigations is proposed. A mitigation is

12-6

Comment Letter 12

Comment Letter 12

5-98

only as good as its implementation, and monitoring is needed to enforce its application and to measure the reduction of impact.

The public has been informed that 38 tons of PM10 will be added to our air as a result of the project, taking us way over the already violated regional limit of 16 tons, but we are to accept a set of probably infeasible and certainly not evidence-supported mitigation measures that may or may not be monitored and enforced as the actions that will avoid or reduce the impacts. This is not permissible under CEQA.

What's more, though significant mitigations do exist and, because they are in use elsewhere, evidence to support the feasibility of these mitigations is readily available, the mitigations offered fail to take these into consideration.

Eureka could require, as mitigation, that only diesel trucks with up-graded pollution output such as that now required by the ports of Los Angeles and Long Beach, could deliver to the project retail outlets. The idling of trucks could be limited or banned. Traffic currently funneled through 4th and 5th Streets could be routed through 6th and 7th Streets or through other areas of the City to distribute the impact of exhaust emissions over a broader area. None of these potentially feasible mitigations were analyzed.

Another mitigation not analyzed for feasibility would require installation of extensive solar panels, passive solar design and other off-sets that would reduce the need for electricity generation at the PG&E generation plant and thus reduce North Coast regional air quality non-attainment for PM 10.

Again, no substantial specific or concrete evidence is provided to show that additional costs or low profitability are sufficient severe to warrant a finding of "Unavoidable" impacts.

Impacts C-3 to C-6 are found to be "Less Than Significant."

CATs is particularly concerned about the finding of less-than-significant for impact C-4: "Expose sensitive receptors to substantial pollutant concentrations."

The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency involved, based to the extent possible on scientific and factual data.

Significant scientific and factual data regarding, in particular, the impacts of diesel exhaust were not considered because the lead agency improperly relies exclusively on the models and evaluations of the North Coast Unified Air Quality Management District (NCUAQMD or "Air District") thus not undertaking an independent analysis of adverse health effects as is required by CEQA.

The lead agency ignores analysis of evidence including a wide body of scientific and technical evidence such as that provided by U.S. EPA (which considers diesel exhaust to be harmful at all levels of exposure), the California Air Resources Board and peer reviewed scientific publications such as Environmental Health Perspectives published by the National Institute of Environmental Health Sciences.

The Health Risk Assessment for Diesel Emissions Associated with Wetlands Construction and Delivery Operations and Health Risk Assessment Regarding Vehicle Emissions Associated with the Proposed Marina Center Project relied upon for analysis by the lead agency are inadequate for a number of reasons. Among these are that data sets are inadequate.

Data from the Jacobs Monitoring Station was only available for a few days for the preparation of the risk assessments. This extreme limitation was not described or considered in the analysis.

The Eureka I Street Monitoring Station is located upwind from prevailing wind pattern of the proposed project and cannot be relied on for adequate air monitoring for the project area.

The wetlands construction health analysis is for a project that is infeasible due to the extreme toxic conditions of soil at all parts of the site thus it cannot be relied on as a health risk analysis for purposes of evaluation of the significance of the impacts of this project. The EIR omits

↑ 12-6
cont.

12-7

12-8

12-9

12-10
cont.

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analysis of air quality impacts associated with the excavation and removal of contaminated soil which will likely be very extensive based on evidence obtained by Humboldt Baykeeper in samples taken in discovery during the course of their federal lawsuit regarding the storage of and discharge from of toxic chemicals the project site.

The health risk assessments omit analysis of impacts to the people most at risk of exposure to toxic air contaminants, the workers and residents who will spend many hours each week at the site.

The health risk assessments omit analysis of toxic levels of pollutants concentrated in the project's parking garage.

The health risk assessments omit analysis of the high rank of Humboldt County for cancer incidence in California and how this project would affect that rate.

In fact, cumulative impacts are inadequately described and analyzed in violation of CEQA. For example, the cumulative impact of current delivery vehicle emission sites throughout the City that contribute diesel exhaust emissions such as the North Coast Mercantile, USF Reddaway and Eureka City Garbage Company were not analyzed.

The cumulative impact of current PM10 contributors such as Evergreen Pulp Inc and Fairhaven Co-Generation Plant were not analyzed.

The cumulative impact of known adverse effects of PG&E's Repowering Plant which, in its permit application, uses Air District models to allow for just below the significance threshold of 10 in one million cancer risk is not analyzed.

The cumulative impact of reasonably foreseeable projects including the Marine Terminal proposed by the Humboldt Bay Recreation and Conservation District and the re-opening of the railroad proposed by the North Coast Rail Authority is not analyzed.

The cumulative impact of transportation corridor effects outside immediate vicinity of project area is not analyzed.

The impact of PM 10 and other pollutant contribution from the exceptionally high level of dependence on combustion of wood for heat in Eureka is not analyzed.

For these reasons and others submitted by concerned citizens and public agencies regarding the inadequacies of the EIR, Californians for Alternatives to Toxics requests that the City of Eureka require that this draft be rewritten to comply with the California Environmental Quality Act. If that were done, residents of Eureka and other concerned citizens and the decision makers, i.e. the Eureka City Council, would have sufficient information on which to base decisions made about the proposed Marina Center project. At this point, such decision making is not possible.

Sincerely,

Patricia M Clary
Programs and Policy Director
Californians for Alternatives to Toxics

Citations:

For the requirement that independent CEQA analysis must be undertaken regarding the impacts of toxic chemicals and cannot rely solely on the existence of a regulatory program to conclude that the project would not result in a significant adverse impact see:

↑ 12-10
cont.

12-11

12-12

12-13

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Comment Letter 12

Californians for Alternatives to Toxics v. Department of Food and Agriculture (1st Dist. 2005)
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Herbicides

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Air Quality

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<http://www.catf.us/projects/diesel/>

Clean Air Task Force: Diesel Soot Health Impacts

Comment Letter 12

<http://www.catf.us/projects/diesel/dieselhealth/country.php?site=0&c=06023>

California Energy Commission: Humboldt Bay Repowering Project, May 2008
<http://www.energy.ca.gov/sitingcases/humboldt/documents/index.html>
California Environmental Protection Agency- Air Resources Board: Fact Sheet
Diesel Particulate Matter Health Risk Assessment Study for the West Oakland Community:
Preliminary Summary of Results. March 2008
<http://www.arb.ca.gov/ch/communities/ra/westoakland/documents/factsheet0308.pdf>

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<http://www.epa.gov/IRIS/subst/0642.htm>

Los Angeles Times: "L.A., Long Beach Ports Inaugurate New Anti-smog Plan"
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North Coast Unified Air Quality Management District: July 2007 Annual Air Monitoring
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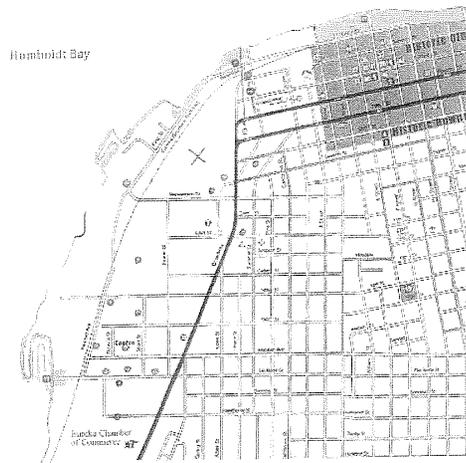
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California Cancer Registry. Invasive Cancer Incidence Rates by County in
California.(Humboldt-Del Norte are third per capita, age adjusted)
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Map of vehicle emission site map for transportation hubs upwind of the project site. Compiled by
Californians for Alternatives to Toxics.

Comment Letter 12



Delivery Vehicle Emission Sites

- | | |
|--------------------------------|--------------------------------|
| 1. Eureka City Garbage Company | 11. Renner Fuel Yard |
| 2. Renner Gas Station | 12. Pacific Choice Seafoods |
| 3. North Coast Mercantile | 13. Delreka Distribution |
| 4. USF Reddaway | 14. Coors |
| 5. Mendocino Supply Company | 15. City Corporation Yard |
| 6. Matthews Freight | 16. Humboldt Beer Distributors |
| 7. Costco | 17. Grocery Outlet |
| 8. Atech Distribution/UPS | 18. USPS Main Center |
| 9. Schindbauer Lumber | |
| 10. Eureka School Bus Yard | |

Letter 12: Californians for Alternatives to Toxics (CATs) (Patricia Clary)

- 12-1 The comment expresses concern over the use of pesticides and herbicides included in Mitigation Measure D-3f.

As stated on Draft EIR page IV.D-29 within the mitigation measure, environmentally suitable methods would be employed to remove exotic pest plants, and herbicides used would be approved by the United States Environmental Protection Agency. Beyond ensuring that only herbicides approved by the US EPA for use near and within aquatic environments would be used, disclosure of a full range of hypothetical impacts would be speculative.

- 12-2 The comment appears to challenge the feasibility of the mitigation measures associated with Impacts C-1 through C-3, but also acknowledges that the mitigation is not technically or economically feasible. Please see responses to comments 12-3 through 12-6 with respect to specific examples regarding feasibility of mitigation measures. The Draft EIR clearly acknowledges in Impacts C-1 through C-3 that even with implementation of the identified mitigation measures, the proposed project would result in a significant and unavoidable impact related to a conflict with the NCUAQMD PM10 Attainment Plan. This conflict is unavoidable because there are no mitigation measures available to reduce PM10 emissions below the requisite thresholds.

It should also be noted that the final determination of feasibility of the mitigation measures would be made by the decision makers when findings are prepared. In addition, if the City approves the project despite residual significant adverse impacts that cannot be mitigated to less-than-significant levels, it must prepare a Statement of Overriding Considerations that would be included in the record of project approval.

- 12-3 The comment indicates that there is no evidence that the provision in Mitigation Measure C-2a that requires electrical outlets for cars would accomplish any emission reductions. It is acknowledged that the City cannot demonstrate the extent that outlets for electric and hybrid cars would reduce emissions. In order to quantify the emission reductions that would be associated with this provision, speculative assumptions would need to be developed related to the amount of electric and hybrid cars that would use the outlet facilities and the amount of conventional vehicle trips that would be displaced. These are entirely dependent on independent decisions made by consumers and could never be dictated by a project or Lead Agency under CEQA.

It is reasonable to assume that the measure would result in some level of emission reductions by making the proposed parking facilities more convenient to electric and hybrid car owners. Nonetheless, as noted in response to comment 12-2, above, the City has taken a conservative approach to the significance determinations for Impacts C-2 and

C-3 and has identified significant and unavoidable impacts even with implementation of the identified mitigation measures.

- 12-4 The comment indicates that there is no evidence that the provision in Mitigation Measure C-2a that requires pedestrian and bicycle travel zones and bicycle locking areas would accomplish any emission reductions. Similar to the response to comment 12-3, it is acknowledged that the City cannot demonstrate the extent that that this mitigation requirement would reduce emissions, as speculative assumptions would need to be made related to the amount of conventional vehicle trips that would be displaced by pedestrians and bicycle riders.

It is reasonable to assume that the measure would result in some level of emission reductions by making the proposed facilities convenient to pedestrians and bicycle riders. Nonetheless, as noted above, the City has taken a conservative approach to the significance determinations for Impacts C-2 and C-3 and has identified significant and unavoidable impacts even with implementation of the identified mitigation measures.

- 12-5 The comment states that there is no evidence that the provision in Mitigation Measure C-2a, which requires synchronized traffic signals, would accomplish any emission reductions. The City's response to this comment is generally the same as those presented above for comments 12-3 and 12-4.

The comment also suggests that the synchronized traffic signals would be installed along U.S. 101; however, the intent of this component of Mitigation Measure C-2a is for the signals to be installed within the project site. The comment also appears to express confusion about whether the measure would or would not avoid the significant impact to air quality. As identified on Draft EIR pages IV.C-15 and IV.C-16, air quality Impacts C-2 and C-3 would be significant and unavoidable even with implementation of the identified mitigation measures.

- 12-6 The comment states that the City does not intend to develop a mitigation monitoring or enforcement plan. However, as required by CEQA Guidelines Section 15097, the City must prepare and adopt a mitigation monitoring and reporting program (MMRP) that would be designed to ensure compliance with mitigation measures during implementation of the project. The MMRP is included as Chapter 6 of the Final EIR.

- 12-7 The comment reiterates an assertion that the air quality mitigation measures may be infeasible, that they may not reduce the impact, and that they may not be monitored and enforced in the field. Please see responses to comments 12-2 through 12-6, above, which discuss feasibility and success of mitigation measures. The comment also indicates that other feasible measures are available that have demonstrated success. See responses to comments 12-8 and 12-9 for responses related to the specific measures identified.

- 12-8 The comment identifies several mitigation options that are not analyzed in the Draft EIR, including requirements that all trucks that deliver products to the project site have "up-

graded pollution outputs,” limits on truck idling, and rerouting of traffic from Fourth and Fifth Streets to Sixth and Seventh Streets.

It is not clear what the comment is specifically referring to as up-graded pollution outputs; however, it would not be feasible or practical for the City to require every diesel truck that would deliver to the project site to be installed with advanced pollution reduction systems. Many of the delivery companies that would serve the project site would not be controlled by the Project Applicant or the tenants. It should be noted that on December 12, 2008, the California Air Resources Board (CARB) adopted a regulation directly aimed at cleaning up harmful emissions from heavy-duty diesel trucks that operate in California. Beginning January 1, 2011, the Statewide Truck and Bus rule would require truck owners to install diesel exhaust filters on their rigs, with nearly all vehicles upgraded by 2014. It is anticipated that implementation of this Statewide regulation would begin before the proposed project would be fully operational.

Regarding a mitigation measure that would limit truck idling, pursuant to Section 2485 of Title 13, Division 3, Chapter 10, Article 1 of the California Code of Regulations, on-road vehicles with a gross vehicular weight rating of 10,000 pounds or greater are already prohibited from idling for longer than five minutes at any location. Therefore, such a mitigation measure is not necessary.

Regarding a mitigation measure that would reroute traffic that currently uses Fourth and Fifth Streets to Sixth and Seventh Streets in order to distribute the exhaust emissions over a broader area, such a measure would have no effect on lowering the long-term mass emission estimates presented in Table IV.C-5, Operation Emissions Estimates, or the associated significance determinations of Impacts C-1 through C-3. As identified on Draft EIR pages IV.C-16 through IV.C-18, local health risk impacts related to project emissions would be less than significant, and no mitigation measures are identified.

In addition, CARB’s rule controlling smog-forming emissions and particulate matter targets all diesel-fueled heavy-duty trucks operating on California’s roads, including typical big-rig trucks and school buses.

- 12-9 The comment suggests that the EIR should include a mitigation measure that would require the installation of extensive solar panels, passive solar design, and other off-sets to reduce the need for electricity from PG&E. However, the vast majority of PM10 emissions that would be associated with the operations of the project would be related to mobile source (e.g., automobile and truck traffic) emissions. Therefore, the suggested mitigation measures would do little to reduce the emissions presented in Draft EIR Table IV.C-5 to a level that would be less than significant.
- 12-10 The comment incorrectly indicates that the health risk assessment conducted for the project relies exclusively on models and evaluations of the North Coast Unified Air Quality Management District and that significant scientific and technical evidence related to diesel particulate matter was ignored. For a summary of the methods used in the health

risk assessment and technical issues associated with diesel particulate matter, see Master Response 2 and Draft EIR Appendix E. The comment also incorrectly alludes that the health risk assessment relied on data from the Jacobs and I Street air pollutant monitoring stations. For a summary on the meteorological data sets used in the health risk assessment, see Master Response 2 and Draft EIR Appendix E.

The comment states that wetlands construction is infeasible due to the “extreme toxic conditions” at the project site, and expresses concern for health risks during associated excavation activities. The comment grossly misstates the site characteristics of the project site with regards to soil contamination. The project site is contaminated, but at generally low levels. Moreover, the target contaminants of concern are bound up in the soils and are not expected to become airborne during excavation activities. Nonetheless, Mitigation Measure G-1 requires soils testing during excavation, protocols for handling soil stockpiling, dust control, and other measures to protect worker health (e.g., satisfying all Occupational Health & Safety Rules applicable to site remediation). This is in addition to other statutes and regulations governing these sorts of remediation activities, like the NCUAQMD Rule 430 regarding fugitive dust emission control. (See Draft EIR, page IV.C-8.) Moreover, the diesel emission levels anticipated from construction equipment and trucks necessary to conduct the soil remediation and wetland construction have already been factored into the Health Risk Assessment, which concluded that construction-related diesel emissions would not result in any significant increase in health risks. (Draft EIR, pages IV.C-16 and -17, Appendix E, and also response to comment 33-4.) Thus, Phase 1 of the project is expected to have a less-than-significant impact on risks to human health.

The comment notes that the health risk assessment did not provide an analysis of pollutant concentrations for the proposed parking structure. However, the proposed parking structure would be a partially open-air structure, not conducive to pollutant concentration build-ups, and it is not anticipated that the parking structure would represent a large source of diesel particulate matter. In any event, motor vehicle trips associated with the parking garage are incorporated into the Health Risk Assessment.

- 12-11 The comment states that cumulative air quality impacts are inadequately addressed. As appropriate, the Draft EIR considers the project along with other past, present, and reasonably foreseeable future projects in assessing cumulative air quality effects. Also, see response to comment 32-4. As stated there, closely related past projects identified in the General Plan, Redevelopment Plan, and the reasonably foreseeable projects listed in Draft EIR Table V-1, are considered in the cumulative analysis. Cumulative development is analyzed by adding a regional growth rate and adding the project and foreseeable projects to assess cumulative traffic impacts, as well as air quality and noise impacts that would be associated with the additional traffic. Cumulative traffic, noise, and air quality impacts are identified for the year 2030.

- The last sentence of the comment indicates that cumulative transportation impacts for the wider region are not analyzed in the Draft EIR. That assertion is inaccurate. Air Quality Impact C-3 provides a discussion of the regional cumulative impacts that would be associated with the project (see Draft EIR page IV.C-15 and -16).
- 12-12 The comment indicates that the Draft EIR did not consider the air quality impacts related to the high level of dependence on combustion of wood for heat. The Draft EIR does not consider non-project related combustion of wood for heat in Eureka; however, pursuant to Draft EIR Mitigation Measure C-2b, wood-burning fireplaces or devices would be prohibited at the project site. Moreover, non-project wood-burning is part of the environmental baseline.
- 12-13 The comment requests that the Draft EIR be re-written to comply with CEQA and to address comments 12-1 through 12-12. The EIR has been prepared in full compliance with CEQA, and none of the comments received by the public and public agencies have provided information that would alter the conclusions of the Draft EIR nor constitute substantial new information. Consequently recirculation of the Draft EIR is not warranted.

California Native Plant Society

North Coast Chapter
P.O. Box 1067
Arcata, CA 95518
January 31, 2009

City of Eureka Community Development Department
Sidnie L. Olson, Principal Planner
531 K Street
Eureka, CA 95501-1165

Re: Marina Center Draft Environmental Impact Review

Dear Ms. Olson,

Below are comments on the Marina Center Draft Environmental Impact Report (DEIR) submitted on behalf of the North Coast Chapter of the California Native Plant Society (CNPS). CNPS is a statewide nonprofit organization of nearly 10,000 amateurs and professionals dedicated to the preservation of California's diverse native flora. CNPS conducts a variety of conservation efforts focused on long-term protection and preservation of native flora in its natural habitat, and is the foremost non-governmental organization working to protect rare, threatened, and endangered plants in California. The North Coast Chapter represents nearly 300 members in Humboldt, Trinity, Del Norte, and western Siskiyou Counties, with a majority in the Humboldt Bay area.

We have concerns related to impacts from inadequate botanical surveys, inadequate wetland delineation, unmitigated impacts to coastal wetlands, inadequate alternatives assessment, and invasive species. We believe that the DEIR is lacking in adequate disclosure of information necessary for the public to review and comment on the potential impacts of the proposed project, and that recirculation of the DEIR will be necessary to meet the

Inadequate Botanical Surveys

According to the DEIR (IV.D-5), surveys were conducted on April 28 and 29, 2006 by a qualified botanist. However, the species inventory includes species not known to occur in the region (Biological Assessment, Table 1). The Department of Fish & Game (DFG) *Guidelines for Assessing the Effects of Proposed Projects on Rare, Threatened, and*



Dedicated to the preservation of California native Flora

5-106

13-1

Endangered Plants and Natural Communities (DFG 2000) ("DFG Guidelines") states that rare, threatened, or endangered plant surveys should be floristic in nature, and that a floristic survey requires that every plant observed be identified to the extent necessary to determine its rarity and listing status. In addition, a sufficient number of visits spaced throughout the growing season are necessary to accurately determine what plants exist on the site. In order to properly characterize the site and document the completeness of the survey, additional surveys throughout the blooming season should be conducted. Without this information, the DEIR cannot be regarded as full disclosure of the environmental setting as defined by CEQA.

The DFG *Guidelines* also specify that botanical consultants should have experience conducting floristic field surveys, knowledge of plant taxonomy and plant community ecology, and experience with analyzing impacts of development on native plant species and communities (DFG 2000). Yet the inventory of plant species present at the site includes species not known to occur in the region, such as Drummond's willow (*Salix drummondiana*) which is only known from the central and southern High Sierra (Jepson Interchange, 2009). Such an error indicates lack of familiarity with the local flora, and raises questions regarding the qualifications of the botanical consultants.

The following statement also raises questions regarding the qualifications of the botanical consultants: "The project site is highly disturbed and lacks native soils that could support rare or native species." (DEIR IV.D-5). On its face, this statement has little basis in fact since it follows several pages of vegetation community descriptions that include dozens of native plants (DEIR IV.D-1 to D-3). Such a statement reflects the lack of the botanical consultant's experience with analyzing impacts of development on native plant species and communities, familiarity with the local flora, and conflicts with statements made within the DEIR itself regarding presence of native plant species.

Without seasonally-appropriate floristic surveys conducted by a qualified botanist with familiarity with the local flora and experience with analyzing impacts of development on native plant species and communities, as defined in the DFG Guidelines (DFG 2000), it cannot be determined whether there will be significant negative impacts to listed or non-listed sensitive species as defined in 14 CCR 15380(d), and the public does not have the opportunity to review and comment on the potential impacts of the proposed project.

Inadequate Wetland Delineation

According to the Coastal Commissions' Allowable Use Analysis in the 1994 Procedural Guidance for the Review of Wetland Projects in California's Coastal Zone ("Procedural Guidance document"), boundaries of degraded wetlands "should be based on the area the entire wetland occupied prior to degradation. This determination is most readily made from a review of historic information including aerial photographs."

As can be readily observed from the DEIR's cover replication of the 1946 aerial photograph from the Shuster Aerial Photograph Collection (Humboldt State University Library Special Collections), the entire area within the Balloon Track was formerly coastal wetlands or mudflats. This area is shown in the 1946 photo as recently diked

13-1 cont.

13-2

Comment Letter 13

Comment Letter 13

and in the process of being filled by a dredge pipe also shown in the photograph. Much of the area around the Balloon Track was evidently former coastal wetland, tidelands, or mud flats at one time before the 1946 photo, including the area to the west of the Balloon Track which would have connected Humboldt Bay to the mud flats evident in the photo.

13-2 cont.

A new wetland delineation should be conducted by qualified botanist familiar with the local flora, and should include a historical assessment of the extent of former wetlands, tidelands, and mud flats to determine the boundary of this degraded wetland as directed by the Coastal Commission Procedural Guidance document (1994).

Illegal Fill of Coastal Wetlands

According to the DEIR,

The proposed project would fill wetlands. Because the proposed project would create a net positive impact on the environment, however, there would be no need to seek a feasible "less environmentally damaging" alternative. The proposed project would undertake all feasible mitigation measures to minimize adverse environmental effects, and would enhance the functional capacity of the wetland. (IV.D-31).

This proposed wetland fill conflicts with the California Coastal Commission's Allowable Use Analysis, which states that: "To allow even partial filling of any wetland in exchange for restoration can result in a net loss of both wetland acreage and function." (California Coastal Commission 1994)

13-3

Furthermore, the claim that

The proposed project would provide the course of action most protective of coastal resources. In fact, the proposed project would significantly enhance and protect those resources. As a result, the project would be consistent with the General Plan/Local Coastal Program policies protecting biological resources and with the City's Coastal Zoning Regulations, which implement those policies. (IV.D-32)

is completely false and has no basis in fact. Simply making such claims with no data or evidence on which to base such a determination is contrary to the spirit and intent of CEQA, if not the letter of the law.

Unmitigated Impacts to Coastal Wetlands

The Cumulative Impacts Analysis on page IV.D-34 is inadequate. It simply states that future development would be required to comply with state, federal, and local requirements. The City of Eureka has failed to implement the Wetlands Management Plan as stated in General Plan, as stated in a letter from the Department of Fish & Game to the Humboldt County Community Development Department,

13-4

According to the GP implementation programs 6.3, the time frame for developing this program was fiscal year 1997-1998. The City has not developed this wetland management program. At the March 18, 2008 meeting, you informed DFG staff that due to City staff limitations and workload priorities, the City will not be developing a wetland management program any time soon. (DFG 2008).

13-4 cont.

The DEIR claims that "The proposed project would have a beneficial impact on wetland and other biological resources. Mitigation measures described in this section would reduce any potential adverse impacts to less-than-significant levels." (IV.D-34). Yet the DEIR fails to provide information that was used to make such a determination. According to the California Coastal Commission (1994), "A functional capacity analysis must be included as part of the application for a coastal development permit. Since the determination of functional capacity is a scientific one, it must be made by a qualified ecologist." Furthermore, the California Coastal Commission Procedural Guidance document (1994) contends that

Maintaining the functional capacity means maintaining the same level and number of species, maintaining the same level of biological productivity, and maintaining the same relative size and number of habitats. Functional capacity analysis is also an important part of the alternatives analysis discussed above. Finally, functional capacity analysis is one method available for determining the appropriateness of any proposed mitigation; however, compensatory mitigation is not a substitute for maintaining the functional capacity of the impacted wetland.

13-5

... Because of their transient nature, it is argued that seasonally wet wetlands are more limited in function, and therefore of lower value than perennially wet wetlands. While the transient hydrology of seasonally wetlands may reduce the time period of a function, the performance of that function and its overall value are not necessarily diminished relative to perennially wet wetlands. In fact, many of the same functions and values present in both types of wetlands. Additionally, seasonally wet wetlands can, during certain times of the year, provide greater value for certain functions (e.g., ground water recharge, floodwater storage, habitat for endangered species, or feeding and resting spots for migratory birds), relative to nearby perennially wet wetlands.

The DEIR (IV.D-11) states that "the Clark Slough remnant and on-site wetlands might provide some Nutrient Removal, Retention, and Transformation functions, but those functions are significantly constrained due to short contact times between the wetlands and stormwater runoff, the heavy nutrient loads already present, and the potential for pollutants entering the slough in stormwater runoff from the site and adjacent properties." This claim is purely speculative and no data is provided to assist agencies and the public in determining whether such a claim has a basis in science and/or fact.

13-6

According to the California Coastal Commission Procedural Guidance document (1994), buffers should have all of the following characteristics:

Comment Letter 13

Comment Letter 13

5-108

1) Buffer width should be a minimum of 100 feet. In some cases, such as when a species requires habitat adjacent to a wetland for part of its life or when nearby development poses increased hazards to a wetland or wetland species, larger buffer areas should be considered.

2) Buffers should work to minimize the disturbance to a wetland from adjacent development. If the adjacent development includes residential areas, the buffer must include a fence and/or a natural (e.g., vegetation or water) barrier to control the entry of domestic animals and humans into the wetland. The buffer should also provide for visual screening in those cases where resident or migratory wetland species are particularly sensitive to human impacts. The use of walls, berms and other barriers should be considered where excessive artificial light or noise is a problem.

3) Buffers should be designed, where necessary, to help minimize the effects of erosion, sedimentation, and pollution arising from urban, industrial, and agricultural activities. However, to the extent possible, erosion, sedimentation, and pollution control problems should be dealt with at the source not in the wetland or buffer area. Sources of pollution include point and non-point source discharges into the watershed and air, domestic and industrial garbage and debris, and biological pollution arising from the introduction of exotic organisms. Regular maintenance must be provided for any devices (e.g., silt or grease traps) built in the buffer zone.

4) Buffers should provide habitat for species residing in the transitional zone between wetlands and uplands. All project designs should consider the movement of food and energy between habitats as well as the life cycles of organisms that feed or reproduce in the wetland but generally reside outside the wetland. Any revegetation work in the buffer area should use native species from local sources.

5) Buffers should allow for passive recreational uses within the area, only if it can be shown that these uses will not adversely impact the wetland ecosystem or the buffer's function as described in the above criteria. These uses should be limited to bird watching, walking, jogging, and bike riding, and may include the construction of paths and interpretive signs and displays. All paths should be constructed to minimize impact to plants and animals.

The DEIR conflicts with this procedural guidance in numerous places, including the following inadequate mitigation measures:

IV.D-29: "Mitigation Measure D-3c: The project applicant shall create a buffer zone surrounding the restored wetland area. The buffer shall be adequate to avoid or minimize effects on wetland and slough resources from direct and indirect disturbances such as entry of sediment, oil, or grease into the preserve; trampling of vegetation; and movement, light, or noise impacts that might interfere with habitat values or wildlife use of the slough and marsh."

13-6 cont.

Simply stating that "the buffer shall be adequate to avoid or minimize effects" fails to meet the disclosure requirements of CEQA; it is impossible to determine whether the buffers will be adequate to reduce impacts to less than significant. The DEIR states that the buffer provided will be 50' (DEIR III-14), yet provides no justification as to how this significantly reduced buffer zone will adequately protect wetlands.

13-6 cont.

IV.H-20: "Mitigation Measure H-5c: The applicant shall ensure that only USEPA-approved herbicides and pesticides are used on the site in any area that might drain to aquatic environments."

13-7

In this case, following the federal and state laws in using only approved pesticides fails to address impacts to wetlands from runoff and inadequate buffer zones.

Environmentally Sensitive Habitat Area (ESHA)

According to the DEIR, "The project site likewise does not contain the essential elements of an ESHA as defined by the Coastal Act." (IV.D-20). However, the City of Eureka Local Coastal Program (LCP) defines coastal wetland as ESHA. Does the City intend to amend its LCP to alter the definition of ESHA? If so, the resulting impacts to the environment must be assessed and mitigated in the DEIR.

13-8

Inadequate Alternatives Assessment

The DEIR fails to adequately assess a complete range of alternatives; in particular the Coastal Dependent Industrial zoning alternative is poorly addressed, even though it is the most appropriate zoning for most of the project area other than the current zoning for Public use. On VI-15, Table VI-4 simply states that the Coastal Dependent Industrial alternative does not avoid or substantially lessen at least one significant impact. Not only does this assessment fail to disclose enough information for agencies and the public to come to a conclusion, it makes no sense, since the significant impacts of the proposed project are transportation and air quality impacts related to the proposed zoning for Commercial Service Commercial, Professional Office, Office Residential, and other non-Coastal Dependent uses. More appropriate uses of the property might include Visitor-Serving or Coastal-Dependent uses as defined as priority uses in the Coastal Act §30255. CNPS would like to see priority uses as defined by the Coastal Act given higher priority, as well as a complete assessment under the project alternatives.

13-9

Invasive Species

The southwest corner of the project area is dominated by *Phragmites australis*, an invasive wetland plant that is known to respond to mechanical disturbance with vigorous vegetative growth; integrated herbicide and burning treatments by the City of Eureka at the Palco Marsh have failed to prevent the spread of this species. Aerial photographs taken over time suggest that the population in the project areas has also expanded in response to mechanical disturbance. The DEIR must address specific methods for

13-10

Comment Letter 13

Comment Letter 13

management and control of this species, including specific performance criteria, to be considered a mitigation measure.

↑ 13-10
cont.

Lack of Sufficient Information to Make a Determination

According to 14 Cal. Code Regs §15064 (b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. According to Public Res. Code §21160, whenever any person applies to any public agency for a lease, permit, license, certificate, or other entitlement for use, the public agency may require that person to submit data and information which may be necessary to enable the public agency to determine whether the proposed project may have a significant effect on the environment or to prepare an environmental impact report.

CEQA is clear that the information used to assess potentially adverse effects shall not consist of speculation, unsubstantiated opinion or narrative, or information that is clearly erroneous or inaccurate (14 Cal Code Regs § 15384).

Furthermore, CEQA requires that sufficient information be provided to allow the lead agency, trustee agencies, and the public to evaluate potentially significant adverse effects and to disclose to the public the reasons why the action was approved [14 Cal Code Regs § 15003, 15091, 15126.2, 15126.4; Public Resources Code § 21082.2]. This is most clearly stated in 14 Cal Code Regs § 15002, which lists the basic purposes of CEQA. Two of these basic purposes are 1) to inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities and 2) disclose to the public the reasons why a governmental agency approved the project in the manner chosen.

Recirculation of the DEIR

According to 14 Cal Code Regs §15088.5, A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information.

New information added to an EIR is "significant" if the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. We believe that the threshold for recirculation has been met due to the lack of completeness of information, the need for additional mitigation measures, the lack of evidence for determination of less than significant impacts to biological resources, and the failure to adequately address feasible alternatives that would avoid or minimize impacts to the environment.

13-11
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According to 14 Cal Code Regs §15088.5, "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.

(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)

(e) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.

13-11
cont.

We appreciate the opportunity to review and comment on the Marina Center Draft Environmental Impact Report. Please keep us informed of future opportunities to review and comment the proposed project.

For the North Coast Chapter,

Jennifer Kalt
Conservation Chair

References:

California Coastal Commission 1994. Procedural Guidance for the Review of Wetland Projects in California's Coastal Zone. <http://www.coastal.ca.gov/wetrev/wetcc.html>

California Department of Fish and Game, Guidelines for Assessing the Effects of Proposed Projects on Rare, Threatened, and Endangered Plants and Natural Communities. May, 2000.

California Department of Fish and Game letter to Humboldt County Community Development Department, re: Draft Eureka Greenways and Gulches Ordinance. May 19, 2008.

Humboldt State University Library Special Collections, Shuster Aerial Photograph Collection. http://dscholar.humboldt.edu/humco/holdings/shuster/Access_Jpa/2001010075.jpg

Jepson Online Interchange: California Floristics. 2009. University of California, Berkeley. http://ucjeps.berkeley.edu/cgi-bin/get_JM_treatment.pl?7038.7045.7054

Letter 13: California Native Plant Society (Jennifer Kalt)

- 13-1 The comment states that surveys were conducted only in late April of 2006 and did not provide a sufficient number of visits spaced throughout the growing season to accurately determine what plants exist on the project site. It states that additional surveys are needed. The comment also states that the plant list includes Drummond's willow, known only from the high Sierra. Next, the comment notes that the Draft EIR states that the highly disturbed site lacks native soils that could support native plant species, and yet the Draft EIR also includes vegetation descriptions that include native plants. Finally, the comment questions the qualifications of the botanist doing the survey.

No special status plants were found on the project site during the systematic surveys botanist Virginia Dains conducted on the project site April 28 and 29, 2006, and again June 17, 2009. The timing of the surveys coincided with the flowering periods for many of the target species, and absence of these species is demonstrated. The absence of other special status plants is based on an assessment of habitat conditions which are not favorable on the property. Further systematic surveys later in the year were determined to be unnecessary given (i) the disturbed nature of the project area and the virtual lack of native soils that could support rare, native species, (ii) the fact that the target special status species, as determined through consultation with the CNDDDB, require habitat conditions not found on the property, and (iii) an April survey of the project site was negative for presence of target species or their habitats. Based on the field work that was completed, it can be stated that the likelihood of special status plants being found on the property is remote. No special status plants are expected to occur at the project site, and further surveys are not required. Consequently, while the project site may contain some native and common plant species, there are no special status species present or expected, as stated in the Draft EIR.

Due to a clerical error, the Hooker's willow (*Salix hookeri*) is incorrectly referred to as the Drummond's willow in the text of the Biological Assessment report, and this is carried forward to the Draft EIR. All references to Drummond's willow, a species of willow found in the Sierra Nevada, should be changed to refer to Hooker's willow.

A resume for the botanist who conducted surveys at the site (Virginia Dains) is included in Appendix T herein.

- 13-2 The comment states that the Coastal Commission's Procedural Guidance states that the boundaries of degraded wetlands "should be based on the area of the entire wetland occupied prior to degradation...." The comment also states that the project site was formerly coastal wetlands or mudflats. The comment states that the Draft EIR needs a new wetland delineation conducted by a qualified botanist and including a historical assessment of the extent of former wetlands.

HBG prepared a delineation of wetlands that would be subject to regulation under the California Coastal Act and submitted this to the California Coastal Commission on June 12, 2007. Wetlands were delineated in a manner consistent with the California Coastal Commission's 1981 *Statewide Interpretive Guidelines for Wetlands and Other Wet Environmentally Sensitive Habitat Areas*, and with definitions of wetlands contained within the California Coastal Act and Title 14 of the California Code of Regulations. Contrary to the point made in the comment, the methodology used by the Coastal Commission does not require a delineation of former or historical wetlands. Moreover, CEQA requires an analysis of a project's effects measured against the current "environmental setting" or environmental "baseline," which is the physical condition of the property at the time the Notice of Preparation is published or at the time the environmental analysis is commenced, and not some historical period as the comment suggests. (See CEQA Guidelines Section 15125(a).) The wetland delineations referenced in this EIR describe the current physical conditions of the project site, and therefore no further wetland delineation or other information is needed.

- 13-3 The comment states that the proposed wetland fill conflicts with the California Coastal Commission Allowable Use Analysis, which states that "to allow even partial filling of any wetland in exchange for restoration can result in a net loss of both wetland acreage and function." The comment states that the Draft EIR statement that "the proposed project would provide the course of action most protective of coastal resources" is false and that the statement is made with no data or evidence.

It is true that the limited acreage and biological function of degraded seasonal and estuarine wetlands at the project site would be temporarily lost as the soils at the site go through the cleanup process, but both the acreage and function of wetlands at the property would be significantly enhanced through implementation of the project. This enhancement would occur not only as a result of removal of site contamination and the correlated elimination of potential pathways to receptors, but also through the replacement of the scattered and degraded seasonal and estuarine wetlands with a contiguous estuarine system of greater acreage, a type of wetland for which opportunities for restoration are much more rare than for seasonal wetland types. Given these considerations, the proposed project would thus provide a course of action more protective of coastal resources. Please also see Master Response 5, which discusses the wetland fill provisions of the Coastal Act.

- 13-4 The comment questions the adequacy of the cumulative analysis on Draft EIR pages IV.D-34 and -35. Please note that the project would include the creation of an 11.89-acre wetland reserve with landscaped buffers. Table IV.D-3 shows that the wetland restoration portion of the proposed project would increase the total acreage of wetlands on the project site. Table IV.D-2 shows how implementation of the project would improve overall wetland functions and values. As such, and as defined in CEQA Guidelines Section 15355, the cumulative impact would be reduced, and no further analysis is necessary.

The comment also notes that the City has not developed a wetland management plan and would not do so in the near future. The comment is noted.

- 13-5 The comment questions the statement that “the proposed project would have a beneficial impact on wetland and other biological resources” and that mitigation would reduce impacts to insignificant levels. The comment states that there is no supportive data, and it indicates that a functional capacity analysis of the wetlands must be included as part of the application for a coastal development permit. The comment further states that information in the Draft EIR also argues that seasonal wetlands are more limited in function due to their transient nature. Finally, the comment states that seasonal wetlands provide many of the same functions as tidal wetlands and provide greater value during certain times of the year.

Seasonal wetlands provide many of the same functions as tidal wetlands, and provision of certain functions during only part of the year is important. However, the Project Applicant is providing a plan to remediate the contamination and eliminate potential pathways to receptors that are associated with the degraded seasonal wetlands on the property and replace them with a more valuable estuarine community. Despite the functions provided by even degraded seasonal wetlands, the estuarine restoration is preferable given the considerations outlined on page IV.D-22 and -23 of the Draft EIR and reiterated in response to comment 3-9: (1) the project site is well-located for creation of a high-quality estuarine reserve, requiring only enhancement of existing estuarine wetland resources, (2) opportunities for creating functional estuarine wetlands are rare, and therefore particularly valuable; here the project site is uniquely suitable for estuarine wetland creation, and (3) existing palustrine wetlands are of such poor quality that the restored wetlands are anticipated to be of much higher quality than those currently on project site.

The Draft EIR correctly spells out a number of significant water quality and habitat benefits to the coastal wetlands and estuary ecosystem that would result from the estuarine wetland mitigation/restoration on page IV.D-24, as follows:

- An increase in the geographic extent of tidal marsh, thus increasing the size of, as well rehabilitating and restoring, the Humboldt Bay coastal wetlands and estuary ecosystem;
- Reintroduction of freshwater flows from the Clark Slough watershed drainage and muted-tidal flows from Humboldt Bay onto the restored wetlands;
- Removal and mitigation of contaminated soils in the Humboldt Bay watershed;
- Removal of non-native invasive plant species;
- Reintroduction of native marsh vegetation and restoration of natural estuarine wetland conditions; and
- Restoration of potential habitat for native and special-status species.

After soil remediation throughout the project site and creation of contiguous estuarine wetlands at the south end of the project site, it can be stated that “the proposed project would have a beneficial impact on wetland and other biological resources.” The preliminary functional analysis of the Draft EIR and accompanying Biological Assessment (Appendix G) bear this out. Thus, the EIR includes the sort of information necessary to make this assessment of function and value for purposes of comparing the current environmental setting against the proposed project.

- 13-6 The comment states that nutrient removal, retention and transformation functions are constrained due to short contact times, existing nutrient loads, and potential for pollutants entering the slough in stormwater runoff. In addition, the comment states that the wetland buffers should be at least 100 feet, and sometimes more. The comment specifically questions the mitigation measure stating in essence that the buffer shall be adequate to avoid or minimize effects.

The importance of the nutrient removal, retention, and transformation function as applied to wetlands is important as it is this function that prevents the adverse effects of excess nutrients such as phosphorous and nitrogen from entering downstream areas, including aquifers or surface waters such as ponds, lakes, streams, rivers or estuaries, and contributing to potential eutrophication of these systems. The extent that the existing palustrine and estuarine wetlands at the project site perform this function is discussed in the preliminary functional assessment shown in Table IV.D.1 of the Draft EIR and included in the HBG Biological Assessment report at pages 16 through 23.

At the project site currently, nutrients such as phosphorous and nitrogen enter palustrine emergent seasonal wetlands through stormwater flows, and the ability of these wetlands to perform a nutrient removal, retention, or transformation function is limited by the shallow depth of many of the low-lying depressions scattered throughout the project site’s uplands. These areas hold relatively little ponded water and dry up relatively quickly from evapotranspiration between cycles of heavy rainfall periods. In addition, ponded water infiltrates past compacted thin surface soil materials, consisting of fine grained materials, and it moves relatively quickly to underlying well-drained fill materials consisting of sandy to sandy loam soils. A nutrient removal, retention, and transformation function is provided to some limited extent in the existing configuration, but the above conditions inhibit these processes because of the volume of stormwater and limited contact with wetland vegetation. There are deeper ditches and a detention basin created by past industrial activities found within the lower southeastern portion of the property where ponding areas are deeper and the contact time for stormwater is of greater duration. This provides greater nutrient removal, retention, and transformation functions than the seasonal wetlands onsite.

In the estuarine emergent Clark Sough channel, the ability to remove, retain and/or transform nutrients is limited due to the small size of fringe wetlands growing along the channel, the lack of connection to adjacent more expansive low-lying tidal marsh habitat, and relatively sparse in-channel (non-native) vegetation. Storm water bearing nutrients

have a relatively short contact time with the slough channel because stormwater flows quickly through the relatively sparsely vegetated, nearly vertical side slopes of this partially rip-rap lined channel.

Once the tidal marsh restoration proposed as part of this project is implemented, there would be an increased area of tidal marsh created as upland fill material is removed and areas are restored to original tidal marsh elevations. Tidal waters would cycle through a larger and more gently sloped, more fully vegetated wetland area on a daily basis and would have greater contact time with a larger area of marsh vegetation and sediments, resulting in an increased function in terms of removing, retaining and transforming nutrients.

In addition, as indicated in response to comment 3-10, the buffer zones between commercial land uses developed as part of the Marina Center project and restored wetlands is proposed to be a minimum of 50 feet as allowed under the LCP where the buffer adequately protects the resources of the habitat area. Buffers of less than 100 feet are included where existing streets, existing rail rights of way, or planned pedestrian trails adjacent to Clark Slough necessitate narrower buffers, and where visual screening or other attributes would be included to protect the resource (e.g., earthen berms and native vegetation to minimize disturbing water birds). In any event, the wetland reserve and restored or newly created wetlands would improve the current conditions of the project site, and therefore the EIR accurately concludes that the proposed project's effects on wetlands and biological resources would be less than significant. Likewise, the project's remediation activities and implementation of the stormwater pollution prevention plan and stormwater drainage and management plans identified under Mitigation Measures H-3a, -3b, 4a, 5a, and 5b would help to improve stormwater runoff over current conditions and reduce the effects of the proposed project to a less-than-significant level.

13-7 The comment states that following federal and state laws in using only approved pesticides would not do enough to mitigate impacts to wetlands. As also discussed in Master Response 4, the drainage plan for the proposed project site would be designed to minimize stormwater pollutants to the maximum extent practicable, which would include any landscaping pesticides or herbicides. In general, use of pesticides or herbicides for landscaping purposes is relatively light compared with agricultural usage although would be considered in the design of the stormwater treatment facilities for the proposed project. See also responses to comments 16-45 and 16-46 for discussion of water quality associated with stormwater runoff and pesticide usage.

13-8 The comment questions whether the existing wetlands on the project site are environmentally sensitive habitat areas (ESHAs). Please see response to comment 22-8, which states that a portion of the project site may be designated as an ESHA under the Coastal Act, but that the wetlands at the project site are highly scattered, degraded and largely created from past industrial use of the project site. The project site is dominated by invasive, non-native plant species and lacks suitable habitat for sensitive or special status species.

- 13-9 The comment states that the alternatives analysis provided in Chapter VI should have included a further discussion of the Coastal Dependent Industrial Alternative, including a quantified transportation and air quality discussion.

Because the project site is not immediately adjacent to the Humboldt Bay, the ability of the project to accommodate coastal-dependent uses is limited. Therefore, the Coastal Dependent Industrial Alternative does not contain any coastal-dependent uses, but the Draft EIR does identify a number of possible coastal-related uses. The coastal-related uses that are considered in the alternatives analysis would not lessen impacts related to transportation and air quality to a less-than-significant level, as stated in Table VI-1 on page VI-11.

- 13-10 The comment states that the Draft EIR must include specific methods for management and control of *Phragmites australis*, including specific performance criteria. The Draft EIR includes specific performance criteria and measures to address long-term management of the wetland reserve and control of invasive plant species. (See, e.g., Mitigation Measure D-3a, D-3b, and D-3f.) In addition, the restoration plan includes an extensive monitoring and adaptive management component that requires that a qualified biologist verify the success of the restoration project after five years and, if necessary to address management issues, recommend and implement contingency measures to satisfy the no-net-loss performance criteria. This performance-based adaptive management component of the restoration plan is designed to address precisely the sort of concern that the comment identifies. It is impractical, if not impossible to dictate the sort of measures that may be necessary to eradicate or properly contain *Phragmites australis* so far in advance of project activity. Indeed, if construction-related measures implemented to address non-native plant species are successful, long-term management of *Phragmites australis* may not be necessary at all. Techniques generally used to control *Phragmites* may include, for example, chemical treatment (i.e., spraying herbicides) or physical treatments such as mowing and flooding.
- 13-11 The comment regarding changes to the Draft EIR, and when those changes require recirculation, is noted. Please see responses to comments 13-1 through 13-10 regarding specific comments made in the letter. The information included in the comment and other comments, as well as these responses, do not constitute “significant new information” under CEQA, and therefore the City need not re-circulate the Draft EIR.

Comment Letter 14

Comment Letter 14

Memo

January 31, 2009

To: The City of Eureka
From: Philip King, Ph. D.
Re: Comments on Balloon Track Retail Development in Eureka, California

I have been asked by Citizens for Real Economic Growth to review the EIR and subsequent memos for the Eureka Balloon Track Retail Development, planned at 586,000 sq. ft., including a 132,000 sq. ft Home Depot, 205,500 of additional retail, 104,000 sq. ft of office space, and 70,000 sq. ft of "industrial space." The last two items are significant but receive almost no attention in the EIR analysis, a serious deficiency.

First, the EIR's estimate of sales taxes is grossly overstated for reasons I outline below. Simply put, people will not spend more because there is a new shopping center and in the current economic downturn it is clear to everyone, except the consultants who prepared this EIR, that they will spend considerably less. The key issue is whether consumers will shift their spending to stores in Eureka as a result of the new Home Depot and other stores. As the EIR outlines, Eureka already serves as a magnet for retail and already has a number of hardware stores, a Borders bookstore, etc. Adding new retail to this mix will simply shift sales from one exiting store to another, in the process creating store closings and urban decay. The EIR attempts to get around this obvious point by assuming no sales leakage in any retail category throughout the county, which, as this memo shows, is completely unrealistic and inconsistent with all of the economic theory associated with this type of analysis. Moreover, there is already existing retail space to fill this leakage if the demand is there. The EIR also extrapolates growth from the bubble years in 2000-2004 on to 2010. Clearly this assumption is ludicrous—it is this type of thinking that landed the US economy in the fix that we are now in We need realistic, accurate projections if our economy is to succeed in the future, not dishonest reports which serve narrow self interests. In my professional opinion, the costs to the City of Eureka, in terms of cleaning up the urban decay, will far exceed the relatively modest net sales tax revenues that will be generated by the project.

14-1

This rest of this memo will focus on the urban decay analysis prepared by CBRE for Home Depot (November 2006—hereafter referred to as the CBRE report) as well as their recent (October 2008) "update" and material in the main body of the EIR. I would like to note at the outset that CBRE has prepared a number of reports for Home Depot and other Big Box firms. To my knowledge it has never found any evidence of urban decay anywhere nor did it offer any insights at all on the current economic downturn. CBRE is a large real estate consulting firm which, according to a recent annual report is determined to serve its clients with all of their real estate needs. There is a clear conflict of interest here since, apparently, one of CBRE's functions is to minimize any potential determination of urban decay impacts even where it is clear that urban decay is a real problem that should be recognized and mitigated.

5-116

The California Environmental Quality Act (CEQA) was created to ensure that environmental impacts created by new projects are identified and mitigated wherever possible, not be swept under the rug. Unfortunately in this case, the EIR overlooks clear evidence of urban decay in the City of Eureka. As I discuss below, the EIR also systematically overestimates the demand for retail in Humboldt County, violating the standards clearly set in the Bakersfield case and many other subsequent cases. Despite this overestimate, the EIR still concludes that in many categories it will take over ten years to mitigate the oversupply of retail created by this project. As I show, below the inevitable consequence of this oversupply of retail will be urban decay.

The EIR omits any discussion of Existing Urban Decay in Eureka and seriously underestimates existing Vacancies

14-2

The EIR briefly discusses the "historic downtown" and "historic old town" area (see CBRE report and map Exhibit 17)) but omits clear evidence of vacancies and existing urban decay in these areas as well as other existing vacancies in Eureka. The EIR focuses on the fact that a small part of this area has been developed for tourism, while ignoring the fact that the vacancy rate is extremely high. A 5% vacancy rate is considered healthy, but the vacancy rate in central Eureka is considerably higher—higher than 10% and growing—which is considered to be dangerously high.

Table 1 below documents the current vacancy rate in central Eureka (as of January 7, 2009) not including vacancies at the Bayshore mall (which is now mostly vacant in square footage terms) as well as vacancies at some other shopping centers. Overall there are 127 vacancies, an extremely high number in a small city such as Eureka—and one that was ignored in the EIR. The vast majority (85-90%) of these vacancies are former retail stores, but some offices and other vacancies are also included.(the proposed project also includes office space). A small number of these vacancies may be seasonal, but the vast majority of these spaces are "For Lease" or abandoned.

This is hardly a sign of a healthy downtown/central business district as the EIR claims. Clearly the EIR's failure to accurately assess vacancies in central Eureka is a key omission/flaw in the analysis. In my professional opinion, Table 1 and the Figures below provide substantial evidence that existing vacancies and urban decay were ignored or seriously underestimated in the EIR. The photos represent only a small sample, as indicated in Table 1, of total store closures and of existing or potential urban decay. The EIR's failure to accurately describe and discuss existing environmental setting (i.e., serious and significant existing urban decay) should be grounds for rejecting it.

In addition, although the Balloon Track development contains over 100,000 square feet of new office space and 70,000 square feet of industrial space. The EIR contains little or no discussion and no real analysis of, the demand for office/industrial space or existing office/industrial space vacancies. The EIR claims that many closed stores can be retenanted, despite clear evidence in their own EIR that retenancing will be a major issues. Many stores have been closed for years. Further, it is clear that one potential source of new tenants in vacated spaces downtown and elsewhere, are office and industrial space tenants. The creation of 174,000 square feet of new office/industrial space should also have been analyzed in the EIR, but wasn't.

Comment Letter 14

Table 1: Vacancies in Central Eureka

01, 02, 03	Next to 3360 Jacobs Avenue	Former industrial supply
04	4 th St. North	Former Spadoni's Mkt.
05	4 th St. North	Former Udder Place coffee
06	427 V St.	Former Mexican restaurant
07	2006 4 th St.	Storefront
08, 09	1930 4 th St.	Former cardroom
10	3 rd St.	Former Goldrush Coffee
11	2212 2 nd St.	Service/auto
12	321 X St.	Auto sales
13	5 th & hwy 255	Former Pizza Hut
14	435 5 th St.	Former Arctic Circle
15	1515 5 th St.	The Rental Market
16	923 3 rd St.	Office for lease
17, 18	835 3 rd St.	Professional office
19	310 2 nd St.	Dental office – ½ Empty
20	124 2 nd St.	Vacant building
21	2 nd & D Sts.	Former 'Consider the Alternatives'
22	2 nd and D Sts.	Former 'Jimmy Dunne's'
23	333 1 st St.	Former Cop Bldg.
24	322 1 st St.	office building
25	1 st St	Eureka Ice & Cold Storage
26	91 1 st St.	Former GoFish Café
27	2 nd St	Imperiale Place
28	foot of F St.	Bayfront 1 restaurant

Comment Letter 14

Table 1: Vacancies in Central Eureka (Continued)

29, 30, 31	between D & E on 2 nd St.	Former Restoration Hardware
32	311 E St.	Storefront
33	235 4 th St.	Empty office
34, 35, 36	215 4 th	Former Eureka Reporter
37	4 th & B St.	Former Joe's Smoke Shop
38,39	400 Broadway	Former East Bay Machine
40	300 Broadway	Former All about the Dogs
41	122 W. 4 th St.	Empty shop
42	3 rd and I	McMahans Furniture
43	W. 6 th St.	Former OH's Townhouse
44	105 W. 5 th St.	Empty store
45	117 W. 5 th St.	Empty store
46	F & 5 th Sts.	Former Moon's toystore
47	520 5 th St.	Empty store
48	524 5 th St.	Empty store
49	532 5 th St.	Empty store
50	423 F St.	Empty store
51	4 th & F St.	Former Bank of America
52	2297 Harrison St.	Former Duck's Market
53	511 H St.	Empty store
54	F St. next to Eureka Theater	Empty store
55, 56	6 th & b St.	Empty car lot
57	7 th & A St.	Former Rental Helpers

Comment Letter 14

Comment Letter 14

58, 59	120 7 th St.	Former auto sales
60	133 7 th St.	Former auto parts store
61	301 7 th St.	Former VW auto sales
62, 63	7 th & F St.	Eureka Inn
065	Broadway & Grant	Former muffler shop
066	1630 Broadway	Empty store
067	1626 Broadway	Empty store
068,69	Wabash & Broadway	Former Channel 6 TV
070	2029 Broadway	Former Napa auto parts
071	2616 Broadway	Former truck stop
072	2710 Broadway	Former café
073	Boardwalk Mall, Broadway	Former Wise Flooring
074	Boardwalk Mall, Broadway	Empty office
075	#10 Victoria Place, Broadway	Empty Beauty Supply store
076	#12 Victoria Place, Broadway	Empty Women's Gym
77 - 106	3000 Broadway, Bayshore Mall	31 Empty stores + 2 signs
107	3990 Broadway	Former Nader auto
107 108	Elk River Tallow Works	Vacant
0109	S. Broadway, east side	Vacant lot
110	Eureka Mall, Henderson side	Empty store
111	Eureka Mall, Henderson side	Former 6 Rivers Bank
112	311 Harris	Former pain clinic
113	Henderson between F & G	Former Sun, Rain, Time

114	437 Henderson	Former Thrift Store
115	2858 E St.	Empty realty office
116	next to 2912 E St.	Empty store
117	2607 Harris	Empty office suites
118	2761 Hubbard lane	Former trailer rental lot
119	Myrtle Avenue	Former Redwood Pharmacy
120	Myrtle & Park St.	Former gas station
121	23 rd & Harrison Ave.	Former Planned Parenthood
122	2456 Buhne	Empty Med. Office building
123	Walnut & Hemlock	New bldg for lease
124	101 Wabash	Empty gas station
125	Wabash & Union	Empty shop bldg
126	Wabash & Union	Empty church
127	2816 F St.	Former Roberts gift store

Similarly, the EIR also ignored existing urban decay in central Eureka. A number of stores are boarded up and in a poor state of repair. As vacancies linger, routine maintenance of properties will suffer and urban decay will increase significantly. Given the poor state of the overall economy and the downturn in the timber industry, some urban decay is inevitable, but the proposed project will significantly exacerbate the situation, leading to serious urban decay in central Eureka. 14-3

Comment Letter 14

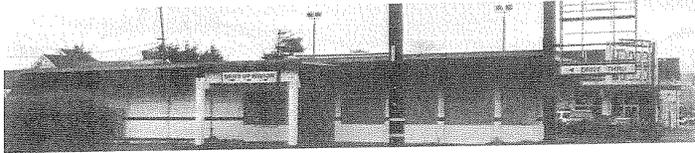


Figure 1: This store on 15th Street is boarded up and starting to deteriorate.

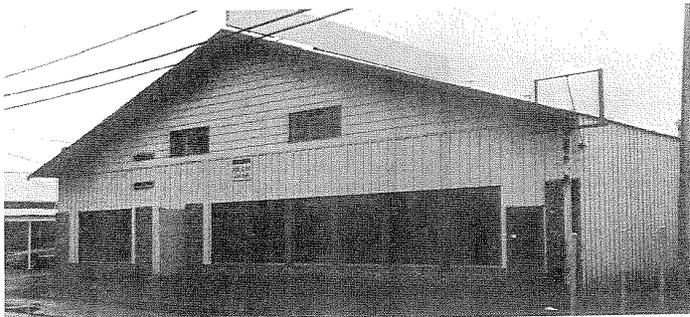


Figure 2: This store at 3d and Jacobs is vacant and suffering from lack of maintenance.

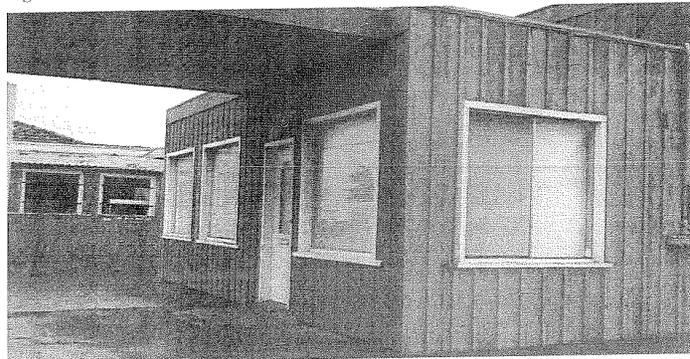


Figure 3: This building on 4th Street is deteriorating.

Comment Letter 14



Figures 4 and 5: Empty storefronts on 5th Street showing signs of lack of maintenance—without tenants and with few prospects of future, landlords have little incentive to upkeep property.

Comment Letter 14



Figure 6: Downturn in Auto Industry including closed dealership on 7th Street

Vacancies at Bayshore Mall

The EIR briefly discusses the Bayshore mall and discusses some of the major vacancies, but the entire discussion serves to dismiss what is clearly a failed shopping center where conditions are going from bad to worse.

The Bayshore mall has lost most of its anchor tenants and prime draws—Old Navy, the Gap, Mervyns and now Gottschalks has declared bankruptcy and will leave Bayshore as well. This leaves very few anchor tenants and the remaining ones such as Sears and Borders have also been experiencing difficulty and may very well close. If the Balloon Track development includes a 25,000 square foot bookstore (most likely a Barnes and Nobles) as planned, the Borders will almost certainly close.

The smaller storefronts inside the Bayshore mall are also closing and the vacancy rate here is well over 20% --considered to be dangerous. A very partial list of store closings includes the following stores:

1. Arbys
2. Sweet River Grill.
3. Campost Casual
4. Old Navy.
5. JC Penney outlet.
6. Site for Sore Eyes.
7. Vitamin World.
8. Suncoast movies.
9. Rocxco furniture.
10. Hot dog on a stick.
11. Gottschalks other store outlet they own in the mall.

5-120

14-4

Comment Letter 14

12. Bayshore mall cinema
13. KB toys.
14. Candy factory
15. Wilson's Leather

14-4 cont.

Indeed, people have described the mall as a "ghost town." The Balloon Track development will kill this mall and lead to urban decay.



Figure 8: One of many storefronts closed in the Bayshore Mall

Other shopping centers in the area are also experiencing difficulties, but the Bayshore mall is most exposed.

Despite these Omissions, the EIR concludes that in many retail categories it will take more than 10 years to "mitigate" impacts. Table 2 below reproduces the data in Table 11 from the urban decay analysis prepared by CBRE in the EIR. As one can see, most retail categories will take more than ten years to be "mitigated." AS discussed below, the somewhat more optimistic projections in a few categories rely on overly optimistic growth projections as well as an assumption that the Primary Trade area for Eureka includes all of Humboldt County, and that no leakage will occur, despite the fact that rural areas always experience some leakage, especially in categories such as apparel. The fact that the GAP and Old Navy closed does not indicate that a robust demand for new apparel retail exists in Humboldt County—if these large retailers cannot operate in

14-5

Comment Letter 14

Comment Letter 14

Eureka, it is unlikely that the EIR's assumption that no leakage in apparel will exist, is realistic.

Table 2: EIR's analysis of time to Mitigate Vacancies¹

Retail Category	EIR est. of "Years to Mitigate"	Comments
Apparel	N/A	Unrealistically sssumes no leakage
Eating/Drinking	3 years	Assumes high growth rate
Home Furnishings	N/A	Assumes high growth rate
Building Materials	10+ years	
Specialty Stores	10+ years	
Garden Supplies	10+ years	
Other Retail	10+ years	

14-5 cont.

It is especially clear that in the areas of building materials, specialty stores, garden supplies and "other retail" existing stores such as the numerous hardware stores in Eureka and Arcata will close. It is impossible to predict which stores will close, but the addition of a big box home improvement and other stores will clearly take sales away from existing businesses, some of which are already struggling. One can expect that over 300,000 square feet of retail would displace a substantial amount of other retail, exacerbating existing urban decay in an already weak economy. In addition the office and industrial space will take away demand for such space elsewhere in Eureka, further exacerbating urban decay. This is a very significant environmental impact and the omissions in the EIR lead directly to a faulty analysis of this issue. **In my professional opinion, the Balloon Track project will significant add to already existing urban decay in Eureka creating a serious environmental impact that has not been properly evaluated in this EIR.**

The EIR Systematically Overestimates Demand for Retail in Eureka

The picture painted above is already bleak. However, it is clear that the EIR has used non-standard techniques and faulty economic analysis to systematically overestimate the demand for retail in several key ways:

1. It assumes that the primary market area (PMA) is *all* of Humboldt County which contradicts the basic theory of trade areas. It omits the fact that many people in Humboldt County live closer to Crescent City and Fort Bragg which also offer significant retail, and Redding, which is a day trip away for everyone in Humboldt County, has far more retail.
2. It assumes no retail leakage in all retail categories despite the fact that Humboldt County is rural and economic theory as well as empirical evidence, indicates that rural counties always have substantial leakage in many retail categories.

14-6

¹ From CBRE report (Nov. 2006) contained in the EIR, Table 11, p.32.

3. It extrapolates the growth in retail demand from 2000-2004, during the boom years in what we now know was a real estate and consumer credit bubble, and assumes that this growth would continue to 2010, when it is now clear (and was when CBRE updated its report last November) that this growth was unsustainable, even after the current recession abates.

14-6 cont.

As the name implies, a primary market represents where people do most of their shopping. It is clear that the Eureka/Arcata area does represent a primary market area for about half of Humboldt County residents. However for the roughly 50% of Humboldt County's population who live outside of the greater Eureka/Arcata area, Eureka and Arcata, represent a secondary market area and it should have been designated as such. In this secondary area, consumers still spend much, but certainly not 100%, of their retail dollars in Humboldt County, as the EIR assumes. One would expect some sales in outlying areas will be siphoned off to other areas. In particular, significant parts of Humboldt County are closer to Crescent City and Fort Bragg, which also contains significant retail opportunities, and Redding, which contains far more retail opportunities not available anywhere in Humboldt County, is also available for day trips to all residents of Humboldt County.

Indeed, the standard economic theory of trade areas predicts that relatively rural areas will have some leakage to areas with denser populations which provide more retail opportunities. This very phenomenon was mentioned in a peer review by another consultant contained in the EIR, who suggested that a gravity model (which views the demand for retail in Eureka as a function of distance and retail opportunities) and was ignored by CBRE. A gravity model, properly applied, would be an excellent way to model demand. However, an acceptable way would be to assume that the parts of Humboldt County outside the Eureka/Arcata metropolitan area constitute a secondary market with a lower demand (assuming some leakage outside the County).

The Bakersfield Case and several other subsequent cases have also clearly pointed out that an EIR needs to examine overlapping trade areas, which, in this case would include the pull of retail in Crescent City, Fort Bragg and Redding. No such analysis was performed in this EIR.

Indeed, one should assume some leakage even in Eureka and Arcata, since it is a relatively rural area which cannot provide a full array of retail opportunities. For example, in apparel and department store retail, Humboldt County does not have the population density to provide even one outlet for a number of very popular retailers such as Abercrombie and Fitch, Ann Taylor, The Men's Wearhouse, Macys, Nordstrom, etc. Indeed, even the Gap and Old Navy stores in Eureka closed and remain vacant due to insufficient demand. Creating new, unneeded retail space will not create this demand and customers in Humboldt County who want these items will have to travel outside the County or order online, creating retail sales leakage.

The observation that sales leakage is higher in rural areas is not just theoretical, it has been observed by a number of academic studies. For example, in the State of Nevada, Thomas Harris of the University of Nevada Reno, finds² that in Nevada, rural counties

² See Commercial Sector Development in Rural Communities: Trade Area Analysis, by Thomas Harris, University of Nevada Reno, Western Regional Development Center, Oregon State University,

has a “pull factor” (actual retail sales as a percentage of demand in the area) significantly less than one. Similar studies in Iowa, Mississippi and Minnesota have reached similar conclusions.

However, the EIR assumes that Humboldt County, despite lacking many types of retail stores, will satisfy 100% of all retail demand. This assumption makes no sense empirically or theoretically and is in complete opposition to the literature in this area. Thus CBRE has completely ignored what is accepted practice and empirical reality and essentially assumed whatever it needed to justify this project.

The assumption that Humboldt County will provide 100% sales in all retail categories the EIR examined is nonsense. A far lower estimate should have been applied depending upon the trade area (as mentioned above a primary and secondary area should have been used) and the retail category. (Typically larger purchases or purchases of specialty items are more likely to take place far away.) Had this been done properly, the analysis in the EIR would have estimated a demand for retail several hundred millions of dollars less than estimated in the EIR, implying and even greater overcapacity in retail (and far lower sales taxes for the City). Indeed, if CBRE’s estimates are correct, why are stores like the GAP and Old Navy closing? The GAP (which also owns Old Navy) is not going out of business and is ubiquitous across the U.S.

The second shortcoming of the model is that the EIR extrapolates the growth rate in retail from 2000-2004 forward. As we now know, in the years 2000-2004, consumers went on a spending spree, spending more money than they had, largely due to the bubble in real estate and credit markets in general. We are in a serious recession, of the type we have not experienced in decades. Most economists refer to this downturn as the “worst in the post-war (WWII) era” or the most serious economic crisis since the great depression. This downturn is not similar to the more predictable cyclic real estate slow downs and recoveries of the 1980s and 1990s or even the 1970s. Further, it is clear from analyzing long term trends that the low savings (and correspondingly high spending) rates of the last ten to fifteen years are over, implying a 5-10% permanent reduction in consumption as a percentage of income, even after the economy recovers. That reduction in consumption will hurt retail businesses, locally and nationally.

The EIR, as well as CBRE’s memo from a few months ago, fails to adequately address the current economic downturn and its ramifications. During the period, 2000-2004, when which the EIR uses as a baseline to extrapolate sales growth, Americans went on a spending spree. Savings as a percentage of income declined to its lowest point in U.S. history and by late last year (2008) the personal savings rate was actually negative for a time. The reason for this decline in savings and corresponding increase in consumption are not hard to ascertain. Credit was cheap and easy. In particular, mortgage equity withdrawals rose dramatically and other forms of consumer credit (credit cards, auto loans, etc.) were easily available until a year or two ago.

The result of this easy credit is shown in Figure 1 below. The U.S. personal savings rate averaged around 8% until the mid-1980s and then began a precipitous decline. The decline is US savings was financed by easy credit and borrowing from abroad.

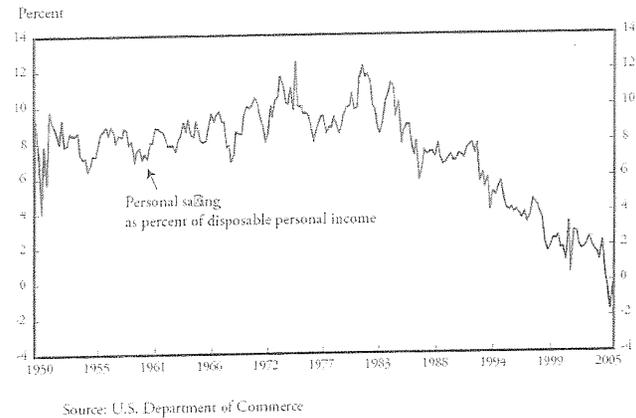


Figure 9: U.S. Personal Savings Rate 1950-2005³

This era of easy credit is over—this is not a controversial statement, since there is a wide consensus among economists of differing ideologies. Even the mainstream media is reporting this trend. For example, *Newsweek* recently reported:

“The shift to thrift is of course natural in hard times, as consumers worry about their jobs and shut their wallets amid the deepening gloom. This time, however, the clampdown on spending appears to be more than a sharp but temporary downturn of the economic cycle. In Britain, the U.S. and other consumer-driven economies, including Spain and Ireland, it seems to herald a much broader shift: the end of a way of life based on freewheeling consumption fueled by easy credit and the wealth effect of ever-rising asset values. Already, once spendthrift Americans have hiked their personal saving rate from near zero, where it's hovered for several years, to almost 3 percent in November. Merrill Lynch chief economist David Rosenberg expects the rate will soon rise to 8 percent and beyond, levels last seen 20 years ago. Just like overleveraged and undercapitalized banks, Rosenberg says, private households are now repairing their own balance sheets by spending less, saving more and paying off their debt. And just as in the financial industry, this is beginning to look less and less like a quick fix—and increasingly like a long-term change of habits.

Rosenberg and other economists who believe that thrift will be the new normal say long-term change will come on three fronts. First, the wealth

³ Data from Federal Deposit Insurance Corporation, Bureau of Research and Statistics, Working Paper 98-2, The Rising Long Term Trend in Foreclosure Rates, by Peter Elmer and Steven Selig,

destroyed in this recession looks likely to be so vast that it will force a change in behavior, much as World War II rationing or the Depression seared fears of scarcity into an entire generation. The second change is the death of a risky financial-sector business model that saw banks hand out ever more loans and pass them on to other investors as "assets." This in turn created huge floods of credit to pump into mortgages and other consumer debt, which bloated spending and real-estate values, but won't in the future. Third, because neither governments nor investors will tolerate a return to risky bubble-era practices, banks will have to relink credit to deposits and look more carefully where they lend. Bob McKee, analyst at Independent Strategy, a London investment consultancy, says this will slow down credit growth and funnel loans to companies that produce and invest, instead of to whiz-kid financial operations. All this is conducive to slow and steady growth—but not the huge run-up in asset prices of the credit-bubble era. It is therefore unlikely, says McKee, that asset values will return to their old levels and erase current wealth destruction any time soon.⁴ [Emphasis added.]

The analogue of higher savings (from almost zero) is lower consumer spending as a percentage of income. Figure 10 below indicates that as savings has fallen, consumption as a percentage of income has risen. Last year consumption as a percentage of GDP hit an all time high of 72%, far higher than the long term average, which is (depending on the time frame) is between 63% and 67%.

Consequently, a reduction in consumer spending as a percentage of their income to long term trends implies a 5-10% long term reduction in consumption as a percentage of income, after the economy recovers. This CBRE's contention that retail will continue the trend of the late 1990s and early 2000s after the recession ends is not based on sound, substantial evidence or analysis (indeed they provide none). The long term trends clearly indicate a trend towards less consumption.

The housing/home improvement market which Home Depot caters to is particularly vulnerable to this trend as housing prices drop and home equity lines of credit become more difficult to obtain.

In terms of urban decay, this reduction in consumer spending reduces the demand for retail and thus the demand for retail space, significantly exacerbating the already negative impacts of the Home Depot store that I have outlined above and earlier.

⁴ See "Tight-Fisted Is Back In Style: Economic frugality surges into fashion as the global recession ushers in an Age of Thrift," by Stefan Theil, NEWSWEEK, Jan 26, 2009.

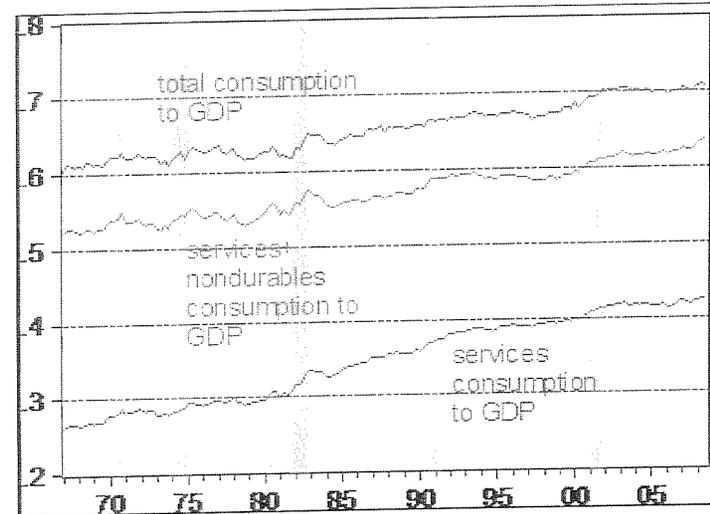


Figure 10: Consumption Expenditures as percentage of GDP: 1965-2008⁵

The EIR uses their extrapolation, based on a significant error in the analysis, to justify a \$74 million dollar increase in sales by 2010. Indeed, we know now that that assumption is flawed. They compound the error by reiterating this extrapolation in the October 2008 memo. Clearly this significant error, which leads to a gross overestimation in the demand for new retail needs to be corrected. Indeed, as my data above shows, one should assume a loss in sales based on the fact that consumption as a share of income was artificially high in the 2000-2004 period. When compounded with the other errors overestimating demand in the EIR, this problem is even more serious and leads one to conclude that the potential for further urban decay, already significant, is even worse.

Case Studies in the EIR

The EIR also uses case studies of Home Depots in Ukiah, San Rafael and Woodland, California as examples of successful Home Depot development. I have a couple of brief comments here. First, it often takes several years for stores to close as businesses struggle to survive, though with credit becoming much harder to obtain and the economy decelerating, one should see an increase in store closings nationwide. For example, an Ace Hardware store in Lodi California remained open for several years after a Lowe's store was built nearby several years ago, but the ACE store is now closed. Second, San

14-7

⁵ Source: US Dept of Commerce Bureau of Economic Analysis.

Comment Letter 14

Comment Letter 14

Rafael is located in one of the most affluent areas of the country, Marin County, where retail development has been severely limited.

Third, I live quite close to Woodland (within ten miles) and am extremely familiar with the retail climate there. The statements made in the EIR about the health of Woodland retail are inaccurate. Woodland has experienced a huge increase in retail over the last five years along with growth in residential development which has now slowed to a crawl. In addition to the Home Depot, a new Wal-Mart, a new Costco, and a new Target (replacing an existing store) have been built and other stores are planned.

The downtown in Woodland is not thriving, as stated in the EIR, but has continued to stagnate even in the boom years of 2000-2004. The "antique stores" that the EIR mentioned are in fact, second hand stores which have very low sales per square feet and operate in low rent buildings which have continued to deteriorate over the past ten years. Other retail in Woodland has also stagnated and many stores are now stagnating.

Most significant, the County Fair mall in Woodland, which before the recent developments, was the main regional shopping mall in Woodland, has many similarities to the Bayshore mall in Eureka and it is likely this mall will close. One anchor store, Mervyns, has closed and another anchor store, the old Target has now closed with since the new Target was opened. Even before these closures, the mall struggled and had many vacancies and marginal stores. Not all of these closures can be attributed to the Home Depot, but the cumulative impact of all of these new stores opening has lead to the preconditions for urban decay in Woodland. The City of Eureka is in far worse shape than Woodland, which is in a much more urban area (the greater Sacramento area) and serves as a bedroom community for people whom work in Sacramento and Davis as well as Woodland.

Conclusion

In sum, the analysis in the EIR contains many omissions and errors. Experts can and do disagree, but the consultants who prepared the EIR clearly ignored/omitted a great deal of data that would harm their case and also twisted their assumptions in a way which completely contradicts all accepted theory and empirical studies in order to generate a false demand for this development. The EIR ignores/omits many vacancies in Eureka and existing urban decay. The EIR also omits any true analysis of the significant amount of office space or industrial space (174,000 sq. ft.) contained in the project and its impacts on urban decay, which will also be significant.

Despite these errors and omissions, the EIR still concludes that in several retail categories it will take more than ten years to mitigate retail oversupply. The EIR argues that stores will simply suffer lower sales and survive (and it provides no evidence for this assertion), but it is clear that many retailers in Eureka are already struggling and will continue to struggle, especially through the current recession. The Balloon track development will exacerbate this oversupply and will lead to further urban decay in Eureka. Correcting these omissions and errors leads one to a completely different conclusion. The EIR has clearly not met the requirements of CEQA and should be rejected.

14-7
cont.

14-8

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Education:

July, 87	Ph.D. in ECONOMICS Fields: Applied Microeconomics, Economic Development, International Economics Dissertation: Bargaining between Multinational Corporations and Less Developed Countries over Mineral Concessions Contracts.	CORNELL UNIVERSITY
May, 78	B. A. in PHILOSOPHY & ECONOMICS Nominated to Omicron Delta Epsilon (Economics Honor Society.)	WASHINGTON UNIVERSITY

Work Experience:

1/06-present	ASSOCIATE PROFESSOR	SAN FRANCISCO STATE UNIVERSITY
9/02-12/05	CHAIR, ECONOMICS DEPARTMENT	SAN FRANCISCO STATE UNIVERSITY
9/93-present	ASSOCIATE PROFESSOR	SAN FRANCISCO STATE UNIVERSITY
9/87-9/93	ASSISTANT PROFESSOR	SAN FRANCISCO STATE UNIVERSITY
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Books: *International Economics and International Economic Policy*, 5th Edition, McGraw-Hill, 2009.
International Economics and International Economic Policy, 4th Edition, McGraw-Hill, 2004.
International Economics and International Economic Policy, 3rd Edition, McGraw-Hill, 2000.
International Economics and International Economic Policy, 2nd Edition, McGraw-Hill, 1995.
International Economics and International Economic Policy, 1st Edition, McGraw-Hill, 1990.

Published Papers:

"Potential Loss in GNP and GSP from a Failure to Maintain California's Beaches", Fall 2004, with Douglas Symes, *Shore and Beach (Refereed)*.

"Do Beaches Benefit Local Communities?: A Case Study of Two California Beach Towns," Fall 2002, *Proceedings of the Conference on California and the World Oceans*.

"The Economic Value of California's Beaches," Fall 1997, *Proceedings of the Conference on California and the World Oceans* (with Michael Potepan.)

"William Simon: Treasury Secretary," in *Biographical Dictionary of the United States Secretaries of the Treasury: 1789-1995*, edited by Bernard Katz and C. Daniel Vencill, Greenwood Press, 1996.

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"Negotiations over Mineral and Petroleum Contracts in Developing Countries: a new explanation," Winter 1987, *Journal of Economics and International Relations*.

Comment Letter 14

"A Political Theory of MNC-LDC Negotiations over Mineral Concessions Contracts," 1988, *International Interactions*.

Policy Papers prepared for Government and Non-Profit Organizations:

Economic Analysis of a Proposed Ordinance to Limit Grocery Sales at Superstores in Stockton, California (with Sharmila King), prepared for the City of Stockton. May 2007.

Contributed Economics Portion of: "The ARC GIS Coastal Sediment Analysis Tool: A GIS Support Tool for Regional Sediment Management Program: White Paper, Draft Technical Report for U.S. Army Corps of Engineers, by Ying Poon (Everest Consultants), Los Angeles District, April 2006.

Contributed Economics Portion of: "Coastal Sediment Analysis Tool (CSBAT) Beta Version--Sediment Management Decision Support Tool for Santa Barbara and Ventura Counties," Draft Technical Report for U.S. Army Corps of Engineers, by Ying Poon (Everest Consultants), Los Angeles District, June 2006.

"The ArcGIS Coastal Sediment Analyst: A Prototype Decision Support Tool for Regional Sediment Management, John Wilson et. al., USC Geography Department, 2004 (contributed economic analysis for paper).

"The Economic of Regional Sediment Management in Ventura and Santa Barbara Counties," prepared for the California State Resources Agency, Final draft (refereed) , Fall 2006, prepared for the Coastal Sediment Management Work group (CSMW), (Refereed).

"The Potential Loss in GNP and GSP from a failure to Maintain California's Beaches," with Douglas Symes, prepared for the California State Resources Agency, 2002, <http://userwww.sfsu.edu/~pgking/pubpol.htm>, (Refereed).

"The (Economic) Benefits of California's Beaches," prepared for the California State Resources Agency, 2002, <http://dbw.ca.gov/beachreport.htm>.

"The Economic and Fiscal Impact of Beach Recreation in San Clemente," presented as part of Hearings on Congressional Appropriations for California Coastal Projects, US House of Representatives, April 2002. Also completed similar projects for Cities of Carlsbad, Carpinteria, Encinitas, and Solana Beach.

San Francisco's Economic Growth 1995-2000: The Fiscal Health of the City and Implications for the Future," prepared for the San Francisco Committee on Jobs Summer 2001. This report was widely cited in the San Francisco press including front page articles by the *Chronicle* and *Examiner*.

"The Demand for Beaches in California," prepared for the California Dept. of Boating and Waterways, Spring 2001.

"Cost Benefit Analysis of Shoreline Protection Projects in California," prepared for the California Dept. of Boating and Waterways, Spring 2000.

"The Fiscal Impact of Beaches in California," prepared for the *Public Research Institute*, San Francisco State University, Fall 1999, available at <http://online.sfsu.edu/~pgking/beaches.htm>.

"An Economic Analysis of Coastal Resources on the Majuro Atoll," prepared for the *United Nations*

Comment Letter 14

Nations Development Program Project MAS 95/001/D01/99 and the *Majuro Atoll Local Government*, September, 1997.

"The Economic Impact of California's Beaches," prepared for the *Public Research Institute*, San Francisco State University, Summer, 1997 (with Michael Potepan.)

"The Revenue Impact of the Proposed Marine Link Pipeline System in Richmond, California," prepared for the *Public Research Institute*, San Francisco State University, Spring, 1997 (with Ted Rust.)

"The Economic Impact of California's Ports and Harbors," prepared for the *Public Research Institute*, San Francisco State University, Spring, 1997 (with Ted Rust).

Public Testimony:

Testified to Stockton City Council on a proposed Big Box Ordinance, May 2007

Testified and prepared report to the California Coastal Commission in San Diego on the economic loss due to a proposed seawall at Las Brisas, Solana Beach, California.

Letter 14: Citizens for Real Economic Growth (Philip King)

14-1 The comment states that CBRE Consulting's estimate of sales taxes is overstated because "people will not spend more because there is a new shopping center. . . Adding new retail to this mix will simply shift sales from one exiting (sic) store to another." This concern is addressed in Master Response 1 under the subheading "Fiscal Impacts to the City of Eureka and Other Jurisdictions." The issue of taxes does not relate to the physical environment and so is not relevant to CEQA. However, the history of retail in Eureka shows that after Bayshore Mall opened in 1987, total retail sales adjusted for inflation increased. Given the relatively isolated location of Humboldt County, new retail likely brings additional choices that had not existed before. This spurs additional spending and/or captures leakage of retail sales dollars that had previously been spent outside the market area. The case study findings in Chapter XII in CBRE Consulting's November 2006 report "Eureka Balloon Track Retail Development: Economic Impact and Urban Decay Analysis, Eureka, California" for Ukiah, San Rafael, and Woodland indicated that the new introduction of a Home Depot to an established retail market can benefit a market. This benefit occurs through the increased spending by market area residents and businesses, the increased attraction of a market due to a retailer with a strong draw, and the attraction of complementary retailers seeking to locate near a successful anchor retail tenant. Therefore, the estimate of sales taxes is reasonable.

The comment states that CBRE Consulting has a conflict of interest in completing the economic impact and urban decay study for Marina Center because it is part of a large real estate firm that provides multiple real estate services for clients. In October 2007 Economic Research Associates (ERA) peer reviewed the November 2006 report. ERA concluded that the results were valid. This positive peer review is independent proof that the November 2006 report was completed in an appropriate manner with no bias.

The comment states that CBRE Consulting has not offered insights on the current economic downturn. In fact, the October 27, 2008 letter that CBRE Consulting prepared analyzed the current economic conditions. This letter reviewed population and average household income estimates, analyzed annual and quarterly taxable sales trends, compared retailer sales estimates with current estimates by category, and examined the current retail environment in the City of Eureka relative to store closings and openings. For additional insights on the current economic downturn, please see Master Response 1 under "New Recessionary Conditions."

The comment states that growth in the November 2006 report is projected using data derived during the 2000 to 2004 period, implying that projections were based on years with extraordinary growth patterns. The comment is confusing the housing market bubble with economic booms and recessions. It is true that in around 2000 a housing bubble developed where the price of housing in Humboldt County increased much faster than the rate of rising incomes. This housing bubble peaked in 2006. Rising home values contributed to a wealth effect where people spent more because they felt wealthier.

However, the broader economy went into a recession from March 2001 to November 2001. This can be seen in the figure in Master Response 1 under Fiscal Impacts. In 2001 and 2002 total retail spending in the City of Eureka was flat. From 2002 to 2004, retail spending adjusted for inflation rose 8.0 percent in Eureka. However, this rate of growth in retail spending is not used in the analysis to forecast growth to 2010.

Exhibit 2 from the November 2006 report estimates the sales at Marina Center based on national averages of sales per square foot by category in 2003. To grow that number to 2010 the rate of inflation in California is used. At the time of the analysis the California inflation rate had been calculated to 2005. From 2003 to 2004 California inflation, according to the U.S. Department of Labor, Bureau of Labor Statistics, was 2.63 percent and from 2004 to 2005 California inflation was 3.68 percent. To inflate sales from 2005 to 2010 it is assumed that the average rate of inflation would be 3.0 percent. These same assumptions are used to inflate the sales base in Eureka and Humboldt County from 2004 to 2010. Population is forecast using the California Department of Finance's projected growth rate for Humboldt County. That annual rate is 0.3 percent from 2005 to 2010. Because reasonable and conservative assumptions are used in the projections of sales and population, the resulting estimate of demand is reasonable.

The comment states that “the inevitable consequence of this oversupply of retail will be urban decay.” Experts are allowed to disagree and the EIR authors respectfully disagree with this statement. If there is more retail space than there is demand for retail, this would result in vacant space. If the property owners of this vacant space do not maintain the property and keep it in good condition, urban decay can result. However, an oversupply of retail may be a temporary condition. If population is growing, the demand for retail would grow, and eventually the vacant space would be retenant. The population of Humboldt County is growing, albeit at a fairly slow rate. When consumer confidence returns there would be some pent up demand from purchases that were previously delayed. In addition, vacant retail space may be converted to new uses. For instance, in the case of McMahan's Furniture store in Eureka, the new tenants would likely use the former retail space as an office. Other Eureka examples of large retail space being filled by alternative uses include the former 95,000-square-foot Mall 101 being converted to office space and the former 35,000-square-foot Pay-N-Pak building being converted to a multi-screen movie theater. In conclusion, vacant space is a first step in a process that can lead to urban decay, but it is not an unavoidable consequence of an oversupply of retail.

- 14-2 The comment states that the Draft EIR omits discussion of existing urban decay and underestimates existing vacancies. Please see Master Response 1, under “Vacancy in the City of Eureka.”
- 14-3 The comment states that the EIR for Marina Center ignored existing urban decay in Eureka. At the time the fieldwork was first done in 2005, the economy was in expansion and retail vacancy was fairly low. The fieldwork found no instances of urban decay at the time. See Master Response 1 under “Vacancy in the City of Eureka” for the results of

more recent fieldwork completed in April 2009. During recent fieldwork three vacant buildings in the Old Town and Downtown areas of Eureka were found that had signs of a lack of maintenance and some graffiti. Given the recessionary conditions, drop in consumer spending, and many vacant storefronts, this is a fairly strong performance for the hundreds of buildings located in the Old Town and Downtown areas. No signs of urban decay were observed at any of the other business districts and shopping centers in Eureka.

CBRE Consulting conducted an interview with an official at the Eureka Main Street program to learn more about the three buildings observed to have declining facades. One building, well-located in Old Town on First Street on the waterfront, has an out-of-town owner who is unwilling to sell the property or fix it up so that it can be rented. Another owner of a property in Old Town with some graffiti has had health problems and has not been able to focus on retenanting the building. The third property, a former dealership in Downtown Eureka, has environmental cleanup issues that need to be addressed before the building can be reused. These three buildings are exceptions. Almost all vacant buildings in Eureka's Old Town and Downtown areas have no signs of urban decay. Given the current economic recession and temporary drop in spending, it is not surprising that maintenance for some vacant buildings has lapsed. However, as the recession subsides and spending picks up, demand for vacant retail space would increase. CBRE Consulting expects that by the time Marina Center opens, vacancy would have returned to equilibrium.

14-4 The comment states that the Bayshore Mall cannot sustain tenants. Please see Master Response 1, under "Vacancy in the City of Eureka" and "The Effect of the Bayshore Mall on Local Businesses."

14-5 The comment criticizes the November 2006 report for failing to examine the office and industrial markets. The comment claims that the office and industrial space planned at Marina Center would contribute to urban decay by taking away demand from existing office and industrial spaces in the City of Eureka. There are 104,000 square feet of office space planned at Marina Center and 70,000 square feet of light industrial space planned.

It is not typical for an economic impact study on a primarily retail project to inventory the office or industrial markets. However, since this is a concern, CBRE Consulting, using CoStar data, has inventoried the leased office and industrial space in Eureka in Tables 5-1 and 5-2, below.

According to CoStar there is a total of 600,095 square feet of leased industrial space in Eureka. The spaces range in size from 960 to 37,525 square feet. Most of the space is Class B quality. Overall the vacancy rate is 9 percent, but vacancy is much more prevalent in the Class C category. The vacancy rate for Class B space is only 6 percent and all the Class A space is occupied.

**TABLE 5-1
LEASED INDUSTRIAL SPACE IN EUREKA, MAY 2009**

Class	Total Space (Sq. Ft.)	Vacant Space (Sq. Ft.)	Vacancy Rate
A	19,780	0	0%
B	507,066	30,528	6%
C	52,256	21,846	42%
Unknown	20,993	0	0%
Total	600,095	52,374	9%

SOURCES: CoStar; and CBRE Consulting.

**TABLE 5-2
LEASED OFFICE SPACE IN EUREKA, MAY 2009**

Class	Total Space (Sq. Ft.)	Vacant Space (Sq. Ft.)	Vacancy Rate
A	15,287	0	0%
B	279,036	28,128	10%
C	64,735	23,061	36%
Total	359,598	51,189	14%

SOURCES: CoStar; and CBRE Consulting.

There is a total of 359,598 square feet of leased office space in Eureka. The spaces range in size from 600 to 38,190 square feet. Most of the space is Class B quality. Overall the vacancy rate is 14 percent, but it is much more prevalent in the Class C category. The vacancy rate for Class B space is only 10 percent and all the Class A space is occupied.

The office and industrial space planned at Marina Center would be built to Class A standards. There is currently very little Class A space in Eureka. Class A space comprises just 3.3 percent of the total industrial market space and 4.3 percent of the total office market space. All of the Class A space is currently occupied. The small amount of Class A space and zero vacancy indicates a tight market. It is likely that existing businesses in Eureka that want Class A space must currently leave the city to find it. In this way, Marina Center would allow more businesses to stay in Eureka. Given these conditions, it is not thought that the office and industrial components of Marina Center would contribute or lead to urban decay.

- 14-6 The comment states disagreement with the definition of the primary market area as Humboldt County. The comment argues that residents of northern Humboldt County would spend most of their retail dollars in Crescent City in Del Norte County, that residents of southern Humboldt County would spend most of their retail dollars in Fort

Bragg in Mendocino County, and that residents of eastern Humboldt County would spend most of their retail dollars in Redding in Shasta County. This argument reveals a lack of knowledge about this part of California, the distribution of population density, the distances between major towns, and the retail available.

The population of Humboldt County is highly concentrated in the City of Eureka or in surrounding areas. This indicates that most people living in Humboldt County are closer to Eureka than to the next nearest population centers. Table 5-3, below, shows the driving times from towns at the northern, southern, and eastern ends of Humboldt County to Eureka and driving times to the next largest retail hub.

**TABLE 5-3
DRIVING TIMES BETWEEN CITIES (MINUTES)**

	Garberville (Southern end of Humboldt County)	Orick (Northern end of Humboldt County)	Willow Creek (Eastern end of Humboldt County)
Eureka	68	46	57
Fort Bragg	106	N/A	N/A
Crescent City	N/A	47	N/A
Redding	N/A	N/A	126

N/A designates not applicable.

SOURCES: MapQuest.com; and CBRE Consulting.

Garberville is a small town located off U.S. 101 at the southern end of Humboldt County. A drive to Eureka from Garberville takes approximately 68 minutes. To drive to Fort Bragg would take an additional 38 minutes along a very narrow windy road. Fort Bragg has a very limited amount of retail shopping. There is only one center called The Boatyard Center. This 60,000-square-foot center is anchored by a local grocery store and a pharmacy. It is extremely unlikely that anyone living in the southern part of Humboldt County would drive out of their way to shop regularly in Fort Bragg when Eureka is closer and offers more retail options.

Willow Creek is a small town located off State Route 299 on the eastern end of Humboldt County. It is about a one-hour drive from Willow Creek to Eureka. It is more than double the drive time to get to Redding. Redding does have a significant amount of retail with many community centers and one major regional center anchored by Sears, JC Penney, and Macy's. It is conceivable that people living in eastern Humboldt County may on occasion drive to Redding to do major shopping trips or access goods not available in Humboldt County. However, it is unlikely that many people living in eastern Humboldt County do their regular shopping in Redding. Therefore, it is appropriate to include eastern Humboldt County in the primary market area for Marina Center.

Orick is a small unincorporated area located off U.S. 101 in the northern end of Humboldt County. It takes about the same amount of time from Orick to drive to Eureka as it does to drive to Crescent City. However, Crescent City does not have much retail offerings. There are three small shopping centers in Crescent City. The largest is Jedediah Smith Square, an 111,000-square-foot neighborhood center anchored by a Safeway and a pharmacy. A second 55,000-square-foot center is anchored by a local supermarket and the third 25,000-square-foot center is anchored by a gym. However, Crescent City does have two big box stores that Eureka lacks: a Wal-Mart store and a Home Depot. These two stores are the main draws for people who live in northern Humboldt County, but if Home Depot opens a store in Eureka, then Wal-Mart would be the main offering not available in Eureka, which has a similar discount store in the recently constructed Target. Except for this one store, Eureka offers much more retail than Crescent City.

Table 5-4, below, shows the relative taxable sales bases of Eureka, Redding, Fort Bragg, and Crescent City in the most recently available public data, first quarter of 2008.

**TABLE 5-4
TOTAL TAXABLE RETAIL SALES, FIRST QUARTER 2008**

City	Sales
Redding	\$353,289,000
Eureka	\$158,518,000
Fort Bragg	\$25,757,000
Crescent City	\$18,334,000

SOURCES: California Board of Equalization; and CBRE Consulting.

Crescent City and Fort Bragg have less than a quarter of the retail sales that Eureka does. Given that residents of northern Humboldt County have a similar drive time to Eureka and to Crescent City, the larger retail base in Eureka would make that a more compelling destination for shopping. Therefore, it is appropriate to include northern Humboldt County in the primary market area for Marina Center.

The comment also states that store closings, in particular, the closure of The Gap and Old Navy at The Bayshore Mall, prove that CBRE Consulting estimates were incorrect in the November 2006 report. The economic recession was not on the horizon in 2006. Clearly, many store closures are due to the economic recession and resulting decrease in consumer spending. However, some store closures in Eureka, such as the Mervyns and the Gottschalk's, are due to the parent company folding, and do not necessarily indicate that the Eureka store was underperforming. It is not known exactly why The Gap and Old Navy stores closed in Eureka. The economic impact and urban decay analysis is not intended to predict specific closures, but to characterize the market as a whole. What is more important than which stores close is whether those vacant spaces would be retented. CBRE Consulting believes that vacancy at the Bayshore Mall would decline

as the economy recovers and that in the interim period the center would be kept in good condition. Vacancy at the Bayshore Mall has been lower during better economic times, and even in bad economic times, the center has been maintained.

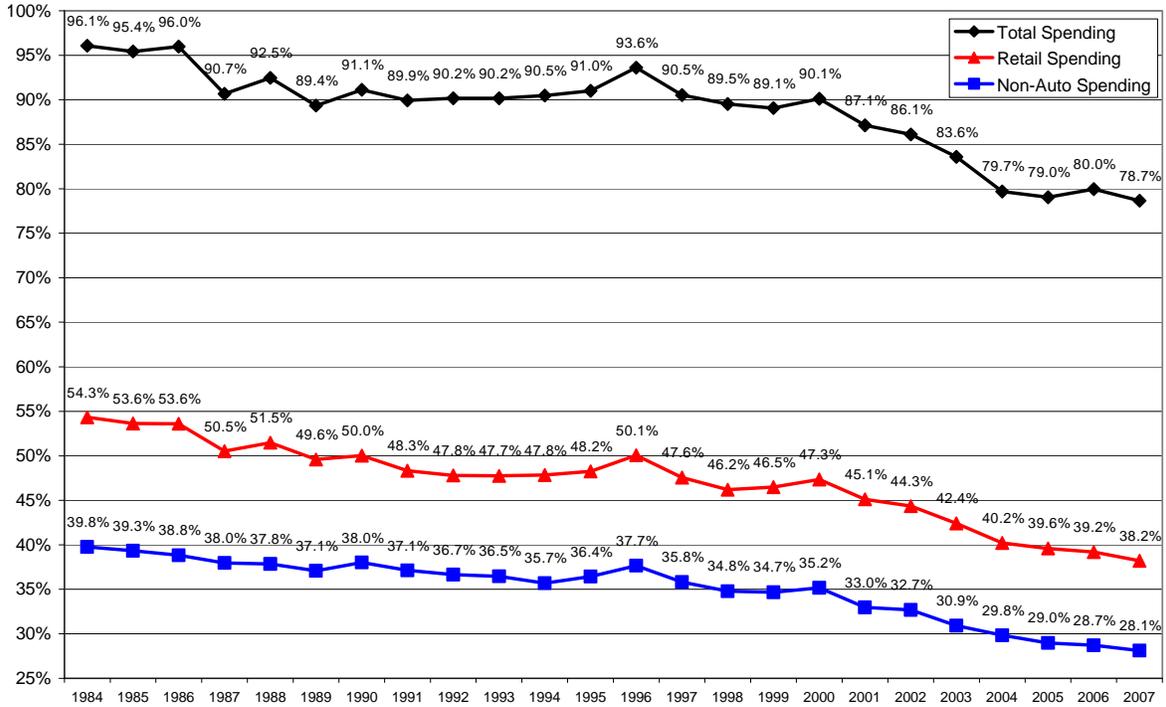
In addition, the comment theorizes that the current recession has created a permanent change in consumer spending patterns that would make the sales impacts estimates in the November 2006 report low. King references recent articles in Newsweek Magazine that claim that the recession is so deep that consumers will change their behavior by saving a higher percentage of income and spending a lower percentage of income than before. The Newsweek article specifically refers to the rationing that occurred during the Great Depression and World War II. This rationing influenced a conservative generation to be fearful of scarcity and less willing to spend freely. At this time it is unclear if consumer spending has permanently shifted. More time must pass in order to see if consumer spending returns to former levels after the recession has lifted.

However, since this is raised as a concern, CBRE Consulting considered the ramifications if consumer spending trends have changed. If consumer spending as a percentage of income has permanently decreased, then the projected sales base in 2010 would be too high. If there were a lower sales base then impacts on the sales base would be higher than estimated. However, the sales impacts are based on sales estimates of retail at Marina Center. Given this change in consumer behavior, the national averages of sales per square foot of retail space would be smaller. This would very likely counterbalance the declining sales base.

For instance, in the November 2006 report, CBRE Consulting relied on Retail Maxim's *Perspectives of Retail Real Estate and Finance, July 2004*, for the average sales per square foot for the restaurants category. That report had average restaurant sales per square foot in 2003 at \$389. This average is inflated to 2010 dollars using actual California inflation and an assumption that future inflation in California would average 3.0 percent. Inflated to 2010 dollars, the average sales per square foot for restaurants is estimated at \$480. The most recent Retail Maxim publication is from July 2008 and estimates average restaurant sales per square foot at \$430 in 2007 dollars. If this average are inflated to 2010 dollars at a rate of 3.0 percent per year the 2010 figure would be \$470. Using this reference it appears that the \$480 per square foot sales estimate for restaurants at Marina Center is overestimated by \$10 per square foot.

If the sales estimate is too high then impacts would also be too high. This would likely counterbalance the smaller sales base if there have been permanent changes in consumer spending. CBRE Consulting believes that if the analysis were done with a lower sales base assumption and lower sales estimates, the results would not be materially different, and would not change the conclusions of the report.

Figure 5-1 below shows average household expenditures as a percent of income before taxes from 1984 to 2007.



Marina Center Mixed-Use Project ■ 205513

Figure 5-1
Average Household Expenditures
as a Percent of Income Before Taxes

The trend does show a general decline that has been occurring for a long time as well as some years when increases occurred. This decline would have been captured in the retail sales leakage model since it was run with 2004 data. The decline in consumer spending as a percentage of total income from 2004 to 2007 was very gradual, making the results from the November 2006 report still valid.

Finally, the comment states that the analysis “assumes that Humboldt County, despite lacking many types of retail stores, will satisfy 100 percent of all retail demand.” The retail sales leakage analysis is a summary measure. It does not have the detail of the different in-flows and out-flows. Tourists come into Humboldt County, stay at hotels, eat at restaurants, and shop in town. Residents leave the county for business or to visit family and spend some of their retail dollars outside of the county. Persons driving on U.S. 101 stop in Humboldt County for gas, food, or other goods. It is not assumed that residents would spend all their income in the county. It is assumed that current retail sales leakage would be recaptured if new retail options are built in Eureka. Some retail sales leakage would still occur, but the net result is a decrease in retail sales leakage.

14-7 The comment states disagreement with the results of the case studies presented in the November 2006 report. These case studies were meant to augment the primary retail sales leakage analysis by presenting the experiences of other cities that have had Home Depot

stores built in their communities. The information presented came from interviews with local economic development, redevelopment, and city officials, so they indicate the perspectives of those officials. The commenter's perspective differs, but is basically an opinion about those markets lacking references or supporting data. In addition, one may see the Master Response 1, under "The 1999 Bay Area Economics Report." The 1999 BAE report also presents case studies of different cities, but with similar results to the case studies in the November 2006 report.

- 14-8 The comment asserts that the economic impact and urban decay analysis omitted information on vacancies and urban decay in Eureka. CBRE Consulting maintains that the November 2006 report accurately portrayed the Eureka retail market at that time. Subsequent analysis has updated the original information with the changes that have occurred in the last few years. The comment also criticizes the November 2006 report for excluding analysis on the office and industrial markets. The CBRE Consulting response to comment 14-5 suggests a finding that the new office and industrial space built at Marina Center would not lead to urban decay in Eureka. The comment also claims that the November 2006 report says that despite lower sales stores would survive. In fact, the report states that some stores may close and vacancies could occur. However, the report concludes that vacancies would eventually be retenanted, thereby avoiding urban decay. CBRE Consulting's November 2006 report and subsequent analyses fully meet the requirements of CEQA.

Comment Letter 15

Comment Letter 15

To: The City of Eureka
From: Larry Evans
3441 'K' St.
Eureka, CA 95503
Re: Comments on Draft EIR for Balloon Tract big box mall proposal

Dear Planning Staff,

I am submitting these comments on behalf of myself and Citizens for Real Economic Growth (CREG).

Overall, the Draft Environmental Impact Report (DEIR) for the Balloon Tract big box mall proposal, also known as the "Marina Center", is grossly inadequate and incomplete based on the fact that it has not been prepared "with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences", as required by Title 14, California Code of Regulations (CCR), Section 15151. This section goes on to state that, "...the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible." As noted section by section below, the reasonably feasible level of analysis and information necessary for decision-makers is mostly to wholly lacking from this document and it fails to meet the standard for a good faith effort at full disclosure.

In particular, the document fails to provide specific information and instead delivers vague generalities about impacts, mitigations and cumulative effects. Title 14, CCR, Section 15126.4 (a) (1) requires the EIR to, "describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy." Section 15126.4 (a) (1) (A) further requires that, "The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included..." In regards to both traffic and air quality impacts, the City completely neglected to propose mitigations or they failed to make any distinction between them as to source.

Aesthetics:

A-1 states that the "project would, overall, augment public coastal viewing opportunities by providing improvements and amenities." There is no explanation of what those amenities or improvements are or how they would augment coastal viewing either alone or as a countervailing benefit to the loss of view described by the project proponent.

A-2 fails to specify in either the plan description or in any renderings, the details of how the "project's proposed landscaping, wetland restoration, ped/bike paths, trails, kiosks, and benches" would meet the requirements of EMC section 156.054 (D). How many? Where? What will they look like? What vistas will be changed, in what ways? What plants?, how big?, how tall?, how dense?, deciduous or evergreen?, what spacing? What will be screened out and what will be left revealed?

A-3 This section fails to address the visual impacts of giant parking lots. There is no explanation of the footprint size of the vast acreage of parking lots or how this will affect the visual character or quality of the site or its surroundings when full.

There is no discussion of the impact on the view-shed from the bay. This could have impacts on tourist uses of the bay and must be addressed.

Agriculture:

Under Impact B-3 the DEIR concludes that the project will not "Involve other changes in the existing environment, which, due to their location, or nature could result in conversion of ag lands to non-ag uses." This section concludes that the project would have no impact on oyster aquaculture. The inadequate discussion in the Hydrology & Water Quality section of toxic runoff from the vast acreages of parking lot slated for construction in direct proximity to the bay fails to address the risk of toxic pollution that would affect oyster farming in the bay. This must be addressed to protect this important economic endeavor.

This section overall fails to address the same toxic run-off risks from giant parking lots in its potential effect on commercial fisheries relative to species that spend time in the Bay.

Air Quality:

The mitigations in this section are vague and fail to meet the requirement to be "fully enforceable through permit conditions, agreements, or other legally-binding instruments," as required by Title 14, CCR Section 15126.4 (a) (2).

The air quality section does not quantify the effect of the mitigation measures. What specific effects will be mitigated? How will that mitigation work? How much of what pollutants will be mitigated? What monitoring will take place?

Mitigation Measure C-2b- 2, suggests several measures would be taken "where applicable" without any definition of the criteria for "applicability".

The air quality section fails to analyze the health effects of traffic diversions that will be caused by the project and going into and through the neighborhoods of Eureka and the accompanying air pollution that will be spewed directly into those neighborhoods.

In particular, the likely rerouting of traffic onto Herrick Ave. will effect Pinchill School as well as golfers outside at the Eureka Golf Course. Also, the diversion of traffic from Broadway onto Harris, and ultimately onto 'S' St. goes directly past Zane Middle School. These specific localized effects would contradict the findings of less-than-significant impact under Impact C-4—"Would the Marina Center project expose sensitive receptors to substantial pollutant concentrations?"

This section also fails to analyze prevailing wind patterns for localized effects in relation to specific demographics &/or land use of those areas including other schools, hospitals, senior centers, etc. This deficit of analysis renders the conclusion under C-4 highly questionable. These are analyses that are absolutely necessary for an adequate EIR.

The air quality section fails to analyze economic effects of the significant impacts on health that the air pollutions created by this project will cause.

The air quality section makes vague reference to public transit and voluntary rideshare programs but offers no specifics on how much mitigation this will provide for what types of pollutants.

5-135

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There is no discussion of the extra travel miles in cars that this project is purported to motivate as a shopping magnet that draws customers from long distances as the project proponents explain in their goals for the project 15-11

15126.4 Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects.

(a) Mitigation Measures in General.

- (1) An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.
- (A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.
- (B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.
- (C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix F.
- (D) If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale*(1981) 125 Cal.App.3d 986.)
- (2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.
- (3) Mitigation measures are not required for effects which are not found to be significant.
- (4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following:
 - (A) There must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); and
 - (B) The mitigation measure must be "roughly proportional" to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measure is an *ad hoc* exaction, it must be "roughly proportional" to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854.
 - (5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination.

15126.6 Consideration and Discussion of Alternatives to the Proposed Project.

- (a) Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553 and *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376).
- (b) Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.
- (c) Selection of a range of reasonable alternatives. The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination. Additional information explaining the choice of alternatives may be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.
- (d) Evaluation of alternatives. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed. (*County of Inyo v. City of Los Angeles* (1981) 124 Cal.App.3d 1).
- (e) "No project" alternative.
 - (1) The specific alternative of "no project" shall also be evaluated along with its impact. The purpose of describing and analyzing a no project alternative is to allow decisionmakers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. The no project alternative analysis is not the baseline for determining whether the proposed project's environmental impacts may be significant, unless it is identical to the existing environmental setting analysis which does establish that baseline (see Section 15125).
 - (2) The "no project" analysis shall discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. If the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

Comment Letter 15

(3) A discussion of the "no project" alternative will usually proceed along one of two lines:

(A) When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the "no project" alternative will be the continuation of the existing plan, policy or operation into the future. Typically this is a situation where other projects initiated under the existing plan will continue while the new plan is developed. Thus, the projected impacts of the proposed plan or alternative plans would be compared to the impacts that would occur under the existing plan.

(B) If the project is other than a land use or regulatory plan, for example a development project on identifiable property, the "no project" alternative is the circumstance under which the project does not proceed. Here the discussion would compare the environmental effects of the property remaining in its existing state against environmental effects which would occur if the project is approved. If disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other project, this "no project" consequence should be discussed. In certain instances, the no project alternative means "no build" wherein the existing environmental setting is maintained. However, where failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis should identify the practical result of the project's non-approval and not create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment.

(C) After defining the no project alternative using one of these approaches, the lead agency should proceed to analyze the impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

(f) Rule of reason. The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed (1) Feasibility. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; see *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1753, fn. 1).

(2) Alternative locations.

(A) Key question. The key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

(B) None feasible. If the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion, and should include the reasons in the EIR. For example, in some cases there may be no feasible alternative locations for a geothermal plant or mining project which must be in close proximity to natural resources at a given location.

(C) Limited new analysis required. Where a previous document has sufficiently analyzed a range of reasonable alternative locations and environmental impacts for projects with the same basic purpose, the

Comment Letter 15

lead agency should review the previous document. The EIR may rely on the previous document to help it assess the feasibility of potential project alternatives to the extent the circumstances remain substantially the same as they relate to the alternative. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 573).

(3) An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative. (*Residents Ad Hoc Stadium Committee v. Board of Trustees* (1979) 89 Cal. App.3d 274).

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21002, 21002.1, 21003, and 21100, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California*, (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; and *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112. decision making.

15127. Limitations on Discussion of Environmental Impact

The information required by Section 15126.2(c) concerning irreversible changes, need be included only in EIRs prepared in connection with any of the following activities:

- (a) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency;
- (b) The adoption by a Local Agency Formation Commission of a resolution making determinations; or
- (c) A project which will be subject to the requirement for preparing an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21100.1, Public Resources Code.

15130. Discussion of Cumulative Impacts

(a) An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in section 15065(a)(3). Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

(1) As defined in Section 15355, a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.

(2) When the combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail in the EIR. A lead agency shall identify facts and analysis supporting the lead agency's conclusion that the cumulative impact is less than significant.

(3) An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.

Comment Letter 15

(b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:

(1) Either:

(A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or

(B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.

(2) When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

(3) Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

(4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available; and

(5) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

(c) With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.

(d) Previously approved land use documents such as general plans, specific plans, and local coastal plans may be used in cumulative impact analysis. A pertinent discussion of cumulative impacts contained in one or more previously certified EIRs may be incorporated by reference pursuant to the provisions for tiering and program EIRs. No further cumulative impacts analysis is required when a project is consistent with a general, specific, master or comparable programmatic plan where the lead agency determines that the regional or areawide cumulative impacts of the proposed project have already been adequately addressed, as defined in section 15152(f), in a certified EIR for that plan.

(e) If a cumulative impact was adequately addressed in a prior EIR for a community plan, zoning action, or general plan, and the project is consistent with that plan or action, then an EIR for such a project should not further analyze that cumulative impact, as provided in Section 15183(j).

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21083(b), 21093, 21094 and 21100, Public Resources Code; *Whitman v. Board of Supervisors*, (1979) 88 Cal. App. 3d 397; *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692; *Laurel Heights Homeowners Association v. Regents of the University of California* (1988) 47 Cal.3d 376; *Sierra Club v. Gilroy* (1990) 220 Cal.App.3d 30; *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421; *Concerned Citizens of South Cent. Los Angeles v. Los Angeles Unified Sch.*

Comment Letter 15

Dist. (1994) 24 Cal.App.4th 826; *Las Virgenes Homeowners Fed'n v. County of Los Angeles* (1986) 177 Cal.App.3d 300; *San Joaquin Raptor/Wildlife Rescue Ctr v. County of Stanislaus* (1994) 27 Cal.App.4th 713; *Fort Mojave Indian Tribe v. Cal. Dept. Of Health Services* (1995) 38 Cal.App.4th 1574; and *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98.

15150. Incorporation by Reference

(a) An EIR or Negative Declaration may incorporate by reference all or portions of another document which is a matter of public record or is generally available to the public. Where all or part of another as part of the text of the EIR or Negative Declaration.

(b) Where part of another document is incorporated by reference, such other document shall be made available to the public for inspection at a public place or public building. The EIR or Negative Declaration shall state where the incorporated documents will be available for inspection. At a minimum, the incorporated document shall be made available to the public in an office of the Lead Agency in the county where the project would be carried out or in one or more public buildings such as county offices or public libraries if the Lead Agency does not have an office in the county.

(c) Where an EIR or Negative Declaration uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information cannot be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described.

(d) Where an agency incorporates information from an EIR that has previously been reviewed through the state review system, the state identification number of the incorporated document should be included in the summary or designation described in subdivision (c).

(e) Examples of materials that may be incorporated by reference include but are not limited to:

(1) A description of the environmental setting from another EIR.

(2) A description of the air pollution problems prepared by an air pollution control agency concerning a process involved in the project.

(3) A description of the city or county general plan that applies to the location of the project.

(f) Incorporation by reference is most appropriate for including long, descriptive, or technical materials that provide general background but do not contribute directly to the analysis of the problem at hand.

Note: Authority cited: Section 21083, Public Resources Code; Reference Sections 21003, 21061, and 21100, Public Resources Code.

Letter 15: Citizens for Real Economic Growth (Larry Evans)

- 15-1 The comment states that the Draft EIR does not include explanation of how the proposed project would augment views. The proposed project would augment coastal views, as discussed on page IV.A-16 of the Draft EIR, by providing trails along the edges of the restored Clark Slough, which would in turn enhance opportunities for viewing Humboldt Bay. Additionally, amenities along the trail would include benches and other street furniture. Furthermore, the proposed project would create pedestrian activity on the project site, and would increase opportunities for waterfront viewing. View corridors through the project site from the Fourth Street extension, between the proposed buildings along Waterfront Drive, and from the proposed multi-use trail along Waterfront Drive would all augment coastal views.
- 15-2 The comment states that there is no indication in the Draft EIR that EMC Section 156.054 (D) goals would be met. As stated in the outline on page III-18 of the Draft EIR, under *F. Project Entitlements and Approvals*, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 15-3 The comment states that the Draft EIR fails to include a discussion of the visual impact of large parking lots. As described on page III-13 of the Draft EIR, the proposed project would include approximately 1,590 parking spaces, 462 of which would be housed in the proposed four-story parking structure. As illustrated in Figure III-2, Project Site Plan, and demonstrated in the visual simulations from public view points under Impact A-3, the views of the surface parking would be away from the public streets and shielded from direct view by proposed buildings which would front Second Street and Broadway. A small surface parking lot would be visible from Broadway from Second Street, Third Street and between Sixth and Seventh Streets; however the bulk of the surface parking would be obscured by existing uses (i.e., Bob's Fine Cars and Nilsen Feed & Grain Company).
- 15-4 The comment states that the Draft EIR does not include a discussion of the viewshed from the Humboldt Bay to and through the project site. As discussed on page IV.A-7, Impact A-3 of the Draft EIR, the proposed project would substantially alter the visual quality of the project site, including the views of the project site from Humboldt Bay. Please see Master Response 8, which addresses views of the project site from Humboldt Bay.
- 15-5 The comment states that Impact B-3 of the Draft EIR fails to address the treatment of stormwater runoff. As stated on Draft EIR pages IV.H-15 and IV.H-16, the Storm Water Pollution Prevention Plan (SWPPP) would implement specific Best Management Practices to prevent pollutants from contacting stormwater during construction and

Phase 1 activities. In addition, the project would implement post-construction erosion and sediment control strategies. As described in Mitigation Measure H-5 in the Draft EIR, these strategies include using bio-filters, grassy swales, and drop inlets. In addition, other than surface deposition of rain water, the project would direct stormwater from the project site away from the wetlands in the proposed reserve area either through site infiltration, retention, treatment with BMPs, or direction to the City's municipal system. As stated on Draft EIR page IV.D-19, the proposed project would have a less-than-significant impact to biological resources.

- 15-6 The comment indicates that the air quality mitigation measures would not be fully enforceable as required by CEQA Guidelines Section 15126.4(a)(2). However, if the City Council certifies the EIR and approves the project, the mitigation measures would become legally binding as conditions of approval for the project. In addition, pursuant to CEQA, the City would be required to ensure that the EIR mitigation measures are implemented by adopting a program for monitoring or reporting.

For discussion related to the quantification of emission reductions and overall effectiveness that would be associated with Mitigation Measures C-2a and C-2b, please see the responses to comments 12-3 through 12-5. There are no quantification tools currently available that enable a reliable evaluation of individual mitigation measure effectiveness. For example, the effectiveness of providing outlets for electronic vehicles in the parking area would depend on consumer behavior. It should be noted that the comment provides no alternative mitigation measures.

The comment states that the criteria for "applicability" should be defined for Mitigation Measure C-2b, which states, "Where applicable, commercial and residential building shall be fitted with electrical outlets on exterior wall to promote the use of electric landscape equipment." The purpose of stating "where applicable" is to state that exterior wall outlets would not be required along the exterior surface of all buildings at all floors. Instead, the measure is applicable on exterior walls near ground level, at reasonable intervals, near areas that would require landscaping that could be performed by electric landscape maintenance equipment. Such a measure would be inapplicable on the exterior walls at the second story or above, and it would also be inapplicable in areas that do not require landscape maintenance.

- 15-7 The comment expresses concern that the Draft EIR does not include evaluation of the health effects of project related traffic that would be diverted into Eureka neighborhoods.

In order to evaluate the project's potential impacts on traffic in the surrounding geographic area, the EIR's transportation consultant, TJKM, evaluated and modeled the potential diversion of vehicle trips from major arterials onto surrounding neighborhood roadways, including Herrick Avenue, Harris Avenue, and S Street, that might be caused by the project. TJKM specifically modeled the geographic distribution and magnitude of trips at all intersections and on all segments within the Eureka area using the Greater Eureka Area Traffic Model, which is a generally accepted method for identifying

potential project impacts on surrounding traffic patterns. For all locations mentioned by the comment, the increase in traffic is found to be insignificant. For example, the project is expected to increase traffic on Herrick Avenue by only 13 trips in the a.m. peak hour and 17 trips in the p.m. peak hour. On F Street, south of Downtown, the project would contribute 5 trips in the a.m. peak hour and 9 trips in the p.m. peak hour. Similar results were found for Harris Avenue and S Street.

Given the negligible number of vehicle trips and the low level of emissions anticipated from those trips, the project would not be anticipated to have a measurable effect, and certainly no significant effect, on human health or sensitive receptors along the referenced roadways. Health risk assessments measure incremental health risks based on a number of factors, including the type and concentration of emissions and the proximity of those emissions to sensitive receptors. For the proposed project, the two major sources of emissions from a health risk perspective involve the starting and stopping of motor vehicles (personal and commercial) and the operation of diesel trucks at the project site. Emissions from personal motor vehicles, including vehicle trips around surrounding roadways, pose substantially less risk. The Draft EIR nonetheless evaluated those risks and concluded that the project would have a less-than-significant impact on human health (see Draft EIR pages IV.C-16 and IV.C-17 and Appendix E). As for sensitive receptors such as the Pinehill School, Eureka Golf Course, or Zane Middle School in the neighborhoods surrounding Herrick Avenue, Harris Avenue, and S Street, the few vehicle trips and associated emissions that would occur during the peak-hours would not be expected to result in impacts on human health risks or sensitive receptors.

- 15-8 The comment states that the air quality section fails to analyze prevailing wind patterns for localized effects in relation to specific demographics or land uses such as schools, hospitals, and senior centers. A meteorological data set that includes the prevailing wind patterns is incorporated into the air dispersion modeling and risk analysis performed for the project site. The analysis included mobile emissions sources, including delivery truck traffic, parking lot traffic, and U.S. 101 traffic in the immediate vicinity of the project site, where the emission concentrations would be highest, and found that there would be no significant health risk to receptors mentioned by the comment.
- 15-9 The comment criticizes the Draft EIR for not considering the economic effects of health problems associated with project-related air pollution. However, pursuant to CEQA Guidelines Section 15382, economic change by itself shall not be considered a significant effect on the environment unless those effects result in a physical change to the environment. Instead of specifying any physical changes resulting from the proposed project, the comment suggests that the EIR evaluate the health-related economic effects that may arise from an air quality impact. The health related economic effects do not constitute a physical change that would require analysis under CEQA. In any event, there is no significant increase in health risk related to the proposed project.

- 15-10 The comment points out that the emission reductions that would be associated with the public transit and rideshare components of Mitigation Measure C-2a are not disclosed in the Draft EIR. For discussion related to the quantification of emission reductions and overall effectiveness that would be associated with Mitigation Measures C-2a and C-2b, please see the responses 12-3 through 12-5.
- 15-11 The comment indicates that there is no discussion in the Draft EIR associated with the extra travel miles that would occur under the proposed project. As disclosed on Draft EIR page IV.C-13, the proposed project would result in an increase in emissions by generating approximately 15,700 additional daily vehicle trips, which equates to over 119,400 total vehicle miles traveled per day (see Draft EIR Air Quality Appendix C, page 8). The associated vehicle emissions are the major contributor to the emissions presented in Draft EIR Table IV.C-5.

Comment Letter 16

Comment Letter 16

Sidnie Olson

From: tom peters [tpete@reninet.com]
Sent: Saturday, January 31, 2009 12:24 PM
To: DEIRcomments
Subject: Comments on Marina center

Thomas H. Peters Saturday, January 30, 2009
221 Dollison St.
Eureka, CA 95501
445-1666
tpete@reninet.com

On Thursday, January 29, 2009 I submitted my extensive comments on the Marina Center project DEIR. I failed to note that I intended to submit those comments in my role as Spokesman for CREG, Citizens for Real Economic Growth. My comments are to be considered as an official submission by CREG and the issues that I raised are to be considered as if being raised by that group. Please add this note to my printed document to complete my comments. Thank you. Thomas H. Peters

Page | 1

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JAN 28 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Sidnie L Olson, Principal Planner
Community Development Department
531 K St.
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Comments on the Balloon Tract DEIR

I am attempting to address this document from the standpoint of an informed and educated layman. I am not an expert in many of the fields used to analyze the document, but I do have a good general understanding of science and psychology. I soundly reject the DEIR's frequent use of the phrase "less than significant" and the phrase "not applicable". An impact, however small, is not insignificant to the people or things it affects. No level of significance has been established for the real or perceived effects on the public. The phrase "not applicable" is often used regarding The General Plan's Land Use and Zoning provisions because the Project is not in the 'core' area of the city. I contend that, since the Balloon Tract is immediately adjacent to the 'core' area, use and zoning provisions must apply as if it were part of the core. Once built, the Project would most certainly become part of the core, anyway.

16-1
16-2

I will try to comment on the parts I know best and add other comments as I can. Without having two years to study some of the nearly undecipherable graphs and charts, I may miss some significant details. Do not imply my acceptance of those parts not directly addressed. Instead, interpret them as resulting from the lack of time or specialized knowledge rather than a lack of will.

I view this entire project as completely out of character and out of scale for a city the size and composition of Eureka. The proposed anchor Home Depot has a terrible environmental track record (see Times Standard p. B5, 8/18/07) and a very poor reputation as an employer. It is known as a 'category killer' with the announced intention of taking 70% of all the home improvement business in the area. A project of this size will have a destructive impact on the locally owned business community, already plagued with closures from the recent and continuing recession. Note the vacant storefronts in Henderson Center, Downtown, Old Town, and the Bayshore Mall (see attached photos). This oversized project is the result of ignoring the real needs of the City and rejecting the Public Planning Process that was once attempted. It will have profound impacts on traffic, air pollution, water pollution, noise, and public services. To the extent that it draws additional retail business from surrounding towns, thereby impacting their business communities, it will reduce their sales tax revenues and their ability to function.

16-3
16-4

I will attempt to list, in some kind of order, my questions and concerns about this EIR. The organization of this document will result in some of my comments being repeated. This should only serve to underscore the importance of that point.

5-143

Comment Letter 16

Submitted January 27th, 2009 by Thomas H. Peters

Comments on the Balloon Tract Project DEIR (aka Marina Center)

Chapter I: Description

There are several questions under the heading "objectives".

1. How does adding over 330,000 square feet of competing retail space in any way 'complement' or improve Old Town and Downtown business?
2. Wouldn't such a vast range of new retail businesses, in order to be economically viable, need to actively work to eliminate competition wherever possible in the rest of the city?
3. Why was no low or moderate income housing included?
4. Has it become a goal of the Redevelopment Agency to promote development that jeopardizes local business and quality of life throughout the rest of the city?
5. Why was the public barred from the planning process that was originally undertaken for the Tract?

16-5

II: Summary

B. Impacts and Mitigation.

How are the minimum standards for impact derived? Do they consider the incremental and cumulative impact on an individual who might be breathing the degraded air or the driver who sees constantly increasing traffic on Highway 101? Do they consider the merits of 'capping' as opposed to real clean-up?

16-6

There seems to be a disconnect between the DEIR definition of what "less than significant impact" is and what real people perceive as things that degrade their living environment. The standards used appear academic only and tailored to a large urban environment. A finding of "less than significant" does not remove the perception of significance (ie: increased traffic density or worsened driveability on

16-7

5-144

Comment Letter 16

Broadway, worsening air quality, general congestion throughout the city, loss of opportunity to improve Eureka's livability).

16-7
cont.

When reviewing Land Use and Zoning compliance with the city's General Plan, the Project frequently uses "not applicable", citing the fact that the project is not in the "core" area. Since the project is immediately adjacent to the 'core' and will become part of it when building is complete, it is unacceptable for it to simply dismiss the goals and Policies of the Plan. They should be adhered to just as if the project was already part of the 'core'.

16-8

C. Alternatives.

One of many glaring omissions is the "No Large Retail" alternative. The Reduced Footprint" alternative only eliminates smaller retail but still includes the business-killing big box anchor. Instead, wouldn't it be more reasonable to consider a project that includes ONLY smaller retail?

The site north of the bridge is still waterfront and is not appropriate for retail type development. It should be used for waterfront dependent or related purposes.

It is apparent that many good alternatives or combinations of alternatives such as those presented by the CREG group at their "Imagine the Possibilities" event were completely ignored.

Why wasn't the option of resuming the Public Planning Process as a means of determining 'best alternatives' even considered or mentioned?

16-9

D. Potential Controversy:

Add to the list: use of Waterfront Drive; impacts on city marina use and especially the boat ramp and associated parking; odors from the Pacific Choice fish plant; assumptions about the width of the railroad right-of-way; impacts of pile driving on many migratory fish and bird species such as California halibut, anchovies, sardines, pelicans, and terns; impacts of urban decay in other parts of town; traffic in off-corridor areas; the meaning of "less than significant impact"; visual impact of 5 story buildings; level of police and fire services needed at malls in general; and lastly, the impact of this huge scale Project on the very character of the city.

16-10

The Project is inappropriate, out-of scale, economically damaging, destructive to our quality of life, and an imperious imposition of the wishes of one person over the best interests of this community. Now THAT'S controversial!

Chapter IV. Environmental Impacts and Mitigation Measures

Comment Letter 16

Comment Letter 16

A-1 Blocking of scenic vistas.

From the City Marina area, the open site offers a splendid vista across the city and the mountains beyond. This project would put up FIVE STORY buildings, blocking much of that view. As a frequent user of the marina, I can safely state that many tourists come to that part of town expressly for that view. It is also the view and vista enjoyed by boaters on the bay looking east. A distant landscape is viewed by many as far preferable to a wall of buildings.

16-11

A-2 Scenic Resources.

No comment.

A-3 Degrading Visual Character or Quality.

This assessment rests on the assumption that if the project is not built as proposed, nothing else will happen on the site. I strongly disagree with this assumption.

There is a whole world of things that are more attractive than a wall of buildings facing highway 101.

The renderings of the proposed buildings look like post-modern Los Angeles subdivision shopping centers. If the goal of architectural review is to compliment the theme of Old Town and Downtown or at least our Waterfront Heritage, nothing in the sketches indicates any relationship whatsoever with either one.

16-12

Many people would prefer an open field, if it came to that, to a huge block of view harming light blocking buildings and a massive parking lot. It cannot be 'reasonably assumed' that a huge shopping center and parking lot would have greater aesthetic appeal than either 'open space' or other potential uses. To claim 'less than significant impact' is hubris of the first order!

A-4 Source of Light and Glare.

The Bayshore Mall, which presumably is under the same or similar standards, stands as a beacon to boaters and is clearly visible to people in the surrounding hills. Its lights severely dim the night sky (loss of 'starfield').

The source of the problem would appear to be the gross number of lights, regardless of their intensity. The project would clearly increase light and glare in the city marina area, impacting the enjoyment of visitors and residents there. The extension of Fourth Street through the project would add directed headlight glare to the area, as would the extension of Second Street. Large advertising signs such as those favored by Home Depot and other big box retailers would almost certainly impact the ambient lighting in neighborhoods on the other side of Broadway. Remember the furor over the entry sign at the Bayshore Mall? Traffic exiting the Project onto or across Broadway would project considerable light into surrounding neighborhoods with its headlights. This would be an even greater impact to the extent traffic leaving the project is dispersed throughout the city on city streets. The mitigation is clearly less than would be necessary to minimize the impact, particularly to the bay side.

16-13

A-5 Cumulative Visual Impact.

The assumption of "less than significant impact" is predicated on the alternative being 'no development' or other use of the Tract. This is a FALSE assumption. There are numerous other uses, including cleaned-up open space that would provide a significantly better visual impact than a big box shopping center and a vast parking lot. The Project would loom huge over existing neighboring buildings. Its architecture as represented in the offered drawings would clash loudly with the surrounding older buildings.

16-14

No reasonable mitigation is offered.

No reasonable alternatives are offered.

B. Agricultural Resources.

No Comment

C-1 Obstruction of Applicable Air Quality Plan.

Since there is no reasonable way to mitigate for impacts on air quality from the plan as proposed, the project should be modified until it can come into compliance.

16-15

C-2 Violation of Air Quality Standards.

There is no way the Project as proposed can avoid violating air quality standards. The Project should be modified to bring it into compliance.

There is NO information regarding air quality impacts from increased traffic on other city streets when traveling to access the Project. The 'Traffic' portion of the DEIR shows that traffic would be slowed by a significant amount on Broadway. Even if the speed remained within acceptable limits, when traffic is slowed down, it emits greater amounts of pollution. Engines do not run as cleanly when they are idling, especially diesel trucks. Increasing traffic on Broadway by 10,000 to 15,000 trips per day and then having it slow down would likely increase air pollution beyond the Project's estimates.

16-16

The PG&E plant south of town was forced to limit the use of its new diesel backup generators in order to stay within acceptable limits for particulate emissions. At that, they were barely within the required limits. If the Project added the expected number of diesel trucks to the traffic mix, it could easily push the cumulative amounts of particulates past the point where they become a serious health hazard.

There is no mention of 'temperature inversions' which occasionally happen over Humboldt Bay, holding warm air close to the ground and preventing normal mixing. This condition greatly increases local air pollution for its duration, as those who remember TeePee Burners can attest. The occurrence of a

5-145

Comment Letter 16

Comment Letter 16

temperature inversion would increase the effects of air pollution far beyond the Project's estimates, if only for the duration of the event.

Offered mitigation measures would have little direct effect on the problem. They would clearly NOT bring the project into compliance. As one who lives 'downwind' from the Project, I maintain the effect would be significant.

16-16 cont.

C-4 Exposure to Pollutant Concentrations.

Whoever wrote this has never been exposed to the air quality in a crowded parking lot!

No mention is made of the cumulative impacts on air quality from increased traffic from other development, projected traffic slowing on Highway 101, or potential industrial development. The fact that the Project will exceed most known standards suggests there is a health risk. Why else have the standards?

16-17

What is the health risk of Global Warming? What is the health risk of increased CO and CO2 in our atmosphere?

16-18

Why is the Project not being forced to stay within compliance guidelines before being considered further?

16-19

Table IV C-7 suggests that the reason there are no significant health effects is that Humboldt County has such a small population that the effects are statistically insignificant STATEWIDE. Humboldt County is already known to have a higher than normal cancer rate, probably due to air emissions from the pulp mills. Increased emissions of the types listed beyond the accepted standards are UNACCEPTABLE.

16-20

C-5 Objectionable odors.

While CO is odorless, auto and truck exhaust is not. With the increased traffic on Broadway and throughout the city, objectionable odors could well result. I don't think even this DEIR would contend that a facefull of auto or truck exhaust was anything but objectionable.

16-21

C-6 Greenhouse Gas Emissions.

The EIR claims the greenhouse gas emissions from the Project are below threshold limits and are therefore insignificant. However, since greenhouse gases are cumulative, EVERY source is significant and this Project is a relatively large source for this area.

16-22

NOT considered is the fact that centralized retail centers create a need for residents to drive in order to do their business, whereas neighborhood retail encourages walking and bicycle use. No attempt is made to quantify how the projected increase in auto use will increase air pollution. Since it is likely that this huge retail project will severely impact local neighborhood businesses, causing at least some to close,

5-146

overall vehicle use will be increased for travel to the Project. This, too, will have an incremental impact on greenhouse gas emissions, odors, and exhaust emissions.

Increased trips from around the County to shop at the 'regional center' rather than in local businesses closer to home, also increases fuel use, air pollution, and traffic on Hiway 101.

Also NOT considered are the increased emissions resulting from increased auto and truck trips all over the city as vehicles converge on the Project site.

All of these impacts are incremental and no single one can be said to be "less than significant" when taken in total.

D. Effect on Sensitive or Special Status Species.

Again, the analysis does not consider any other alternative to the proposed project. For example, could significantly more land be returned to useful wetland status, thereby attracting and increasing the habitat for sensitive and Special Status Species from nearby areas?

16-22 cont.

16-23

The analysis concludes that the effects of construction activities such as pile driving could be mitigated by timing them for only the period July 1 to November 30. This period seriously overlaps, by several months, the time that significant numbers of anchovies, sardines, perch, California halibut, and both resident and migrating salmon are present near the Project and migrating through the area. A large number of birds such as herring gulls, cormorants, and pelicans use nearby areas for resting and feeding, particularly near the marina and at the foot of Washington Street. All of these species are at risk of having their feeding and migration patterns disrupted by loud vibration producing pile-driving activity. The proposed mitigation is inadequate to address the problem.

16-24

D. 3a Wetland mitigation measures appear to offer restoration of less than one third of what photographic evidence shows to be historic wetland levels.

16-25

This restoration proposal also assumes that the only alternative is no restoration at all. The City could seek BrownField cleanup funds, other government cleanup funds, or possibly find a way to force Union Pacific to clean up its mess. These are not considered in the plan.

16-26

D. 3e Lighting mitigation does not include the effects of headlights on the wetland areas which would be significant until after closing time each evening and occasionally at other times of the night.

16-27

D. 4 Interference With Resident or Migratory Fish.

Only salmon are mentioned as necessitating the mitigation offered. In fact, there are resident Coho salmon in the Bay near the marina all year long as evidenced by the fact that I have personally caught them in July, August and September while fishing for California halibut and in April and May while perch fishing. Pile driving could easily impact these fish, there migration patterns, and their feeding patterns.

16-28

No mention is made of mitigation for several species that enter and migrate into and out of the bay between April and September, a period that seriously overlaps into the pile-driving time. These species include, but are not limited to, Chinook salmon, Coho salmon, anchovies, herring, sardines, California

Comment Letter 16

Comment Letter 16

halibut, perch, groundfish, rockfish, crab, sturgeon, and smelt. Two major species, California halibut and Chinook salmon, which migrate into the bay during the pile-driving window, are major targets for sports fishermen. Both of these species come into the bay to feed on anchovies and other baitfish. Disruption of the migratory or feeding patterns of those two species could have a serious effect on the sports fishery and its attendant economy in the bay. **This possibility is NOT mentioned or analyzed in the EIR.**

16-28 cont.

D. 5 Conflict with Policies or Ordinances Protecting Biological Resources.

While the restoration of Clark Slough represents an improvement over existing conditions, the Project fails to acknowledge or attempt to restore historical wetlands as evidenced in aerial photos from 1941 to the present. By offering only 'partial restoration', the Project seeks to look better than it is. **The law is intended to protect and restore wetlands where ever possible. This Project would preclude that possibility from a large area of historical wetland by filling and covering them forever.**

16-29

D.8 Disturbing Reproductive Activity of Migratory Birds.

Mitigation proposals include avoiding grading and removal of vegetation during breeding season from February 1st to August 31st. This overlaps the time period for pile-driving by two months. In other words, **pile-driving would be conducted during two months of bird breeding season.** That sounds like a major impact to me!!

16-30

D. 9 Cumulative Impacts on Biological Resources and Wetlands.

It is impossible to know what other kinds of development might occur in areas surrounding the Project area. Therefore it is impossible to quantify cumulative impacts. It is likely, however, that the Project will promote nearby development on other parcels and would **thereby be likely to lead to significant cumulative impacts in the neighborhood.**

16-31

Ironically, the cumulative impact of the Project on air quality and traffic alone may preclude any other development in the area by leaving no available allowances for other projects.

E. Cultural Resources.

Since most of the Balloon Tract is fill land, it appears unlikely any significant archeological sites will be discovered out side of those identified in the document. In the event they are, mitigation appears to be adequate.

Public Trust.

The land up to A Street was identified as early as 1861 as "swamp and overflow land". This can only be interpreted as tidal wetland. There are many references in the DEIR to filling the site with dredge spoils and various other materials, all suggesting former wetland status. **It is imperative that, for this Project to continue, the status of the site as potential Public Trust Land be clarified.** There is a great deal of evidence suggesting Public Trust status which would prevent or modify the construction of the Project on much of the area.

16-32

E. 1 Adverse Change to a Historical Resource.

5-147

Old town is listed as an Historical District. Given the history of large scale chainstore retail development, it is likely that the Project will have a significant adverse economic impact on Old town businesses (see attached BAE study). To the extent that the Project causes some Old Town Businesses to close, creating vacant storefronts and a less than attractive tourist atmosphere, the project could have a very significant impact on the Old Town Historic District. Even if this does not happen, the Project will tend to channel parking to its vast lots. These lots are beyond the normal walking distance traveled by shoppers and tourists in order to reach Old Town, particularly if they're carrying packages. The Project does not continue the Old Town theme of locally owned business, but instead brings in large 'category busting' outside corporations. **This in NO WAY enhances or ties into the Old Town Historic theme or the Waterfront Heritage theme.**

16-33

F. Geology, Soils, and Seismicity.

The site soils appear to be more than normally prone to liquefaction. The shear size of the proposed buildings could contribute to the risk. The Project could consider less than FIVE STORY buildings to minimize the threat. Buildings with fewer stories would also lower collapse risk from shaking as well as reduce difficulties in fighting associated fires after a major earthquake. The downtown police/fire station is a good example of the effects of unstable soil. The building is suffering many defects and distortions from settling and liquefaction over time.

16-34

The low lying elevation of the parcel puts it at risk from tsunamis. The nature of the development puts large concentrated numbers of people in a relatively small area with no easily accessible escape route in the event of a tsunami. Large numbers of people would be funneled through small openings across Broadway to higher ground. These access points would be competing with other people on the Broadway corridor.

16-35

F.3 Potentially Unstable Soil and Liquefaction.

The EIR states that the site is susceptible to liquefaction and then proceeds to dismiss the threat. While it is true that best practice building will help reduce the threat, it is, by the nature of the described soils, a greater risk than in most of Eureka because it would be built largely on 'fill' land. Coupled with the concentration of people in a small area, **the potential risk is magnified.** The relevant examples are the Marina District in San Francisco and the Nimitz Freeway in Oakland during the 1989 Loma Prieta earthquake This was not addressed in the EIR. (see my comments, page 29)

16-36

F. 6 Cumulative Seismic Impacts.

The Project itself would probably not contribute to seismic instability, either by itself or cumulatively. However, because it causes high concentrations of people at a site with limited access points which are shared by many others in the area, **it could cause serious problems for rescue or evacuation in the event of a major seismic event.**

16-37

G. Transport and Disposal of Hazardous Materials.

Comment Letter 16

Comment Letter 16

There is some risk from using open dump trucks as proposed during rainy periods. Waste could easily wash from the truck onto city streets. This could be mitigated by preventing soil removal on rainy days. Conversely, dust blowing from uncovered trucks could spread pollutants across the city.

16-38

Comment

While the mitigation measures proposed look reasonable, there is no specific plan for cleaning up the site beyond referencing possible requirements of the RWQCB. The extent to which the proposed mitigation will be carried out remains a question. The proposed clean-up is unacceptably vague. This is probably the most important aspect of the whole project and all it gives are vague references and promises to follow NCRWQB guidelines. There needs to be more clarification and explanation.

16-39

One of the biggest questions about this Project remains " to what level will the clean-up proceed?" The developer has proposed 'capping' the site with asphalt as part of his solution. This is unacceptable as it leaves pollutants to migrate slowly through the water table into the bay. It also contributes large quantities of pollutants from use of the paved areas by automobiles and trucks. (see comments on Sec. IV H following)

Potentially hazardous dust from soil removal remains a problem on windy days. No mitigation is proposed.

16-40

G. 2b Hazard from Hazardous Materials Due to Accident or Upset.

The proposed mitigation to prevent accidental hazardous waste release appear adequate for the construction phase. Once build-out is achieved, the proposed anchor store, Home Depot, will be storing a variety of potentially hazardous materials in its Garden Section. Home Depot has a history of mishandling such materials and the hazardous waste they produce through the use of untrained personnel and unlicensed handlers. In California more than 10 stores were involved in a civil action in 2007 resulting in \$10,000,000 in fines. In one instance, improperly handled wastes actually exploded, causing considerable damage. (ref: Times Standard, 10/18/07 page B5). There is no mitigation offered for this situation. The management of the Project will have little control over its anchor store once it's built. No alternatives were considered.

16-41

G.3 Hazard to School Site.

Jefferson School sits just outside the ¼ mile radius required. While it is currently closed for use as a school, the site will be used for other public activities now in development. It is also possible the site could be reopened as a school if future needs required it. The buffer zone of ¼ mile for judging the possibility of hazardous waste contamination is too small. Wind and rain can easily carry contaminants beyond that distance. Even if there was no school site, there are residences within that perimeter that could be affected. Again, the determination of 'less than significant impact' depends on who you are and where you're standing.

16-42

H. Hydrology and Water Quality.

It appears that only the immediate effects of construction activities have been considered and then only those effects on storm water runoff. No mention is made of the possibility of adding pollutants to the 'A Level' groundwater water table through excavation and/or pile-driving.

16-43

H.1 It is highly likely that measures to control storm water runoff could be easily overwhelmed by a strong storm event. These events seem to occur on a fairly regular basis in Eureka. Certainly Eureka's storm drain system experiences major overload during these events, dumping untreated runoff water directly into the Bay. The Project presents the possibility of significant pollutants being present during cleanup and construction activities which presents an added threat to the bay and to groundwater as it is recharged with polluted water. Extreme measures will be needed here to prevent pollutants from entering the bay.

16-44

H.2 To the extent that much of the area surrounding the Project is covered with pavement and buildings, the effect on groundwater recharging must be seen as cumulative. The cumulative impact could easily affect the transport of water toward the bay.

16-45

H.3 While I am sure the developer will attempt to exercise due diligence in trying to reduce runoff and other surface pollution, it cannot control extremes of weather and should be required to take maximum measures to ensure protection of the public. Eureka often experiences high winds during the summer when extensive grading and earth moving activities will be taking place. There is NO fence that will adequately prevent dust, possibly polluted during cleanup attempts, from blowing into surrounding neighborhoods. Earth moving activities should be restricted during windy periods exceeding levels likely to cause blowing dust.

16-46

H.4 Alteration of Drainage

Leveling and covering the site will have immense effects on stormwater collection and runoff. The site would presumably be 'crowned' to allow water to run off parking areas. Water from building roofs should either be included in surface water or enter directly into the storm drains. Since most of the site will become impermeable, significant amounts of water that previously percolated into the groundwater will now be channeled toward the bay. Even during 'dry' years, individual events can produce large amounts of runoff. These events are not included in the stormwater planning.

16-47

H.4a The use of a 10-year flood baseline for culverts and drainage systems is totally inadequate. In 1955 Humboldt County experienced a 100 year flood. It happened again in 1964. Significant floods occur without reference to averages or timetables. To be effective over the expected life of the Project, drains and culverts must be built to much higher performance standards.

16-48

H. 5 Large paved parking areas are notorious for producing a variety of pollutants, mostly from automobile use. Grease, oil, gasoline, tire wear, antifreeze, and brake fluid are among them. Other significant pollutants include plastic bags, packaging materials, and general garbage. No specific plan is offered for their mitigation or removal.

16-49

Comment Letter 16

H. 5a Stormwater treatment facilities are unspecified in this section. They MUST include more than haybales and earthen berms as called for in Sec. H.5b. All cities wrestle with stormwater pollution. Few have been successful during major rain events such as those Eureka experiences frequently. The plan must be much more specific about proposed measures and their maintenance and monitoring.

16-50

H.5c Many EPA approved pesticides and herbicides are highly objectionable to the public. Witness the protests against CalTrans use of herbicides for weed abatement along roadways. The protests have resulted in manual mowing and much reduced herbicide use. Because the EPA approves them does not mean these substances are acceptable to the public or are safe, for that matter. Many 'approved' substances are strongly suspected of having side effects or health risks. These problems arise or are suspected even with proper recommended use, which is an assumption in itself. Remember that human beings are involved in the use of these products and accidents occur regularly.

16-51

H. 6 The finding of 'less than significant impact' on water quality assumes only a normal winter with less than 10 year flood events. It also assumes the effectiveness of unspecified stormwater treatment facilities. Both of these assumptions are unfounded, especially the first. Building to those standards will almost guarantee failure at some point in the near future.

16-52

H.7 While it is true that putting housing on upper floors takes them out of the possibility of a 100 flood, it does not remove the building itself from that threat. Floods damage foundations, water supplies, sewers, and storm drains. These facilities will not be immune from the effects of a 100 year flood.

16-53

H.8 H.7 does not state that no buildings will be within the 100 year flood zone. It states that no first floor housing will be within that zone. Clarification is needed.

H.9 Since the entire site will be graded to be nearly level, the estimates of impact areas from 100 year events are highly misleading and should be recalculated using the new grade levels and runoff facilities.

H.10 Any tsunami evacuation plan must consider the fact that many other areas of Broadway and lower 4th Streets will be using the same routes. The cumulative impact on successful evacuation must be included.

16-54

H. 11 Creating a vast impermeable surface will affect runoff, stormwater collection, surface pollution levels, and flow of groundwater to the bay. It happens wherever large scale similar developments have occurred. These effects could easily be large enough to preclude any other development in the area due to limitations on cumulative impact.

16-55

I. Land Use and Planning.

I. 1 The following is the development guideline for the Eureka Tomorrow Redevelopment Plan.

Therefore, the goal of the Eureka Tomorrow Redevelopment Plan to "revitalize Eureka's core area by enhancing the waterfront for both industrial and recreational purposes, facilitating the development and redevelopment of the industrial areas, preserving and strengthening the residential areas and commercial areas, and improving public space and facilities"

5-149

Comment Letter 16

The Plan encourages industrial and recreational development while preserving and strengthening residential and commercial areas. This clearly states that preserving and strengthening should take precedence over increasing and replacing. The Project does not do either. Instead it seeks to replace and overwhelm existing commercial retail areas. The apparent goal of the Plan is to help existing areas survive and thrive as best they can. This project is in direct contradiction to the Plan insofar as adding over 330,000 square feet of corporate retail will certainly weaken existing retail areas by competing with and replacing their function.

16-56

The Project dismisses many land use provisions and requirements as "not relevant" because it is outside the "core area" which is the focus of the Land Use Plan. However, the Project is directly adjacent to the "core area" and will, in a real sense, become a part of it if it is developed as proposed. This produces at least a moral imperative that it conform to Plan requirements. Certainly the Goals and Policies of the Land Use Plan were meant to include development in the whole downtown and associated waterfront area.

16-57

Insofar as the Project encourages light industrial use, increased office space, a small amount of residential development, and open public space, it does comply with the Plan. The Project should focus on those areas in a reduced scale plan that would lessen its impact on the city.

16-58

None of the Waterfront Revitalization Projects suggested in the document are included in the Project. To the contrary, the project directs use away from the bay and waterfront uses.

16-59

The Project tries here to promote itself as a "smart growth" development. It loses on the very first criteria of "walkability". By its very nature, the Project encourages driving from all parts of the city and county to access its retail and public areas. This is not walkability except to those few people who actually live there. Smart Growth does not envision huge big box stores and vast parking lots. This is a gross misuse of the definitions and meaning of Smart Growth to "spin" the project by its promoters.

"The project would eliminate the physical division by creating a transition between the adjacent industrial and commercial communities by developing a mixture of land uses similar in scale and intensity to those on surrounding properties."

16-60

There is NO WAY the uses proposed by this Project are similar in scale and intensity to those on surrounding properties. The scale of the corporate anchor stores vastly exceeds anything in the local area. The amount of office space dwarfs anything else around. This project is NOT of a compatible scale with Old Town, Downtown, or Broadway in any way, shape, or form. To characterize it as Smart Growth is to put a huge public relations spin on something that's not even close. The scale of retail development proposed alone totally overshadows almost any other retail businesses in the area. The only comparable development is the Bayshore Mall which currently boasts a 20% + vacancy rate and is said to be on the brink of bankruptcy.

Now, under the disguise of Smart Growth, this Project seeks to impose even more out-of-scale corporate retail development on Eureka. How can this possibly be considered "less than significant"?

I.2 It is possible that the Project will conflict with Public Trust Lands responsibilities and restrictions. It is likely that the Project will conflict with various Coastal Zone restrictions. The fallacy of claiming a net increase in wetland function lies in the idea that this project is the only alternative for the Tract. A full site cleanup, including restoring a majority of historic wetlands, would do much more for coastal values. Such a full cleanup and restoration should still provide sufficient areas for more limited

16-61

Comment Letter 16

Comment Letter 16

development on a more appropriate scale while coordinating development even more closely with existing uses.

16-61 cont.

Policy Consistency Analysis

City land use and development chart Table IV 1-2

Policy1-a-1 There is little DEMAND for growth in downtown Eureka except from the developer itself. This does not establish consistency.

16-62

1-A-1 (sic) The Project does not analyze other options for clean-up and restoration of the Tract. Only four very widely drafted alternatives are offered. Until other alternatives are realistically explored, the Project will remain inconsistent with the highest goals of the Land Use Plan.

Policy 1-A-2 (sic) This is NOT a coastal dependent development or use in any sense of the word. There is no active competition for use of the land because the Public Planning Process was cancelled, not because the Project is appropriate for the site. Sighting the Project directly over historic wetlands precludes any future restoration forever. It also removes a significant portion of the land conceivably available for coastal dependent uses. This does NOT establish consistency.

16-63

Policy1-A-3 (sic) The proposed bicycle path lies on land currently claimed as railroad right-of-way and cannot be included as a project benefit until the dispute is resolved.

16-64

Extension of 4th Street through to Waterfront Drive will directly conflict with the use of the public boat ramp, the limited parking for boat trailers in the area, and the limited access and parking for the City marina.

Neither of these uses, as proposed, is consistent.

Concentrated Mixed Use Core

Goal 1-B The Project actively detracts from the goal of creating a compact identifiable core business district by fragmenting retail activity and traffic patterns.

This is not consistent and it is certainly relevant.

Policy 1-B-2 The Project is near enough to the 'core' area to seriously detract from and distract from its identity.

16-65

The table constantly uses the rational that General Plan provisions concerning the 'core' areas are not relevant because it is not in the defined 'core' area. However it is immediately adjacent to that area and will most certainly have a profound influence on it. That impact cannot be discounted, particularly since most activities in the Project require the use of an automobile to access. This is not consistent with the promotion of a compact, liveable, and walkable 'core' area in the city.

Arts And Culture

Waterfront

Policy 1-D-5 None of the uses recommended for the area are included in the Project. In fact, some project uses are in direct conflict. The Project is in NOT a coastal dependent business or use. It is inappropriate use of the site.

16-66

Tourism

See the cartoon on Page 5 of the Northcoast Journal, Dec. 11, 2008. No tourist ever went out of his way to visit a generic Home Depot or other big box store. There are many projects that might attract tourists, but this is not one of them.

16-67

Core Area Residential Community

Goal 1-K The Project does not include any low or very low income housing units. Project residents will be part of the Old Town core simply due to their proximity. The Project consistently uses the argument that many provisions do not apply because the project is not in the core area. However, since it is adjacent to Old Town, the Project will have many profound impacts on the goals and policies of the City. To simply dismiss that impact as inconsequential because the Project is removed by a block or two is ridiculous, self-serving, and simply untrue. Many of the Land Use Goals and Policies will be affected and should be adhered to by the Project, even if it is not directly in the core area. Its activities are adjacent to the core and will become an extension of it.

16-68

Core Public Open Space

The Balloon Tract has long been considered a prime spot for public use, open space such as parks, and tourist or convention center use. To dismiss this idea simply because the site is not directly in the core area is a disservice to the planning process. Clearly it was the intent of the Plan to consider public use and open space wherever appropriate, including land directly adjacent to the core and especially the Balloon Tract. That is why it is zoned "Public" at present.

16-69

View Corridors

Five story tall buildings will certainly affect the views of the bay and, when looking north and east, will almost entirely block views from the waterfront side.

16-70

Architectural and Landscape Character

Policy 1-K-2 Nothing I've seen in the artist's rendering suggest anything but the most homogenized, bland looking, modern tract type architecture. It is clearly not architecturally consistent with Old Town or Eureka's maritime heritage.

16-71

Goal 1-L In a time when businesses are closing all over town, how can this gigantic retail project contribute to a vital business community? It can only make each business' share smaller. The large number of vacant storefronts all over town suggest that there is NO demand for increased retail growth. (see attached photos)

16-72

Policy 1-L-5 Buildings in the core are limited to a maximum of 75 feet tall. The project will exceed that limit and cannot be considered as an extension of the Old Town architectural scheme.

16-73

Comment Letter 16

Comment Letter 16

Maintenance and Safety

The history of shopping centers indicates they always require increased police and fire service. Who will pay for this?

16-74

Residential/Neighborhood Development

Policy K 1. There is NO low income housing proposed in the Project.

16-75

Policy 1-K-1a There is no 'variety' of housing offered unless you consider 'number of bedrooms' as constituting variety.

Policy 1-K-1c Traffic and congestion will be addressed elsewhere in my comments.

16-76

Policy 1-K-3 There is no provision for developing 'neighborhood shopping'. All that is offered are big box anchor stores, generally owned by outside corporate interests. There is nothing 'neighborhood' about the shopping projected. There is existing neighborhood shopping nearby on 2nd Street, throughout Old Town, Downtown, and on parts of Broadway. Nothing in the project proposes to strengthen businesses in these areas in any way.

16-77

Commercial Development

Policy 1-K-1e It does not serve Old Town to improve accessibility while increasing density and volume of traffic by an even larger amount. Changing intersections and pushing 4th Street through to Waterfront will increase through traffic up 1st, 2nd, and 3rd Streets causing increased congestion in Old Town and on Waterfront Drive. Making 2nd Street into a through corridor will increase traffic and speed as cars use it to access the project. Increased street traffic does not translate to increased retail business. For a good example, look at downtown 4th and 5th Street corridors where high speeds and large traffic volume actually discourage business use by residents.

16-78

Policy 1-L-1 How can adding over 330,000 square feet of retail space do anything but seriously damage existing businesses? Big box corporate stores known for cutthroat practices and competition-destroying below-cost sales (to drive out competitors) will not help Eureka businesses. Corporate anchors take money out of town without recirculating it in the local economy like locally owned stores do. Corporate stores have little or no interest in the needs or desires of Eureka and work only for their own purposes. There is no evidence that they in any way strengthen the community.

16-79

Policy 1-L-4 The Project is in direct conflict with the direction to strengthen local business in preference to developing new shopping centers. Somehow the developer is trying to say its new shopping center is different but it is not. Since the project is next door to the core area, its impacts must be considered.

16-80

Policy 1-L-5 and 1-L-6 To the extent that the Project draws business away from Henderson Center and other small retail neighborhoods such as F Street or Cullen, it would be in direct conflict with this policy and could promote business failures there. This would directly contribute to urban blight.

Policy 1-K-4 The finding of consistency is meaningless without detailed architectural renderings of what is proposed. How can you be consistent with the older housing stock in Old Town by building new, square, flat roofed, modern-looking condos? "Drawing from the maritime and industrial heritage" could mean you would put housing in old warehouse buildings and still be consistent. This is meaningless without specifics.

16-81

Policy 1-K-5 People living in the Project would have to cross Broadway at congested intersections or go through Old Town, adding to the street traffic there. The open spaces cited do not include parks and recreational areas such as ballfields or picnic areas. The project is inconsistent with this policy.

16-82

Policy 1-K-6 The existing and planned community facilities of the core area are NOT designed to handle increased density of the sort this large-scale project, adjacent to the core area, would produce. Again, the scale of the Project is NOT in keeping with other areas or business districts in the city. (see 1-K-1e above)

16-83

Goal 1-L The Project will far exceed any forecast need or demand for retail space in Eureka. It is of a scale more appropriate in a large urban setting and will have serious repercussions throughout the Eureka business community. It is NOT consistent with the Goal

16-84

Policy 1-L-1 Building a retail project of this size immediately adjacent to the core area is certain to have a negative effect on core businesses. The Project is sufficiently far from Old Town and Downtown to discourage walking by shoppers, especially during inclement weather. The large parking lot alone will draw some business away from the core areas. The Project is just far enough away from the core area to discourage 'crossover' traffic while close enough to draw shoppers away. It is NOT consistent with the policy.

16-85

Policy 1-L-4 The city shall encourage consolidation and upgrading of ESTABLISHED COMMERCIAL CENTERS over the development of new shopping centers." The Project is certainly a new shopping center. The city should discourage huge new retail developments at least until existing commercial centers have been revitalized and vacancies reduced. The project is clearly inconsistent with this policy.

16-86

Policy 1-L-5 To the extent that the Project draws business from Henderson Center, it will have a serious impact on Henderson Center. Shafer's Hardware, Henderson Center Pharmacy, Annie's Shoes, and Fin N' Feather Pet Supply are examples of businesses that could suffer from an out-of-scale big box development such as this Project. Again, the Project will have impact far beyond its borders. It is not consistent with preserving a vital Henderson Center, particularly given the vacancies that already exist there. (both corners of Henderson and F Streets and a store 1/2 block up on Henderson, plus E Street next to Hunan restaurant are currently vacant, several for over two years.)

16-87

Policy 1-L-6 A Project with FOUR large out of area owned corporate chain stores plus a HUGE big-box anchor store is not consistent with neighborhood business areas. Large shopping centers are NOT neighborhood friendly, even with a token resident population. Fifty four condos do not turn a shopping center into a neighborhood. The project would also clearly violate the "1/4 block provision. The project is clearly inconsistent with this policy.

16-88

Policy 1-L-7 Comments on traffic will follow in the appropriate section.

Policy 1-L-9 The only "high density" housing in the area is that provided within the Project's housing element. No other housing exists within two blocks of the project. Beyond that, housing consists of single

16-89

Comment Letter 16

Comment Letter 16

family homes and a few small apartment complexes. This is not high density as specified by the policy. Again, the project is inconsistent with the Land Use Framework policy.

↑ 16-89
cont.

Policy 1-L-11 The extension of 4th Street and 2nd Street onto Waterfront Drive will directly conflict with the one serviceable boat ramp in the city. The only other ramp is located under the Samoa Bridge and is known as a high crime area. Acts of vandalism on parked rigs are common. That ramp is also several miles from open water and requires traversing a long distance of 'no wake' zone to reach it. The Waterfront Drive ramp has sufficient gradient and is close to open water areas. It has very limited parking. On busy summer days trucks and trailers often are forced to park as far away as the Wharfinger Building parking lot. The delay in returning to one's boat causes severe backups. The project will remove some of the now available parking with NO mitigation. Connecting 4th Street to Waterfront Drive will increase traffic on Waterfront, increasing conflict with loading and unloading activities. The project is not consistent with the safe and productive use of Waterfront Drive.

16-90

Other uses that will be impacted include the use of the marina itself. Often the limited parking is full and users must park on the street. At least some of that parking will be removed with the street extensions. Increased traffic will make loading and unloading of fish and equipment less safe and more difficult. Again, no mitigation has even been suggested.

16-91

A third conflict with the increased use of Waterfront Drive is with the large trucks that use it as a parking and staging area. Eureka no longer has a truck stop so many rigs use this area to sleep or wait for loads. No alternative has been proposed.

16-92

A fourth conflict is with the odors coming from the Pacific Choice Fish Company. On warm days with little wind, they are STRONG. These odors will waft into the entire project site, rendering the smell most unpleasant. Will the project then complain and seek to remove or limit the fish plant? Such conflicts could be harmful to the normal operation of the fish plant.

Industrial Development

Policy 1-M-4 To the extent that the Project will increase traffic and congestion on Waterfront Drive, thereby limiting access and safe use of B Dock and the development of cruise ship or bulk container cargo facilities, it will be in direct conflict with this policy. This conflict is true for any other reasonable use along Waterfront Drive. This impact on other uses in the area will be significant and IS NOT analyzed in the EIR.

16-93

Policy 1-M-6 The area north of C Street and west of Broadway runs directly into the Project site. The goal of developing a light industrial park in this area would be furthered only to the extent that this kind of development was included in the project. Only a token amount of less than ¼ of that committed to retail use, or less than 14% of the entire project is included as industrial. No attempt is being made by the Project to include the use or rehabilitation of existing buildings in the area. This would be a good area for the development of a real industrial park. It has flat buildable land out of the historic wetland area and is reasonably accessible for trucks. The best part is that at least some of it is already zoned for industrial use. If more of the Balloon Tract proved useful and suitable for light industrial, this could easily become the focus of much of the Project.

16-94

Policy 1-M-7 The land near the waterfront is meant to be reserved for coastal dependent or related uses. Because there are no uses proposed at the moment does not mean that the property should be released for non-conforming uses. The use of the area for a shopping center is inconsistent with coastal dependent or coastal related use.

16-95

Community Facilities

5-152

The Project will eliminate any possible future use of the Tract for community facilities.

↑ 16-95
cont.

Schools

Eureka's schools can apparently use more students wherever they can get them!

Parks and Recreation

The Project will eliminate any possible future public use of the Tract for recreational purposes.

16-96

Public and Quasi-Public Facilities

Policy 1-N Massive retail is not considered to be community or service areas. The Project would remove a large portion of land usable for community and service needs.

Policy 1-N-6 The Balloon Tract has long been viewed as a potential site for parks and recreational development for the public. The size and scope of the project will preclude all but a small wetland viewing area from public use. It will eliminate possible use for ballfields, a swimming pool, a convention center, and any other possible public use not related to retail activities. This does not serve the intention of preserving adequate public space for community needs and activities.

16-97

Policy 1-N-10 It is true that when there are NO public facilities, the city cannot take responsibility for their quality. (read: subtle sarcasm)

16-98

Policy 1-N-12 I may be wrong, but I believe the ADA requirements apply to private businesses as well. Several Eureka businesses have run into trouble over this issue. The project's plans must be checked for compliance as it may apply.

16-99

Policy 1-N-13 This policy is very applicable since the Project site presents the best and most convenient site for a visitor and convention center. Commercial development will prevent any such possibility.

Medical Facilities

Library Services

Production of New Housing

Policy 1-A-8 Again, the developer believes his project exists in a vacuum. Development of multiple housing units right next to Old Town and Downtown should require their inclusion in requirements for development in those areas. Arguing that the project is somehow disconnected or not part of the downtown whole is unrealistic and self-serving, at the least.

16-100

Comment Letter 16

Policy 1-A-11 Why is there no low income housing required or offered in this development? 16-101

The Project only proposes upper priced housing, creating an enclave of wealthy residents. This should be unacceptable on its face. It is against most development policies of the City.

Special Housing Needs

None is provided. It is widely acknowledged that many homeless persons have used the Tract prior to the current fencing (and possibly in spite of it). These people are now relocated to other areas with possible impacts there. Nothing is proposed by the developer to assist these people in any way. 16-102

Housing Rehabilitation and Affordability Conservation

Equal Access

The Project's declaration of 'Not Relevant' does not state that it will provide equal access to all, regardless of age, race, religion, sex, marital status, color, or other barriers that prevent choice in housing. Such a statement should be required by the City. 16-103

Energy Conservation

The Project may be built including the latest energy conservation techniques. However, to the extent that it draws automobile trips from throughout the county, it encourages increased use of precious fossil fuels and contributes to air pollution. 16-104

Streets and Highways

Policy 3-A-2 The intersection of Koster and Wabash is only marginally usable now. Traffic heading towards Broadway from Costco frequently backs up at the stoplight past the Koster entrance, making it almost impossible to enter Wabash from Koster. The Project would inevitably put more traffic onto Waterfront Drive and then onto Wabash as a way to cross Broadway into town. The intersection of Wabash and Short Street would become even more jammed up than it is now. 16-105

Traffic on Broadway might flow more smoothly with the proposed mitigation but it will become considerably more dense; that is, there will simply be many more cars. Traffic throughout the city and county will increase as shoppers travel toward the Project from many areas, using a variety of city streets, often in an attempt to avoid Broadway. 16-106

The increase of 15,000 auto trips per day would make it extremely difficult to maintain the desired level of serviceability, especially when factoring in the normal expected increase in traffic without the project. 16-107

5-153

Comment Letter 16

Other factors that will make it nearly impossible to maintain reasonable service on Broadway include possible developments in Cutten and on Harris that will add huge traffic loads by themselves. The cumulative impact could make Broadway an even worse traffic mess than it is now. 16-107 cont.

Policy 3_A_4 The Project proposes to change intersections and add stoplights. It would then coordinate those stoplights at some undetermined speed to help move traffic. Slowing current speed limits would lengthen travel time through Eureka while increasing speeds would increase the hazard of travel on Broadway. The Project will no doubt offer suggestions but should not be allowed to make the actual determination of speeds on Broadway. 16-108

Policy 3-6 The only impacts the Project acknowledges are on Broadway and on 4th Streets. Pushing 4th Street through to Waterfront Drive will certainly impact the use of Waterfront Drive. No mitigation is offered. Traffic crossing Broadway at Washington to access 7th St. would impact traffic on Summer Street. No mitigation is offered. Traffic will increase all over the city on many, if not most, city streets. Shoppers at the Project have to come from somewhere! Traffic on arterial streets such as Henderson, Wabash, 14th Street, and 7th Street that channel cars to Broadway could be severely impacted. No analysis or mitigation is offered. 16-109

The Project only analyzes traffic on Broadway and on 4th Streets when clearly its impact will be felt all over the city. This is a MAJOR omission in the traffic analysis.

Policy 3-A-8 The option of extending Waterfront Drive through the Palco Marsh to the south has been rejected by the Coastal Commission. It is inappropriate for the project developer to use the extension as part of his traffic mitigation plan or to actively encourage it for his own purposes. 16-110

Policy 3-A-10 A long term solution to congestion on Broadway such as a freeway bypass or the like is the ONLY way the Project could ever hope to add 15,000 trips a day to the traffic load without severely impacting Broadway. 16-111

Policy 3-A-14 The Project ignores its impact on parking on Waterfront Drive. Extending 4th Street through to Waterfront Drive would eliminate parking used by users of the boat ramp and the marina. It would also eliminate parking to big-rig trucks. There are no estimates or projections of traffic levels for Waterfront Drive or 2nd Street. No mitigation is offered or proposed. 16-112

Public Transit

Policy 3-B-2 and Policy 3-B-6 To the extent that the project would increase loads on the Eureka Transit system and require increased stops or other service, the Project should help subsidize the cost of the system. This would be in keeping with its self-proclaimed status as "smart growth". 16-113

Policy 3-B-8 The Project should encourage employees to use public transit, even to the point of subsidizing it, to help mitigate traffic problems. Simply because it is not directly in the core area does not eliminate its civic responsibilities. 16-114

Comment Letter 16

Page | 22

Bicycle Transportation

Goal 3-C Why are no bike lanes proposed inside the Project? The only bicycle access to the Project is along the tracks past Old Town and Waterfront Drive. There is no safe or designated lane for traveling or crossing Broadway.

16-115

Pedestrian Transportation

The increased traffic on Broadway will reduce pedestrian safety. Walk signals at traffic lights are too short for safe crossing now. There is nothing in the DEIR suggesting they be made longer to accommodate pedestrians. Broadway already produces a high number of pedestrian accidents and collisions with cars. Additional study needs to be done to try to improve pedestrian safety.

16-116

Goods Movement

The Project will produce a large number of truck trips to service the facility. The routes and timing of these trips should be considered to minimize impact on Broadway and Waterfront Drive as well as other access streets.

16-117

Rail Transportation

Policy 3-F-2 While alternative switching areas for trains would be desirable outside the city, the reason for that change is NOT for the commercial and industrial development of the Balloon Tract which remains under "Public" zoning. This Policy provision response is misleading and suggest a strong bias from its author.

16-118

No actual alternative switching sites were listed or considered.

There has been discussion concerning the actual width of the railroad right-of-way. This needs to be clarified and agreed upon before proceeding since many provisions such as bike paths are dependent on its resolution.

16-119

Water transportation

Policy 3-G-1 The Project will directly impact use of the public boat ramp and the marina facilities. It will eliminate some of the very limited parking for both of these facilities by the extension of 4th Street. Access from 4th Street will increase traffic on Waterfront Drive. The Project will impact both sports and commercial fishing activities thereby.

16-120

5-154

Comment Letter 16

Page | 23

Core Area Circulation and Parking

G.3 The Project will have a major impact on the core area parking and traffic circulation because of the extensions of 2nd Street and 4th Street and the connection of 4th Street to Waterfront Drive which becomes 1st Street to the north and Railroad Avenue to the south. These changes will funnel two kinds of traffic into Old Town. Some will be local, perhaps extending a shopping trip. Most of it will be through traffic seeking alternate routes to other parts of town or back to 5th Street (I01 north). The streets and traffic patterns of Old Town are not designed for a significantly higher traffic load. Placement of stop signs, road width, and traffic density NEED to be analyzed and considered. On and off street parking is generally used to capacity by local traffic now. Adding more without additional facilities will make it much more difficult for shoppers to park and will discourage their use of the area's merchants.

16-121

Again, the Project hides its very real impact behind the claim that, since it's not actually in the 'core area', it does not need to consider those impacts. THIS IS WRONG!!

General Public Facilities and Services

Policy 4-A-2 The city shall direct growth to areas already served by utilities. The project is not presently served by utilities and would require city investment to provide them. The additional costs of repair and maintenance would fall to taxpayers. Again, it is a matter of scale. The Project is too big to be appropriate for the site or for the needs of Eureka. It would be a disservice to Eureka to expect them to pay for providing and maintaining utilities to this oversized development for the enrichment of a private developer.

16-122

Policy 4-A-4 This policy is directly related to the quality and quantity of services provided to the Project. There needs to be assurances and provisions for ensuring that quality and quantity.

16-123

Policy 4-A-8 This policy would appear to require undergrounding of utility lines as required for new residential developments. (see Policy 4-A-9)

16-124

Policy 4-A-10 The taxpayers of Eureka SHOULD NOT have to pay for any of the costs associated with supplying water, increasing sewage treatment capacities, or undergrounding power.

16-125

Wastewater Collection, Treatment, and Disposal

Policy 4-C-3 This provision could easily affect the project depending on which users ended up using the light industrial spaces. It is also possible that some big box retailers could generate significant amounts of wastewater that could require pretreatment. There is concern that sewer lines do not have sufficient capacity at present for the added load from the Project. There is also concern that the Project would use all of the sewage plant's extra capacity, shifting the burden of adding improvements to other possible developments in the future.

16-126

Comment Letter 16

Comment Letter 16

Stormwater Drainage

It should be noted that the Project will create a huge area of paved and roofed area that will significantly increase the amount of stormwater running into Humboldt bay, either directly or through the city's system. Large parking areas typically produce large amounts of solid waste such as plastic bags and paper. There should be some way to limit the travel of these materials into the bay and surrounding neighborhoods. Provisions in the plan are very vague.

16-127

Policy 4-D-7 Given the huge amount of roofed and paved area in the Project, the use of 10 year flood average for culverts and drainage is inadequate. It is almost a certainty that the 10 year average flood event will be exceeded during the life of the project with harmful results both to the Project and to the surrounding areas.

16-128

Solid Waste Collection and Disposal

Policy 4-E-4 Why does the Project excuse itself from developing recycling programs for its tenants? The scope of the project should require its own on-site recycling program.

16-129

Law Enforcement

Goal 4-F "As traffic increases, officers must spend more time patrolling roads, issuing traffic citations, and responding to accidents. But some big-box stores also generate an exceptionally large volume of police calls for crimes like shoplifting and check fraud." (Big-Box Swindle, Page 67, Stacey Mitchell, 2006)

"Big-box stores, especially those that are open twenty-four hours and situated along a highway, also seem to be more attractive targets for criminals." (Big-Box Swindle, page 68, Stacey Mitchell, 2006)

The Project's claim that it would not generate additional police calls is ridiculous on its face. The increased traffic and even an average number of calls generated by retail stores would put a significant increased load on the Eureka Police force, which is chronically understaffed. Add to that the policies of most big-box stores to immediately and thoroughly prosecute any even suspected wrong-doers adds even more to the police and court load.

16-130

"While a downtown merchant who catches somebody trying to walk out with an inexpensive item might let him or her go with a warning never to come back, at a big chain the police are automatically brought in. A stolen item with a price tag of three dollars can end up costing the city hours of police time in responding to the call, filling out paperwork, and appearing in court." (Big-Box Swindle, page 68, Stacey Mitchell)

Experiences from developments all over the country give clear evidence that this type of huge scale project will inevitably cost the taxpayers money and require additional equipment and personnel just to try to maintain the current level of service, let alone trying to improve it to recommended levels. The Project does NOT offer to pay for the expanded services required.

5-155

Policy 4-F-2 The increased traffic density on Broadway and throughout the city could easily affect police response time. The Project dismisses this likelihood without any thought to mitigation.

16-131

Increased traffic will require increased policing for even routine traffic violations. No provision is made for this.

16-132

Fire Protection

Policy 4-G-3 and 4-G-4 The increased traffic density on 4th and on Broadway as well as throughout the city could easily affect response time. Large shopping centers generate large numbers of ambulance calls. An ambulance tied up at the shopping center is not available elsewhere in the city. There must be a rating of the number of calls generated per square foot for fire services. Adding over 500,000 square feet to the city's building stock MUST affect the number of fire calls and the level of service they require. The large number of 5 story buildings would also add to the department's equipment needs. The Project simply dismisses those numbers as somehow not applicable to it. This goes against all common sense and should be addressed.

16-133

Again, the Project would force taxpayers to pay for increased equipment and personnel required to maintain adequate service. City services are stretched to near capacity levels now. Adding over 500,000 square feet of buildings and over 200 new residents will cause an increased demand for service. This impact has not been addressed.

16-134

Schools

Goal 4-H Many, if not most, new developments that may add to the school population, are expected to pay fees to help offset increased costs of additional students to the school district. No mention is made of this in the DEIR. No mitigation is offered for any potential increase in the student population. Even if the system has the capacity, adding students ALWAYS increases costs.

16-135

No estimate is given for the possible number of students the Project may add.

General Parks and Recreation

Goal 5-A The Project offers no active recreational areas aside from the bicycle trail. There are no picnic facilities, no play areas, no athletic facilities, no meeting facilities, or anything else. This certainly does not meet the expectations of the current Public zoning which might lead one to expect at least some of those facilities in a conversion to commercial use. The much-promoted Discovery Museum is a private business and does not qualify as a park or public recreational facility.

16-136

Comment Letter 16

Comment Letter 16

Coastal Access

Policy 5-B-1 How can the Project be consistent with a policy that will never happen? Waterfront Drive , according to the Coastal Commission, will not be extended through the Palco Marsh to the Elk River area in the foreseeable future. If the Project is counting on this as part of its traffic mitigation or anything else, it is making a mistake that should be corrected.

16-137

Policy 5-B-9 The Project will affect coastal access by eliminating parking for coastal related and dependent activities such as use of the public boat ramp on Waterfront Drive and the city marina by extending 4th Street and 2nd Street onto Waterfront Drive. The extensions will also increase traffic and its attendant hazards in the coastal area.

16-138

Recreation Services

Goal 5-C It is true. The Project provides NO recreation services whatsoever for its residents or the general public. This lack is NOT a virtue for the project.

16-139

Arts and Culture

Goal 5-D It is true. NO entertainment, recreational, or cultural activities are envisioned for the Project except for the privately operated Discovery Museum. This lack is NOT a virtue for the project.

16-140

Historic Preservation

Goal 5-E The only comment here is about how badly the offered artist’s renderings of the project’s buildings will clash with the Victorian Seaport theme of nearby area and with Eureka’s ‘maritime heritage’.

16-141

Archeological Resources

It appears that agreements with local native peoples are sufficient to deal with this issue, should it arise.

16-142

If there are artifacts that could be used by the proposed Railroad Museum, they should be preserved and offered to the museum when it is developed.

Natural Resources

Goal 6-A The Project will only offer to restore a minimum amount of wetland in a effort to make it acceptable to the Coastal Commission. Historic records indicate that the site was wetlands all the way

16-143

up to Broadway. Photos indicate the area inside the ‘balloon loop’ were wetlands as well. A great deal more could be done to restore additional wetlands in conjunction with the site cleanup.

This is where a smaller project more in scale with the surrounding community would provide an excellent opportunity to reclaim and improve productive wetland areas. Increasing the light industrial aspect while reducing or eliminating the retail aspect would allow this to happen. Office space and limited residential use would still be compatible.

While the proposed Project does provide a gain in wetlands through restoration of Clark Slough, even this amount was offered in response to intense public pressure. Much more could be done while still providing for a viable project.

Policy 6-A-3 Again ,the Project offers to restore only a fragment of the historic wetlands on the site. This is not consistent with the goal of restoring productive wetland and riparian habitat wherever it historically occurred and is insufficient to restore the real biological productivity of Clark Slough.

Policy 6-A-6 Clark Slough is included by indirect reference as an environmentally sensitive area. It should be restored as such. Historic photos show it winding through much of the Balloon Tract property.

Policy 6-A-9 It is my understanding that restoration of Clark Slough would require some dredging and shaping, at least to remove contaminated soil and refuse. The Project needs a plan to dispose of dredge material safely.

16-143 cont.

16-144

Policy 6-A-13 Insofar as the Project’s Restoration Plan for wetlands and Clark Slough fails to recognize the extent of historical wetlands and fails to offer restoration to more than a small portion of them, it is NOT consistent with this policy. Providing a plan only for part of the site is not adequate.

16-145

Policy 6-A-14 If the site was to be restored to its historic wetland use, the Project would be totally inconsistent and inappropriate for the site. This is not even considered as an alternative.

Policy 6-A-19 The buffer offered would only be adequate for the limited amount of wetland that would be restored. It would not be adequate if a larger portion of the historic wetland was restored.

16-146

Policy 6-A-20 Himalayan blackberries are not native plants. They are invasive and difficult to control. The use of native blackberries in buffer zones should be specified.

Policy 6-A-23 Insofar as the site contains a large amount of historic wetlands which could be restored, this policy should apply.

Agricultural Preservation

Conservation of Open Space

Goal 6-C The Project’s response to this goal is inappropriate since it does not refer to habitat protection. Someone missed the mark here.

16-147

Comment Letter 16

Comment Letter 16

Policy 6-C-1 This exactly the type of open space the city wishes to preserve. It needs restoration and cleanup to be properly utilized. Once it is all built upon, it no longer could be used for this purpose.

16-148

The Project would block off a vast open space area that could be developed for Public use as it is now zoned. Huge 5 story buildings will block light and view rendering existing open spaces less desirable and useful.

Timber Resources

There is a large log-unloading and wood chip loading facility along Waterfront Drive. To the extent that the project increases traffic and congestion on Waterfront Drive, it WILL have an impact on lumber related activities.

16-149

The Project does not exist in a vacuum. It has consistently failed to recognize its impacts on other areas, businesses, and functions in the city.

Air Quality

Policy 6-E-3 The mitigations referred to are inadequate to meet air quality standards for the project.

16-150

Policy 6-E-5 The alternatives offered are inadequate. They fail to consider a wide variety of viable alternative uses and development strategies for the site that could bring it into compliance.

16-151

Air Quality – Transportation/Circulation

Policy 6-F-1 The improvements offered to aid traffic flow do not offset the increase in traffic density caused by the project and the increase in air pollution it will cause. Even with the mitigation, traffic will slow through town, causing it to emit even more pollution. Increased numbers of trucks serving the Project will add to particulate emissions

16-152

The proposed traffic flow improvements should be paid in their entirety by the developer, not the taxpayers of the city. They are offered for the developers benefit and any benefit to the public is incidental.

16-153

Policy 6-F-5 To the extent that public transit is subsidized by the city or other government funding, and to the extent the Project produces an increase in transit ridership, it should pay a proportional share of the cost of the increase.

16-154

Seismic Hazards

The Project concentrates large numbers of people and automobiles in one area. In the event of a seismic event or a tsunami, evacuation of the site will be difficult because of the limited number of access points and the limited number of routes available to high ground. Evacuation would be further complicated by competition for limited routes by other people in the area, such as those using businesses and facilities on Broadway, Costco, the Koster Street County Services buildings, etc.

16-155

There is significant danger from liquefaction in the event of a major earthquake. The concentration of large numbers of people on the site increases the consequences and dangers from such an event. This should be considered when considering the size and scale of the project. I have had conversations with a former member of the Eureka Fire Department about the fire station at 533 C Street. He reports that the building is on pilings driven down 40 feet. The building has settled with each earthquake. Beams are now at separations of several feet at the roof lines. A great deal of work has been expended keeping the structure together. The Project would be built on similar soil with similar pilings. It can be expected to suffer similar separation and shifting from unstable soil and liquefaction after earthquakes. The size and height of the buildings, particularly the 5 story office building, with its significant weight, could easily be expected to suffer structural problems from ground failure, either from the nature of fill soils or from liquefaction. Apparently the Project designers did not look at similar buildings in the area before deciding on their designs or they would have specified lower less heavy buildings.

16-156

Geological Hazards

If the geotechnical report suggests the site may contain unacceptable hazards for a development this size, is the developer prepared to consider alternatives, perhaps by reducing the size, changing the use pattern, or changing the density of the project?

16-157

Fire Safety

Insofar as increased traffic density could slow fire response time, the Project could seriously impact the goals of the fire department to ensure safety.

16-158

The large size and height of buildings on the site could also necessitate the acquisition of additional equipment by the fire department to ensure adequate service. Who will pay for any needed upgrades?

Flooding

The culverts and stormdrains proposed for the Project are only for a 10 year flood. A 100 year flood would overwhelm them and could cause serious risk to residents, workers, and users of the site. This is not considered by the Project. It seeks to do only the minimum required by the letter of the law.

16-159

Comment Letter 16

Comment Letter 16

Hazardous Materials and Toxic Contamination

Policy 7-E-1 Several big-box chain stores have significant histories of hazardous waste violations. Home Depot (the presumed anchor for the site) is among the **worst**. (see Times Standard AP article, 8/18/07, page B 5). Once established, threats to leave make real control over the anchor stores extremely difficult to enforce. The large garden supply area included in Home depot stores has been implicated in a number of hazardous waste problems, including disposal into waterways, improper handling procedures, and use of untrained or unlicensed personnel. This does not increase my confidence level that hazardous wastes will be handled properly.

16-160

Policy 7-E-3 Requirements for hazardous waste storage could easily be relevant, depending on what materials are stored and sold by anchor stores. These requirements must be enforced on all tenants of the project. They are NOT insignificant.

Policy 7-E-9 The city must designate appropriate storage areas for toxic materials given the history of Home Depot garden supply operations. (see Times Standard AP article, 8/18/07, page B 5) These materials must be prevented from entering the bay or other waters or wetlands.

Policy 7-E-11 Capping should never be considered an alternative to actual cleanup of contaminants.

16-161

Health and Safety

Participation in Emergency Management goals and programs should be a major part of the Project's planning process. It is NOT.

Policy 7-F-3 Insofar as the extension of 4th Street into the Project and onto Waterfront Drive become major access corridors, they must be considered a major corridor for emergency and disaster response purposes.

16-162

Residential Noise Exposure

In the admittedly unlikely event that railroad service resumes past the project, noise mitigation could become a large problem.

16-163

Policy 7-G-5 Again, no mention is made of noise levels potentially caused by the resumption of railroad service. This could be a significant impact on residential use.

Policy 7-G-8 **The Project response is WRONG.** There are noise sensitive residents and visitors living or staying on boats at the city marina that would be significantly impacted by increased traffic, noise, and congestion on Waterfront Drive. An increase of 5db would impact those noise recipients.

16-164

Administration and Implementation

Here my comments begin a new section.

Westside Industrial Study

The Westside Industrial Study provides several viable alternatives to the proposed project. It recommends rezoning from Public to General Industrial to allow the development of an industrial park. This is in conjunction with a strong wetland restoration program. It is also recommended that other types of commercial development be restricted or not allowed on the site. Its location in an enterprise zone and a redevelopment project would make it easier for prospective tenants to secure funding for their businesses.

16-165

The Project rejected most of the ideas offered in the Study. It should reconsider. The benefits of industrial living wage jobs to the Eureka economy cannot be overestimated. A project of this type would increase the 'wealth providing' parts of the local economy. This could lead to increased demand for retail in the future. Without it, there can be no increase in retail dollars for Eureka. Increasing retail development without increasing the wealth –building industrial sector would only harm existing businesses.

Consistency with the Eureka Redevelopment plan

There is nothing shown from the Eureka Redevelopment Plan that precludes development primarily as an industrial park. Furthermore, there is nothing that shows a preference for the type of project proposed. The language is sufficiently vague as to support almost anything that anyone wanted to do as long as it represented development of some kind. The ERP provides no specific direction and is not relevant to the decision making process unless one were to consider a 'no project' option. It was also issued in 1996, before the 1999 public vote rejecting a change to the Balloon Tract zoning and use.

16-166

Benefits claimed by the Project are not necessarily in line with the goals of the ERP except insofar as almost any kind of development, however poorly conceived, could be seen as an improvement. This is highly questionable.

Consistency With the Waterfront Revitalization Program

As the Project often points out, it is NOT on the waterfront. It will occupy space that could be used for a much larger and more productive industrial park. It will increase traffic and congestion on waterfront streets by routing 4th Street onto Waterfront Drive and into Old Town. It will add noise, air pollution, and traffic to routes leading directly into and through Old Town and waterfront areas. It will detract from retail development of waterfront areas by creating huge competing retail spaces.

16-167

Comment Letter 16

Comment Letter 16

Much of the Project response is illusory. It proclaims mitigation for traffic increases on City streets, yet there appear to be only measures designed for Broadway. It proclaims great improvements to wetlands, which is true but only to a very limited extent. The sheer size of the Project prevents even considering additional wetland restoration to closer to historic levels. The trail and bike access would be good except for the extension of 4th Street, creating a hazardous crossing.

Demand for police and fire WILL increase, if only on a per-capita basis (more people in one area = more service demand). The project frequently tries to deny this fact.

Artists' sketches shown in the Times Standard newspaper and in the DEIR show square, flat-roofed, totally unimaginative buildings that have NO aesthetic appeal whatsoever. They certainly DO NOT reflect any know maritime or Victorian theme. They bear no relation to other waterfront architecture.

None of these aspects of the Project in any way contribute to waterfront revitalization. To the contrary, by increasing congestion, placing huge view-blocking 5 story buildings, and using up all but a fraction of the potential industrial land in the area, the Project actually works against the development of a healthy waterfront area.

16-167 cont.

Consistency with Zoning Regulations and Coastal Zoning Regulations

Limited Industrial (ML)

Many of the Projects 'mixed uses' are incompatible with an ML zoning, particularly the housing element and the huge retail component. The General Plan calls for industrial use in the so-called knee-cap area North of 3rd Street and west of Commercial Street. This could easily be added to or built in conjunction with an increased industrial component for the Project. Building huge retail spaces removes any possibility of increased industrial development. Industry provides better paying jobs and actually adds to the wealth base of the community. Retail, particularly corporate chain outlets, typically pay poorly, have few benefits, and take profits out of town where they cannot be recirculated in the local economy. Industrial development brings a great many more benefits to the community than additional retail can provide, particularly when a large number of storefronts throughout the city are already vacant and more vacancies are likely (see attached photos).

To the extent that the Project would meet requirements within its miniscule industrial area, it could be considered consistent. To the extent that many more benefits could result from a greatly increased industrial zone (ML), the project falls far short of its potential.

Waterfront Commercial (WC)

- o The Project is inconsistent with the very first purpose for CW zoning because it cannot be considered Coastal Dependent or Coastal Related in any way. It could just as easily be built on the desert.
- o The Project offers no recreational facilities.

16-168

- o Purposes 3 and 4 relating to retail and business use conflict directly with purpose number one, being coastal dependent or coastal related.
- o No community facilities or institutions are to be located or included in the Project.
- o The project would build huge out-of-scale FIVE story buildings, blocking views of the waterfront . The density of the Project would greatly increase traffic density on surrounding streets and neighborhoods.

The primary objection to the uses proposed for a CW zone is the total lack of relationship to other waterfront related or dependent uses. Land for waterfront use is rare in our community. The Balloon Tract project does not fit into those uses. CW is designed to promote retail that is somehow waterfront related, such as chandleries, gear stores, fish processors, seafood restaurants, even appropriate tourist oriented stores. A larger ML zone and a larger WC zone would serve the community in far better ways.

The Project is stretching the definitions of coastal related and coastal dependent past any reasonable interpretation!

Office and Multi-family Residential (OR)

The area proposed for this use appears to be next to the so-called knee-cap area that has been recommended by the city for industrial development. These may or may not be compatible uses when placed in close proximity. While the proposed use would be in compliance with the proposed zone change, the change itself is not necessarily in the best interests of its users. This is a case of changing the zone to meet the proposed use rather than fitting the proposed use into the zoning.

Large areas of office development generally put large numbers of cars onto the street before and after work. That's where the term 'rush hour' comes from. An office and residential development of the size proposed would contribute to 'rush hour' traffic on Broadway and throughout the city. The impact could be very significant.

Service Commercial (CS)

The proposed Commercial Services zone would be completely out of scale with Eureka's retail needs. Zoning is intended to protect as well as promote. In a business climate where storefronts are going vacant all over town and established businesses are struggling to stay open, rezoning this parcel to add over 330,000 square feet of retail use would be a grave disservice to the existing business community.

While there is little doubt that the developer would stay within permitted uses if the parcel were rezoned, the question lies in the appropriateness of the rezoning itself. Other uses, including expanded wetlands and expanded industrial development, would be far more beneficial to the city. Some area could even be reserved for actual Public use as it is currently zoned. There would still be a reasonable amount of CS land along Broadway to accommodate reasonable amounts of new retail of appropriate size.

16-168 cont.

Comment Letter 16

Comment Letter 16

Conservation Water District (WC)

This zoning would allow wetland restoration to proceed. Historically, the parcel was wetland all the way up to Broadway and well within the 'balloon' area created by the railroad tracks. The project only proposes to do a minimal area of wetland restoration. This zoning should be used to encourage additional restoration in conjunction with the clean-up of the site,

16-168
cont.

Finding of Significance

The finding of 'less than significant impact' is only from the point of view of the developer. It is not necessarily the viewpoint of the various agencies involved or of the City. I feel it is necessary to point his out. The developer would have us believe everything is in full conformity when there are many possible conflicts yet to be resolved. It is inconceivable to me that a 550,000 square foot project with over 330,000 square feet of new retail space, generating almost 16,000 NEW auto and truck trips per day, and filling the skyline with FIVE story buildings can possibly claim to have 'less than significant impact' on Eureka. It is simply not possible!

16-169

Cumulative Impacts

Impact I-4 The Project could greatly limit other development projects. Its effect on air quality alone could preclude nearby development. Its impact on traffic, both on Broadway and through out the city, could easily limit other development. Projects like the proposed Forrester/Gill project in Cutten or the Super-Safeway on Harris will have definite impacts on at least traffic and air quality. The cumulative effect of all of these projects could render Eureka a very undesirable place to live. Crowding, bad air, and heavy traffic could reduce property values as well as the values of so-called small town living. For the project to claim there would be no cumulative impacts is totally self-serving.

16-170

The proper numbers would remove 38 acres from an available stock of Public land that is actually only 171 acres. No assessment is given for how many of those acres are actually usable (gulches, wetlands, steep slopes, etc.). The Project is using the best possible case to make itself look good. There is no mention of how much available land is in coastal zones which carry a special value for certain public uses. This type of public use cannot be replaced or moved elsewhere. The amount of land that would be converted to private retail use and how much would be held for future Public Use is significant for the future growth and development of the city.

16-171

Mineral Resources

Nothing of significance.

Noise

5-160

Figure IV-K-2 does not show the location for the noise levels measured. It does show that peak traffic noise will exceed 80db for a significant amount of time each day. If this is the current noise level on Broadway, then an increase of 15,000 trips by both autos and trucks can be expected to greatly increase the noise level. The impact on neighboring businesses, residential areas within several blocks, and, by extension, increased levels on other city streets will profoundly affect the quality of life in Eureka. This impact could be locally overwhelming if the proposal to route traffic crossing Broadway at Washington Street on up Washington to Summer, a residential area, to access 7th Street.

16-172

Vibration

This could become significant depending on the amount of increased truck traffic generated by the huge retail complex.

No mention is made of several possibly very significant vibration effects of pile-driving during construction. Eureka could experience a period of FIVE months with the noise and vibration of pile-driving disturbing its residents. Depending on construction progress, this could be extended over several years.

16-173

Sensitive receptors

An argument could be made that we are all sensitive receptors. Increased noise levels have been shown to affect mood, productivity, and general quality of life. These effects are felt at all levels of noise increase.

One possibility would have traffic at Broadway and Washington Streets continue across Broadway to Summer Street to access 7th Street and other parts of town. This would represent a large increase in traffic and noise in that residential district to what are considered sensitive receptors.

The effect of noise on the marina area is dismissed. Many people sleep on their boats, whether while stopping there in transit or, in some cases, actually living on their boats. Increased noise would certainly affect those 'sensitive receptors'.

16-174

There is an ambient 'background noise in every city. Go outside at night and listen. It is easily heard. The project states there will be an increase in noise levels at Broadway and 4th Streets of over 7db and again on Waterfront Drive of the same. This increase contributes to the background level. While it is of itself not a large impact, it does have an effect on the general atmosphere and livability of the City.

This is yet another reason to consider a 'reduced scale' project, either by shifting the principle use to light industrial or by eliminating the huge traffic generating big-box anchor and concentrating on small scale retail emphasizing locally owned businesses. Either of these options would significantly mitigate noise generated by or as a result of the project.

Population and Housing

The Project would probably not result in any substantial population increase in Eureka or the County.

16-175

Comment Letter 16

Public Services

Correction under 'Parks': There are NO boat ramps at Woodley Island Marina. There is a single lane ramp underneath the Samoa Bridge and a two lane ramp on Waterfront Drive next to the City Marina. Use of the Waterfront Drive boat ramp can be expected to be severely impacted by the project.

16-176

Fire Services

As noted elsewhere in my comments, the Project would require additional fire services, both in personnel and in equipment. It does not currently have the capability to cover the additional 550,000 square feet of buildings or the height of five story buildings. It is unlikely that any increase in tax revenue from the Project could be spread to cover the increase costs. In any event, tax revenues from the Project would not be available to the Fire Department until long after the Project is completed. The 2007 Standards of Response Coverage Study shows that the City's fire services would be inadequate to cover a major fire at the Project and would be in real trouble if multiple events occurred at the same time. This might be expected in an earthquake, for example, when the project's sprinkler systems might be damaged or completely out of service. The placement of the five story building is such that the fire department's equipment cannot access 2 sides of it. A third side would have only limited access through the 'plaza' area. Given the area's propensity for earthquakes and liquefaction, the possibility of fire is larger than in more stable areas. If other buildings were involved, catastrophe could result. At least, placement of the 5 story building or its surrounding buildings should be modified for better access. The Project consistently uses only 'best case' scenarios for predicting fire and police needs. The 'best case' is almost NEVER the actual case!

16-177

Making 4th Street into a 'no parking' zone would allow better fire access but could turn the street into a thoroughfare with increased speed and congestion.

Mitigation M-1-F Will the Project PAY for the Opticom emergency traffic prompting devices recommended on Broadway?

A reduced scale project favoring light industrial use and small retail spaces would mitigate danger and expense to the city, and would be more compatible available with existing police and fire services.

Police Services

As indicated elsewhere in my remarks, shopping center developments almost always result in increased police calls, often far in excess of what was predicted. Chain stores seem to offer an attractive target for shoplifters and bad check writers, apparently due to their anonymity. Chain stores typically demand a full police response to all shoplifting and check fraud incidents, however minor, requiring additional time, paperwork, and court appearances by police personnel.

16-178

5-161

Comment Letter 16

The increase in traffic by over 15,000 trips per day will require increased traffic enforcement and increased accident response of an unforeseeable amount. This cannot be dismissed as "less than significant".

16-178 cont.

While the Project will probably provide some increased revenues to the city, they maybe offset by losses from loss of businesses in other parts of the city. There is no guarantee these revenues will be available for the increased services required by the project.

The increased number of service calls required by both police and fire departments detract from the services available to the rest of the city. At a very minimum, the Project should be required to pay the city specifically for any increase in equipment and personnel this would require.

Cumulative Impact on Public Services

As mentioned above, any increase in demand for Public Services without a corresponding increase in equipment and personnel takes away from their availability to other parts of the city. There is NO specific provision for upgrading these services by the Project. The increased revenue to the city that would supposedly offset increased service demands is ONLY a projection. Also there is no guarantee, given current budget shortfalls, that this money would be available for Public Service use.

16-179

I have been to many City Council meetings where the heads of the police and fire departments made urgent requests for sufficient funding to try to regain former service levels. The Police Department is currently operating short-handed while trying to recruit new officers. This does not sound like a department that would be able to increase its level of service to provide for unknown numbers of new calls at the Project. This could not reasonably be considered "less than significant impact" to the rest of the residents of the City.

Response time is NOT the only measure of impact on Public Services. It is equally important that the departments have sufficient capability to respond to peak numbers of events in various parts of the City, particularly when they may happen at the same time (earthquake, flood, etc.). Any increase to the Project will necessarily result in fewer services being available to the rest of the City without significant upgrades. Nothing in the project plan directs or dedicates funds for increased equipment or personnel.

Similarly, disaster response capabilities would be stretched even further by the project. The concentration of large numbers of people in a relatively confined area presents potentially huge disaster response needs that the City is currently unequipped to handle. Earthquakes, floods, storms, tsunamis, and high winds could all require a major disaster relief effort at the Project. Without dedicated funds to upgrade city capabilities, the Project would represent a net loss of services to the rest of its residents that is unacceptable. It is certainly not "less than significant"!!

Recreation

Correction: There is NO boat ramp at Woodley Island. The authors of the EIR are apparently unaware of this fact.

16-180

Comment Letter 16

Comment Letter 16

5-162

The Balloon Tract was zoned "Public" for several reasons, not the least of which was the intent of using it for Public Purposes. One of the hoped for purposes was as open space around possible public and recreational facilities. This is NOT one of the benefits of the Project. The open space provided by limited wetland restoration of Clark Slough provides only minimal trail space and no public use areas for recreational use, except possibly riding one's bicycle past the parcel. This falls far short of meeting hopes and expectations.

16-181

The ratio of park land /per resident is highly misleading. This is because Eureka is surrounded by contiguous county residential areas whose residents use city parks at least as often as city residents do. These areas have few, if any, parks of their own. This might easily double the estimated use levels of city parks. Even at that, the project probably won't impact park use by much. However, it should be pointed out that there are few parks in the project area that could be considered neighborhood parks. At best, the Project could supply some open space around Clark Slough but it is not what would be considered useful park space for most recreational activities.

16-182

Impact N-3 The boat ramp at the city marina is the most heavily used ramp on the bay. Only one lane is usually useable due to silt and heavy eel-grass accumulation. Still, it is the only safe and convenient ramp on the north part of the bay. Parking for vehicles and boat trailers is very limited. It is common on busy summer days to find vehicles and trailers parked all the way down in the Wharfinger parking lot. The Project would extend 4th Street and 2nd Street, connecting them to Waterfront Drive. The extension would eliminate scarce parking and greatly increase traffic on Waterfront Drive. This would make use of the ramp even more difficult and dangerous than it is now with even less parking available.

16-183

Parking for the city marina is barely adequate now and often spills onto Waterfront Drive. Loading and unloading of fish and equipment occurs regularly along the street. The 4th Street extension and the traffic it would generate would impact this use.

Both of these facilities, the marina and the boat ramp, are two of the most heavily used recreational facilities in Eureka. Boating and fishing are highly popular on the Bay and nearby ocean waters. The Project makes no projection for increased traffic on Waterfront Drive as a result of turning it into a major connector from 4th Street. There is no doubt that it will seriously impact at least two major recreational activities and areas in the city.

16-184

The Project also did not anticipate effects on park use through out the city from increased traffic on city streets created by the project. Increased traffic on main corridors would reduce safety for pedestrians and children accessing the parks. There is no mention of this in the EIR.

Transportation

There is a glaring error in the description of Waterfront Drive. It is described as a 48 foot wide roadway from Commercial to Washington Street. In fact, at a location near the south end of the marina, just about where the new entry of 4th Street would be, it becomes a 30 foot wide street past the entry of Marina Drive all the way south to Washington. Continuing south Waterfront becomes Railroad Avenue. Just south of the transition there is an 'S' curve across the tracks where the road narrows again. It widens again further south. These potential bottlenecks are not considered in the DEIR. No provision has been made to widen these sections for increased traffic load. No suggestion has been made of who would PAY for any widening.

16-185

Onstreet Parking.

Amazingly, the analysis of parking between 4th and 5th Streets at Broadway included only ONE day in February and ONE day in March. No mention is made of weather conditions which could easily affect use. The days studied were Tuesday, Feb. 28 and Wednesday, March 1st. One could reasonably expect more use toward the weekend as almost all of the parking there is for restaurant patrons. Assuming low use from counting only TWO days in the middle of winter in the middle of the week is unreasonable and probably incorrect. There is not enough data to make the assumptions made by the project.

16-186

On Broadway from Wabash to Henderson there are large vacant areas. The businesses on that stretch, such as the bowling alley, the day-old bread outlet, and Schwab Tires are mostly set back from the road and most have their own off-street parking.

Broadway between 2nd and 4th has only light industrial use and one dog boarding facility (now identified as 'closed'). None of these would by itself generate much parking need.

On-Street Parking

Here's another one where the people doing the research did an inadequate job. Trying to determine parking use by looking at only two days, one in February and one in March, is ridiculous. Between 4th and 5th the restaurant in question is a popular tourist stop. The parking lot at the restaurant often is filled at busy times. None of these things were considered

16-187

Parking in other areas of Broadway, where allowed, was only surveyed during two days at two times in the afternoon. Some of those areas have residential motels and other businesses that might use the parking at night.

The project report appears to be dismissing the existing parking as insignificant to its users. The analysis is not sufficient to support this conclusion.

Traffic Analysis

Much of the analysis in this section appears to be the result of traffic counts done in March and April of 2007. This avoids peak tourist season on Highway 101 which clearly affects the counts. This fact alone makes the analysis far less than trustworthy. Any resident of Eureka will know that peak traffic in the summer more often coincides with peak tourist use throughout the day and with peak shopping hours at the Baysshore Mall than it does with prime commute times.

16-188

The traffic analysis assumes that peak traffic occurs at rush hour between 7 and 8am and 5 to 6pm on weekdays. According to the American Automobile Association (AAA) magazine 'VIA', dated January/February 2009, the heaviest traffic occurs at 1pm on Saturday, not at weekday rush hours. The traffic analysis makes no mention of weekend traffic density except to dismiss it as insignificant. If

Comment Letter 16

Comment Letter 16

this proves to be true after actual counts, then the whole traffic analysis is incorrect and needs to be reworked.

Other factors such as weather or sale events at the Bayshore Mall are not considered in traffic counts.

16-188
cont.

The effects of construction and maintenance of the roadway is not considered in analyzing the flow of traffic and transit times.

During construction, there is no requirement to minimize truck and construction traffic at critical times such as 'rush hours'.

Only the cumulative effect of other proposed projects in the immediate area of the Balloon Tract are weighed in the analysis. Proposed projects in areas considered part of 'greater Eureka' such as the Forrester/Gill project in Cutten would add another huge increment to area traffic. No allowance is made for this possibility.

16-189

The Safeway Superstore that has been approved for Harris Street near Harrison will add considerable traffic to Harris coming from Broadway and to Henderson heading toward Broadway. Other arteries may also be affected. No allowance or consideration for this additional impact was included in the analysis.

The traffic analysis was done using counts from March and April, months almost sure to exclude the heavy amounts of tourist traffic on Highway 101 in the summertime. This alone puts the traffic data into serious question. Add to that the fact that there is no mention of weather conditions on any of the count days. In Eureka, weather is always significant role in the number of cars and trips on a given day. No accounting of the number of days each intersection was studied during the target months was given, either. This data is not representative of year round traffic expectations on Broadway.

16-190

Table IV.O-2 asks us to believe the Project would generate at the intersection of Broadway and Washington, a major access point to the Project and a major route past the Project, only 248 additional trips per peak hour on weekdays. Remember that these trips are for shopping at the Home Depot and 4 other major anchors. They are also for traffic going to and from the large numbers of offices and residences at the Project. It would appear obvious that these numbers would barely represent the number of residents, office workers, and retail employees using the road at peak times, let alone shoppers at the Project's huge retail stores.

16-191

I believe these traffic numbers to be extremely low, based on the study period used, the estimates of in-house generated use (residents, office workers, and retail employees), and the hoped-for number of shoppers using the center. Correct numbers should include these factors PLUS studies from various times of the year and in various weather conditions. Current numbers being used are calling for mitigation of only the least possible effects of the Project on traffic.

CalTrans reports it is in the process of developing a micro-simulation model for traffic on Hiway 101 and through Eureka. It is predicted to be ready by this summer (09). It should be able to accurately predict the effects of various mitigation measures on traffic. It is hoped that the micro-simulation model can be used in the final EIR and its results incorporated into the analysis of the offered mitigation measures.

16-192

Accident Analysis

While coordinating the stoplights and reworking the Wabash/Broadway intersection may result in fewer accidents per vehicle, the project will offset any gains by increasing the number of vehicles. Only rear-end accidents are considered. Other types of accidents would be expected to increase with traffic density and speed. Accidents from driveway entries, driveway left-turns, and unsignaled intersections would be expected to increase as traffic density and speed increase, even if rear-enders decrease on a per capita basis.

No analysis is presented for accident rates in other major streets. It would be reasonable to assume that as traffic increases on major arterial streets funneling toward the project, accidents would increase there as well. The Draft EIR does NO significant analysis of the effects of the project on traffic and its problems in other parts of the city away from Broadway.

16-193

The only accidents reported were rear-end collisions at three signaled intersections. The mitigation offered is to add signals and time them. The project readily admits it will add traffic to these intersections. The same drivers who pay no attention to lights and cause rear-end accidents will still be there along with a large number of additional cars. It is not the cars flowing through the green light that are involved in rear-enders. It is the ones who must stop and don't. Timing lights will not eliminate the need to stop for large numbers of cars, particularly those just entering Broadway from the project.

Other accidents, particularly broadsides, happen as a result of cars crossing the near lanes to make left hand turns across Broadway or as a result of cars using the left turn center lane to turn into driveways and unsignaled intersections. There is no mention or mitigation for this type of accident. Additional traffic on Broadway would be expected to increase this type of occurrence. This must be included in the analysis of traffic accidents on Broadway.

Temporary Impacts

Construction impacts should be manageable with care and would be temporary. There should be no real problem if due diligence is used.

16-194

Long Term Impacts

Without the Project, 6 intersections would be expected to operate at unacceptable levels by 2010. Given an expected increase of 1.5% per year, by 2025 traffic loads can be projected to increase by 22 ½%, over one fifth. Accordingly, more intersections will sink to below acceptable levels.

16-195a

It follows that if the suggested traffic mitigations were done by CalTrans and the city on Broadway and either NO project or a reduced project were built, traffic conditions might actually IMPROVE!!

Increasing traffic by 15,000 trips per day will have an impact on the long term wear and tear of city streets, particularly Broadway, Waterfront Drive, 1st, 2nd, and 3rd Streets. No mention is made of increased maintenance costs to the City for paving, potholes, and painting. The Project does not offer to pay the City for these costs.

16-195b

Project Trip Distribution

Comment Letter 16

Comment Letter 16

No mention is made in this section of traffic impacts on other parts of the city from the cumulative impact of a general increase in trips caused by the Project. The Project attempts to use traffic studies done for Costco as a comparison. Traffic from Costco, a much smaller single purpose development, has caused traffic conditions at Wabash and Broadway to become extremely hazardous. There is no left turn lane from Wabash onto Broadway southbound from the east so cars must wait for cross traffic to proceed. Traffic coming from Costco and turning left onto Broadway must cross through traffic heading for Costco from the east. The lack of controls and manners make this one of the most dangerous intersections in Eureka. Eliminating the feeder from Fairfield would eliminate some confusion but would not solve the problem of turning traffic originating from one small Costco store. One can only imagine what the situation would be at a full intersection at 4th and Broadway. Broadway currently contributes very little traffic from the north into its intersection with 4th Street (even less since All About the Dogs closed its Broadway location). Pushing 2nd Street to 4th Street would create additional traffic traveling west on 2nd, through the 4th and Broadway intersection, and onto Broadway. This is traffic that currently travels on other routes that would now impact that intersection.

I am particularly concerned about traffic generated in various parts of the city, traveling smaller local streets onto main arteries like 14th, Wabash, Henderson, and 6th, and then onto Broadway to access the Project. The effect on smaller city streets directly impacts residents in their homes through noise, safety, and air quality issues. Increased traffic on arteries adds to already uncomfortable congestion. Most of those arteries are in residential areas themselves. Increased traffic on them will ultimately impact traffic on Broadway.

At some level this becomes a quality of life issue. Can people live with increased traffic congestion throughout their city? Do they want to or should they have to? Those are the real questions. Sacrificing some of our quality of life for another chain big-box store and another unneeded shopping center is a bad trade-off.

If traffic without the project would continue to be marginally acceptable through 2025 without doing the mitigation measures suggested in the Draft EIR, it would seem obvious that doing the mitigation measures without the project could make traffic on Broadway BETTER than it is now. This alternative is not mentioned or considered.

Operation Evaluation

A number of factors were overlooked in this section. Vehicle Miles Traveled is a good measure of traffic density if the total miles that could be traveled per vehicle remain constant. In that case, an increase in VMT represents an increase in traffic density. (more cars traveling the same number of miles results in an increase in VMT). There would certainly be an increase in VMT as the number of Trips increased.

An increase in traffic density creates the perception of overcrowding and congestion regardless of how well that increased traffic actually flows. This would occur even with the proposed mitigations simply due to the increased number of cars present on the road.

Many people, in order to avoid using what they perceive to be an overcrowded Broadway, will use other city streets to travel across town, thereby increasing traffic on previously lightly traveled residential streets. This is not analyzed and has a significant chance of reducing the quality of life from increased traffic density and reduced air quality. A common widely used alternate route goes up Pine Hill, through

the Golf Course, onto F Street, right onto Harris, left onto S Street, through the highly overloaded S and Buhne intersection, past Myrtle Avenue, and onto Hiway 101 north. This route is currently used by many people seeking to bypass Broadway. It travels almost entirely through residential neighborhoods on residential streets. It is very likely that, with increased congestion on Broadway, more people would try to use this alternate route to avoid the Broadway congestion (or PERCEIVED congestion). There is NO analysis of this impact in the DEIR.

Mitigation O.1b Closing Fairfield at Broadway is a good idea and should have been done a long time ago. I would not credit the Project with 'mitigation' for doing the obviously right thing. The one drawback to the change is that much of the traffic coming from Fairfield is headed to Costco and uses the intersection only as a means to cross Broadway. Some of the traffic on Fairfield will turn RIGHT onto Hawthorne, Sonoma, or Del Norte, then LEFT onto Spring or Albee, then RLEFT again onto Wabash. This gives them a direct line into Costco via Wabash. People often do not want to travel on the main road, especially when it is crowded, or, as in this case, it would make them have to make a left turn across Broadway onto Wabash when they know the turn lane is already very heavily used. If a light was placed at Hawthorne with two right turn lanes from Hawthorne onto Broadway, right turning traffic would have to move immediately left across two often backed-up busy traffic lanes to access the left turn lane onto Wabash and then to Costco. This could create a very dangerous situation. This is just one example of the lack of analysis on impacts on other city streets. It must be considered in the final EIR.

Mitigation O.1e The coordination of stoplights on Broadway has always been a good idea. The problem lies in installing a conduit all along Broadway. The needed excavation and subsequent patching will degrade the roadway. There is no money in either the City or CalTrans budgets to repair the damage.

Mitigation O.1f This is the worst idea yet. Placing signs in the Project directing traffic onto Waterfront as an access to Broadway would cause unacceptable congestion on Waterfront Drive and severely impact its other users. Traffic leaving Waterfront would have to take Washington, 14th Street, or Wabash to access Broadway. Cross and turning traffic never flows as smoothly as through traffic and would therefore add more to congestion in the area than traffic exiting the project directly onto Broadway. This route also requires more left turns across Broadway to access 101 North. Left turns across traffic, even on a signal, always are more dangerous.

Other signs would direct traffic heading for northbound 101 to take 2nd and 3rd Streets. This would put an unacceptable traffic load on Old Town business areas. These streets are not designed for high traffic loads. There is no projected number for the amount of traffic generated, but this is a 'quaint Victorian Seaport' shopping district that encourages shoppers and tourists to walk throughout the area. Increased through-traffic would make the act of parking more difficult. It would make pedestrian use of the area more difficult and more dangerous, and have a corresponding negative effect on that business district.

Actively promoting traffic onto Waterfront Drive or onto 2nd and 3rd Streets through Old TOWN demonstrates the lack of concern or consideration by the developer for anyone but itself and its own interests. There is no consideration for or analysis of the impact of this measure on other parts of the city.

Mitigation O.1g Placing a turn light at Harris on Broadway would necessarily slow traffic exiting the Bayshore Mall to allow time for a left turn arrow. The road exiting the Mall is often backed up past the stop sign with the Mall frontage road (the road along the front of the buildings). Often more than 10

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Comment Letter 16

Comment Letter 16

cars are trying to merge into the traffic line from the parking lot side as well. Slowing the light at Harris to allow turning onto Harris will only make it more difficult for traffic exiting the Mall. Of course, it is unlikely that the developer cares at all about the traffic exiting the Bayshore Mall.

An extended turn lane for the left turn onto Harris coupled with better exit lanes from Victoria Place might help this problem area. The danger is from left turning traffic exiting Victoria Place onto Broadway northbound. Traffic must utilize the center lane which overlaps with the Harris left turn lane. This sometimes causes strange head to head confrontations. Increased traffic, regardless of light timing, will make this situation more dangerous. No rational mitigation is offered.

Mitigation O.1j Placing a southbound left turn lane and a northbound right turn lane on Waterfront Drive to 4th Street will require prohibiting parking on parts of this already overparked street. It will impact Marina use, boat ramp use, and industrial and trucking use. It reflects the lack of analysis done for any streets besides Broadway. Removing valuable parking opportunities on Waterfront Street is unacceptable.

Finding of significance

The proposed mitigations will have major impacts on Waterfront Drive and its users. This was NOT analyzed.

Traffic crossing Broadway from Hawthorne to the left turn lane onto Wabash could be a dangerous problem. This was NOT analyzed.

Encouraging traffic through signage to use Waterfront Drive, 1st, 2nd, and 3rd Streets to access Broadway or 101 north is a TERRIBLE idea, causing serious congestion on city streets not designed to handle that level of traffic and causing disruption to other users of those streets. It is likely that this would cause major problems for shoppers in the Old Town district as traffic funnels through on narrow city streets. These streets are not designed or maintained for this level of traffic. Upgrading and increased maintenance represent a significant cost to the city, caused by, but not funded by the Project. This impact on other areas was NOT analyzed.

Problems remain with the Harris and Broadway intersection due to probable traffic loads exiting or entering the Bayshore Mall. A serious danger exists from cars turning left from various driveways and unlighted intersections, particularly as they confront cars trying to turn left FROM Broadway into those same driveways and streets. This impact was NOT sufficiently analyzed.

Therefore I must REJECT the finding of "less than significant" for most of the Traffic Impact section. As in much of this document, problems caused by the Project were simply swept aside or ignored in order to make the impacts look like less than they will be.

Impact O.4

The document discusses ACCIDENT RATE. It concludes that the rate would probably not change so the Project would have "less than significant impact". Unfortunately, while the RATE may not change, the actual NUMBER of accidents will increase as a result of increased traffic volume. Nothing in the proposed mitigations is significant enough to change the rate or to change human nature.

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Impact O.5

The reduced speeds on Broadway would have to reduce response time for police and fire vehicles. While they may still be within acceptable limits (acceptable to whom?), they will still be worse than they are now. Each of these impacts serves to degrade the quality of life in Eureka bit by bit. They cannot be considered insignificant.

Impact O.6

My only comment would be that the angled parking proposed for 2nd Street between Broadway and A Street would be dangerous. Cars backing out of angled parking often have restricted views which results in frequent 'fender-benders' The City of San Carlos, California, removed its angled parking because of an unacceptably high accident rate.

Impact O.7

In the unlikely event that railroad service is restored, the Project would create a dangerous rail crossing on 4th Street insofar as it promotes the use of 4th Street to Waterfront as a route to exit the Project.

Impact O.8

The DEIR has inadequate or nonexistent analysis for traffic impacts on other parts of the city. It has inadequate analysis for cumulative impacts from other proposed or approved projects. It has inadequate analysis of impacts on Waterfront Drive and to 1st, 2nd, and 3rd Streets when used as major access and egress routes. It has inadequate analysis for impacts at the 2025 level to intersections at 14th and Short Street, Wabash and Short Street, and Del Norte and Broadway, all of which will see increased use.

Mitigation O.8a You've GOT to be kidding!!! The Project would, by 2025, to offset increased traffic volume, close its access onto Broadway at 4th and 6th Streets and channel all traffic through the Project onto Waterfront Drive and through Old Town on 1st, 2nd, and 3rd. This could only result in a HUGE overload on those streets that are not designed for such heavy traffic loads. The traffic would still end up on Broadway or 4th Street to get to where it's going. This measure, at best, would only displace traffic from one intersection to another.

Mitigation O.8b Has anybody bothered to ask either the Bayshore mall or Victoria Place if it agrees with having its access lanes modified and/or shared? The southern exit from Victoria Place currently blends with the right turn entry lane into the Bayshore Mall, creating a dangerous crossing situation. Nothing in the proposed mitigation would appear to correct this problem.

Finding of Significance The DEIR maintains the Project would only be liable for its 'fair share' of costs for its required mitigations on Broadway. It also states that no moneys appear to be available for a city or State share of improvement costs. This leaves us with a Project that needs mitigation and no funds to do the job. No solution is offered. I suspect that the result would be that many of the mitigations would never get done, leaving us with a much worse traffic situation on Broadway and other city streets than we have now. The Project should not move forward in its present form until mitigation funds are identified sufficient to do the whole job. An alternative would be a scaled down smaller project

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Comment Letter 16

emphasizing light industrial use. This could reduce traffic impacts to acceptable levels with only modest mitigation. 16-217 cont.

I must disagree with the finding of "less than significant" regarding traffic impacts. Analysis was far too limited in scope, concentrating almost exclusively on Broadway and ignoring the rest of the city. Traffic studies in March and April avoid most of the impacts of summer tourist traffic, making them look far better than is actually the case during much of the year. Traffic studies do not consider the cumulative impact of normal traffic increases on Broadway or to other city streets over time. The only current traffic count cited for the zone from 4th to 5th on Broadway is for one day in February and one day in March. These are not indicative of summertime traffic conditions. They also do not say what the weather conditions were those days which, as any Humboldt knows, affects the level of travel. The Final EIR must do a better job of analyzing the real impacts on traffic throughout the year, not just in the Spring. It also must analyze the effects on traffic throughout the city, with emphasis on impacts to quality of life in residential areas. 16-218

No analysis is provided for the impacts of traffic on 1st, 2nd, and 3rd Streets as traffic is channeled into the already busy shopping areas of Old Town and Downtown and then onto 101 at 4th or 5th Streets. These streets were never intended as thoroughfares but are being put to that use by the Project. 16-219

Additional analysis of impacts on Waterfront Drive and on its current users must be included. Those users include boat ramp users, marina users, Wharfinger Building users, various industrial users, and commercial truckers. Increased traffic on Waterfront Drive will impact all of these activities and user groups. Waterfront Drive is a two lane road with critical parking on both sides. In some spots it is fairly narrow. It is not designed to be used as a high volume thoroughfare. Overloading from the Project could limit future industrial development along the waterfront itself. 16-220

As mentioned above, a weakness in the plan to put a signal light at Hawthorne and Broadway lies in the fact that a significant portion of the traffic coming off of Fairfield now is heading toward Wabash and ultimately to Costco. Under the new arrangement traffic heading to Wabash and Costco would have to turn right onto Broadway from Hawthorne from either of two turn lanes. Then it would have to cross two lanes of northbound traffic within a relatively short distance to get to the left hand turn lane for Wabash and Costco. Since the stoplight at Wabash would often be slowing traffic on Broadway, the 'crossover' could be quite dangerous. This was never mentioned in the draft EIR nor was any mitigation offered. 16-221

The intersection of Koster and Wabash was listed as being beyond remediation. No mitigation would relieve the problems there. It should also be pointed out that the intersections of Short Street and Wabash along with Short Street and 14th Street are heavily used by traffic entering and leaving Costco. Routing additional traffic along Waterfront Drive to use Wabash or 14th Streets for access to Broadway would only increase the pressure and congestion at those intersections. This is not considered in the DEIR. 16-222

The intersection of Washington Street and Broadway presents another problem. Traffic trying to get to 7th Street or 5th Street, when confronted with a left turn at the busy intersections and lights of 4th and 6th Streets, which would often be busy with cars leaving the project, would elect to stay on Washington, 16-223

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Comment Letter 16

cross Broadway, turn left onto Summer, and right onto 7th or 5th Streets at uncontrolled intersections. Summer Street is a residential area, narrowed by parking, and would suffer greatly from increased traffic. This impact was not analyzed nor was any mitigation offered. 16-223 cont.

The final EIR must include analysis of increased traffic on city streets, particularly the main arteries that carry traffic to Broadway. The large number of trips generated by the Project will reverberate all over town as cars head in that direction. Some of this effect can already be seen at the intersection of Wabash and Broadway as cars make their way to Costco, a much smaller destination than the Project would be. Back-ups on Wabash in both directions are common. The intersection has one of the highest accident rates in Eureka. Traffic at 14th Street frequently must wait through 2 light cycles to make a left turn onto Broadway. Traffic coming down Henderson onto Broadway frequently backs up past the stop sign at Fairfield at the top of the hill. While adding a lane on Henderson might help, the increase in traffic heading to the project PLUS the existing traffic heading to the Bayshore Mall and Costco could easily overwhelm the improvements.

Traffic engineers may be nice guys but they need to actually drive these routes at different times and under varying conditions to truly know what goes on. While it may be that our streets could handle the increase from the project, they would be stressed and nearer their limits. This would reduce our quality of life and move us closer to the type of gridlock experienced in the big cities. Traffic jams and backups are becoming more common now. Adding 15,600 trips from the project may prove to be beyond the tipping point. When 4th and 5th Streets, Broadway, and other major arteries become utilized so close to their capacity, there is no latitude for repairs or maintenance. Any small repair project would result in major traffic disruption. When use is so close to the limits, there is no room for other beneficial projects elsewhere in the city. 16-224

The final analysis that traffic on Broadway could be expected to increase by 33% by 2025 is a nightmare scenario. Even with the proposed mitigations, the actual increased density and the perceived increase in density would seriously impact the quality of life in Eureka. It would increase the use of alternate routes which go through residential neighborhoods and are not designed to handle increased traffic loads. It would increase accident numbers (if not rates). It would further impact through traffic on Hiway 101.

As an anecdotal addition, I was entering Eureka from the north on Hiway 101 at 12:44 pm on Dec. 22nd. There were no accidents visible. Traffic was backed up southbound over the slough bridge and continued so through several light cycles that I could see. Traffic was backed up from Samoa Boulevard north through the V Street intersection. Traffic exiting Target onto 101 was minimal. The addition of over 15,600 trips per day will include southbound trips into Eureka to shop at the Project. There will be times this additional traffic will render the intersections of Samoa and 4th and V Street and 4th well below reasonable service levels. I could not see the backup further south as I was turning onto V Street, but all those cars had to go somewhere. I can easily foresee this becoming an everyday occurrence at most of the signals through Eureka.

The Project is simply out of scale with the needs of the community. A smaller project, emphasizing light industrial development, would provide significantly more benefits to the community with far lighter impacts.

Urban Decay

Project Impacts

Impact P-1

A CBS Evening News report on the economy (12/25/08) reported that the poor retail Christmas market would probably cause an additional 200,000 stores to close nationwide.

While I cannot verify the total occupancy rate of storefronts in Eureka, I can comment on the apparent number of empty stores. I will attach a list and collection of photographs of unoccupied stores and their addresses. Since I have started looking for 'empties', I have found them all over Eureka. McMahons Furniture is now empty, representing a large retail site. In Henderson Center the relatively large retail centerpiece store, Roberts, is empty and has been unoccupied for at least two years. Neither of these sites has been 're-tenanted'. There are 4 other sites near the Roberts site that remain vacant. The Bayshore Mall reported more than a 17% vacancy rate before Mervins closed. While it is true that the Mervins site might have a new tenant (Khol's), most of the other sites remain vacant with the exception of temporary 'Christmas stores' that cannot be considered permanent tenants. It is further reported that General Growth, owner of the Bayshore Mall, may be on the verge of Bankruptcy. What effects this may have on occupancy remains to be seen. Almost anywhere one looks in Eureka, there are vacant storefronts. Some are scattered and some are in groups. A casual drive through Eureka on January 7th, 2009, discovered 105 empty stores and office buildings (see attached photos). **It is inconceivable that adding over 330,000 square feet to Eureka's retail base will not create additional vacancies elsewhere in the City.**

The DEIR uses the figure of 5.1 million square feet of retail space in HUMBOLDT COUNTY. **There is no mention of the total retail space in the City of Eureka.** It is unlikely that the Project would affect retail businesses in Garberville or Willow Creek. The significant comparison must be within the City of Eureka and possibly its immediately surrounding areas like Cutten and Myrtle Avenue. **Such a comparison will show that the Project represents a far larger increase in the percentage of available retail space than reported in the DEIR.**

The DEIR casually claims that there is no problem re-tenanting existing vacancies and that usually happens fairly quickly. NOT TRUE, as even a casual look at existing vacancies will show. See the attached list and photographs of existing vacancies. As mentioned above, many of these vacancies have existed for several years. Some of the others, particularly in the Bayshore Mall, have experienced frequent turnover while others have remained vacant for some time. This does not represent stable business occupancy.

Impact P-2

The inclusion of an industrial park in Redway, some 60 miles from the project, stretches the definitions of 'cumulative impact', particularly on the immediate area of the Project.

There is NO indication that the proposed Fortuna retail shopping center at the old Pacific Lumber Mill site is proceeding. It has significant pollution problems that may prove difficult to overcome. It is also meeting strong local resistance to this type of development. If it does happen, it will take a long time to develop and would have no immediate impact on the development of the Balloon Tract.

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If Fortuna manages to acquire a Lowe's Building Supply store and Eureka acquires a Home Depot store, Humboldt County could be considered saturated with this type of business. It would then be almost a certainty that many of the locally owned building supply companies such as Myrtle Avenue Lumber, the Mill Yard, Hensell's Supply, Pierson's, Thomas Home Center, and McKinleyville Ace Hardware, would be forced to close. The result would be large vacant sites throughout the community. It would be very unlikely that sufficient numbers of similar businesses could be found to re-tenant those sites given the intense saturation of the market by the big chain stores.

The proposed Forester/Gill project in Cutten would add an unknown but very large additional amount of retail space to the area's inventory. It is unknown what types of businesses would be included but speculation leads one to expect more non-local chain store type businesses. To the extent that they would compete with the Project, the Bayshore Mall, and with locally owned stores, it could easily be predicted that more 'locals' would be forced to close, contributing to vacancies in Old Town, Downtown, and Henderson Center in direct contradiction to the policies of Eureka's General Plan. These additional vacancies would contribute directly to increasing urban blight in older business districts.

The amount of money available in Humboldt County for retail does not grow larger by increasing the amount of square footage devoted to retail. When stores like Home Depot come in, with the expressed goal of capturing 70% of the home improvement business, little is left over for local existing businesses. Many will be forced to close which will contribute directly to urban decay throughout the City and surrounding areas.

The finding of "less than significant impact" is an insult to our intelligence. It is like claiming that removing 70% of the food you eat will have no impact. This bit of analysis is clearly only in the eyes of the Project promoters.

The attached photos and list of vacancies is not comprehensive. It is difficult to scour the whole City to identify every one. Some businesses that are closing have not fully vacated their locations yet. New businesses may not have opened their doors yet. Within those limits, we have identified a large number of vacancies in Eureka and the surrounding areas which directly contradicts the claims of low vacancy rates found in the DEIR. The vacancy rates in Garberville, Redway, Orick, or even Fortuna have only minor relevance to the effects the Project will have on Eureka.

I will repeat, *increasing the square footage for retail in the City DOES NOT increase the amount of money available for retail spending.* It only divides the money available into more and smaller pieces. This is so basic that I cannot believe it is not considered in the DEIR.

The only way to increase the amount of money available for retail is by increasing industrial production in the local economy.

The project should be scaled down in size to reduce its other impacts and it should emphasize light industry to actually increase the wealth available. Then, and only then, can Eureka accommodate a large increase in retail development. The Project clearly puts the cart before the horse. The sheer number of empty storefronts in Eureka currently, many the aftereffect of the Bayshore Mall, demonstrates how much effect this Project will have on Urban Decay.

16-225 cont.

Increasing light industry is particularly urgent in light of the recent (apparent) closure of Evergreen Pulp and large layoffs at Green Diamond Timber. The extraction industries of lumber and fishing are in serious decline. The community will need a strong proactive stance to attract new industry. The addition of huge retail projects without additional industrial development will ultimately lead to disaster for the local economy, including the Project's big chain stores.

Big box stores and national chain stores have a history of simply abandoning communities that become unprofitable. An article in Main Street News from July, 2008, reports that over 6,500 chain store outlets plan to close by the end of 2008. Suzanne Mulvee, senior economist at Property & Portfolio Research, estimates that there are currently 1.2 BILLION square feet of vacant retail space in the country. That's over 40 square miles of empty stores!! Home Depot has abandoned at least 15 stores in 2008 alone. The CBS News report from 12/25/2008 predicts that an additional 200,000 stores could close in 2009. The Project claims it would be easy to re-tenant a Home Depot size store but that might not be so easy if Home Depot failed. It would certainly appear to be a riskier venture to any prospective tenant.

An Associated Press story in the Times Standard dated 12/30/08, page A6, claims 160,000 stores will have closed in 2008 and another 200,000 could close in 2009. "Burt P. Flickinger III, managing director of the consulting firm Strategic Resource Group, expects between 2,000 and 3,000 Malls to close in March and April of next year" (2009).

Urban decay happens when control of retail is lost to outside chain corporations who have no connection with the community. Local stores lose to the huge buying power and deep capital backing of the corporations. Many are forced to close. The pattern has been repeated many times across the country (see last paragraph). The corporations do not care about the community except as a source of money for themselves. Their profits quickly leave town and are not recirculated in the local economy. **The end result is often the demise of downtown and neighborhood shopping districts. It becomes the definition of urban decay.**

Utilities and Service Systems

Impact Q-3

This section states that, "The increased runoff from the proposed project is not expected to be substantial." It is difficult to believe that over 500,000 square feet of buildings/roofs plus an equally large square footage of parking lots, all impervious to rain, would not produce significantly more runoff than is currently produced by the site. Stormwater from parking lots and rooftops carries pollutants such as gas, oil, and antifreeze, all extremely toxic to fish and wildlife. I am not aware that the city has any more than a limited capacity to actually treat stormwater, forcing it to simply dump it straight into the bay beyond a certain point. To the extent that the Project would cause the system to reach that point sooner than it does now, it could put more untreated stormwater into the bay.

Building the culverts and drainage system to handle a 10 year flood event almost guarantee failure during the Projects lifespan. There was a 100 year event in 1955 and another in 1964. There have been subsequent events easily surpassing the '10 year' mark. The Project should upgrade its infrastructure to insure against disaster from relatively common events.

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Impact Q-7

There is nothing in this section regarding handling, storage, and disposal of hazardous waste materials such as those known to be generated by Home Depot stores, particularly their garden centers. (see AP article, Times Standard, 8/18/07, page B5). In 2007 Home Depot was fined \$10,000,000 for its mishandling of hazardous waste. The Project must have a plan to deal with it and to control certain possibly hazardous activities of its tenants.

16-228

Chapter V. Impact overview

Significant Unavoidable Impacts

Air Quality

Significant increases in PM10 emissions and probable increases in particulate emissions (diesel exhaust) present incremental health hazards to the population of Eureka and surrounding areas.

The Project should be reduced to meet Air Quality standards. A scaled down Project could meet requirements and still be viable. The evaluation of this alternative is minimal, at best, and is obviously being avoided by the Project proponents.

16-229

There is no analysis of increased air pollution (vehicle exhaust) resulting from SLOWING traffic on Broadway.

Transportation

There is NO analysis of traffic impacts on city streets other than Broadway. There is no analysis of traffic increase on Waterfront Drive and its impact on current users of that street. There is no analysis of the impact of routing through traffic onto 1st, 2nd, and 3rd Streets through Old Town.

16-230

Unless the Project wants to build an East side freeway, there is no way the addition of over 10,000 trips per day onto Broadway will not result in increased congestion, air pollution, accidents (on a per car basis or a per mile basis), and the general perception of crowding, annoyance, and avoidance behavior (alternate routes).

16-231

The Project offers to pay its undefined 'fair share' of traffic mitigation on Broadway. It is impossible to determine if either the city or the state will have funds to complete the mitigation measures. Under the current circumstances, it is highly unlikely that they will. That would result in adding increased traffic to Broadway with no more than minimal mitigation and would result in HUGE impacts to the Broadway/101 corridor. **There must be guarantees for full funding of necessary mitigations BEFORE the Project is built.**

16-232

Comment Letter 16

Comment Letter 16

Significant Irreversible Environmental Changes

As quoted before, Home Depot has a history of mishandling hazardous waste. There needs to be a plan in place for its safe handling. Once its 'Garden Center' is built, there will be few practical ways to limit its environmental effects.

16-233

The one resource that will be permanently affected by the Project is the availability of land for waterfront dependent or waterfront related uses. The Project removes a significant portion of the land otherwise available for these uses. The argument that there is no current competing demand for the land fails when it is revealed that no effort was made to determine other possible uses. Significantly reducing the amount of 'waterfront related or dependent' use land could severely limit other types of development along the bay shore.

16-234

Related to the above is the loss of approximately 37 acres out of 171 acres currently vacant and zoned for public use. Of the remaining 134 acres, there is no accounting of how much is actually usable. Much of it is gulches and wetlands. Once the zoning is changed, potential future Public use is gone forever.

16-235

Once the Project is built, large areas of former wetland and tideland will be covered forever. It would become impossible to recover and restore those lands once they are covered in buildings and pavement.

16-236

Cumulative Impacts

The section only includes projects or proposals on Broadway or in the immediate vicinity. The impact of the Project will reverberate throughout the city. Those wider impacts must be addressed.

Table V-1 does not mention the proposed Forester/Gill project in Cutten. The F/G project would rival this Project in retail square footage and far exceed it in housing units. It would add significant traffic of its own to various parts of the city. Likewise, there is no mention of the Safeway Superstore that is scheduled to be built on Harris. It, too, will add traffic, wastewater, garbage, police and fire needs, and many impacts similar to the Balloon Tract Project.

16-237

While none of the listed projects (except this one) would have a huge individual impact, they will each add to the cumulative impact. At what point does the cumulative impact become unacceptable and quality of life suffer a major decline? I contend that if even some of these projects are built, Eureka will become far less livable and far less desirable. Traffic would become horrible on city streets and unmovable on Broadway. Think of it as pouring water into a pipe. Up to a point you simply increase the flow and the pressure. At some point the water starts overflowing onto the ground because it has nowhere to go. Without MAJOR road improvements and rerouting, Eureka will quickly reach the overflow point as projects are added.

Growth Inducing Impacts

Effects Found To Be Less Than Significant

5-169

I disagree with the finding of less than significant" on the following points:

Aesthetics: The design sketches in the plan indicate flat roof southern California type architecture which clashes directly with the City's 'Victorian Seaport' theme and with the quaint architecture of Old Town. For all the rhetoric in the Plan, there is no real indication that the Project's architecture will differ significantly from any other big box center in the country. Certainly the Home Depot store will be identical to all the rest and will add NOTHING to Eureka's uniqueness or aesthetic appeal.

Geology, Soils, and Seismicity: The Project underestimates the effect of liquefaction and soil instability as evidenced by the condition of the Eureka Fire Station several blocks inland. The 1989 Loma Prieta earthquake in the San Francisco area clearly demonstrated the effect of strong shaking on fill lands such as the Marina District and the Oakland waterfront (Nimitz freeway). With the inclusion of a 5 story building, there is nothing to indicate the Balloon Tract would fare any better.

Hazards and Hazardous Materials: There is no plan for regulating or controlling the activities of Project tenants like Home Depot which has a track record of hazardous waste violations. There is nothing to prevent construction work on windy days when hazardous dust might blow throughout the city. There is simply no clear plan for the complete cleanup of the site.

Hydrology and Water Quality: Provisions for stormwater runoff are vague and limited to adding it to the city's over burdened stormwater system. No provision is made for parking lot garbage and pollution frequently found in stormwater runoff. Drainage is provided for only a 10 year flood event which is certain to be overcome during the Project's life span. It must be upgraded to a higher standard.

Noise: This is a low level cumulative impact that gradually increases the background noise level in the city. It may not be large in itself (except during construction) but would have a cumulative effect with noise from increased traffic and from other developments all over the city.

Population and Housing: There is NO low or moderate income housing included in the Project. There is NO reason given for this omission.

Public Services: The Project dismisses the impact it would have on Police and Fire services. The history of other similar projects suggests that a minimum of two more police officers and unknown amounts of fire equipment and personnel would be required. No money is provided for the increased needs. This represents a loss of service to other parts of the city. It represents a huge liability in the event of a major emergency such as an earthquake and would sorely tax emergency services needed all over town.

Recreation: The Project does not provide for public recreation beyond a couple of benches for viewing Clark Slough and a short section of bicycle trail along the railroad tracks. This is insufficient for previously zoned "public Use" land.

Urban Decay: The Project is out of scale for a community the size of Eureka. Alone and in conjunction with other proposed projects, it would make Eureka severely top-heavy with retail, unsupported by a healthy industrial base. The sheer size of its retail component would force smaller local businesses to close, resulting in more empty storefronts and urban decay in older parts of town. A scaled back Project with emphasis on industrial development would serve the needs of Eureka far better than the current proposal with less disruption and fewer impacts.

16-238 cont.

Comment Letter 16

Comment Letter 16

This is only a minimal list of problems with the DEIR and with the Project itself. I have attempted to enumerate these problems section by section. When possible, I have explained the perceived problem and, where appropriate or even possible, provided a possible solution.

16-238 cont.

Chapter VI, Alternatives

This chapter presents a woefully inadequate variety of alternatives. In 1999 a Public Planning Process was initiated for the Balloon Tract to determine the best use for the site. This process was terminated in favor of Security National's proposal. As a result, a true list of alternatives that would best serve the needs of the city was never determined. To suggest that this Project is the only viable alternative is an insult to the people of Eureka.

16-239

The Project developer claims to have listened to the people when planning this project. Yet the only modification was to slightly increase wetland restoration around Clark Slough, most likely in an effort to appease the Coastal Commission. The many suggestions for increased industrial uses, public uses, wetland restoration, recreational uses, and local retail as opposed to big box chainstore retail all fell on deaf ears. They are not included in the list of alternatives in the DEIR. Only the most skeletal bare bones alternatives are even listed. This is a major failure of the DEIR. The Project developer has never given any indication of a willingness to negotiate on any aspect of the Project.

Table VI-1

This table was apparently created by the Project developer. It bears little resemblance to reality. The 'reduced footprint', 'limited industrial', any Public Use, and College of the Redwoods would not, according to the Table, improve air quality, traffic, noise, seismic hazard, or tsunami hazard. How can this be? Reducing the Project to a more compatible scale would certainly reduce these impacts. This section needs MUCH more work. Its findings need to be much more transparent. To simply dismiss an alternative as 'not feasible' with no explanation is not acceptable.

16-240

Table VI-2

1. The No Project alternative should not mean that the property would remain vacant and inactive. If this Project was rejected, the City could and should return to the Public Planning Process to determine the 'best fit' use for the Tract. This is the logical result of the No Project alternative and needs to be analyzed in the Final EIR.

2. A reduced footprint could work.

3. An Industrial Park would provide the jobs to support increased retail elsewhere

19. The 'no retail' option would still be a mixed use project including office, residential, and industrial. A minor modification could allow such retail as a coffee shop or waterfront dependent or related retail.

22. Almost any option that is less than the proposed Project could include increased wetland restoration. This is a highly desirable outcome, regardless what is eventually built.

16-241

24. I don't know what the status of the present CR campus is but there has been talk of rebuilding the campus to account for seismic hazards. If cleanup funds could be secured, the Balloon Tract site would be an excellent choice for a new campus. It might cost less than the seismic retrofit currently being explored. The site would be much more convenient than the present one. It would probably require the purchase of at least some of the land from Security National. It would be dependent on finding funding for suitable cleanup of whatever area is needed. None of these things precludes studying the site for this potential use.

Table VI-3

The Reduced Footprint, Limited Industrial, No Retail, and College of the Redwoods are all feasible projects for the site. So is returning to the Public Planning Process to develop an appropriate use.

Table VI-4

The Reduced Footprint and Limited Industrial meet the criteria.

I strongly DISAGREE that the 'No Retail' option and the College of the Redwoods Option do not meet the criteria.

The 'No Retail' option would reduce traffic, air pollution, noise, light pollution, stormwater runoff (smaller footprint), and Public services demand. This meets the screening standard of the Table but is ignored because that is not the option the developer has insisted upon.

The College of the Redwoods option, while requiring public funding, should be looked at as a possible option to the extensive seismic renovation that is needed at the present site. It may easily prove to be economically preferable to build a new campus on the balloon Tract instead of rebuilding the present site.

D. Selection of Alternatives

This section does not analyze two potentially viable alternatives. It does not even consider combinations of the alternatives presented. It assumes the only alternative to the proposed project is the 'build nothing-do nothing' option. This is clearly mistaken.

Within the improperly limited range of alternatives presented, either the Limited footprint or the Limited Industrial would be preferable to the proposed project. Either would significantly limit the impacts and would provide for increased wetland restoration.

Unfortunately the Limited Footprint alternative only reduces the amount of 'other' retail and still includes the big-box Home Depot store. This is the major traffic generator and limits the reduction of impacts from this alternative. It would be far more beneficial to remove the big-box anchor and include only smaller (hopefully) locally owned retail. This would put the project more in scale with the community and would fit far better with existing Old Town retail businesses.

16-241 cont.

16-242

Comment Letter 16

Comment Letter 16

The Shoreline property would have all of the problems of the current site and would actually be true waterfront property with all of its limitations. It is unlikely it would ever be acceptable for this scale of development.

16-242 cont.

Alternatives Considered but Not Carried Forward for Analysis.

This section incorrectly dismisses the 'No Retail' option which was shown to be viable by the Tables. This would include Housing, Industrial, Office Space, possible Public Event space, and significant wetland restoration. This would meet 'most' of the goals of the Project. If it is to be rejected as 'not feasible', there needs to be much more explanation of the reasoning that lead to that conclusion.

16-243

It appears that the 'Lead Agency' was the developer who simply did not like certain alternatives.

Many mixes of the available alternatives would meet the goals and purposes of the Project but are not considered.

It is also possible that the goals of the Project are not necessarily those of the Public. The Public Planning Process that would have determined those needs and goals was cancelled at the request of the developer, either directly or indirectly, through his actions. Thus the criteria used to screen the alternatives were set only to meet the Project goals and not those of the Public. The result is a set of alternatives that do not even come close to meeting the needs and desires of the Public. The College of the Redwoods campus is an example of something that would meet public needs but not Project goals. While it would require much work and planning, a CR campus could be achieved as could a number of other worthwhile alternatives.

16-244

F. Analysis of Alternatives

No-Project Alternative

This is incorrectly characterized as the 'do-nothing' alternative. When considered against the proposed Project, it should more correctly be considered the 'do something else' alternative. If the Project is not built, it is still possible to do a thorough cleanup of the site. It is still possible to do a larger wetlands restoration project. It is also possible to do a smaller more suitable project that includes housing, offices, industrial, and limited small retail. The logical result of choosing this alternative would be to return to the Public Planning Process to determine the best use for the Balloon Tract.

16-245

If a cleanup was ordered by the RWQCB and carried out by the current owner, the property could become highly marketable for a variety of possible uses, either in whole or in part. While this might not meet the immediate goals of the Project, it could prove to be quite economically rewarding to the developer. The increase in potential value from doing a thorough clean-up was not included in the analysis.

Reduced Footprint Alternative.

5-171

While this would represent a huge improvement in terms of impacts on the city, it still would include the major anchor store with its inherent impacts on Urban Decay, traffic, air quality, and potential pollution from on-site activities. Since there is no guarantee that only Home Depot is interested in the site, it is possible that some other, less desirable tenant would claim the site. Possibilities include WalMart which was decisively rejected in the 1999 Measure J vote.

16-246

Figure VI-2 shows 3 other large retail spaces usually used by chain retailers. The Project should specify their use so the DEIR can analyze the effects on Urban Decay, traffic demand, and air quality.

There is NO alternative that includes anything to encourage economically beneficial locally owned businesses to locate there.

Figure VI-2 also shows the big-box anchor sited facing away from Broadway, presenting its backside to the world. There are few things less aesthetically appealing than the backside of a big-box store.

16-247

Increasing the office space to 160,000 square feet would be in competition with the Ridgewood Village proposal and its 100,000 square feet of office space. Given the number of empty office spaces presently in Eureka, the cumulative effect of both projects would be to flood the market and drive rental prices down for all office owners.

The 'Reduced Footprint' alternative could be acceptable if it eliminated the big-box chains in favor of locally owned businesses. Perhaps it could reinstate the Museum and/or housing elements. This takes us back to the rejected Public Planning Process that could have aired all of these ideas.

Limited Industrial Zoning Alternative

If this alternative could be successful, it would provide the greatest benefit to Eureka with the lightest impact. Industry generally provides the best paying jobs and greatest benefits for its workers.

If this alternative could be developed in conjunction with the development of 'Short Sea Shipping' on the Schnieder Dock, just down the road, it could provide immense economic benefit for Eureka.

Traffic would be significantly reduced, particularly through Old Town.

Seismic and tsunami threats, though still significant, would be lessened because fewer people would be onsite (less density).

Police service requirements should be less, partly because of fewer people and partly because of less traffic. Fire services would probably be similar but the design could allow easier access and no 5 story buildings would be required.

16-248

The one drawback to this type of zoning is that it allows retail use if it is LARGER than 40,000 square feet. Figure VI-4 clearly shows that most of the buildings fit this size requirement, allowing them to be converted to retail use and sabotaging the intended use as an industrial park. It might be possible to put restrictions or limits on this type of use conversion.

Additional analysis of this option's economic viability should be included. If it is viable, it represents the best alternative with the most benefits and the least impacts.

Comment Letter 16

Comment Letter 16

Offsite Shoreline Property Alternative

This site presents no significant improvement over the Balloon Tract site and has the added disadvantage of actually being waterfront property.

16-249

G. Environmentally Superior Alternative

I disagree with the analysis that the Reduced Footprint is environmentally superior to the Limited Industrial. The major difference cited is the number of heavy vehicles that might use the site and their impact on traffic. Not included, however, is the large number of trucks needed to service the big-box anchor retail store. Also not included is the possibility of working in conjunction with 'Short Sea Shipping' from the Schnieder Dock on Waterfront Drive which would remove a large number of trucks from the Broadway traffic corridor. If such an arrangement could be developed, the Limited Industrial quickly becomes the environmentally superior alternative.

16-250

VII Notice of Preparation

The project described in the Notice of Preparation differs in several significant ways from what is being put forward both to the public and in other parts of the DEIR.

The notice cites very different amounts of square footage designated for various uses than used elsewhere in the DEIR. It cites a different number of parking places to be created. It cites only a 3 story parking structure instead of the 4 story structure used elsewhere in the DEIR. It cites the inclusion of buildings between one and four stories tall when the DEIR clearly includes a FIVE story building in its plans. No mention is made of site remediation plans. No mention is made of intent or scope of wetland restoration plans.

16-251

The Project proposed in the Notice appears to be significantly different than the Plan presented in the DEIR.

Appendix B. Comments on the Notice of Preparation and responses

Comments here relate mostly to the adequacy with which the DEIR notice addresses the issues raised.

Responses from Agencies

These are some of the unaddressed issues I found in several of the letters.

5-172

Letter A-4 I discovered no consideration of electrical design conflicts on Broadway and no mention of a process for their resolution.

16-252

Letter A-5 Cumulative impacts were discussed primarily regarding traffic impact on Broadway. Nothing was included about traffic impacts throughout the city. Other cumulative impacts not considered include impacts on use of the public boat ramp on Waterfront Drive, use of the marina, lack of parking for both of those uses, impacts of through-traffic on Old Town, the current number of vacant storefronts in Eureka and surrounding areas, the relative size of the Project's retail compared to Eureka's total retail (NOT the whole county), the effect of adding the SuperSafeway on Harris, the proposed Forest/Gill project in Cutten, and any other business uses on Broadway or 4th and 5th Streets, the effect on pedestrian traffic on 4th and 5th Streets (and only mention of pedestrians on Broadway), The effect of perceived density increase on Broadway and its tendency to cause traffic to use alternate routes throughout the city, and the impacts on other parts of the city from increased demands for police and fire services (taking away from existing use). This list is not all inclusive but suggests some of the shortcomings of the DEIR.

16-253

Letter A-6 There is no analysis of safety issues relating to the railroad, should it ever be rebuilt.

16-254

Letter A-7 There is no effort made to specify the types of efforts that will be made to identify pollutants. There is little specificity regarding plans for actual cleanup.

16-255

Letter A-8 While the Project is willing to pay its 'fair share' of traffic mitigation, there is nothing to make certain that other needed funds are available which could result in less than necessary mitigation actually being built. No mention is made of real improvements that could occur with "mitigation and NO Project".

16-256

Letter A-9 Because mitigation measures are addressed does not guarantee their adequacy. Because other measures and issues are addressed does not assure that they are adequately covered or considered. It is apparent to this reviewer that many of these issues were not considered, analyzed, or adequately mitigated.

16-257

Speakers and Written Comments from the Scoping Meeting

I have read the included comments and will attempt to summarize their intent.

The DEIR does a VERY POOR job of addressing the alternatives.

16-258

The DEIR does a poor job of addressing cumulative impacts. It only addresses traffic on Broadway. It glosses over the Project's failure to meet air quality standards. It makes few specific proposals for dealing with stormwater runoff beyond adding it to the city's load.

16-259

The DEIR does not address the cumulative effects of increased air pollution on long-term health. The design of the Project around the availability of fossil fuels relates to air quality, global warming, bicycle and pedestrian use, traffic, and physical design of the Project. Building a 'regional center' attracts more traffic from farther away, encouraging fossil fuel and contributing even more to bad air quality and global warming. This should be addressed and analyzed.

Comment Letter 16

The responses to Public Comments merely state what the DEIR will address. It does not actually address those issues directly. This reviewer has shown that in many instances the DEIR is inadequate or lacking entirely any analysis of major impacts caused by the Project. As a member of the commenting public, I am very disappointed.

16-259 cont.

Organization/Written Comments

Almost all of the comments include a demand for suitable clean-up on the site. Yet no specific clean-up plan is offered or analyzed. The project only promises to follow NCRWQCB guidelines which may or may not require a full clean-up. The DEIR does not mention 'capping' which was a preferred method of the Project in earlier discussion. Capping is environmentally unacceptable and was mentioned by many commenters.

16-260

While many of the items mentioned in the comments are 'addressed', many simply get mentioned as existing but are not subjected to thorough analysis. Examples include traffic impact off-Broadway, use of alternate routes and associated impacts, urban decay as relates specifically to Eureka's stock of empty storefronts, the specific clean-up measures being proposed, the adequacy of a '10 year flood' infrastructure, cumulative impacts of other proposed or in-process development, long term health effects of air pollution (specifically particulates), the likelihood of liquefaction from a seismic event, safety problems from seismic events relating to creation of dense population centers (shoppers + employees + residents + other nearby uses), safety issues with the railroad right-of-way, conflicts with marina and boat ramp users, conflicts with heavy trucks on Waterfront Drive, and many more. These are all items the commenters requested be addressed and analyzed.

16-261

Merely mentioning or dismissing an item (see 'Alternatives', for example) is not the same as considering and addressing an issue or problem with the Project. The DEIR fails often in this regard.

16-262

Aesthetics is often mentioned. The DEIR only compares its so-called design with the 'No Project' alternative. It is hard to compare 5 story flat tastelessly designed buildings with potentially reclaimable open space. No attempt is made to compare it with other project alternatives such as Light Industrial or the Reduced Footprint, although that would presumably be similar architecture in the latter.

16-263

Many alternatives were presented by commenters only to have them dismissed as unfeasible by city staff. Most of the alternatives listed in the DEIR were also dismissed for less than adequate and usually unexplained reasons. This is one of the most sensitive and critical issues for the public. Reducing it to 4 so-called alternatives does the public a great injustice.

16-264

Nothing in the DEIR discusses various combinations of the 20 alternatives listed which might produce a viable option. An alternative combining greatly expanded light industrial use with office space, very limited retail space, and possibly some residential space, and including increased wetland restoration, could be viable and would suit most of the public's requirements. Yet nothing of this sort is anywhere included. Serious evaluation of alternatives was one of the most frequent commenter requests.

16-265

The 'Public Park/Open Space alternative is dismissed as an 'all or nothing' alternative instead of including it in a combination with other uses. This request appeared in a vast majority of public comments.

16-266

Comment Letter 16

The response to comments only lists what the DEIR attempts to address and in no way seeks to satisfy the concerns of the commenter. It dismisses serious discussion of alternatives. It is an inadequate and somewhat insulting way of addressing the Public's concerns.

16-266 cont.

There is little or no response providing reference to a detailed clean-up plan or discussion of methods and standards to be used.

16-267

I specifically refer to the letter from Patrick Eytchison, a resident at 915 California Street, Eureka. He requested real time air quality monitoring in his neighborhood, particularly in light of the cumulative impacts of the Co-generation plant at Fairhaven, the Evergreen Pulp mill at Samoa, and increased emissions from traffic in the area, most notably on Broadway. He cited the lack of recent monitoring of pollutants from these cumulative sources and questioned the combined impact they might have on his family's health. There was no meaningful response to these critical questions in the DEIR.

16-268

He also had questions about energy use of the Project and its implications for a less vehicle friendly future. This led to a request for consideration of plans if the site or portions of it were to be abandoned due to economic or energy related issues. While no one likes to consider having to abandon their Project, current estimates are that over 200,000 businesses will close in 2009 nationwide. Over 6500 shopping center outlets closed in 2008. There is estimated to be over 1.2 BILLION square feet of vacant retail space in the U. S.. So there is ample reason to consider the implications of the Project being forced to close and the effect that would have on the city. There is nothing in the DEIR about this possibility.

16-269

His letter and many others brings up the issue of 'capping' as a way of dealing with on-site pollution. The developer mentioned capping several times in oral and written presentations as representing an acceptable method of clean-up. Commenters like this one almost universally rejected 'capping' as a viable alternative. The DEIR is strangely silent about 'capping'.

16-270

Mike Schwabenland wanted the DEIR to consider the impact of 'sandwiching' a large retail center in between a light industrial area and a public waterfront use area. This was not done by the DEIR.

16-271

The DEIR does not adequately address the very serious issues regarding toxic pollutants on the site and their remediation that are well presented in the letter from the Californians for Alternatives to Toxics. This letter clearly spells out many concerns about the type and extent of pollutants on the site. The DEIR does a poor job of considering these points. It presents a very limited analysis of the threat, passing it off as "mostly hydrocarbons". The concerns of this highly knowledgeable group should be heeded.

16-272

The DEIR's analysis of likely toxins and the clean-up required to deal with them is clearly inadequate. No expert testimony is presented to show the 'clay layer' under the upper water table is effective in any way in blocking the transport of toxins to the bay. This letter demonstrates the superficiality of the DEIR analysis.

16-273

Many letters mention the liability of Union Pacific Railroad to clean up its own mess. The DEIR does not discuss cleanup liability issues.

16-274

Many of the questions posed by Larry Glass and Larry Evans concern the economic impacts of the Project and are theoretically not included in the CEQUA requirements. However, almost every one of them relates directly or indirectly to the subject of Urban Decay which is likely to be exacerbated by the

16-275

Comment Letter 16

Comment Letter 16

Project. These concerns are addressed, if at all, in a minimal fashion in the DEIR. Economic impact relates directly to Urban Decay and should be vigorously analyzed. It is one of the most frequently included comments. (see attached copy of BAE economic report, 1999)

16-275 cont.

The Healthy Humboldt Coalition comments regarding the Project's claims to be "Smart Growth" show how inappropriately that claim is used. These comments are not included when the Project claims to be 'walkable' and 'balanced'. It is as if the authors never read the comments to find out where it was lacking. I would suggest that the authors actually read and respond to these comments if they hope to produce an adequate EIR for this Project.

16-276

Many comments include Tsunami hazard. What is often missed is the danger of creating high population densities (shopper +employees + residents) at vulnerable locations. This greatly magnifies the dangers and, along with the Bayshore Mall, would put totally unrealistic pressures on public services for emergency response.

16-277

My Comments on the Comments

It is overwhelmingly clear that four major themes dominate public concerns about the Project. First and foremost is the need for a complete and thorough clean-up of the site, regardless of what is eventually built here. Many paths are suggested to achieve a real clean-up. Most often cited is requiring the participation by Union Pacific. Maybe if Union Pacific participated in cleaning up its own mess, cost to Security National would drop sufficiently to allow it to consider some other type of development. Letter after letter demanded full clean-up to the highest standards available.

16-278

The Project is vague about its cleanup plan. Is it still considering 'capping'?

The second recurring theme is traffic. The perception is that the Project will heavily impact Broadway, Waterfront Drive, and Old Town traffic. There is also strong concern that traffic will be affected all over town. While the DEIR offers limited mitigation, it offers nothing for Old Town, Waterfront Drive, or other city streets nor does it specify where needed funding for mitigation beyond its 'fair share' would come from.

16-279

The third frequently seen request is for the inclusion of many and varied alternatives. It appears the DEIR summarily dismisses all Public uses and considers only alternatives proposed by the developer. This is clearly not the intent or the wish of the commenters. Much more consideration of various combinations of possible uses should be included. The Table listing and dismissing various alternatives gives no reason or research to back up its conclusions.

16-280

The fourth and probably most often included comment relates to the possible economic impacts of a big-box chain store type development on the economy and community of Eureka. While economic impacts are not specifically required by CEQA, they become pertinent under the Urban Decay section. If the Project truly wants to gain public approval, it must include analysis of economic impacts. It is likely that such an analysis would more clearly show the benefits of various alternatives or combinations of alternatives. Avoiding an analysis of the economics of the Project makes the developer look like its trying to hide a significant impact (which it is!). There is no question that this Project will impact the economy of Eureka and the County. The community deserves to know what those impacts will be. Without the economic analysis, much of the public will believe it is being railroaded by large outside

16-281

5-174

chain store interests, and they are likely to be right. The economic report in the Appendix is inadequate for many reasons which are spelled out in my comments on that section.

16-281 cont.

Another frequently seen comment that I personally wonder about is the issue of Proposition J, the 1999 ballot measure that specifically rejected rezoning of the Balloon Tract. There is much question about whether, given the measure J directive, the City Council could legally change the zoning of the Balloon Tract without another vote of the people. The measure, as it appeared on the ballot, reads, "Shall an ordinance be adopted amending the land use designation in the City's General Plan, Local Coastal Program, and Zoning map for Union Pacific's "Balloon Tract" (East of Waterfront Drive, West of Broadway, and North of Washington Street) changing it from "Public" to "Service Commercial", thereby allowing commercial/retail use of the property?" The measure was rejected by over 61%. It would be worth getting an objective legal opinion on this matter before proceeding further (and spending more money).

16-282

Many people also cited aesthetics as a major concern. They did not want another big square shopping center in their Victorian town.

16-283

Appendix C, Air Quality and Noise Calculations

I am not an expert and cannot reasonably interpret these figures. I do wonder why in each part the Project is identified as being in Mendocino County. What effect might that have on relevance of the numbers?

16-284

While it is not my intent to comment on every Appendix, there are several that need attention. Many, including air quality and traffic tables and charts are unintelligible to the educated layman without extensive explanation. No such explanation is offered.

16-285

Eureka Balloon Tract Retail Development Economic Impact and Urban decay Analysis

CBRE Report

The report makes a series of assumptions about Marina Center sales. This is remarkable given that the lack of knowledge about the types of stores that will be present. The report then predicts that \$104,000,000 in sales will come from the 'market area' defined as Humboldt County. Somehow only \$49 million of these sales will be diverted from existing retailers. It defies common sense that Humboldt County consumers will magically come up with a new \$55 million dollars for retail spending. The whole concept of 'new sales to market area' begs the question, "Where did it come from?" There has been a significant LOSS of industrial and retail jobs locally in the last 6 months. There have been layoffs at several key businesses. It is hard to imagine that the local payroll in Humboldt County has gone up in the last year. This study is based on the premise that there will be \$55 million NEW dollars in the local retail economy which makes it highly suspect from the beginning.

16-286

Table 1

The Table predicts asserts that virtually all spending on apparel at the Project will be new money rather than displaced sales from existing retailers. Most retail apparel has become centered at the Bayshore Mall, with a few exceptions. This is because Bayshore Mall businesses directly or indirectly caused the closure of such local apparel businesses as Daley's, Bistrin's, McGarragans, and Arthur Johnson's. New stores at the Project would be expected, in turn, to cause the closure of at least several of the smaller Bayshore Mall stores. Many of them are struggling and many have closed recently as a result of economic 'hard times'. It is evident that the available number of disposable retail dollars in the local economy have shrunk in the last year.

The table presents a series of fictitious numbers supposedly representing how the Project will create 'new spending'. I don't need to be an economist to know that a retail project DOES NOT produce increased dollars in the local economy.

Table 2

This table tries to claim that the Project will divert NO sales dollars from apparel, home furnishings and appliances, and office supply and specialty stores. It attributes all sales in these areas to the mythical 'new money' that will magically appear. It predicts \$91.8 million dollars in new sales will appear out of nowhere or perhaps be pulled out of the outlying county areas. **If this much money is removed from retail in other parts of the county, it will devastate their respective tax revenues.**

The entire discussion of what stores might close is meaningless because no totals for retail sales for the market area or Eureka are presented. Without the total, it is impossible to predict the impact of Project sales. If, for example, 'maximum diverted sales' amounted to 30% of total restaurant sales, the Project could easily be expected to cause some closures. Few businesses can survive a 30% loss. But no total is provided for comparison. Restaurants represent a significant portion of Old Town and Downtown retail so any claim that the Project will have no impact is completely unsupported. The claim that Old Town might benefit from increased pedestrian traffic from the Project is highly unlikely. The distance is more than most shoppers appear willing to walk from their cars. The Project is separated from Old Town by an industrial area that does not lend itself to walking, particularly at night. In addition, Old Town and Downtown are likely to suffer from increased 'through traffic' coming from the Project that would make those areas less attractive to walkers and shoppers.

The claim that Bayshore Mall is successfully competing is also false. On Dec. 31, 2008, I took a walk through the Bayshore Mall and identified TWENTY FIVE empty storefronts. A few may be scheduled for re-tenanting (Mervin's) but many have been empty for a long time and show no evidence of activity.

Cumulative Impacts

This section does not acknowledge the proposed Forester/Gill project in Cutten that would rival the Project in retail and office space. It does not acknowledge the Super Safeway to be built on Harris that would compete with at least some of the Project's tenants.

The effect of a Lowe's in Fortuna would be to effectively remove the south half of the county from the Home Depot market area. This would increase the competition for available retail home improvement dollars in Eureka and north, making closures of local stores more likely. I'll say it again, the number of dollars available for home improvement in Humboldt County is relatively fixed. The County population growth rate is slow by state standards and will not greatly increase those dollars. Adding a 'category

16-286 cont.

5-175

killer' Home Depot, determined to capture up to 70% of the local home improvement market by its own admission, cannot help but cause closures and potential urban decay throughout the area.

Urban Decay Determination

The Bayshore Mall has a significant number of empty stores (25). A casual examination of Eureka Downtown and Old Town from Jacobs Avenue to (but not including) Broadway, and from 1st Street to 7th Street on December 29, 2008, revealed over 105 empty storefronts and office spaces. This does not suggest an area that may be easily re-tenanted. Some of the spaces are relatively large such as the former Nader auto dealership and McMahon's furniture store. Some, such as Old Town's former Lazio's restaurant on 2nd Street, have been vacant for several years. The large number of vacancies lead one to believe that retail demand in Eureka is, at best, soft. Adding over 330,000 square feet to Eureka's retail stock can only contribute to increased vacancies and resulting urban decay.

General Fund Revenue Impacts

Revenues received versus preconstruction estimates for the Target Store in Eureka suggest that most such estimates are overblown. Even if the Project produces expected revenues, there is no requirement that the City use them for any specific purpose. Given the present economic climate, any increase in revenue would probably be used just to maintain current infrastructure. The Fire Department assessment was based on the original project application which specified a maximum four story building. The current design includes a 5 story building with limited access. Even a cursory examination of shopping center development reveals they almost always require significant increases in police and fire services beyond anything this Project predicts. Other unfunded costs to the city include street lighting in surrounding areas, the City's share of 'mitigation' efforts on Broadway, and increased street maintenance caused by increased traffic and heavy trucks in the Project area. Some of these may be offset by Project revenues but there is no guarantee whatsoever. The analysis does not attempt to analyze increased costs to the city except in a very limited area. This does not present a clear picture of cost versus revenues.

At this writing the State has been attempting to 'raid' redevelopment funds to offset its budget shortfalls. There is no way to predict the impact of these raids on expected revenues except to speculate that they will end up as less than predicted for the city and the schools.

Net Jobs Impact Conclusion

Unless the Project can work magic, the jobs conclusion is totally off the mark. Here behind the Redwood Curtain the economy is more closed than many other areas. There is a limited amount of retail money to be spent. It is likely that many more jobs than predicted by this very limited study will be lost if the Project is built. The pie can be sliced only so thin before it damages the local economy. The claim for 416 office jobs appears highly inflated given the number of empty office spaces currently available. Home depot generally employs a large percentage of part-time employees. It also defines 'full time' as 32 hours per week. At \$10/hour this does not provide a living wage for most employees. Even at higher wages, the limited hours reduce the earning potential of Home Depot jobs compared to local jobs.

Case Studies

This section fails to show what home improvement stores existed in the study areas prior to Home Depot's entrance into those markets. San Rafael is a poor comparison due to its proximity to large urban

16-286 cont.

populations whose shopping experience is often limited to big-box stores. Ukiah has suffered from an invasion of big-box chain stores to the extent that little remains of its original downtown. Again there is no listing of what or how many home improvement or hardware stores existed before Home Depot's arrival. I know nothing of Woodland.

Eureka and Humboldt County enjoy an unusually large number of local home improvement stores for its population size. Intrusion by a Home Depot would be expected to have a much larger impact on this sector due to its current saturation by local businesses. The CBRE report made no effort to show the differences in the comparative retail markets studied.

Retail Sales leakage Analysis

The CBRE report interviewed FIVE contractors of undefined size and extrapolated its leakage figures from that extremely limited sample. This is bad statistics given the fairly large number of contractors of every type in Humboldt County. I spent several years driving to Crescent City once a week. I NEVER witnessed more than ¼ of the Home Depot parking lot filled. I NEVER witnessed the mythical truckloads of building supplies going down the hiway from Crescent City. They may have existed but NOT in great number.

Leakage occurs in many forms. Sometimes contractors need specialized items not available locally. Sometimes purchases are made online. The most significant leakage NOT discussed is the leakage of DOLLARS from the local economy to big-box chain retailers. A 2003 study determined that of each \$100 spent at a local business, \$45 remained to circulate in the local economy. Of every \$100 spent at a big-box or chain store, only \$14 remained in the local economy, mostly in wages. (1)

(1) Institute for Local Self-Reliance, "The Economic Impact of Locally Owned Business Versus Chains", September 2003

Some goods will always be purchased out of the area for various reasons. This is amplified by the export of dollars by chain stores which weakens the local economy. Money that leaves the area is not available to be spent even in non-competing types of local stores. In its report, CBRE seems so intent on praising Home Depot that it never mentions the impact of exporting dollars to the local economy.

The data used by CBRE is already dated. Much of its per capita spending data was collected at a time when housing prices were climbing rapidly. Many homeowners were using their newfound equity to purchase home improvements and a variety of other capital goods. This is no longer the case. Combined with the downturn in the stock market, the rise in unemployment in the area, and the increases in the cost of goods and services, it would be expected that per capita spending has decreased substantially. Using outdated numbers will cause unrealistic expectations for Project performance and will underestimate impact on other already struggling local retail businesses.

The huge increase in the cost of fuel will have an impact on leakage as the cost of traveling out of the area increases. Increased fuel cost diminishes the savings realized by shopping out of the area.

Competitive Major Shopping Centers and Stores

This section demonstrates the problems of timely analysis. At least 5 of the major tenant stores named at the Bayshore Mall have since closed. Despite all the glowing remarks about re-tenanting, a casual walkthrough on Dec. 30, 2008, revealed 25 empty storefronts, including Mervins, Old Navy, and

16-286 cont.

Gap/Gap Kids. With the rumored exception of the Mervins location, there is no apparent activity at the other sites. The Old Navy site is temporarily occupied by a Jolly Jump area for kids during Christmas.

There have been recent reports of financial problems for General Growth, owner of Bayshore Mall. As documented earlier, between two and three thousand malls are expected to close in 2009 due largely to the economic downturn. The consequences of a possible Bayshore Mall closing are not considered, either from an economic impact standpoint or an urban decay standpoint.

The Old Town and Downtown Historic areas would be impacted by the Project in at least two ways. In spite of the claim of CBRE, many products sold in the Historic area compete directly with proposed Project retail. Examples are Vern's Furniture, The Works (CD's and records), The Irish Shop (clothing), and Plaza Design (home furnishing). The second impact would come from additional traffic through the tourist center of the city. Increased traffic on 4th and 5th Streets would make street crossing more difficult and dangerous. Diverting project traffic onto 1st, 2nd, and 3rd Streets puts many more cars into the heart of the tourist area. Heavy traffic is not compatible with specialty tourist shopping areas. It causes congestion and makes the area less walkable. It is certainly not compatible with Eureka's 'Victorian Seaport' theme.

Home Furnishings and Appliances/Building Materials

The CBRE ignores two major local Eureka appliance stores: Poletski's and Carl Johnsons. Carl Johnsons also sells a variety of home furnishings as does Plaza Design.

The report also ignores the Copeland Lumber yard and Thomas Home Center in McKinleyville. Both are major retailers in the area.

Marina Center Impacts

The leakage of \$17.3 million in household home furnishing and appliances appears to be highly inflated. This sector is reasonably well served in the county. Except for possible large scale buys by contractors, it would make little sense to leave the area for relatively modest purchases. This is especially true in light of the current economic recession which has seriously reduced sales in these areas. Local stores are experiencing reduced sales for the same reason. This greatly affects their ability to withstand competition from the Project. It also reduces their ability to adjust through shifts in product line or major remodeling. These conditions amplify the economic impacts and consequent urban decay caused by the Project.

Apparel

Much of the leakage in this category is to on-line internet merchandisers like LL Bean or Coldwater Creek. It is unlikely the Project will recapture much of this market. Shoppers who buy clothes when on a trip to San Francisco are also unlikely to stop shopping there. The impact of adding clothing stores will fall more on the local niche stores than the major retailers or internet merchandisers.

16-286 cont.

Whoever did this section did not interview a cross section of average shoppers to determine their current habits or the probable changes introduction of more apparel stores in the Project would produce.

Specialty Stores: Books and Electronics

Borders already caused the closure of the only significant independent bookstore in Eureka, Fireside Books. There remains only one major independent bookstore in Arcata, NorthTown Books. Much of the leakage here is due to internet sales (Amazon, etc.) and not to specific sales trips to other areas. This leakage probably won't be recaptured by the Project so the impact will fall on local businesses. Given this experience it is possible that another major chain bookstore in Eureka could impact the difficult book market enough to cause NorthTown Books to close.

Electronics sales are divided among a number of local and chain stores. Sears, Radio Shack, NorthCoast Audio, Sound Advice, Staples, Vern's Furniture, Capital Business Machines, and a variety of local computer businesses that sell their own equipment and service.

The proposed Circuit City store is unlikely given the company's recent bankruptcy filing. Best Buy is a possibility, although, given the current recession, it does not seem interested in expanding with new stores. It would compete directly with the above named stores. Again, much of the leakage is to direct sales of computers (Dell) and mass marketers of cell phones which would probably not be recaptured to a great extent by a Best Buy. Certainly not all of its business would be recapture and would instead reduce the sales of other local businesses.

Marina Center Impacts

To the extent that the office, store, and school supply category overlaps with the stationary and books category (this describes several Humboldt County businesses), part of the Project impact would be recapture and part would lessen the sales attraction of existing stores.

The small niche bookstores dismissed by the report exist on fairly thin margins. Even a small reduction in sales caused by another chain competitor could make them unprofitable and cause them to close. More urban decay!

Eating and Drinking Places

Leakage in this sector is from people traveling out of the area for other reasons and will not be recaptured.

The report contends that 1.7% of the county's restaurant business would be diverted by the Project. However, the impact would be felt almost entirely by local Eureka restaurants, not those in distant parts of the county so the percentage is meaningless and out of context. If it reported the percentage of business lost strictly to Eureka restaurants, it would be a better evaluation of the impact.

Other Retail Stores

The large number of superior garden supply stores already in the area cited in the study begs the question of why would we want another one that provides a self-described inferior service like Home depot? Stores that were not even mentioned include Sylvandale Gardens, Dazey's Supply, Glenmar

16-286 cont.

5-177

Heather Nursery, Greenlot Nursery, Humboldt Flower Products, Sherwood Forest, Singing Tree Gardens, and Living Earth Landscapes.

There are several 'Feed stores' that also sell garden supplies and are not mention in the report. Examples include Nilsen Feed, The Farm Store, A & L Feed, and Fortuna Feed and Garden Center.

It would appear that the area is saturated already. There is very little leakage in this category. The Project estimates it will capture 19.2% of this market which would likely cause at least some of the local businesses to close. Businesses in this sector normally occupy large spaces. Closures would contribute to large areas of urban decay.

Opportunity Costs (Fortuna Alternative)

This section suggests that if Eureka determines that a huge chain shopping center would be harmful to its business community, then Fortuna would eagerly ignore all that evidence and jump on the chance to build one. This is not necessarily the case. There are large environmental problems with the Pacific Lumber site in Fortuna. There is also active resistance to a big-box center in a friendly rural community. Assuming that we have to 'beat Fortuna to the punch' is like saying we have to shoot ourselves in the foot so some one else won't do it first. If a huge chain store development is wrong for Eureka, then it is even worse for Fortuna.

We also need to consider the future when it is likely that fuel will be more expensive. The cost of travel could offset even the 'cheap' prices of a WalMart.

Cumulative Impacts

The CBRE report frequently states that impacts would be spread over a number of businesses in a sector and, as a result, probably wouldn't cause closures. The assumption is that all or most of these businesses enjoy a healthy profit margin and could 'weather the storm'. Unfortunately, in our rural economy, this is not often the case. Many stores provide their owners a living but little more. A decrease of 8% or 10% or even 5% could make them incapable of supporting themselves. What follows is store closures, empty storefronts, degrading buildings and vacant lots, and serious urban decay. This is made even more likely in our present economic recession. There is evidence that things will get worse before they improve so many closures may happen (are happening...Mervins) anyway. The Project will simply exacerbate the situation. Strangely enough, the BAE report (see copy attached) concluded that a Home depot would have a greater impact on the local economy than even a WalMart. WalMart sells general goods and would spread its impact over a large part of the economy. Home Depot focuses on a single sector, amplifying its effect specifically on that more limited segment. It's like the difference between a sprinkler (WalMart) and a fire hose (Home Depot).

Competition from Fortuna

The entire section about theoretical development in Fortuna is pure speculation and has no relevance to this development in Eureka. The Pacific Lumber Millsite has huge environmental problems of its own that are reported to dwarf those of the Balloon Tract. There is also significant opposition among Fortuna residents against turning their town into another chain retail outlet.

16-286 cont.

The CBRE report tries to present the argument that if we don't do it first, then Fortuna will steal all that business from us. This is Security National's 'fear' argument and it does not hold water. In fact, proceeding with the Project may actually cause Fortuna to go ahead in a self-destructive effort to save its own tax base when it might otherwise reject big-box chains. This is a classic example of trying to pit 'us' against 'them, demonizing Fortuna, and trying to claim that a big-box mall is our only salvation. This like saying that we have to hurry up and destroy our local economy QUICK before the other guy does it to his.

In the event that Fortuna does build a big-box mall in the future, it will have a far more destructive effect on Fortuna's local businesses than even the Balloon Tract will have in Eureka. Fortuna is a smaller community and cannot absorb that much retail. If shoppers want to drive that far and spend that much extra time, then they will. But this will have less impact on Eureka's businesses than developing a big-box mall here on the Balloon Tract.

IX. Urban Decay Determination

This section is a classic example of using old data and consulting too few sources.

In determining retailer demand, the consultant interviewed only 3 unspecified real estate brokers. He was either misled or he misinterpreted what he heard.

Market Characterization

Some of the claims in this section may have been true before the current recession but no longer apply.

Old Town and Downtown are reported to have an 8-10% vacancy rate. This should not be considered acceptable in a tight tourist oriented area or in the 'core business area' of town. Several residents have done an inspection of vacant properties in Eureka and found many empty stores of varying size. I have attached photos of all that we located in two afternoons. This is not a comprehensive study, just a casual drive-by. The sheer number of vacancies indicates problems with Eureka's retail demand.

A walk through the Bayshore Mall on Dec. 30, 2008, found 25 vacant stores of varying size, including several fairly large spaces. We did not even enter the Food Court. TWENTY FIVE vacancies in the Bayshore Mall must have slipped right by the CBRE investigation!

The local Sears store in the Bayshore Mall is a relatively small one. It relies heavily on its appliance sales. A major competitor that took a substantial part of that market could easily cause the Sears to slip below profitability and close. While the appliances provided by Sears might be replaced by the newcomer, all of the other merchandise (tools, clothing, etc.) would not, leaving the consumer with fewer choices, not more.

CBRE assumes that many existing stores could compete with Project stores. That may be possible for some with 'deep pockets'. For others there is not sufficient margin or market. **The new Project does not create new markets. It takes them from somewhere else.** The more limited the demand for a given product, the more damaging it is to a specific retailer to divide up the existing market for that item. For example, if Sears, Poletski's, Carl Johnsons, and Eel River Appliance can now easily fill the market for appliances in the county, adding a Best Buy can only reduce the market share of the existing businesses. If the Project could magically ADD customers for those products, the effect would be less. BUT IT CANNOT unless it takes them away from somewhere we don't know about! If the investigator had done

16-286 cont.

5-178

his homework, he would know that there are very few unmet retail needs or unfilled retail sectors in the County. That is one reason there are so many empty stores here. It is difficult to find a retail sector that has a lot of room for new entries.

Retenancing Potential

Here is another area where the consultant does the bidding of the Project and does not look at the facts. There are major spaces all over Eureka that have been vacant for at least several years. The former Roberts store in Henderson Center is a prime example. The former Subaru dealership on 7th Street is another. (see the list and the photos) While it was beyond the limits of our time to determine how long each vacancy has existed, subjective observation tells us that there are many that have sat empty for a long time. CBRE looked at only one example where a store was replaced by another similar one. There are anecdotal reports that the Target store is producing far less sales tax revenue than was projected.

In 1999 the City REJECTED measure J, a ballot measure directing the City to rezone the Balloon Tract for retail use in order to allow a WalMart to locate there. The measure lost by over 61%, a strong indication that the people of Eureka DID NOT want a WalMart here. There is real fear that if the Home Depot where to close, it would be replaced by a WalMart in direct contradiction to the expressed wishes of the People. Nothing in the Project would prevent this from happening once the zoning was changed. Some people fear that Home Depot would never even come in, instead leaving the space zoned expressly for the unwanted WalMart to locate there with no restriction. This would not be retenancing, it would be outright deceit and possibly fraud.

CBRE thinks that if Home Depot closed, Lowe's would be right on its heels, waiting to get in. WAIT, if HD failed, why would Lowe's, an almost identical store, be so eager too replace it? Not likely, is it?

Urban Decay Conclusion

The notion that the Balloon Tract represents urban decay when it is, in fact, open space, is simply wrong. Urban decay is already happening in several parts of the city because of business closures and empty storefronts. The addition of 330,000 square feet of new retail space will not improve that situation. CBRE reverts to the notion that the only alternative to the Marina Center is NOTHING. It has been proven over and over that this is not the case.

There is ample evidence that the infusion of such a huge amount of retail will disrupt the local economy. It will do this by direct competition with existing businesses. It will do this by removing money from the local economy, sending it to corporate headquarters instead of recirculating in the local area.

Some local businessmen will no doubt believe that they cannot compete with 'the big money' and will simply close. Few entrepreneurs will be eager to step in to fill their places, leaving even more holes and empty stores. There are simply too many examples of big-box malls killing older downtown shopping districts. The following Peer Review of this report calls the Home Depot a 'Category Killer'. In a town this well supplied with home improvement/building material businesses and with related contractors, it is inevitable that Home Depot would cause closings. If it didn't, then Home Depot would eventually close, opening up all the concerns mentioned above about WalMart.

It is my conclusion that the CBRE consultant did a very incomplete and outdated job, apparently preferring to say what he thought the Project wanted to hear.

16-286 cont.

Municipal and Other Revenue Impacts

The consultant believes the Project will magically generate \$90,000,000 in sales in the City over what occurs now. Where does all this money come from? Since we are a relatively isolated county and economic area, most of that money would have to come from within the county. That would represent a HUGE loss to other taxing entities like Fortuna, Garberville, Ferndale, and Humboldt County itself. While some of this would be offset by so-called recaptured leakage and some from tourist business, a huge percentage would have to be generated in-county. That represents a real loss to somebody!

In Crescent City, prior to the opening of WalMart, approximately 80% of sales tax revenue went to the city and 20% to the County. After WalMart opened the result was just the opposite, 80% County and 20% City. The total sales tax revenue stayed approximately the same.

As much as the developer of the Project would like to think so, money does not appear out of nowhere. It comes from somewhere else. While it may be true that Eureka would capture more of the available tax revenue, it would do so at the direct expense of other parts of the county.

Property tax

Again, additions to the property tax base are only compared to the 'no build' alternative and do not represent the only possible benefits for the city.

It should be noted that during the current state budget crisis, Redevelopment funds are being 'raided' for state uses. Therefore there is no guarantee that the estimated amounts going to each associated entity would ever get there. There is likewise no guarantee that the state can and would act to 'make whole' the funds diverted to redevelopment agencies in the future.

Police and Fire Service Costs

As I have commented elsewhere, experience from other cities shows that police and fire costs are frequently far higher than estimated. Services needed by the homeless population don't go away when the Project is built, they are displaced to some other location. Building the Project will not eliminate or reduce these costs. Any fire and police service required for the Project will be IN ADDITION to current needs. No source of revenue is identified or dedicated to this purpose

Revenue Impacts Conclusion

Wow! It's like magic. The Project is supposed to find this amazing amount of money lying around in the Humboldt County economy and will divert it all to Eureka. Meanwhile, local Eureka businesses will suffer over \$30,000,000 in losses due to the Project. Some businesses will close as a result. Property tax will be lost. Police and fire services will increase to take care of vacant buildings. City road maintenance costs will increase due to increased traffic. Police and fire expenses will increase by AT LEAST the projected amount and probably much more. Costs NEVER go down.

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After all this there is no guarantee that the City can and will be able to use these 'magic' revenues for Project purposes or even to mitigate its impacts. The current recession has severely impacted the revenues of most taxing agencies. Even an increase from the Project would likely do little more than offset its increased costs to the city.

Other cities and the County who currently enjoy at least some of the sales tax revenue would be seriously impacted by the shift in retail development.

Jobs Impact

Several things stand out in this section. First, in Humboldt County many businesses are small and employ more people per square foot of retail than the big chains do. Thus, the comparison is probably inaccurate.

Second, the wage rates quoted for Home Depot do not mention that in most HD stores a full time is defined as 32 hours which, in terms of income, offsets the presumed wage differential. The report also uses an 'average wage' for HD which presumably includes management personnel who typically have higher wages. That skews the numbers. The benefits that HD makes available must be, for the most part, purchased by employees. It would be very difficult to purchase real benefits on the low wages paid. While it looks good on paper to say HD offers all these benefits, the truth is that most are unaffordable for most employees.

The DEIR claims Home Depot would provide 240 new jobs for its 130,000 square foot store. Yet Costco, a similar warehouse type operation, only employs 140 people for its 119,000 square foot store. It would appear that the DEIR has overestimated the number of jobs the Project would create.

It also appears that Security National pays very poorly. A junior engineer is paid somewhere around \$50,000/year by the state. A property manager for \$35,000 and a marketing director at \$25,000 would be bargains in most markets.

Office jobs represent a large percentage of projected gains but no mention is made of who those people would be. A brief survey of Eureka finds available office space at very competitive prices all over town. It appears that a certain number of these jobs are simply wishful thinking. No large 'office using' type of business has expressed interest in using all that space. It would again appear that the DEIR has overestimated the number of jobs involved.

Prospective Job Losses

As stated above, many of Eureka's businesses are small and probably employ more people per square foot than is the average. Several employers account for a large number of jobs. If they were to close the impact would be proportionately larger.

The impact of a single job loss in smaller towns like Garberville or Ferndale would be more damaging than one in Eureka because of the proportional loss to the local economy. These jobs are not replaced by Project jobs because of their geographical location.

Big-box chain stores have a history of leaving markets for various reasons. They have no loyalty to the community and little involvement in its affairs. They often leave behind the damage they have done. The

16-286
cont.

264 employees at Home Depot immediately become NONE. The 154 jobs lost to local businesses are still lost. The only result then would be serious urban decay (read: double the economic disaster).

In light of the fact that 2-3000 shopping malls are predicted to close in 2009 including over 200,000 stores, this scenario is not as unlikely as many would believe.

Table 15 states that Eureka would lose 154 retail jobs. There is no mention of the related support jobs from suppliers and other service sectors that would be lost as well. Since most Chain stores do not use local suppliers and services, the impact of any local business closure falls disproportionately on local support businesses as well.

Any benefit from increased wages from new chain stores is immediately offset by the loss of recirculated money in the local economy. This is because local business recirculates \$45 for every \$100 spent while chains typically recirculate only \$14 for every \$100, mostly from wages. (Institute for Local Self-Reliance. "The Economic Impact of Locally Owned Business vs. chains: A Case Study In Mid-Coast Maine", Sept 2003). CBRE makes no mention of the leakage of dollars that offset potential wage gains.

Case Studies

The consultant chose 3 towns that would support his views. He did not mention the types of retail existing in each town. Eureka, unlike any of the 3, has a large number of home supply/building supply stores. The market for these goods appears to be saturated. Any loss to a Home Depot would be significant. Stores in other areas were able to shift to high end product lines that have little market in Eureka. San Rafael is in a growing urban area. There was only one store mentioned in competition with Home Depot and it was in another part of town. Woodland was forced to change its downtown business mix to boutique stores and niche shops. It no longer represents a neighborly district were basic needs can be met. People are forced to resort to the chain stores for their basic needs.

These are not comparable situations or communities. There are many more communities who have lost their identity to big-box chains and exist only as 'shopping centers'. There is no 'old downtown' Redding. Rhonert Park exists as one mall center after another that look exactly like the ones in Redding.

Eureka markets itself as a Victorian Seaport. If it loses this identity to the big-box mentality of uniformity and corporate control, it will lose both its Victorian identity and its identity as a unique place.

Taxable Sales and Outlets

This section is worthless. It does not tell us how many or what type of businesses existed in Woodland , San Rafael, or Ukiah before Home Depot came in so there is no way to compare its influence. Woodland , and to a lesser extent Ukiah, has experienced a great deal of sprawl growth in recent years that Eureka has not. Eureka is somewhat unique and cannot be directly compared to those markets. Eureka's population has grown very slowly and probably will not experience much more in the near future due, at least in part, to land use restraints (lack of buildable property).

Summary Case Study Findings

16-286 cont.

5-180

This whole study is an example of deciding what you want to find and presenting only information that supports your cause. The conclusion that adding a Home Depot to Eureka would cause no harm is a case in point.

The consultant completely ignored the study done for the Eureka City Council in 1998-99 by Bay Area Economics which was done to study the possible location of a WalMart store here (see attached copy). That study showed that WalMart would do considerable damage to the local economy. More importantly, it also showed that a Home Depot would do EVEN MORE damage. I have included a copy of that study with my remarks.

The report did not consider the present mix of businesses in Eureka, particularly the large number of Home improvement related businesses that could suffer a disproportionate impact from a Home Depot. The report did not consider the proven 'category killer' nature of Home Depot in other markets.

All in all, this is a very weak report based on outdated data, insufficient research, a clear lack of understanding of the local market in Eureka and Humboldt County, unclear and possibly unfounded assumptions about leakage, and a lack of real knowledge about Eureka's vacancy rate and urban decay.

Peer Review by Economics Research Associates (ERA)

Supply Side Conditions

I fully agree with the critique that CBRE did not do an adequate job of determining vacancies and retail space available. This becomes even more important in light of recent closings by Mervins, McMahons Furniture, and the Nadar Auto dealership, all of which vacated large retail spaces. The large number of vacancies all over town (see Photos and list attached) plus the large number of long standing vacancies at the Bayshore Mall indicate a weak demand for retail space in Eureka. This would suggest that the Marina Center Project would only make retenanting in other parts of the City more difficult than it appears to be now.

Supply Side Conditions

The Peer review criticizes CBRE's technique for determining 'leakage'. Both the reviewer and I believe that insufficient data, poor or no explanation, and inappropriate choice for determining 'market area' make CBRE's report less than reliable.

CBRE used California department of Finance data to project population growth. No effort was made to contact local government bodies about growth rates and patterns. This very limited data was then used to predict retail growth presumed to offset losses to local businesses. ERA typically uses a wider variety of information for this prediction with much better results. There is no reason for the DEIR to accept poor data.

Mitigation Measures

ERA quickly acknowledges that Home Depot is a proven 'Category Killer' that would be likely to cause displacement or outright closure among existing area businesses. ERA states that survival of local

16-286 cont.

businesses often involves changing product offerings or developing as niche retailers. These are not the primary business models for a large number of existing home improvement businesses. The measures suggested as mitigation might even be seen as insulting by some area businessmen. The developer of this Project is not seen as friendly to local business. If he were to sponsor a retail consulting workshop, it would be seen as totally self-serving by many. Likewise, offering a shuttle would be seen more as an effort to draw business away from other areas rather than taking customers to them.

The attached BAE Economic Impacts Assessment (1999), pp 27,28,30, 84, and 85) include a leakage analysis that placed retail leakage in Eureka at 6%. **This is far less than the figure used in the DEIR.** This figure suggests that most retail needs are being met within the existing mix of businesses and that there appears to be far less demand for new retail than the DEIR would suggest. Using the correct figure makes a HUGE difference in calculating the available retail dollars that can be captured, recaptured, or displaced within the local economy. The DEIR appears to have inflated the leakage figures to its own advantage.

My Response to the CBRE response to the Peer Review

Population Data Sources

While the review of vacancies might have been closer to correct in 2006, it must be noted that the situation has deteriorated since then. At least THREE large retail spaces are currently vacant in Eureka as of this writing; McMaho's Furniture on 4th Street, the former Nadar Auto lot on 7th Street, and the Nadar Auto lot on Broadway (formerly Peterson Tractor). The large space mentioned in the Bayshore Mall (formerly Old Navy) remains vacant and has been so for at least 2 years. There are numerous smaller retail spaces available, many in desirable shopping areas such as Henderson Center, which have remained vacant for at least 2 years. The final EIR must include a review of currently available retail space and a comparison over the last several years so that an occupancy or vacancy 'direction' can be determined. This is critical to determining whether demand exists for another huge retail space.

I have personally read in the local newspaper reports about local population growth that come from a variety of sources. Even allowing that CBRE's figures may be close, they do nothing to suggest where those growth areas are. Eureka, the retail hub, has experienced very slow growth and, judging from public school attendance, may be experiencing actual population loss. The fastest growth, easily seen from building permit applications, is in the McKinleyville area. Recent retail growth (K-Mart, Rays Food, etc.) has been strong in this area. It is not difficult to determine growth this way.

It should also be noted that the CBRE review and the ERA review include vacant space throughout the county. The occupancy rate in Garberville or Willow Creek may be nonexistent but does not reflect on the rate in Eureka except to skew the numbers.

Analyzing growth patterns tell the reviewer that adding huge additional retail space in Eureka will only increase commuter and shopper traffic to Eureka, add to air quality problems, and cause the use of more precious fuel for routine errands that should be local.

Land and Building Values

Mitigation Measures

The analysis was done during the 'boom' years when real estate values were rising rapidly. That is no longer the case. None of the values reported was for a 'large' retail space. Recent business failures in Eureka in several sectors (autos, furniture, specialty hardware) suggest that the retail market is saturated with existing competitors already and would suffer disproportionately from adding an additional 330,000 square feet of retail space. Unfortunately CBRE chooses to act here as a cheerleader for the Project rather than an objective analyst.

While the proposed mitigation measures appear unlikely and unhelpful, **I strongly disagree with the conclusion by CBRE that no urban decay would occur as a result of the Project.** Any time an existing business is dislocated or caused to close, the possibility for urban decay exists. Existing closures demonstrate this likelihood. Several vacant auto dealerships have experienced gang-type marking graffiti, litter, and trash. The old Eureka Truckstop on Broadway stands empty and unmaintained as it has for many years. The most likely retailers to be forced to close are large home supply centers covering a lot of square footage. Loss of large areas such as these would contribute disproportionately to urban decay. It is obvious that ERA has looked at urban decay impacts in other cities where CBRE has either not looked or chosen only selected models to prove its preselected position.

Retail Leakage Model Documentation

My comments on CBRE's Update of its 2006 Report

While it is good to know that CBRE can play with statistics, I challenge any member of the City Council or the general public to actually be able to interpret the explanation for leakage and its models.

Demographic Estimates and Projections

No mention is made in the market analysis of internet retail, an ever increasing part of the retail market. This is spending that will not be recaptured by another shopping center.

Apparently it is beyond the technology of CBRE to simply compare actual population in 2006 with numbers for 2008 to determine real growth. Eureka's growth is constrained by the availability of buildable land. Growth is concentrated in the surrounding but unincorporated areas. Since Eureka will receive the greatest impact from the Project, its relative lack of growth should be reported.

Communities in Humboldt County are dispersed. Most, such as Garberville, McKinleyville, and Willow Creek, have sufficient retail to meet their residents' basic needs. While Eureka is reported to receive 58% of retail sales in the County, it also contains over 40% of its population (considering contiguous areas around Eureka such as Cutten). Eureka contains most of the 'big ticket' retailers such as autos and appliances. CBRE applies models appropriate for large urban areas without considering the unique nature of Humboldt County. Its models are inappropriate for rural Humboldt County and should be viewed with reservation.

Projections of household income show a decrease of almost \$800 in the last two years. Loss of higher paying jobs at Evergreen Pulp and Green Diamond Timber recently will certainly impact the County average. The current recession, loss of stock value, and lowering of home prices will certainly reduce

16-286 cont.

16-286 cont.

Comment Letter 16

Comment Letter 16

average household income. CBRE obviously depends heavily on the work of others without seriously questioning their underlying assumptions.

Retail Sales Trends

CBRE's data through 3rd quarter of 2007 shows a definite downward trend in retail. Eureka data showed a significantly greater slowdown than other parts of the state. There is every reason to believe that, due to the continuing recession, retail sales in Eureka and Humboldt County will continue to fall. The CBRE report then claims reduced sales at its Project will LESSEN the impact on other retailers. It somehow ignores the fact that local retailers are experiencing similar reductions in sales which will make the Project's impacts GREATER, not less.

Store Closures and Openings

The former Old Navy location at the Bayshore Mall remains vacant after several years. There are 24 other vacant smaller locations at Bayshore Mall. Several more appear to be on the way out. There are 5 empty stores in Henderson Center including the relatively large Roberts location. A casual drive through Eureka revealed over 105 vacant storefronts of various sizes. The continuing recession is taking a toll on local business. The addition of the HUGE out of scale Project can only further reduce local sales and seriously impact businesses.

Fire Department Questionnaire

It is noteworthy that the response DID NOT estimate future equipment or personnel needs related to the Project. It would be expected, given the proximity of the main fire station to the Project, that response time would remain short. The part not considered is overall demand for services. The Project will certainly require some responses since over half of all calls are for medical aid which would be expected to increase dramatically in the Project due to the increased number of people on the site. When the fire trucks are at the Project, they are not available for other parts of the City and will necessarily have their response capability reduced by some amount.

Since the Project was still in formation when the questionnaire was submitted, there was no response concerning the proposed FIVE story building and the limited access it provides.

Their also was no comment regarding current staffing levels. That is, are all positions filled at this time?

Police Department Questionnaire

Response indicates a department with 7 less officers than 10 years ago but an increase in service calls of 15,000 per year (2005) and trending upward.

The Project is in Beat 1 which has only 1 officer per shift covering 4 days per week. The 'rover' apparently covers other days.

Beat 1 generates the highest number of service calls. The Project will increase that number.

16-286 cont.

16-287

16-288

It is obvious that the Project will generate the need for additional service calls. Some of my research shows that the experience of other similar big-box malls reports that service calls generally end up being far higher in number than originally estimated. ("Big Box Swindle", Stacey Mitchell, 2006, pp67, 68)

There is no funding currently available in the city budget to increase police services nor is there likely to be soon. There is no guarantee that revenues from the Project will be available for additional police or fire services required.

P. Traffic Impact Study

I am particularly concerned about the description of Waterfront Drive. The consultant states that little, if any, parking was observed on Waterfront in the vicinity of the Balloon Tract. The observer must have gone there in the dead of winter in the rain. The section of Waterfront between Commercial and the Wharfinger Building is the primary parking area for the only serviceable boat ramp on Humboldt Bay. On summer days trucks and boat trailers are often parked north down Waterfront to C Street and south into the Wharfinger parking lot. It is true that this use is seasonal but the season often extends from April through October. Trucks waiting to unload boats often back up down Waterfront past Commercial Street. Large Commercial trucks also use this stretch to temporarily park their trailers on the street, particularly for the fish plant. Parking for Marina users is also very limited. Users often are forced to park on the street. During these heavy use times Waterfront is a very crowded street. Adding traffic from the Project will cause severe backups, particularly at the boat ramp. TJKM seemed to be completely oblivious to those impacts.

Also on Railroad Avenue (Waterfront becomes Railroad at 14th going south) from south of Washington Street to Del Norte Street commercial trucks (semi's) often park while waiting for loads or overnighting. Eureka no longer has a truck stop so this has become the major staging area.

While Henderson Street does serve Henderson Center, The Safeway mentioned is only two blocks from Broadway, NOT in Henderson Center which is located over a mile up the road. Apparently TJKM did make an on-site inspection.

On Street Parking

As I have noted elsewhere, TJKM has drawn unsupportable conclusions from only two days of observation; the last day of February and the first day of March. This is the lowest traffic time of the year. Tourists are generally absent. No mention is made of the weather. A rainy day results in far less traffic and parking, particularly in the area under study. Common sense would tell you that there will be more parking at a popular tourist coffee shop during the summer!! The same can be said for the area from Wabash south on Broadway. TJKM picked the quietest time of year to observe and then made the mistake of generalizing from those limited observations. These mistakes and omissions call into doubt the methodology and technique of the entire report.

Traffic Volumes, Intersection Lane Configurations and Traffic and Field Data

16-288 cont.

16-289

16-290

16-291

16-292

Comment Letter 16

Comment Letter 16

Here we go again. Counts were made in March and April, apparently carefully chosen to avoid that pesky tourist season. Traffic counts on Broadway (Hiway 101) increase significantly during the May to October tourist season. Without considering traffic during the summer, any projections and mitigations are incomplete, incorrect, and insufficient.

It is reported that each intersection was subjected to a manual traffic count in March and April. However no mention is made of the number of days counts were made at each location. For all we know, there may only be one count for each. That is not sufficient. Weather is not mentioned. Rain has an impact on shoppers, tourists, and general traffic flow. These techniques call into question the methodology of the entire report and the validity of its findings.

16-293

You CANNOT generalize about traffic levels from counts done only in March and April, two months with low tourist activity. The study MUST indicate how many days of counts were done for each intersection. You CANNOT generalize turn rates and traffic volume from counts done on only a few days. Weather, season, and events such as Sales at Bayshore Mall or Pierson's can skew the numbers. The variation of traffic levels by season was not accounted for anywhere I could find in the study. That fact alone makes the study unreliable, at best.

Accident Analysis

The study reports the estimated reduction in accidents at 3 intersections only with the Project and with mitigation in place. The report does not consider the possibility of increased accidents from driveways and unregulated streets due to increased numbers of cars on the road. It is very difficult now to make a left turn onto Broadway from a driveway or from an unregulated street. It is also difficult to make a left turn off of Broadway into a driveway or unregulated street. Traffic crossing the flow without signals always represents a greater danger. Increased traffic means increased danger to those drivers. Cars entering or leaving Schwab Tire, Victoria Place, or Bucksport Sporting Goods have a hard time getting across traffic when turning left.

16-294

If, as the study claims, the mitigations will allow traffic flow at current LOS levels with the Project; and if, as the study claims, that will at best continue a marginal situation; Then wouldn't it make sense to consider that doing the mitigations without the Project would actually IMPROVE traffic conditions on Broadway? This scenario is not discussed in the study.

Results of Level of Service Analysis

Table II is not valid because of the seasonal nature of the traffic counts done by TJKM. They represent an unrealistically low level of traffic for at least a large part of the year. At best, the Table is useful only in a comparison of use levels between the studied intersections, NOT their level of service.

16-295

Giving Broadway and Washington or Broadway and 14th Street a LOS of B tells me the engineer never tried to make a left turn onto Broadway during a busy time of the day. With no turn arrows, the oncoming through traffic makes it extremely difficult to turn left. I have personally sat through three light cycles waiting to turn north onto Broadway from eastbound 14th Street. This street carries a fair portion of traffic leaving Costco. The rest of it uses Wabash. It is sometimes nearly impossible to turn from Wabash westbound onto Broadway southbound because of the through eastbound traffic coming out of Costco. Apparently the people doing the study never actually tried these routes at various times to see for themselves.

16-296

5-183

The study does not offer the alternative of doing the mitigations WITHOUT doing the Project or with one of the reduced options such as an Industrial Park or Limited Retail.

16-297

The study projects normal traffic growth of 1 ½% per year without the Project but does not project increased traffic with the Project (total growth). It adds Growth to Project to get a number but does not consider that traffic to the Project will also grow over time causing more traffic than projected.

16-298

On Jan. 2nd of 2009, I drove southbound on Broadway at 1:20 pm. In the northbound lanes traffic was backed up from the Wabash intersection stoplight south PAST the Henderson Street stoplight and stayed that way for at least three cycles. There were no impediments such as accidents or malfunctioning lights. There were simply a LOT of cars. The backup appeared to continue northbound through 14th Street, Washington Street, and 6th Street stoplights before spreading out onto 5th Street. The only conclusion that can be drawn from that experience was that all the signaled intersections on Broadway were operating at Loss E or worse. Increasing traffic by over 10,000 cars per day will not help, whatever is done with the stoplights. The numbers simply overwhelm the system. It all depends on when the observer actually looks. Apparently TJKM did not look at the right times!

16-299

Baseline 2010 + Project Conditions

Channeling traffic onto Waterfront Drive or into Old Town via 2nd or 3rd Streets does not reduce traffic on Broadway or 5th Street as most of the diverted traffic must eventually cross or enter one or the other at some point.

Traffic on Waterfront Drive (which has not been quantified in the study) will be seriously impacted at 'busy' times of the year. Extending 4th Street through the Project to Waterfront can only result in chaos during a busy salmon season, for example when boat ramp use is highest.

Channeling through traffic into Old Town will add to congestion in this tourist oriented area. The streets are not built to handle large traffic loads. Signage is not adequate to allow traffic to move through the area smoothly, even if volumes were acceptably low. The Old Town area is built around a walkable core where tourists and shoppers can safely walk. They often cross streets in the middle of the block and pay only minimal attention to cars. Adding large numbers of cars only passing through on their way to somewhere else increases congestion, decreases walkability, and leads to accidents.

16-300

As the reader might have guessed, I am adamantly opposed to the extension of 4th Street to Waterfront and the extensions of 2nd and 3rd Streets into the Project. They are not mitigations. They may represent a convenience for the Project, but are major burdens for other waterfront related users and the old Town shopping area.

Project Trip Generation

I must disagree with the study when it claims highest trip generation is on weekdays at rush hours. As cited earlier, AAA studies show that the highest number of cars on the road is on Saturdays at 1pm. How did the study reach its own conclusion that Saturday trip generation would be lower? There is no information that leads one to this conclusion. Particularly during the morning commute there would be little 'shopping traffic' because stores would not have opened yet. Evening 'shopping traffic' would be exaggerated by large numbers of office workers leaving for home and residents returning from work.

16-301

Comment Letter 16

Comment Letter 16

Project Trip Distribution

The strange offset intersection proposed for Broadway at 6th would operate at a marginal LOS D, at best. During times of heavy tourist traffic or other events that bring additional traffic to town, it can be expected to operate at levels lower than LOS D, creating a traffic impediment in the center of town. This mitigation is not an acceptable level of service during much of the year and even much of the day.

The routing of northbound traffic seeking to enter the Project from 4th street is another source of congestion. Traffic crossing to 4th from 5th on Commercial could easily back up on that short block into 5th Street, particularly on busy Saturday afternoons. Since there is no left turn lane from Commercial onto 5th Street, conflict can also be expected with through traffic on Commercial Street.

Blocking left turns onto 7th Street from Broadway and diverting those cars to a left turn at Washington so they would then turn left onto Summer and right onto 7th ignores the fact that Summer Street is largely residential and not designed for additional heavy use. It is a heavily 'parked' street with relatively narrow clearance. This is not a good mitigation.

Travel times are not realistic. I have had personal experience of travel times from I Street to Bayshore Mall of over 25 minutes during the day. Others have reported similar experiences to me. It would only be possible to make the reported times during the lightest traffic and hitting all the stoplights green, an unlikely scenario. Again, it looks as if the person doing the study never actually experienced the traffic in question.

The study projects a 15% AM and a 20% PM traffic increase on Broadway with the project. Regardless of the effectiveness of mitigation, there is a public perception of large increases in traffic on Broadway. People being people, many will seek alternate routes to avoid Broadway. The most common northbound alternate route is up Pine Hill (Herrick Avenue) past the golf course onto F Street, then right onto Harris and left onto S Street (S becomes West) to join with Hiway 101. This puts large numbers of cars through residential streets in the middle of town. These particular streets are already heavily used, both by local traffic and by people bypassing Broadway. These streets are not designed for the amount of additional traffic that could occur. The intersection of Myrtle and West is heavily impacted at rush hours, sometimes taking several cycles to get through. There is no mitigation against the probability of a major increase in use. The intersection of Harris and S Street is already very busy with no dedicated turn arrow. Traffic here will increase when the Super Safeway at Harris and Harrison is complete. Even more would be added by cars using the alternate up Harris from Broadway. The intersection of Harris and S Street, along with the intersections of Buhne and S Street and Myrtle and West (S becomes West) would quickly degenerate to well below acceptable service levels.

Another alternate route is up Harris Avenue to S Street, then left onto S (with no turn arrow) and West to Hiway 101. Since this route joins with the other one at Buhne and S Streets, the effect at the West and Myrtle intersection is compounded. The residential city streets cannot handle large increases in traffic seeking to avoid Broadway. Neither of these routes is mentioned or analyzed.

If people know that traffic on Broadway will be increased by 15-20%, many will seek alternatives to the detriment of the city's residents and city streets.

No allowance is made for increased maintenance on Broadway from increased use, particularly by heavy trucks. No allowance is made for increased maintenance on other city streets from increased use. The City does not have the funds for additional paving, striping, and law enforcement.

16-302

The average speeds on Broadway are often achieved by going 30 mph for a distance, then stopping for a time, then resuming speed. Synchronizing the lights will help one group of cars but hinder the next, particularly when traffic is heavy enough that some cars don't 'make it' through the light on one cycle. The study makes it sound like all traffic will move in synch at 21.6 or 18.5 miles per hour. Any driver knows they will not!

The entry onto Broadway from the north end of the Bayshore Mall sometimes backs up into the mall past the next stop sign (west of the light). There also is often a line of traffic attempting to merge into the flow from the south. At peak times it can take at least two cycles for a car to actually get to Broadway.

Project Access and Circulation

The site plans I have seen place the light industrial area between Old Town and the Project's retail area. It is 5 to 10 blocks to Old Town from the Project, farther than most shoppers are willing to walk, especially carrying packages or in the rain. The walk would be through the industrial area, less than scenic. It is possible that some vehicles could leave the project to drive to Old Town to shop. Since parking in Old Town is extremely scarce now, there will be no place for much additional traffic to park.

Storage space on Waterfront (length of turn lane) is 140 feet. This would remove existing scarce parking for the marina and the boat ramp. As a current user of that area, I find this unacceptable. No offer has been made to build a larger parking facility for boat trailers or semi trucks.

Increased traffic on Waterfront Drive and Railroad Avenue (Waterfront Drive south) will conflict with commercial traffic generated by existing industries and businesses already in the area. Schmidbauer Lumber, Schneider Dock, and Renner petroleum are examples of heavy users of Waterfront Drive/Railroad Ave.

Large trucks exiting the site during summer onto Waterfront Drive will cause a major congestion problem. Pickup trucks with boat trailers are often backed up down Waterfront well past Commercial Street. Trying to put a large semi through that mess will only make it much worse.

The proposed Bicycle trail along the railroad right-of-way depends upon what the width of that right-of-way is finally determined to be. The Project claims it is 50'. I have read reports from the NCRRA claiming it to be 150'. That will make a difference.

Cumulative Plus Project 2025 Conditions

There is no mention of the contribution from the Super Safeway to be built near Harris and Harrison. Traffic from this location will travel down Henderson onto Broadway, out S Street to West to Hi-way 101, or down Harrison to Myrtle Avenue. There is sure to be an increase on Henderson to Broadway and to some extent from West onto 4th onto Broadway.

Another project not mentioned because it is still in the early stages is the Forrester/Gill project in Cutten. This project would add large amounts of residential and retail space. Traffic coming from there

16-302 cont.

16-303

16-304

Comment Letter 16

Comment Letter 16

Page | 84

will probably use the Elk River access to Broadway from the south or come through town on Walnut or Campton, ending up on Henderson to Broadway. Both will put considerable amounts of traffic through residential neighborhoods. Both will contribute to overall background traffic in Eureka. Added to a 35% increase on Broadway, by 2025 Eureka will be nearly impassable.

If even some of the other proposed projects are built along with the Marina Center, traffic will easily overwhelm any positive effects from the mitigations.

The only lasting improvement or even status quo for Broadway traffic that I can envision would be with a reduced size Project, either one favoring light industrial use or one eliminating the big-box in favor of smaller local retail operations. A 35% increase on Broadway is unacceptable.

The future mitigations offered by the consultant show a certain desperation. Routing all exiting traffic onto Waterfront Drive to Railroad to Hawthorne to Broadway puts huge traffic loads on small narrow streets and all but eliminates other users of the area. Widening and restriping exacerbates the driveway, left turn across traffic, and uncontrolled intersection problems. There is no acceptable 101 alternative on city streets. Parts of 6th and 7th were once proposed for this purpose but have since been rejected and have reverted to residential on the north end. Extending Waterfront Drive, even if it was big enough for the proposed traffic load, would meet fierce opposition as it would have to traverse a known wetland marsh area and have to use the railroad right-of-way. The California Coastal Commission has soundly rejected the extension of Waterfront Drive through the Palco Marsh, in any event.

Even the study points out that drivers would become more likely to use already heavily impacted alternatives to avoid Broadway.

The study correctly suggests that the best mitigation and alternative would be to control the growth of traffic on Broadway. This could only be done by limiting the size and scope of the Marina Center Project to one more in scale with the needs and capabilities of Eureka to absorb.

Diversion to Alternate Routes

There are NO good alternate routes. Traffic diverted onto Waterfront, besides playing hell with other users on Waterfront, will eventually re-enter Broadway at some other point, delaying the crowd but not preventing it. The same is true for diverting traffic into Old Town before it re-enters 4th and 5th Streets. This alternative would have terrible effects on the atmosphere and walkability of Eureka's premiere Victorian shopping district.

Unless something drastic changes, budget constraints will probably prevent widening Broadway to 3 lanes. I doubt if the developer is will to pay for that.

There is NO available alternate route through town. The city streets through town that could serve already do and are heavily used. Some traffic would begin to use residential streets to avoid crowded thoroughfares. This possibility is not analyzed by the study.

By insisting that the Project be a huge retail shopping center, the developer is setting up an unworkable situation for the future with no good alternatives for traffic. The best alternative would be to reduce the size of the Project and shift uses to be less vehicle intensive. Emphasizing light industrial use (more trucks but fewer vehicles) or changing the 'mix' to eliminate the big-box chain stores in favor of smaller local businesses would serve the purpose and still be viable.

16-304 cont.

16-305

5-185

Page | 85

The Project says it will pay a 'fair share' for most mitigations. It does not specify what that share is. It is assumed the City and CalTrans will have their 'fair share' of funds available to complete the mitigations. The City, at least, would be required to put up its share BEFORE realizing any increase (if there is one) in revenue from the Project. At this writing we are in a recession. The City budget is far short of the funds it needs for even maintaining current service levels. It would be interesting to know where this money is going to come from.

16-306

Q. Proposed Marina Center's Utility Impact Analysis

Impacts and Mitigations

Energy

The report states that the gas and electrical systems WILL need to be reinforced for the Project, although it does not specify to what extent. This information will determine the cost. NO mention is made of who will pay for the reinforcement. Increased expenses are often charged back to the rate-paying public. I do not want to be forced to pay for upgrades for the benefit of a private developer. The Final EIR should specify what is required and who will pay for it.

16-307

Solid Waste

City Garbage contracts for landfill space out it of the area. That space is limited and has a predictable lifespan depending on quantities delivered. The report does not state how increased solid waste from the Project will shorten the lifespan of the landfill site. This could have long term impacts on Eureka's solid waste disposal ability.

16-308

Water and Wastewater

No information is given about increased sewage loads expected from the project and how they might affect the existing treatment facility. Several conversations I have had recently suggest that the existing plant does not have a large amount of excess capacity. Adding the Project could limit or preclude other planned development in the utility area.

16-309

No information is given about the infrastructure planned for stormwater runoff. No information is given about the amount or impact of stormwater expected in a normal winter or its impact on City collection and treatment facilities.

16-310

Communications

Does the Project anticipate locating a cell phone tower with associated microwave capacity on the Project site or anywhere nearby?

16-311

Comment Letter 16

Page | 86

The Project must identify sources of funding for mitigation it expects the city to fund. The City is currently in dire financial straights, as are most government agencies. According to the Finance Committee, there is no money available for mitigations for traffic on Broadway, for increased street maintenance, or increased police or fire services. While the Project MAY provide additional revenues for the City, it will not be realized until long after the mitigations and increased public services must be paid for. There is no requirement that the City use any increases in revenue for Project purposes (police, fire, traffic mitigation, sewer and water connections and improvements, etc.).

16-312

Before accepting this DEIR, sources of money to pay for any City share of costs must be identified.

Attachments

1. Photographs of vacant store and office spaces in Eureka as of 1/9/09
2. Excerpts from the Bay Area Economics (BAE), 1999, study titled: Economic Impacts Assessment for New Retail Development in Eureka
3. Cartoon "Cruise Ship Destinations" with permission from Joel Mielke

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Letter 16: Citizens for Real Economic Growth (Thomas Peters)

Attachments to Letter 16 are presented in Appendix V.

- 16-1 The comment states that impacts cannot be “less than significant,” especially in relation to perceived effects. The determination of significance and applicability of impacts are well-established concepts and requirements set forth in the California Environmental Quality Act (CEQA) of 1970. Numerous and extensive legal opinions in the decades that have followed CEQA’s passage have further clarified and supported these standards. Please also see response to comment 88-1, which discusses how potential impacts are analyzed against baseline conditions. The Draft EIR is prepared pursuant to CEQA Guidelines and explains the determination of the baseline condition against which the proposed project is measured. Significance levels are determined by the Lead Agency pursuant to CEQA Guidelines.
- 16-2 The comment states that the project site should be subject to General Plan policies relating to the Core Area because it is adjacent to the Core Area. As stated on General Plan page 14, the “Core Area” includes the Downtown, Old Town, and Central Waterfront areas. As shown in Figure 1 of the Core Area Design Guidelines, the western boundary of the Core Area extends from the Humboldt Bay south along Commercial Street, east long First Street, south along A Street, east along Third Street, and then south mid-block between D Street and E Street. It would be arbitrary for the Lead Agency to extend the Core Area designation westward for policy consistency analysis of the proposed project. The proposed project must be analyzed according to the existing policies and controls applicable to the project site. The City Council will consider the appropriateness of the proposed land uses and proximity of the project site to the Core Area when determining the consistency of the proposed project with the goals and policies of both the General Plan and Local Coastal Program.
- 16-3 The comment states that the proposed project would have a destructive impact on locally owned businesses. Please see Master Response 1, under “Vacancy in the City of Eureka and Potential Local Store Closures” for further discussions of the issues raised.
- 16-4 The comment states that the proposed project rejects previous planning processes. The submittal of a development proposal that differs from existing land use designations does not reject previous planning processes. Moreover, the preparation of the Draft EIR for the proposed project does not reject any previous public planning process. Rather, it is an extension of that process updated to reflect changing circumstances and current realities.

As stated on Draft EIR pages I-1 and I-2, the Project Applicant has submitted a request for entitlements from the City of Eureka, which are necessary for the development of the proposed project. As a public agency responsible for approving or denying the Marina Center project, the City of Eureka is the “Lead Agency” in overseeing and administering the CEQA review process, which is required for actions that have the potential for

resulting in a direct physical change or a reasonably foreseeable indirect physical change in the environment. As set forth in the provisions of CEQA, *before deciding whether to approve the Marina Center Project*, public agencies must consider the environmental impacts of the project and minimize those impacts where feasible (emphasis added). The EIR has been prepared because the Lead Agency has determined that the proposed project may cause a significant effect on the environment.

The EIR is a factual, informational document, prepared in conformance with CEQA, and written for the purpose of making the public and decision-makers aware of the environmental consequences of the proposed project. The public was invited to comment on the Draft EIR, and those comments are included in the Final EIR for decision-makers to review prior to deciding whether to approval the proposed project.

The results of previous planning processes, including existing Local Coastal Program Land Use Plan designations and existing coastal zoning of the project site, are discussed in the EIR in Chapter IV.I, Land Use and Planning. As discussed in that section, the proposed project would require a Local Coastal Program amendment and rezoning.

The comment also states that the project would affect tax revenues. Please also see Master Response 1, under “Fiscal Impacts to the City of Eureka and Other Jurisdictions.”

- 16-5 The comment asks a number of questions about how the retail space would complement Old Town and Downtown businesses, whether new retail business would need to eliminate retail competition elsewhere in the City, why the project does not include low or moderate-income housing, is it a goal of the redevelopment agency to jeopardize local business and the quality of life, and why the public was barred from the planning process originally undertaken for the project site.

As a threshold matter, these questions appear to address economic and policy questions, and not the sufficiency of the EIR as an informational document. Generally, these sorts of policy and economic questions are not questions under CEQA. (See, e.g., CEQA Guidelines Section 15064(e) (“Economic and social changes resulting from a project shall not be treated as significant effects on the environment.”). To the extent that social and economic issues arising from the project pertain to physical changes in the environment, they are addressed in Chapter IV.P of the Draft EIR (Urban Decay), and the accompanying economic analysis in the Technical Appendices K, L, M, and N. It should be noted as well that the project’s environmental review and planning process is part of a public process, and the public has been provided notice and the opportunity to participate at all stages. In addition, the Project Applicant has held numerous public workshops and maintained a website on the project (<http://www.marinacenter.org/>), which have provided additional information and opportunities for public comment.

To answer some of the specific questions, however, the proposed project would complement or improve Old Town and Downtown businesses because most of those businesses – including art galleries, used bookstores, small craft stores, boutique clothing

stores, independent restaurants, and bistro bakeries – are primarily specialty or niche stores oriented towards visiting tourists and local residents looking for unique goods and services such as authentic art, local cuisine, hand crafted jewelry, and high-end household items. The Marina Center would likely attract larger scale, national retailers and restaurants whose goods and services would have little overlap with those of smaller independent retailers of Old Town and Downtown. As stated in the CBRE Consulting reports, the additional traffic and daytime office, industrial, and retail jobs created by the development of Marina Center would have positive spillover benefits for adjacent Downtown districts as the daily residents and workers regionally drawn to Marina Center’s shopping and employment opportunities may also choose to combine those trips with shopping and eating at Old Town or Downtown restaurants. Moreover, the mix of uses at the Marina Center would not need to eliminate competing retailers in the area in order to remain viable. This is born out by the economic studies prepared for the project, as well as results of the two case studies in the BAE Report and the CBRE Consulting Report. The BAE Report examined economic impacts in Ukiah and Chico after Wal-Mart stores were built. In both cases there were no significant impacts on the local retailers or Downtown shopping districts. In fact, the BAE Report found some positive impacts on the communities. The CBRE Consulting Report investigated the economic impacts in Ukiah, San Rafael, and Woodland after Home Depot stores were built. In all three cases there were no identified negative economic impacts on local retailers or Downtown shopping districts.

On housing, the Marina Center project would include up to 72,000 square feet of residential unit space in 54 multi-family housing units that would include up to 12 one-bedroom units (approximately 1,000 square feet per unit) and 28 two-bedroom units (approximately 1,286 square feet per unit), four larger two-bedroom units (1,500 square feet per unit) and three three-bedroom units (2,000 square feet per unit). These residential units were planned to present an assortment of sizes and pricing to offer a diverse array of housing opportunities for the areas residents ranging from the affordable, entry-level, one-bedroom units to the higher end three bedroom units.

The comment questions the goals and objectives of the City’s redevelopment agency and whether it is the agency’s intent to jeopardize local businesses and residents’ quality of life. The City’s redevelopment agency was established to revitalize project areas and improve the economic base of the community by facilitating both redevelopment and economic development activities. This involves fostering commercial growth and residential development in the waterfront and west-side industrial areas and advocating for diverse housing projects that meet the needs of all residents. Note as well, that this project is not under the review of the redevelopment agency.

- 16-6 The comment questions how thresholds for impact significance are derived in different impact categories. Please see responses to comments 88-1 and 142-11, which discuss how the impacts are analyzed against baseline conditions pursuant to CEQA Guidelines. The potential for the proposed project to expose sensitive receptors to substantial

pollution concentrations is discussed under Impact C-4 on pages IV.C-16 to IV.C-18. Traffic impacts are discussed throughout Chapter IV.O, Transportation. Please see Chapter IV.G, Hazards and Hazardous Materials and Master Response 4 regarding site remediation. Impact significance criteria are discussed on page IV.G-15.

16-7 The comment states that impact significance should be determined according to significance as opposed to established standards. Please see responses to comments 88-1 and 142-11, which discuss how the impacts are analyzed against baseline conditions pursuant to CEQA Guidelines. Specific, measurable criteria for determination of significant traffic delay impacts are determined by the City of Eureka under guidance from the State of California Department of Transportation, as discussed under Impact IV.O-1 on pages IV.O-20 to IV.O-21. It is beyond the capability of the Lead Agency to speculate as to the “perception of significance.”

16-8 The comment states that the project site should be subject to General Plan policies applicable to the Core Area because it is near the Core Area. The Lead Agency cannot analyze consistency with policies and regulations that do not apply to the project site. Nor can it speculate which policies would apply to the project site in the future. It can only analyze consistency with the existing policies and the policy changes proposed by the project. The City Council will consider the appropriateness of the proposed land uses and proximity of the project site to the Core Area when determining the consistency of the proposed project with the goals and policies of both the General Plan and Local Coastal Program.

16-9 The comment states that a No Large Retail Alternative should be included for analysis in Chapter VI of the Draft EIR.

As stated on Draft EIR page III-15, the project objectives include the development of an economically viable mixed-use project to include destination retail, service retail, lifestyle retail, and other uses.

As stated on Draft EIR pages VI-2 and VI-3, the steps for finding a reasonable range of alternatives include screening the alternatives to determine if they avoid or substantially lessen at least one of the significant environmental impacts of the proposed project, meet most of the basic project objectives, and be economically, socially, legally, and technically feasible.

The comment suggests that a Reduced Footprint Alternative with a similar amount of retail space—but having no large, single tenant—should be analyzed. Such an alternative would be similar to the Marina Center Reduced Footprint Alternative, and it would likely result in comparable environmental effects to those of the Reduced Footprint Alternative. However, the suggested alternative does not meet as many of the project objectives as the Reduced Footprint Alternative. Under CEQA, an alternative can be rejected if it fails to meet most of the project’s objectives. Therefore, the Marina Center Reduced Footprint is chosen for analysis.

16-10 The comment proposes adding to the list of known controversial issues. As stated on Draft EIR page II-3, issues known to the Lead Agency to be controversial, or have the potential to be controversial, include building design and character, increased air quality impacts, impacts to biological resources, site remediation, land use, increased traffic, and urban decay.

- “The use of Waterfront Drive” is discussed under “increased traffic.”
- The proposed project does not include boating facilities or new docks—therefore, it would not impact Marina or boat ramp use.
- “Odors from the fish plant” is discussed under “increased air quality impacts.”
- “Assumptions about the width of the railroad right-of-way” is discussed under increased traffic, as shown in Mitigation Measures O-7a through O-7e
- “Impacts of pile-driving on many migratory fish and bird species” is discussed under “impacts to biological resources.”
- “Impacts of urban decay in other parts of town” is discussed under “urban decay.”
- “Traffic in off-corridor areas” is discussed under “increased traffic.”
- The meaning of “less-than-significant impact” is determined by the Lead Agency in accordance with guidance from the CEQA guidelines. It is beyond the scope of the proposed project, and controversy related to the proposed project, to question or seek to reform CEQA guidelines or the definitions therein.
- “Visual impact of 5 story buildings” is discussed under “building design and character.”
- As stated in Chapter IV.M, both the Police Department and the Fire Department have stated that the proposed project is not expected to substantially increase response times. Therefore, the “level of police and fire services needed at malls in general” is not an expected area of controversy or potential controversy.
- “Impact of this huge scale project on the very character of the city” is discussed under “building design and character,” “land use,” and other listed topics.

The project’s potential impacts to the existing aesthetic and land use context are analyzed in Chapters IV.A, Aesthetics, and IV.I, Land Use and Planning. The project’s potential impacts to urban decay are analyzed in Chapter IV.P, Urban Decay (see also Master Response 1). Finally, as stated in the response to comment 16-4, this project’s implementation is subject to approval of entitlements by the City Council, not by the wishes of one person.

16-11 The comment refers to the views from the Humboldt Bay toward and through the project site. As discussed on page IV.A-7, Impact A-3 of the Draft EIR, the proposed project would substantially alter the visual quality of the project site, including the views of the project site from Humboldt Bay. Please see Master Response 8, which addresses views of the project site from Humboldt Bay.

- 16-12 The comment states disgust with the renderings of the proposed project. As stated on Draft EIR page IV.A-16 of the Draft EIR, visual quality is subjective. Visual impact is measured by the amount of visual change adversely affecting an area's perceived aesthetic value or conditions of the setting. A highly visible change resulting from constructing a project that is incompatible with the setting or is not pleasing to look at contributes to generating a significant adverse visual impact. Factors that are considered include the physical layout of constructed elements with respect to each other and existing structures, the open and closed spaces defined between structural elements, the density or intensity of development, scale relationships between existing and proposed structures, site landscaping, and other features of development that affect the pedestrian scale of movement. For example, significant differences in mass or form or open space between existing and new structures would be expected to generate adverse visual impacts under normal circumstances.

Adverse visual impact would also normally be expected to result from the removal of vegetation that enhances the appearance of existing conditions. Exceptions would include vegetative massings or plant specimens that are haphazard in placement with respect to one another, show evidence of crowding and overgrowth, retain poor health indicators or otherwise do not significantly contribute to the aesthetic quality of the setting.

As discussed in Impact A-3, it cannot be reasonably concluded that the proposed project would result in a negative aesthetic effect. While the proposed project would result in aesthetic changes on the project site, these changes would not necessarily be adverse. Furthermore, the project would be subject to the City's design review process to assure project consistency with existing development and City policies related to visual quality. Based on the above evaluation of the project's physical character, massing, and height relationships to other surrounding buildings, the project would not substantially degrade the existing visual character or quality of its project site or its surroundings.

- 16-13 The comment relates to light and glare that would be generated by the proposed project. The lighting plan for the proposed project would be subject to review by the City of Eureka Design Review Committee and would be develop a lighting plan that adheres to Mitigation Measure A-4a and Mitigation Measure D-3e.
- 16-14 The comment states disagreement with the analysis of the proposed project compared with existing conditions, and it further states that the project would clash with nearby neighborhoods and buildings.

As discussed in Chapter V, Impact Overview, the cumulative context for the purposes of assessing visual impacts of the proposed project is the adjacent and nearby development. The land uses associated with the proposed project would be consistent with the planned cumulative density and visual character created by past, present, and reasonably foreseeable future projects in the project vicinity (see Table V-1 of the Draft EIR).

As required under CEQA Guidelines Section 15130, the Draft EIR looks at the development of the proposed project, in combination with past, present, and reasonably foreseeable projects in the project vicinity, not other potential uses of the project site. Other potential uses of the project site are discussed in Chapter VI, Alternatives. As stated in the Draft EIR, the proposed project would not have a cumulative visual impact, as it would be consistent with the character of the existing nearby development within the City of Eureka.

- 16-15 The comment suggests that the project should be modified so that it would be in compliance with the air plan. The City Council will make the determination whether to grant project entitlements and approvals based on several factors. If the Council determines that the merits of the project outweigh the potential environmental impacts, it could issue a statement of overriding considerations granting approval despite significant effects. The north coast air basin is already in non-attainment for PM10. The NCUAQMD's 1995 Particulate Matter (PM10) Attainment Plan sets specific thresholds for individual project PM10 emissions (see Draft EIR pages IV.C-7 and -8, as well as Table IV.C-5). The proposed project exceeds the established emission threshold levels despite the fact that the Draft EIR already includes all feasible mitigation measures to address this impact. The primary emissions contributions of the project arise from diesel truck and other vehicle-related emissions that cannot be further regulated by the project; that is, it is impossible for an individual project or even the City to mandate vehicle emissions standards which are currently regulated only at the Federal, and perhaps soon the State level.
- 16-16 The comment makes a statement that the increased traffic on Broadway would cause traffic to slow, potentially resulting in an increase in air pollution beyond that presented in the Draft EIR. The emissions presented in Draft EIR Table IV.C-5 (see Draft EIR page IV.C-14) are estimated using the URBEMIS2007 (version 9.2.2) emissions modeling program, which assumes an average vehicle speed based for various travel conditions for all of the vehicle miles travelled. For the purposes of the proposed project, an average vehicle speed of 35 miles per hour is used based on the assumption that vehicle speeds would generally fluctuate by approximately 20 miles per hour under and over this speed. In addition, only a small portion of the miles traveled per trip would occur on Broadway. Therefore, the emissions presented in Draft EIR Table IV.C-5 effectively account for any slowing of traffic that would occur on Broadway as a result of project implementation.

A statement is made that the expected number of diesel truck trips under the proposed project could result in PM10 emissions that would result in a serious health hazard. For discussion related to the potential for the project to expose sensitive receptors to substantial pollutant concentrations, see Draft EIR Impact C-4 on pages IV.C-16 through IV.C-18. As identified in the Impact C-4 discussion, health hazard issues associated with project related emissions are found to be less than significant.

The comment also criticizes the Draft EIR for not mentioning the inversion layers that can occur in Humboldt County, holding warm air close to the ground. It should be noted that an inversion layer is actually a layer of cold air under warmer air, which reduces the buoyancy of the cold air, preventing mixing of the two layers. The comment contends that a temperature inversion would increase the effects of air pollution beyond that estimated for the project. It should be noted that the significance determinations (i.e., significant and unavoidable) for Impacts C-1 through C-3 are based on mass emission thresholds, with no consideration for the effects of local meteorology or the associated dispersion, or lack of dispersion, of the air pollutants. However, Impact C-4 (see Draft EIR page IV.C-16) does consider meteorological influences on pollutant dispersion. The Health Risk Assessment (HRA) conducted for the project used CARB's HARP software with meteorological input data to account for the local meteorological conditions that occur at the project site.

- 16-17 The comment indicates that the Draft EIR does not mention the cumulative impacts on air quality from increased traffic and other development. However, Impact C-3 (see Draft EIR pages IV.C-15 and IV.C-16) discloses that the proposed project would result in a cumulatively considerable net increase in PM10 emissions, given the level of PM10 that would be emitted by the project and because of the PM10 non-attainment status of the region.

Also, please see Master Response 2 regarding the adequacy and methodology of the Health Risk Assessment conducted for the project.

- 16-18 The comment questions what the health risks would be due to global warming and increased levels of CO and CO₂ in our atmosphere. For a discussion on the projected effects of increased GHG emissions (including CO₂) and associated global warming, please see Draft EIR page IV.C-4.
- 16-19 The comment asks why the project would not be forced to stay within compliance guidelines before being considered further; however, the comment does not mention what guidelines are being referenced. Comment is noted. Please see response to comment 16-15, which explains that the City Council must weigh a variety of actors when considering the proposed project.
- 16-20 The comment states that increased emissions from the proposed project would be unacceptable given the Humboldt County cancer rates. Please see Master Response 2 for additional discussion on the health risk assessment completed as part of the EIR analysis.
- 16-21 The comment contends that the increased traffic levels on Broadway and throughout the City could result in objectionable odors. Increased traffic levels are not typically considered significant odor generators for the purposes of CEQA analyses. As disclosed on Draft EIR page IV.C-19, the project would not result in the types of land uses typically associated with substantial odor issues.

16-22 The comment urges that because greenhouse gases (GHGs) are cumulative, any new source of GHG emissions should be considered “significant” and this project is a relatively large source for this area. The comment also indicates that the EIR does not address the fact that retail centers create the need for residents to drive in order to do their business, that retail centers cause an increase in fuel use, air pollution, and traffic on U.S. 101, and that retail centers increase impacts associated with GHG and exhaust emissions.

Please see responses to comments 3-7, 9-9, and 9-10, as well as Master Response 6, concerning air pollution, traffic on U.S. 101, and GHG emissions.

As for the comment’s suggestion that no single source of GHG emissions “can be said to be less than significant,” the City does not share this view and that view does not comport with a number of alternative methods that have been employed statewide to evaluate the environmental impacts associated with GHG emissions. CEQA provides lead agencies the discretion and the obligation to develop and apply thresholds of significance and to determine how to evaluate the environmental impacts of a given project. Lead agencies need not conduct every recommended test or perform all requested research or analysis. In determining the significance of a particular impact, the lead agency may employ a “qualitative,” rather than a quantitative, analysis. (CEQA Guidelines Section 15064.7(b).

Furthermore, existing quantitative models for GHG emissions are limited to evaluating aggregate emissions and are not designed to identify which emissions are directly attributable to a given project under CEQA. Arguably, a new mixed-use, infill development project may ultimately lead to net reductions in future GHG emissions by providing better transit opportunities, closer linkages between residences and work spaces, opportunities for shopping within walking or biking distance from residences, and more energy-efficient buildings. Such a project could simply move existing GHGs generated by energy usage, water consumption, and transportation from one location to another. The modeling used for the Draft EIR (URBEMIS2007) does not delineate between those GHGs created by the proposed project, those emissions that have been moved from one location to another, or which might be reduced from “business as usual.”

Also, as pointed out in *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, an evaluation of cumulative effects under CEQA comes down to “whether ‘any additional amount’ of effect should be considered significant in the context of the existing cumulative effect.” That does not mean, as the court explained, that “any additional effect in a nonattainment area for that effect necessarily creates a significant cumulative impact; the ‘one [additional] molecule rule’ is not the law.” And unlike a local air basin in nonattainment for some criteria air pollutant, global climate change arises from worldwide sources and cannot be attributed to a series of projects on a local, regional, or even a statewide scale. Consequently, lead agencies must develop a coherent and principled threshold for when an individual project’s GHG emissions may be cumulatively significant.

Although there are no settled significance thresholds under CEQA to address GHG emissions, the Governor's Office of Planning and Research (OPR) recently published a set of draft guidelines on climate change as mandated under Senate Bill 97 (codified as Section 21083.05 of the Public Resources Code). But even those draft guidelines leave the development of specific thresholds and mitigation measures to local agencies.² For example, the draft guidelines state:

- (a) The determination of the significance of greenhouse gas emissions calls for a careful judgment by the lead agency consistent with the provisions in section 15064. A lead agency should make a good-faith effort, based on available information, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project. A lead agency shall have discretion to determine, in the context of a particular project, whether to:
 - (1) Use a model or methodology to quantify greenhouse gas emissions resulting from a project, and which model or methodology to use. The lead agency has discretion to select the model it considers most appropriate provided it supports its decision with substantial evidence. The lead agency should explain the limitations of the particular model or methodology selected for use; or
 - (2) Rely on a qualitative analysis or performance based standards.
- (b) A lead agency may consider the following when assessing the significance of impacts from greenhouse gas emissions on the environment:
 - (1) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;
 - (2) Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project.
 - (3) The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such regulations or requirements must be adopted by the relevant public agency through a public review process and must include specific requirements that reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.

(http://www.opr.ca.gov/ceqa/pdfs/PA_CEQA_Guidelines.pdf.) And when adopting thresholds of significance associated with climate change, OPR has suggested that lead agencies can rely on significance thresholds developed by other public agencies:

² When he signed the Bill, the Governor issued a signing statement that emphasized the uncertainty about how to evaluate climate change under CEQA, and how litigating CEQA cases should not dictate climate policy in the State of California: "Current uncertainty as to what type of analysis of greenhouse gas emissions is required under the California Environmental Quality Act (CEQA) has led to legal claims being asserted which would stop these important infrastructure projects. Litigation under CEQA is not the best approach to reduce greenhouse gas emissions and maintain a sound and vibrant economy. To achieve these goals, we need a coordinated policy, not a piecemeal approach dictated by litigation." (<http://www.opr.ca.gov/ceqa/pdfs/SB-97-signing-message.pdf>.)

When adopting thresholds of significance, a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies, or recommended by experts, provided the decision of the lead agency to adopt such thresholds is supported by substantial evidence.

Here, the Marina Center Draft EIR applies a threshold that relies upon the State's goal for reducing GHG emissions. The proposed project's effects on global climate change would be significant if the project would: "Conflict with the State goal of reducing GHG emissions in California to 1990 levels by 2020, as set forth in AB 32, the California Global Warming Solutions Act of 2006." (Draft EIR, page IV.C-5.) To determine whether the proposed project might exceed the Draft EIR's significance threshold, the Draft EIR evaluated whether the project would:

- Conflict with the California Air Resources Board's (CARB's) early action strategies;
- Exceed the reporting thresholds for projects considered to be "major sources" of GHG emissions (25,000 metric tons of CO₂e emissions annually);³
- Comprise a significant contribution to the overall State reduction goal of approximately 174 million metric tons of annual CO₂e emissions by the year 2020; or
- Qualify as an inherently energy efficient design.

(Draft EIR, pages IV.C-19 through IV.C-21.) The Draft EIR applied each of these factors and found that the proposed project would not have a significant effect on global climate change. For example, the project would not conflict with any of the individual measures proposed in CARB's early action strategies (CARB, *Proposed Early Actions to Mitigate Climate Change in California*, April 20, 2007; CARB, *Expanded List of Early Action Measures to Reduce Greenhouse Gas Emissions in California*, October 2007). The proposed project is below the reporting thresholds for major sources of GHG emissions, and is a fraction of the State's overall reduction goal. Finally, the proposed project constitutes the sort of infill, brownfield redevelopment project along an established public transportation system that qualifies as an inherently energy efficient design.

Important to note in the Draft EIR's analysis is the fact that the vast majority of GHG emissions associated with the proposed project arise from mobile sources—cars and trucks traveling to and from the project site. And while the so-called "carbon footprint" of the project can be estimated, without some scientific consensus or methodology for determining which emissions are attributable to the project (as opposed to the environmental setting or baseline) and how or whether this project might influence the actual physical effects of global climate change in the region, it would be speculative to attribute the GHG emissions from all of these vehicle trips to the proposed project. In fact, the project's smart growth design elements (such as locating new residences near

³ Although this reporting threshold of 25,000 metric tons was promulgated to serve as a reporting threshold for stationary industrial sources, it is the only known threshold out there and would satisfy the CEQA Guidelines section 15064(h) as a regulatory threshold for significance purposes.

public transportation and new retail, office, and other uses) would actually reduce some GHG emissions by providing better transit opportunities, closer linkages between residences and work spaces, and more energy-efficient buildings. Here, it is likely that, given its mixed-use design and location within the urban core of the Greater Eureka Area, the project would actually shorten daily commutes relative to existing and proposed residential areas, and would encourage walking, biking, and public transportation. See also responses to comments 9-10 and 16-286 concerning the amount of economic activity and vehicle travel associated with Eureka residents traveling outside of the area to shop.

With implementation of the proposed project, including its infill, mixed-use design features within the urban core of the City, as well as the air quality mitigation measures already identified to address the project's PM10 emissions, the proposed project would not conflict with the State's goal of reducing GHG emissions in California to 1990 levels by the year 2020 as set forth in AB 32, and therefore the project's cumulative contribution to global climate change is considered less than significant.

Please see response to comment 3-7, as well as the Draft EIR at page IV.C-20 for the methods used to determine the significance of GHG emissions that would be associated with the project.

- 16-23 The comment states that the Draft EIR does not consider an alternative providing that significantly more land be returned to useful wetland status. The Draft EIR includes a reduced footprint alternative, which is identified as the environmentally superior alternative (other than the No Project Alternative). (Draft EIR, pages VI-16, VI-19 through VI-24, and VI-34.) The Reduced Footprint Alternative would likely make it possible to retain more wetlands on the property in their current state and avoid some wetland fill depending on specific site remediation requirements set for them by the Regional Water Quality Control Board. This alternative would provide 76 percent of the building area and would reduce some of the other impacts associated with the proposed project. The Supplemental Interim Remedial Action Plan (Appendix S) recently approved by the Regional Board to implement its Cleanup & Abatement Order, however, dictates measures and site grading that will necessarily require the filling of wetlands throughout most of the project site. Thus, the full complement of site remediation cannot be accomplished without filling additional onsite wetlands (see also response to comment 3-8). The remaining wetlands will be restored and preserved. There is also some question about whether the project would remain economically feasible, and whether it would still achieve its mixed-use objectives which include many "smart growth" principles if the Reduced Footprint Alternative is adopted.
- 16-24 The comment asserts that the proposed period for pile driving (July 1 to November 30) does not adequately protect biological resources. Salmonids in the Humboldt Bay watershed (the sensitive taxa for which impacts would be considered potentially significant under CEQA) spawn in the fall and winter, and steelhead and cutthroat trout into the spring; the juveniles migrate seaward throughout spring and early summer (The

Humboldt Bay Watershed Advisory Committee and The Natural Resources Services Division of Redwood Community Action Agency, *Humboldt Bay Watershed Salmon and Steelhead Conservation Plan*, Prepared for the California Department of Fish & Game and the California Coastal Conservancy, March 2005.). A mid-summer to mid-fall construction season is therefore appropriate.

The bird species of concern mentioned are not deemed to be at risk, as they would be expected to acclimate to the sound, as shown by observations made by biologists monitoring the pile driving for the new Bay Bridge in San Francisco Bay (Caltrans, *Caltrans Bay Bridge Project: SAS Temporary Pile Driving Bird Predation and Fish Monitoring Results – May 6-9 & May 12-14, 2008*,” Garcia and Associates, Oakland, CA, June 4, 2008).

- 16-25 The comment notes that mitigation (restoration) proposed is far less than the extent of historic wetlands. That may be true, but CEQA only requires addressing impacts to the existing environment (CEQA Guidelines 15125. Environmental Setting: an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist *at the time the Notice of Preparation is published*). This environmental setting normally constitutes the baseline physical conditions by which a Lead Agency determines whether an impact is significant.
- 16-26 The comment states that the City could seek other methods to clean up the project site that do not involve the proposed project. Cleanup of the project site is legally mandated, and is subject to past and current cleanup orders being enforced and monitored by the Regional Water Quality Control Board. Further remediation is being conducted in compliance with State and Federal water pollution and contaminated properties laws, and would include site specific remediation in several zones identified in testing. To the extent that some low-level remnant contaminants remain in situ, a cover of clean soils would be placed on the property to ensure that there are no exposure pathways to groundwater.
- For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 of this document. See also response to comment 16-35 for discussion of liquefaction hazards at the project site.
- 16-27 The comment states that mitigation measures related to light and glare are only applicable to property under the Project Applicant’s control, and not to vehicles driving on and through the project site during nighttime hours. Night lighting can have effects on wildlife, and the Draft EIR includes the appropriate mitigations (see Mitigation Measure D-3).
- 16-28 The comment states that the Draft EIR does not mention mitigation for several fish species that enter and migrate into and out of the bay between April and September, when pile-driving could occur. The comment states that the list of species includes coho salmon and two major species of sports fish.

Several special status species of anadromous fish that could pass by the project site during migration are addressed in the Draft EIR and in the Biological Assessment prepared by HBG. The coast cutthroat trout, a California state-designated species of special concern, is specifically evaluated in the Draft EIR (see also response to comment 26-3). Basic biological information is provided on page IV.D-6, and potential impacts to individuals migrating by the project site associated with various construction activities are addressed on IV.D-19. The HBG Biological Assessment addresses the coast cutthroat trout in addition to three species of salmonids listed as threatened under the federal Endangered Species Act (ESA) and that are known to pass through Humboldt Bay. These species are fall chinook salmon from the California Coast ESU, fall and spring coho salmon of the Southern Oregon and Northern California Coast ESU, and winter and summer steelhead from the Northern California ESU. The Draft EIR incorporates the work windows included within the Biological Assessment that limits pile-driving to periods when the species would not be present and other considerations to limit noise and vibration effects of pile-driving (e.g. smaller sized pilings, use of cushioning blocks, etc.) are identified as mitigation measures on pages IV.D-19 and IV.D-20 of the Draft EIR. Work windows and the other measures identified in the Draft EIR are commonly employed to reduce or avoid adverse effects on fish species. Moreover, except for limited cleanup and restoration activities in the slough and wetlands restoration area on the southwest corner of the project site, pile-driving and other vibration-causing activities would not be considered in-water work as the activities are all proposed to occur well within the project site, and no closer than about 100 feet from the nearest open bay waters. With that distance, sound and vibration are expected to attenuate sufficiently to avoid any significant adverse effects on migrating special-status fish or other aquatic species.

- 16-29 The comment states that the proposed project does not ensure adequate creation and recovery of wetlands. Please see response to comment 16-25 regarding the recovery of wetlands. As stated, the CEQA does not require an analysis of historical wetlands, but instead of existing wetlands.
- 16-30 The comment is concerned that the mitigation to avoid impacts on nesting birds (i.e., refrain from performing vegetation clearing/initial grading activities during the avian breeding season, February 1 to August 31, Draft EIR page IV. D-35) is inconsistent with allowing pile-driving to begin July 1st. However, the balance of the measure (Mitigation Measure D-8a) also requires the project to perform pre-construction surveys to locate nesting birds in the area and establish 100 to 250-foot-wide exclusion zones around any identified active nest, depending on site conditions and nature of the work being performed. As a clarification to the Draft EIR, the surveys and exclusion zones described the Mitigation Measure D-8a would apply to pile-driving as well.
- 16-31 The comment states that it is impossible to know other potential development and it is therefore impossible to quantify cumulative impacts. Growth induced by a project is not technically cumulative. Such impacts are discussed in the Population and Housing

- Section of the Draft EIR and summarized on Draft EIR, page II-30: “The population created by the residential portion of the proposed project, the infrastructure designed solely to serve the project site, and the ability of the local labor force to absorb the jobs created by the commercial portion would not induce substantial population growth.”
- 16-32 The comment relates to public trust lands issues. Please see response to comment 8-1, which states that the City and Project Applicant are still in discussions with the state regarding the extent of public trust lands.
- 16-33 The comment expresses concern about the potential effect of the proposed project on Old Town businesses. As stated in Chapter IV.P, Urban Decay, the proposed project would have a less-than-significant impact related to urban decay. Therefore, the proposed project potential impacts related to urban decay would not have a significant impact on the Old Town businesses. Please also see Master Response 1 for a discussion of urban decay. As stated in the Master Response, the proposed project would result in a less-than-significant impact to urban decay.
- 16-34 The comment questions the safety of the proposed 5-story building on the project site in relation to seismic events. The Draft EIR as well as the preliminary geotechnical investigation for the proposed project recognizes the potential for liquefaction at the proposed site. There are numerous design measures such as use of deep foundation systems, dynamic densification of liquefiable soils, removal and replacement with engineered fill materials that would be identified by Mitigation Measure F-1a. A reduction in the height of the buildings would not effectively mitigate the potential for significant damage from liquefaction or groundshaking. Industry standard techniques such as use of deep foundation systems that anchor to more competent materials or replacement of liquefiable soils, and others consistent with geotechnical engineering practices and building code standards can effectively reduce the potential for significant damage. It is difficult to compare the performance of newer buildings constructed to current seismic standards with older buildings that may have been constructed under less stringent code requirements.
- 16-35 The comment is related to tsunamis. Mitigation Measure H-10a requires that the Project Applicant prepare an Evacuation and Response Plan that would identify routes of egress and locations of safe haven. In addition, a tsunami warning or alarm system would also be identified to be integrated into the building designs. The Plan would be approved by the City prior to issuance of a building permit.
- 16-36 The comment states that the Draft EIR fails to adequately address the potential effects of liquefaction. For discussion of liquefaction, please see response to comment 16-34, above. As stated in response to comment 16-34, older buildings or structures especially the examples in the comment of the Marina District and the Nimitz Freeway were built under less stringent seismic codes. The proposed project, with incorporation of Mitigation Measure F-1a, would adequately reduce the potential impact to less-than-significant levels.

- 16-37 The comment states that the proposed project could impede emergency access and response operations. The Draft EIR addresses emergency response time in Impacts M-1 and M-2 on pages IV.M-5 through IV.M-8, as well as responses to comments 16-178 through 16-180.
- 16-38 The comment expresses concern regarding the methods of soil removal from the project site during construction. As identified by Mitigation G-1b, all contaminated materials that require offsite disposal shall be managed in accordance with requirements of the RWQCB and taken to a permitted facility by a licensed hauler. There are established regulatory requirements regarding the transport of contaminated materials that would include protection of materials being hauled under any weather conditions.
- 16-39 The comment requests additional detail regarding the remediation of the project site. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 of this document.
- 16-40 The comment states that no mitigation is proposed for fugitive dust emissions from soil removal. Fugitive dust emissions from construction activity are addressed by NCUAQMD Rule 430 on page IV.C-8.
- 16-41 The comment states that operators of the proposed project would have no control to ensure that tenants properly handle hazardous materials. As stated on Draft EIR page IV.G-22, Home Depot as well as any of the other potential light industrial or commercial users that might handle hazardous materials would be required to adhere to local, state, and federal requirements regarding storage, transport, and handling of hazardous materials. Among these requirements are the California Accidental Release Prevention Law (California Health Code Section 25531, 19 CCR) as stated on Draft EIR page IV.G-17, which would effectively reduce the potential impact from accidental releases to less-than-significant levels. There can be no guarantee against any release, but regulations in place can minimize the potential and thereby reduce the risk.
- 16-42 The comment expresses concern regarding emissions and the location of nearby sensitive receptors. The proposed project would not involve heavy industrial uses or emit significant hazardous emissions. CEQA guidelines recommend an evaluation of school sites within ¼ mile of a project. The Draft EIR examined the proposed uses of the project and the closest schools to the project site. At the time of preparation of the Draft EIR and this document, Jefferson School is not open. Therefore, the analysis concluded a less-than-significant impact.
- 16-43 The comment states that the Draft EIR does not mention pollution control during construction. The Draft EIR discusses the potential for accidental releases of hazardous materials during construction on Draft EIR page IV.G-22, Mitigation Measures G-2a and 2b are identified to help mitigate the potential for accidental releases contaminating or polluting surface soils or the shallow groundwater (A Zone).

- 16-44 The comment expresses concern that onsite contaminants would enter the bay during rain events during construction. Construction would adhere to the identified Mitigation Measure H-3a on Draft EIR page IV.H-1. Specifically the identified BMP number 2 states that construction work be limited to the dry season (April 15 and October 15) otherwise the stated protective measures shall be implemented to reduce potential impacts. These measures would effectively reduce the potential impact to less-than-significant levels.
- 16-45 The comment expresses concern regarding the impacts of groundwater recharge and the cumulative movement of contaminants in the groundwater toward the Humboldt Bay. As stated in the Draft EIR on page IV.H-6, “groundwater recharge to the alluvium is from direct precipitation and see page from Freshwater Creek, Elk River and the Eel River. Some groundwater also moves laterally from adjacent formations and also moves upward due to differences in hydraulic head between the alluvium and underlying formations.” The proposed project would have no affect on the ability of Freshwater Creek, Elk River and Eel River to recharge groundwater. Therefore, the incremental increase in reduced groundwater recharge would not be considered cumulatively considerable.
- 16-46 The comment states that earth-moving activities during construction should be restricted during windy periods. Fugitive dust emissions from construction activity are addressed by NCUAQMD Rule 430 on page IV.C-8.
- 16-47 The comment states that more water would be channeled toward the Humboldt Bay during rain events as a result of the proposed project. As mentioned in response to comment 16-50, the final drainage plan shall be submitted and approved of by the City prior to issuance of a building permit. Therefore, the final plan shall incorporate the necessary recommendations made by the City to ensure that the drainage facilities are adequately sized in accordance with the City’s requirements for all new facilities located in their jurisdiction. For further discussion of stormwater treatment facilities, please see response to comment 16-50, below.
- 16-48 The comment states that the 10-year flood baseline for culverts is not acceptable. The use of a 10-year storm event as a performance standard is one that is set by the City of Eureka. Their requirements for new construction are to include drainage facilities that can maintain a maximum flow of 1 cubic foot per second during a 10-year flood which by definition has a 10 percent chance of occurring in any given year. Regardless, the final drainage plan for the proposed project as identified by Mitigation Measure H-4 and would be required to receive approval from the City of Eureka. Please also see Final EIR Chapter 2, which explains that Mitigation Measure H-4a is now correctly labeled as “Mitigation Measure H-4.”
- 16-49 The comment states that the Draft EIR does not include a plan for ensuring stormwater quality of parking lot runoff. Please see response to comment 16-50, below.

- 16-50 The comment states that the stormwater treatment plans must be more fully developed and include more than hay bales and earthen berms mentioned in the Draft EIR. As identified by Mitigation Measure H-4, the Project Applicant must develop a drainage plan that includes the specifics of the drainage system. The plan shall be submitted to and approved by the City with necessary additions prior to issuance of a building permit. The City has its own stormwater regulations to abide by and therefore would require the proposed drainage facilities to adhere to their requirements. In addition with Mitigation Measure H-5b, the proposed project shall incorporate grassed swales which are proven effective stormwater treatment and control facilities. Monitoring of these facilities is identified by Mitigation Measure H-5a. Please also see Final EIR Chapter 2, which explains that Mitigation Measure H-4a is now correctly labeled as “Mitigation Measure H-4.”
- 16-51 The comment expresses objection to EPA-approved herbicides and pesticides. The purpose of the Environmental Protection Agency is to protect human health and the environment. They make their determinations based on the best available science. When applied according to manufacturer’s recommendations in accordance with applicable laws and codes, use of US EPA approved pesticides and herbicides would not constitute a significant impact. The potential for accidental upset conditions of hazardous material use during the operational phase of the project is discussed on Draft EIR page IV.G-22.
- 16-52 The comment states that the significance determinations are based on 10-year flood events and unspecified treatment facilities. The findings of significance regarding stormwater runoff quality make no assumptions regarding level of storm events. In general, stormwater quality is generally better during the particularly large storm events due to the larger volume of water which has the effect of diluting whatever pollutant sources exist at the project site. In addition, the final drainage plan as identified by Mitigation Measure H-5a and H-5b would include treatment of runoff.
- 16-53 The comment expresses concern that proposed project buildings would be prone to floods. As noted on page IV.H-21, no structures are proposed within the Zone A1 100-year flood zone.
- 16-54 The comment states that any tsunami evacuation plan must consider the cumulative congestion of evacuation routes. The comment is noted. Please see response 16-179, which discusses evacuation planning in relation to police and fire protection services.
- 16-55 The comment states that the development of the proposed project’s parking lots would preclude development of any other projects in the area due to the cumulative increase in stormwater runoff. As discussed on Draft EIR page IV.H-24, the proposed project is required to adhere to construction and post-construction stormwater controls including BMPs and stormwater treatment measures. Other future development would be required to adhere to similar conditions but would not be precluded because of the proposed project.

- 16-56 The comment states that the proposed project is not consistent with the Eureka Tomorrow Redevelopment Plan. The comment states this is the case because the proposed project would weaken existing retail. Please see Master Response 1, which discusses the continual strengthening of retail sales within the City of Eureka, and the less-than-significant potential effects of the retail space proposed in the project.
- 16-57 The comment states that there is a “moral imperative” to comply with the land use provisions and requirements of the Core Area even though the project site is not in the Core Area. The project’s adjacency to the Core Area is noted, and the adjacency would be taken into account when the City Council determines whether to grant necessary approvals and entitlements for the project. The proposed project is not required to conform to land use and planning controls and requirements of the Core Area.
- 16-58 The comment states that the proposed project is too large. The opinion on the scale of the proposed project in the comment is noted. The Draft EIR presents the impacts of the proposed project and mitigates those impacts to a less-than-significant level where feasible.
- 16-59 As described on page IV.I-10, the Waterfront Revitalization Program is a project to reconstruct dilapidated docks, develop a fisherman’s work area and retail fish market, and rehabilitate the existing small boat basin. The comment is correct in stating the proposed project does not include these projects. The project does, however, increase the public access and use of the water front through the site by constructing the Fourth Street extension and creating the proposed multi-use trail along Waterfront Drive.
- 16-60 The comment questions the smart growth characteristics of the proposed project. As stated on Draft EIR page IV.I-12 of the Draft EIR, the proposed project “embodies most of the major principles of smart growth, including infill of a brownfield in the city center using a mixture of land uses in a walkable environment adjacent to open space.” Although big box stores are frequently associated with urban sprawl, that association is not always accurate, especially when development adheres to some of the smart growth characteristics listed above. For example, there are several big box stores in Manhattan (including two Home Depot stores), San Francisco, and Chicago—three places known for high-density, compact development.
- 16-61 The comment states that it is possible that the project would conflict with public trust lands responsibilities and land use restrictions. The comment also states that the project would conflict with coastal zone restrictions. The comment also states that there is a “fallacy of claiming a net increase in wetland function” and proposes a broad alternative development scenario. The comments are noted.

Please see response to comment 8-1 for a discussion of public trust lands issues. As stated in that response, the extent of public trust lands is still being determined.

Please see Draft EIR Chapter IV.I and Master Responses 3 and 5 for a discussion of development within the coastal zone and related policy considerations.

Wetlands are discussed in several sections, including IV.D and Master Response 5. Alternatives to the proposed project, some of which include the uses proposed in the comment, are discussed in Chapter VI.

- 16-62 The comment states that the proposed project is inconsistent with Policy 1.A.1 of the General Plan because there is no demand for growth in Downtown Eureka except from the Project Applicant. The policy refers to the demand for land development and directing that demand toward infill sites.

Contrary to the comment's statement, demand for development of particular parcels almost exclusively comes from the owners of those parcels.

The policy is instead directing more broad demand trends, with an effort to divert development from the urban fringe and push it toward the urban center. This project seeks to achieve the infill development that the policy suggests.

- 16-63 The comment expresses concern about development over existing wetlands. As described in Chapter III, Project Description, the proposed project would create an 11.89-acre wetland reserve and include a perimeter walkway, thus not precluding the restoration of the historic wetlands on the project site. Further, the parcels along the northwestern portion of the project site, along Waterfront Drive, would be rezoned Waterfront Commercial, as part of the project (see Figure IV.I-1).

- 16-64 The comment states that the proposed bicycle path conflicts with the existing railroad right-of-way. As described on page III-13 in Chapter III of the Draft EIR, the proposed public pedestrian and bicycle path would be located to the south and southeast of the North Coast Railroad Authority line.

The proposed site plan, under City permit processing procedures, is subject to review by the City, which would ensure that roadway design and access would not conflict with or create traffic safety hazards. The City would require that the design vehicular traffic features of project development (e.g., turning radii for service vehicles, access driveways, and circulation aisles within the parking areas) meet or exceed the design standards set forth by the American Association of State Highway and Transportation Officials (AASHTO) in "A Policy on Geometric Design of Highways and Streets," or equivalent design standards deemed appropriate by the City of Eureka.

- 16-65 The comment states that the proposed project conflicts with the General Plan because it would fragment retail activity. As stated on Draft EIR page IV.I-15, the City Council is ultimately responsible for determining whether a project is consistent with the General Plan. Perfect conformity with the General Plan is not required; instead, the City Council must balance various competing considerations and may find overall consistency with the

plan despite minor inconsistencies with specific provisions. Furthermore, the potential inconsistencies with General Plan goals and policies do not themselves create a significant environmental impact under the thresholds established in CEQA Guidelines Appendix G. These policies are, instead, expressions of community planning and organization preferences. The potential physical impacts of the project's inconsistency with specific policies are discussed and analyzed in the Draft EIR.

The project site is geographically located just outside the Core Area. As such, the proposed project is not subject to General Plan policies related to development within the Core Area. The City Council will consider the appropriateness of the proposed land uses and proximity of the project site to the Core Area when determining the consistency of the proposed project with the goals and policies of both the General Plan and Local Coastal Program.

- 16-66 The comment states that uses listed in General Plan policy 1.D-5 are not included in the proposed project, and the uses proposed are incompatible with the project site. As described in Chapter III, Project Description, the proposed project would create an 11.89-acre wetland reserve and include a perimeter walkway, thus not precluding the restoration of the historic wetlands on the project site. Further, the parcels along the northwestern portion of the project site, along Waterfront Drive, would be rezoned Waterfront Commercial, as part of the project (see Figure IV.I-1).
- 16-67 The comment refers to a political cartoon lampooning the proposed project's ability to attract tourists. As described in Chapter III, Project Description, the proposed project includes a mixed-use development that would include retail, office, light industrial, restaurant, museum, recreational, and residential uses. Although a Home Depot is proposed as an anchor of the development, it does not make up the entirety of the project. Further, the parcels along the northwestern portion of the project site, along Waterfront Drive, would be rezoned Waterfront Commercial, as part of the project (see Figure IV.I-1). Although tenants have not been identified for all the uses on the site, it is reasonable to believe that future tenants and public amenities would attract tourists to the site.
- 16-68 The comment relates to General Plan policy consistency related to the Core Area. The project site is geographically located just outside the Core Area. As such, the proposed project is not subject to General Plan policies related to development within the Core Area. The Lead Agency cannot analyze consistency with policies and regulations that do not apply to the project site. Nor can it speculate which policies would apply to the project site in the future. It can only analyze consistency with the existing policies and the policy changes proposed by the project. The City Council will consider the appropriateness of the proposed land uses and proximity of the project site to the Core Area when determining the consistency of the proposed project with the goals and policies of both the General Plan and Local Coastal Program.
- 16-69 The comment expresses concern that public uses would not be developed on the project site. The use of the project site is described in the Wetland Restoration and Public Park alternative in Chapter VI, Alternatives. This alternative is screened out of detailed

analysis because it would not meet the Project Applicant objectives and is not feasible. The City Council is required to evaluate the project proposed by the Applicant in making decisions to grant the approvals and entitlements detailed on page III-17. In addition, as detailed in Master Response 3, the City does not own the project site and cannot dictate to the Project Applicant a specific use that should be developed. The property owner is currently permitted to develop the project site with several uses, which are listed in Master Response 3.

- 16-70 The project is related to views of the Humboldt Bay from the project site and of the city from the Humboldt Bay. The proposed project would augment coastal views, as discussed on page IV.A-16 of the Draft EIR, by providing trails along the edges of the restored Clark Slough, which would provide opportunities for viewing Humboldt Bay. Additionally, amenities along the trail would include benches and other street furniture. Furthermore, the proposed project would create pedestrian activity on the project site, which would increase opportunities for waterfront viewing. View corridors through the site from the Fourth Street extension, between the proposed buildings along Waterfront Drive, and from the proposed multi-use trail along Waterfront Drive would all augment coastal views.
- 16-71 The comment expresses disgust with the renderings of the proposed project. As stated in the outline on page III-18, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 of the Draft EIR under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the exterior design, materials, textures, and colors.
- 16-72 The comment refers to businesses closing around town. Please see Master Response 1, under “Vacancy in the City of Eureka.”

The comment also states that vacant stores in Eureka indicate that there is no demand for new retail growth. Although in a general way vacancies show an imbalance between demand and supply for retail, not all vacancies are caused by a lack of retail demand. The Mervyns and Gottschalks stores at The Bayshore Mall are being closed because the entire chain has gone bankrupt. That does not necessarily indicate that the Eureka store was underperforming. A recent article in the North Coast Journal discussed the reasons for some store closures in Old Town.⁴ Restoration Hardware was closed because of a decision by their corporate headquarters. Other stores, such as Geppetto’s and Cotton Works, closed for personal reasons. Clearly vacancies happen for many reasons. Economic impact and urban decay studies are not meant to be demand studies. The typical premise of an economic impact study is that the proposed project would be successful. The study then assesses what the worst impacts may be to existing retail if the project is built.

⁴ “Old Town Hunkers Down: Despite high profile-closures, merchants say they will weather the storm” by Heidi Walters, The North Coast Journal, April 30, 2009.

- 16-73 The comment refers to height limits in the Core Area. As stated in the Draft EIR on page IV.I-22, the proposed project site is not in the Core Area, as defined by the General Plan. The comment also states that the project cannot be considered an extension of the Old Town architectural theme. The comment is noted.
- 16-74 The comment asks who would pay for increased public services. Please see responses to comments 16-178 and 100-4. As stated in those responses, the proposed project would contribute taxes and fees toward local, state, and national government funds. These funds are allocated to specific agencies at the discretion of the Eureka City Council, the California State legislature, and the federal Congress through annual budget reviews.
- 16-75 The comment states that the proposed project does not meet the City's housing goals. General Plan Goal 1.K is "To provide adequate land in a range of residential densities to accommodate the housing needs of all income groups expected to reside in Eureka." The proposed project, in and of itself, would not be required to meet this goal as it applies to the City as a whole.
- 16-76 The comment states that latter comments will address traffic. The comment is noted regarding the sequence of comments related to transportation.
- 16-77 The comment states that the proposed project does not provide neighborhood shopping stated in General Plan Policy 1.K.3. As noted in the Draft EIR, Policy 1.K.3, related to the retention of neighborhood convenience shopping in residential areas is not relevant to the proposed project.
- 16-78 The comment states that improved accessibility is not adequate in relation to the increased density and intensity of uses in the proposed project. Comment noted. Traffic impacts to intersections on First Street, Second Street, Third Street due to the proposed project are discussed in Chapter IV.O, Transportation. Please also see Master Responses 6 and 7, which discuss traffic impacts on Broadway and trip distribution of project-generated trips to neighborhoods throughout the city.
- The comment also states that increased traffic would not translate to increased retail business. The comment is noted. It is beyond the scope of the Draft EIR to analyze the relationship between retail demand and traffic speed volume.
- 16-79 The comment expresses concern related to the impact of the proposed project on local businesses. Please see Master Response 1, under "National Stores vs. Local Stores" and "Potential Local Store Closures."
- 16-80 The comment states that impacts on the Core Area must be considered in the economic impact report. Although the comment does not define the Core Area, it implies that it is the area adjacent to the project, presumably the Old Town and Downtown shopping districts. These areas are specifically addressed in the November 2006 report. In addition,

see Master Response 1 under “Vacancies in the City of Eureka” which describes the current condition of those areas as of April 2009.

- 16-81 The comment expresses concern regarding the architectural detail of the proposed project. As stated in the outline on page III-18, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 of the Draft EIR under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the exterior design, materials, textures, and colors to help ensure the project’s visual compatibility with its surroundings.
- 16-82 The comment states that the proposed project is not consistent with General Plan Policy 1.K.5. Section IV.O, Transportation, discusses project ingress and egress from the project site, as well as traffic safety. As stated on Draft EIR page IV.I-15 of the Draft EIR, the City Council is ultimately responsible for determining whether an activity is consistent with the General Plan. Perfect conformity with the General Plan is not required; instead, the City Council must balance various competing considerations and may find overall consistency with the plan despite minor inconsistencies with specific provisions.
- 16-83 The comment states that existing public facilities could not handle the increased demand generated by the proposed project. Sections M. Public Services and Q. Utilities and Service Systems of the Draft EIR discuss the proposed project’s impacts on community services. Further, as stated in page IV.P-3 under Impact P-1, sufficient retailer demand is anticipated to exist to absorb vacated space in the event that existing Humboldt County retailers close due to any negative economic impacts of the Marina Center project, and/or other identified planned projects.
- 16-84 The comment states that Marina Center is “on a scale more appropriate in a large urban setting.” The size of the retail component is less than 300,000 square feet, or less than half the size of the 615,000-square-foot Bayshore Mall. Thus, Marina Center is not at all out of scale with the existing retail base in Eureka, which is not only the retail and population center of Humboldt County but also the governmental and employment hub of the County. Therefore, it is most appropriate to locate Marina Center in Eureka. Building Marina Center in Eureka would strengthen and reinforce the community’s role as the retail center for Humboldt County, consistent with the project’s basic objectives.
- 16-85 The comment states that the location of Marina Center would inevitably have a negative impact on neighboring businesses. In fact, the types of businesses in the Old Town shopping district are specialty stores oriented towards visiting tourists. These types of stores depend on tourist dollars whereas Marina Center would be serving the local residents. CBRE Consulting believes that the additional traffic to Marina Center would have positive spillover effects on the adjacent shopping districts as residents from outside Eureka may choose to combine a trip to Marina Center with shopping and/or eating at

- restaurants in Old Town and Downtown. Additionally, the employment opportunities that Marina Center provides would also positively impact Old Town, as the new jobs would be within walking distance of Old Town's shops and restaurants, providing additional retail spending in the area.
- 16-86 The comment states that the proposed project conflicts with Policy 1.L.4, which states that the City shall encourage consolidation of retail areas. As stated on Draft EIR page IV.I-15, the City Council is ultimately responsible for determining whether an activity is consistent with the General Plan. Perfect conformity with the General Plan is not required; instead, the City Council must balance various competing considerations and may find overall consistency with the plan despite minor inconsistencies with specific provisions. Furthermore, the potential inconsistencies with General Plan goals and policies do not themselves create a significant environmental impact under the thresholds establish in CEQA Guidelines Appendix G. These policies are, instead, expressions of community planning and organization preferences. The potential physical impacts of the project's inconsistency with specific policies are discussed and analyzed in the Draft EIR.
- 16-87 The comment states that the proposed project would draw clients away from other businesses. Please see Master Response 1, under "Vacancy in the City of Eureka" and "Potential Local Store Closures."
- 16-88 The comment states that the proposed project is not consistent with neighboring uses and built form. Please see response to comment 16-81, which states that the proposed project would be subject to Design Committee Review. Furthermore, as stated on Draft EIR page IV.I-1, the project site is located in the Westside Industrial Area, not an established residential neighborhood with an existing neighborhood shopping center.
- 16-89 The comment states that the proposed project's residential component would be the only high density housing in the area. As stated on Draft EIR page IV.I-26, Table IV.I-2, the proposed project includes residential development on the project site (54 multi-family units). The project site would be accessed by Second and Fourth Streets, as well as Broadway, Washington Street, and Waterfront Drive. Broadway and Fourth Street are arterial roadways.
- 16-90 The comments expresses concern about lost parking and potential impacts related to the construction of streets. Section IV.O, Transportation, discusses project ingress and egress from the project site, as well as traffic safety and parking. As stated on Draft EIR page IV.O-44, the proposed project would include on-street parking on the proposed extensions of Second and Fourth Streets, which would replace loss of on-street parking due to the future roadway extensions. The potential impacts to Waterfront Drive are detailed in Chapter IV.O.
- 16-91 The comment expresses concern about tractor trucks that use Waterfront Drive for parking. There are no designated extended parking areas for long-haul drivers on

- Waterfront Drive. Essentially, drivers find locations, such as Waterfront Drive, based on parking restrictions and nearby facilities. The project does not propose to change this.
- 16-92 The comment states that the odors generated by nearby uses are not consistent with the uses of the proposed project. The odors from the Pacific Choice Fish Company are part of the baseline. Future residents and visitors to the project site would be subject to the same smells as existing persons in the project area, and the City as a whole. As the fish plant is an existing operation, it is protected under the current Zoning Code.
- 16-93 The comment expresses concern about project-generated traffic on Waterfront Drive. Section IV.O, Transportation, discusses project trip distribution on Waterfront Drive. The project would not have a significant impact on the operations of Waterfront Drive, as the roadway is currently operating under capacity.
- 16-94 The comment states that not enough of the proposed project would be space devoted to industrial uses. Alternatives on page VI-24 of the Draft EIR, examined the possibility of industrial use on the project site. Findings, outlined on page VI-27, found that industrial use of the project site would not substantially lessen impacts on the site as compared to the project.
- 16-95 The comment states that the property should not be “released” for uses that are non-conforming with coastal-dependent uses, and that the proposed project would foreclose the possibility of community facilities locating on the project site. As stated in Master Response 3, the project site is not directly adjacent to the shoreline, so it is questionable whether coastal-dependent uses could be developed on the project site. Coastal-related uses, however, could be developed on the project site, as could community facilities. Please see Master Response 3 for a list of uses that could be developed pursuant to the proposed zoning and Local Coastal Program amendments.

Please also see response to comment 13-9, which explains that the Draft EIR does include a Coastal Dependent Industrial Alternative. The Coastal Dependent Industrial Alternative, however, does not contain any coastal-dependent uses because the project site is not directly adjacent to Humboldt Bay. The Draft EIR does identify a number of possible coastal-related uses. The coastal-related uses that are considered in the alternatives analysis would not lessen impacts related to transportation and air quality to a less-than-significant level, as stated in Table VI-1 on page VI-11.

In addition, the property is not owned by the City, and thus cannot be “released” by the City. The project is currently zoned for specific uses, as detailed in Master Response 3. These uses are not all “community facilities,” and are not all coastal-dependant. The entitlements sought would change what uses are permissible onsite, and these uses are also detailed in Master Response 3.

- 16-96 The comment states that the proposed project would foreclose the possibility of future recreational uses on the project site.

Please also see Master Response 3, which details current permissible uses on the project site, many of which are not recreational uses. Master Response 3 also details permissible uses should the entitlements sought by the proposed project be attained—these uses include public recreational uses.

As stated in the Project Description (Chapter III of the Draft EIR), a portion of the project site would be preserved as a wetland, with associated passive recreational facilities.

- 16-97 The comment sarcastically implies that the proposed project should include more public facilities beyond the approximately 11-acre wetland included in the project. The City would take responsibility for striving for “high quality public facilities, utilities, and services” on the project site, if the project site is developed, in keeping with Policy 1-N-10 of the General Plan.
- 16-98 The comment relates to handicapped accessibility. The Americans with Disabilities Act (ADA) sets the requirements for both public and private facilities, however, General Plan policy 1-N-12 specifically holds the City responsible for assuring that public facilities comply with those requirements.
- 16-99 The comment states that the project site should be considered for development as a convention center. As discussed in Chapter VI, Alternatives on page VI-17 of the Draft EIR, the City considered several alternative uses for the project site, including a convention center. Please see Alternative 15 on page VI-9, and the subsequent screening of this alternative under Section C of Chapter VI. This alternative is not considered a feasible alternative as it would be a public project which would be economically infeasible for the City, considering the cost to acquire and remediate the land, and eventually construct a public facility.
- 16-100 The comment states that the proposed project should be subject to requirements of the Core Area because it is near the Core Area. The project site is geographically located just outside the Core Area. As such, the proposed project is not subject to General Plan policies related to development within the Core Area, and it would be speculative of the Lead Agency to determine which properties near the Core Area should be subject to its requirements. The City Council will consider the appropriateness of the proposed land uses and proximity of the project site to the Core Area when determining the consistency of the proposed project with the goals and policies related to production of new housing.
- 16-101 The comment questions why the proposed project does not include low-income housing. The City of Eureka does not mandate that proposed development projects include a percentage of low-income housing. However, as stated in Table IV.I-2 on page IV.I-32, the project would provide a mix of moderately sized one-, two-, and three-bedroom residential units that would accommodate a range of income levels.
- 16-102 The comment questions why the proposed project does not include housing for the homeless. The City of Eureka does not mandate that proposed development projects

- include housing or public facilities for the homeless. General Plan Goal 1.B encourages the City and not private project applicants to provide adequate facilities and services for the homeless.
- 16-103 The comment relates to the Equal Access goal and policy. Although the Equal Access goal and policy (page IV.I-34 of the Draft EIR) is considered not relevant to the proposed project, the compliance discussion states that the project’s residential component would provide equal housing opportunities for all persons in Eureka.
- 16-104 The comment relates to increased automobile trips and greenhouse gases (GHGs). The project’s contribution to GHGs is discussed on page IV.C-19 under Impact C-6, of the Draft EIR. The GHG emission model estimates the CO₂ emission from vehicles that would be associated with the proposed project (see Trip Generation in Chapter IV.O, Transportation).
- 16-105 The comment relates to different intersections and their levels of service. Section IV.O, Transportation, discusses project trip distribution on Waterfront Drive, as well as the intersection of Koster Street and Wabash Avenue (study intersection No. 15). As stated on Draft EIR page IV.O-34, and restated on page IV.O-54, the proposed project would have a significant and unavoidable impact to the intersection of Koster Street and Wabash Avenue, even under mitigated conditions, as there is no feasible mitigation to improve the operation of this intersection due to its proximity to other more complicated intersections, namely Broadway at Fairfield-Wabash.
- 16-106 The comment references General Plan Policy 3.A.2 and states that traffic would become more “dense” on Broadway, and be dispersed to alternate routes, as a result of the project. The proposed project’s inconsistency with General Plan Policy 3.A.2 is disclosed on page IV.I-35 of the Draft EIR. Please see Master Responses 6 and 7 regarding traffic on Broadway and on alternate routes. Responses to comments 31-1 and 32-9, respectively, address these issues as well. As concluded in all responses, the 33 percent increase in traffic on Broadway by 2025 would occur with or without the proposed project. The mitigation measures proposed as part of the project would reduce almost all impacts to less-than-significant levels. Traffic diversion from Broadway to alternate routes due to the proposed project would not create significant impacts.
- 16-107 The comment states that additional traffic, in combination with other traffic, would have a significant impact on traffic conditions on Broadway and make it “nearly impossible” to maintain acceptable levels of service. Please see also response to comment 31-1, which reiterates that the identified mitigation measures would reduce almost all potential significant impacts related to traffic to less-than-significant levels.
- 16-108 The comment states that the proposed project should not “be allowed to make the actual determination of speeds on Broadway.” The Project Applicant does not determine the speed of cars traveling Broadway. Mitigation measures proposed are designed to mitigate impacts

related to decreased levels of service due to the proposed project, and all mitigation measures related to signal timing and street geometry must be approved by Caltrans.

- 16-109 The comment states that impacts would occur on specific streets and intersections near the project site, as well as “all over the city.” The potential transportation impacts of the proposed project are detailed in Chapter IV.O. For those intersections at which potential significant impacts are identified, mitigation measures are identified to reduce those impacts to less-than-significant levels, although not all impacts can be mitigated. The intersections chosen for analysis were vetted by Caltrans, and Caltrans must approve all mitigation measures related to signal timing, signal changes, and street geometry changes. Please see Master Responses 6 and 7 for a discussion of Broadway and traffic in other areas of the city, respectively. Responses to comments 31-1 and 32-9, respectively, address these issues as well. As concluded in all responses, the 33 percent increase in traffic on Broadway by 2025 would occur with or without the proposed project. The mitigation measures proposed as part of the project would reduce almost all impacts to less-than-significant levels. Traffic diversion from Broadway to alternate routes due to the proposed project would not create significant impacts.
- 16-110 The comment states that the proposed project should not use the extension of Waterfront Drive through PALCO Marsh as mitigation. The comment is noted. Off-site improvements proposed as part of the project are discussed on Draft EIR page IV.O-26. Mitigation measures for transportation-related impacts are discussed under each Impact in Chapter IV.O. The extension of Waterfront Drive is not proposed as a component of the project or as mitigation.
- 16-111 The comment suggests a freeway bypass or other long-term solution to reduce traffic generated by the proposed project on Broadway and states that this is the only way to mitigate impacts. The comment is noted. Mitigation measures for transportation-related impacts are discussed under each Impact in Chapter IV.O. The extension of Waterfront Drive is not proposed as a component of the project. These measures do not include a freeway bypass, which itself may create other environmental impacts not included in the Draft EIR. Because the proposed mitigation reduces the project impacts to a less-than-significant level, no further mitigation is necessary. Please also see Master Response 6 regarding traffic on Broadway. Response to comment 31-1 and 32-9 addresses the issue, as well. The 33 percent increase in traffic on Broadway by 2025 would occur with or without the proposed project. The mitigation measures proposed as part of the project would reduce almost all impacts to less-than-significant levels.
- 16-112 The comment states that there is no parking and traffic analysis of Waterfront Drive and Second Street within the discussion of consistency with General Plan policy 3.A.14. As stated on Draft EIR page IV.I-15, Table IV.I-2 is provided to facilitate the City Council’s determination of the proposed project’s consistency with the General Plan and Local Coastal Program. The table is not meant to provide a full traffic and parking analysis. The parking analysis (including parking on Waterfront Drive), as well as analysis of traffic on

Waterfront Drive and Second Street with the proposed project, is included in Chapter IV.O of the Draft EIR.

16-113 The comment states that the proposed project should subsidize increased transit service to the extent that demand for such service increases due to the proposed project. The comment is noted. The proposed project would be subject to local, state, and federal taxes like all development, and it is required to pay development impact fees, if any, pursuant to existing laws and regulations.

16-114 The comment states that the project should encourage employees to use mass transit, perhaps through a subsidization program. The project cannot dictate the behavior of future tenants or owners concerning employee use of mass transit.

16-115 The comment asks why no bicycle lanes are proposed within the project site, and it states that there is no designated travel lane to travel on, or to cross, Broadway.

As stated on Draft EIR page III-13 of the Project Description, the project would extend the existing bicycle lane on Sixth Street through the project site to Waterfront Drive. It also states that the proposed extension of Fourth Street would include a new, two-way bicycle path between Old Town and Waterfront Drive. Bicycle riders would cross Broadway at these locations. The comment is therefore incorrect in its assertion that the project site would not contain bicycle paths.

The project would also provide a bicycle path adjacent to the railroad tracks, from the northeast corner of the project site to the southwest corner of the project site, for north-south travel of bicyclists. The potential environmental impacts associated with implementation of bicycle lanes directly on Broadway are not analyzed by the Draft EIR. Although adjacent to the project site, Broadway is not part of the project site or under the control of the Project Applicant. Mitigation measures identified for Broadway are specifically related to potential impacts created by the proposed project. The project is found to have no significant impact to bicycle and pedestrian safety or plans. Therefore, no bicycle lane is proposed or analyzed on Broadway as part of the project.

16-116 The comment states that the proposed project would reduce pedestrian safety on Broadway. As stated on Draft EIR page IV.O-43 under Impact O-4, the proposed project, after implementation of identified mitigation measures, would be expected to reduce accidents by about 15 percent. In addition, as stated on Draft EIR pages IV.O-46 through IV.O-48, the proposed project would be required to construct sidewalks to the City of Eureka standards, and traffic signals installed as part of the proposed project would include pedestrian signal-heads, push buttons, curb-cut ramps at intersections, and painted crosswalks. Pedestrian facilities installed would be required to be reviewed by the City Engineer and / or Caltrans.

16-117 The comment states that the route and scheduling of truck trips generated by the proposed project should be considered to minimize the impacts on nearby streets. Please see

Mitigation Measure O-1a, on page IV.O-39, which discusses scheduling and coordination of deliveries.

- 16-118 The comment refers to General Plan policy 3.F.2, which states that the City shall work with the railroad to determine feasible locations for switching operations outside of the city, which would allow for the redevelopment of the project site. The Draft EIR, on page IV.I-39 in the Policy Consistency Analysis, states that this policy provides no mandates for Project Applicants.

The comment states that the purpose of relocation of the switching yards is not for the industrial or commercial redevelopment of the project site, and that the response provided by the Draft EIR is misleading and suggests bias.

Although the policy does not explicitly state that the only purpose of relocation of switching operations is to develop the project site, the policy states that relocation of the switching operations would result in redevelopment, and it states that the relocation should be pursued.

Finally, the comment states that the project site is under “Public” zoning. Please see Master Response 3 for a list of uses that are developable under existing zoning—including corporation yards, offices, storage facilities, and parking facilities—and a discussion of the ownership of the project site.

- 16-119 The comment states that the width of the railroad right-of-way must be determined “before proceeding.” There is an existing easement dedicated for railroad purposes. The railroad right-of-way width would be determined by separate agreement between the Project Applicant and NCRA.

- 16-120 The comment states that the project would impact the use of the boat ramp and the available parking for the boat ramp and the Marina. The proposed project does not include additional marina facilities or any other uses that would increase use of the boat ramp. In addition, parking demand and capacity are analyzed in Chapter IV.O of the Draft EIR. Please also see response to comment 25-40 regarding the boat ramp and Waterfront Drive.

- 16-121 The comment states that the Draft EIR fails to address potential traffic impacts in Old Town, primarily due to re-routed traffic seeking alternate routes as a result of the project. The intersections analyzed are detailed in Chapter IV.O. As stated on Draft EIR page IV.O-25, study intersections were chosen based on trip generation and trip distribution. Please see Master Response 7 regarding traffic on alternate routes. Please also see response to comment 32-9, which states that traffic diversion from Broadway to alternate routes due to the proposed project would not create significant impacts.

The comment also states that the Draft EIR does not include an analysis of intersections within the Core Area of the City. As shown on page IV.O-29, the Draft EIR includes an analysis of the intersections of Fourth Street / E Street, Fourth Street / F Street, Fifth

Street / E Street, and Fifth Street / F Street. Contrary to the comment, all of these intersections are within the Core Area as defined by the General Plan.

- 16-122 The comment states that growth should be directed toward areas with existing infrastructure. As stated on Draft EIR page IV.Q-2, “the project site is undeveloped and is [currently] not served by onsite wastewater infrastructure. However, wastewater infrastructure sufficient to serve the project is present along the project site boundaries.” The same is true for water infrastructure.

The comment distorts the financing mechanism for new infrastructure. The proposed project would include construction of this infrastructure onsite, the fair share of which would be paid for by the Project Applicant. The owner of the property would also pay monthly rates, depending on usage, for utilities, as well as taxes to local, state, and federal agencies. Contrary to the comment, other property owners in the City of Eureka would not subsidize the development of infrastructure on the site “for the enrichment of a private developer.”

- 16-123 The comment states that assurances must be provided to ensuring utility services. As stated on Draft EIR page IV.I-41, Policy 4.A.4 is a broad policy related to general public facilities and services and contains no requirements specific to a proposed private project. The adequacy of utility services for the proposed project is discussed in Chapter IV.Q.

- 16-124 The comment relates to underground utility lines. As stated on Draft EIR page IV.I-41, Policy 4.A.8 provides no mandates or requirements for the Project Applicants, but it does states that the City shall promote undergrounding of utilities where feasible, particularly in new residential development. As stated on Draft EIR page IV.I-15, the Project Applicant agrees to underground all new utility service on the project site.

- 16-125 The commenter does not appear to fully understand the financing mechanism for new infrastructure required in support of the project. The proposed project would include construction of this infrastructure onsite, the fair share of which would be paid for by the Project Applicant, as stated on Draft EIR page IV.I-42. The owner of the property would also pay monthly rates, depending on usage, for utilities, as well as taxes to local, state, and federal agencies.

- 16-126 The comment relates to wastewater capacity. Please see response to comment 9-34, in which adequate wastewater capacity at the treatment plant is discussed. As stated on Draft EIR page IV.I-34, this policy pertains to project requirements or guidelines—there is no pretreatment threshold or standard included in the policy.

- 16-127 The comment relates to trash floating in stormwater runoff. Please see response to comment 4-5, which addresses long-term maintenance of the project site and wetland.

- 16-128 The comment states that the 10-year flood standard for culverts is not adequate. Please see response to comment 16-47 and 16-48, which address the City of Eureka standards for culvert sizes and the proposed project's drainage plan.
- 16-129 The comment incorrectly states that the Project Applicant is excusing the project from recycling programs. As stated on Draft EIR page IV.I-45, Policy 4.E.4 contains no project requirements or guidelines. This statement does not preclude the project from developing recycling programs for its tenants.
- 16-130 The comment states that the proposed project would require additional police services, which would require increased funding. Please see response to comment 16-178, which addresses public services and site security.
- 16-131 The comment states that the increased traffic "density" would decrease response times. Regarding response times, please see response to comment 16-178. In addition, the Draft EIR analyzes emergency access under Impact O-5 on page IV.O-44. In addition, as stated on Draft EIR page IV.O-43 under Impact O-4, per Caltrans methodology study intersections would be expected to reduce accidents by 15 percent with the proposed project.
- 16-132 The comment states that increased traffic would require increased policing and no provision is made for this increase. Please see response to comment 16-125 and 16-178, which address funding of such services. As stated there, the proposed project would pay state and local taxes, which would be collected into the City and State revenue streams and available to fund public services. The allocation of revenues, however, would be at the discretion of the City Council and State Legislature.
- 16-133 The comment relates to emergency response times. Please see responses to comments 16-178 and 16-179, which state that the proposed project would have a less-than-significant impact to emergency response times. In addition, the Draft EIR analyzes emergency access under Impact O-5 on page IV.O-44. In addition, as stated on Draft EIR page IV.O-43 under Impact O-4, study intersections would be expected to reduce accidents by 15 percent with the proposed project.
- 16-134 The comment states that the proposed project would result in adequate public services and that increase in public services would be paid for by taxpayers. As stated in under Impact M-1 and Impact M-2, the proposed project would have a less-than-significant impact on the service ratios, response times, or other performance objectives of the Eureka Police Department and the Eureka Fire Department. As stated on Draft EIR pages IV.M-5 and IV.M-7, both the Fire Department and the Police Department have indicated that the proposed project would not substantially affect their emergency response time averages. The proposed project would contribute sales and property taxes that would be directed into the City's general fund and would be available for distribution to the police or fire departments at the discretion of the City Council.

Moreover, to ensure adequate, equal, and fair protection for citizens, police and fire protection services are not directly funded by, or strictly allocated to, specific properties based on anticipated demand. Funding and delegating these services strictly based on anticipated demand at specific properties would result in unequal protection and regressive taxation—the highest-crime areas (often the lowest-income areas) would be required to fully and directly fund their protection due to their relatively high demand for services, while areas with little-to-no crime (often higher-income areas) would pay next to nothing. Please also see Master Response 1 regarding funding of police and fire services, as well as response to comment 16-178 and 100-4. As stated there, the proposed project would pay state and local taxes, which would be collected into the City and State revenue streams and available to fund public services. The allocation of revenues, however, would be at the discretion of the City Council and State Legislature.

16-135 The comment regarding increase school costs associated with residential development is noted. The Project Applicant would be required to pay any development impact fees for schools required by local regulations.

16-136 The comment states that the recreational facilities of the proposed project are inadequate. The comment confuses active and passive recreational facilities. Walking trails are considered passive recreational facilities, as are “picnic facilities” and “meeting facilities.” The proposed project would provide an 11.89-acre wetland reserve with associated recreational facilities. Contrary to the comment, the Draft EIR does not claim that the museum is a public recreational facility.

Finally, as stated on Draft EIR page III-17, the proposed project would require several entitlements and approvals, including land use designations and zoning changes through amendment of the Local Coastal Program. The current Public designation on the project site would not be in effect if the project entitlements are granted.

16-137 The comment is related to Policy 5.B.1 of the General Plan. Regarding coastal access and Policy 5.B.1, the proposed project, as described in Chapter III, Project Description of the Draft EIR, would provide new recreational facilities, including a pedestrian and bicycle path adjacent to Waterfront Drive that would provide a recreational opportunity for the onsite population as well as the larger community.

16-138 The comment states that the project would limit coastal access by removing parking. Regarding coastal access and Policy 5.B.9, the proposed project would not eliminate off-street parking by constructing roadway extensions to Waterfront Drive. By extending roadways through the project site, the project would in fact increase public access points to the waterfront. As stated in Chapter IV.O, the proposed project would result in a less-than-significant impact to parking in every month of the year except December, when demand for coastal access is relatively low.

16-139 The comment relates to Goal 5-C of the General Plan. Goal 5-C charges the City with providing recreational services, activities, and programs to the City of Eureka. As stated

on Draft EIR page IV.I-50, this General Plan goal does not set forth requirements for private developers.

- 16-140 The comment relates to Goal 5-D of the General Plan. Goal 5-D charges the City with providing and promoting programs that meet artistic and cultural needs to the community of Eureka. As stated on Draft EIR page IV.I-50, this General Plan goal does not set forth requirements for private developers.
- 16-141 The comment expresses disgust with the proposed project renderings. As stated in the outline on page III-18, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 of the Draft EIR under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the exterior design, materials, textures, and colors.
- 16-142 The comment states that agreements with native tribes are sufficient. As described on Draft EIR page IV.E-14, the proposed project would have a less-than-significant impact on historic architectural resources, including those in the Victorian-themed Old Town Eureka Historic District, because it would be located at least two blocks from the this district. Due to this distance and the amount of intervening development between the project area and the historic district, the proposed project would have no adverse impact on the historic settings of surrounding historic sites or listed historic sites in the vicinity. Please also see Master Response 9, which includes revisions to mitigation measures outlining archaeological investigations.

Comments requesting that any artifacts discovered in the project area be preserved and offered to the Railroad Museum are noted. This comment, however, does not directly address the adequacy or accuracy of the environmental analysis found in the Draft EIR.

- 16-143 The comment first repeats the call to address the extent of historic wetlands. Please see response to comment 16-25, which addresses historic wetlands. As stated there, CEQA does not require an analysis of past conditions, but existing conditions.

The comment then advocates for a smaller project and cites Policies (6-A-3, 6). Policy consistency is discussed as Impact D-5, on Draft EIR page IV.D-32 and Master Response 5. Alternatives to the proposed project are analyzed in Chapter VI of the Draft EIR.

- 16-144 The comment states that the project needs a plan to dispose of dredged materials safely. The comment is noted. The removal and disposal of dredged materials is regulated by several agencies. In addition, please see Master Response 4 and new Appendix S, which discuss the remediation plans for the proposed project.
- 16-145 The comment relates to historical wetlands on the project site. Please see response to comment 16-25, which addresses historical wetlands and states that CEQA does not require an analysis of historic wetlands.

- 16-146 The comment relates to historical wetlands. Please see response to comment 16-25, which discusses historical wetlands and states that CEQA does not require an analysis of historic wetlands. Concerning Policy 16-A-20, the comment advises against use of Himalayan blackberry. Himalayan blackberry is not stipulated in the Policy.
- 16-147 The comment relates to the consistency with General Plan Goal 6-C: The Goal is not relevant, contrary to the comment, because it contains no requirement for the proposed project.
- 16-148 The comment suggests development of the project site as public open space. The Draft EIR evaluates the potential environmental impacts of the proposed project. The course of action described, in which the City partners with other agencies and not-for-profit groups to clean up the project site, could be similar to the Wetland Restoration and Public Park alternative described in Chapter VI, Alternatives. This alternative is screened out of detailed analysis because it would not meet the basic objectives and is not feasible. The City Council is required to evaluate the project proposed by the basic objectives in making decisions to grant the approvals and entitlements detailed on page III-17. Please also see Master Response 3, which discusses the lack of City ownership of the project site.
- 16-149 The comment states that the Draft EIR did not address impacts to lumber related traffic, especially related to the wood chip loading facility along Waterfront Drive. Chapter IV.O, Transportation, discusses the project's impact to traffic, which would include lumber related traffic on Waterfront Drive.
- 16-150 The comment states that the air quality mitigation measures identified in the Draft EIR would be inadequate to meet air quality standards for the project. As disclosed on Draft EIR page IV.C-20, the City agrees that the air quality mitigation measures identified in the Draft EIR would not reduce project emissions to below the stated significance thresholds. Accordingly, the operational impact associated with long-term emissions of criteria pollutants is disclosed in the Draft EIR as significant and unavoidable.
- 16-151 The comment states that the Alternatives analysis is not adequate. As discussed in Chapter VI, Alternatives on page VI-17 of the Draft EIR, the City considered several alternative uses for the project site. The City conducted an exhaustive screening of all alternatives presented for the project site, which are discussed in full under Section C of Chapter V.
- 16-152 The comment states that increased "density" of traffic would flow through the City as a result of the proposed project, increasing emissions because vehicles would travel more slowly. Potential impacts to air quality are discussed in Chapter IV.C. Emissions that would be generated by travel of vehicles during both construction and operations of the proposed project are calculated and analyzed in the Draft EIR beginning on page IV.C-12. The modeling employed takes into consideration anticipated speeds associated with traffic congestion.

- 16-153 The comment states that all traffic flow improvements should be paid for entirely by the developer. Applicants are only responsible for their fair share contribution of the impact. Please see response to comment 16-306 for further discussion of funding of mitigation measures. As stated there, the Project Applicant would only be required to pay the proposed project's fair share toward the measures.
- 16-154 The comment states that the proposed project should pay its fair share to improve transit operations depending on the use of transit facilities generated by the proposed project. Please see response to comment 16-153 above.
- 16-155 The comment expresses concern about evacuation due to an emergency. Please see response to comment 16-35, above, which addresses evacuation due to tsunamis.
- 16-156 The comment expresses concern about seismic hazards. Please see response to comment 16-34, above, which addresses liquefaction and the proposed 5-story building.
- 16-157 The comment asks whether the Project Applicant is prepared to explore alternatives to development if the geotechnical investigation concludes that the proposed project is not feasible. The geotechnical characterization report has identified the range of geotechnical hazards at the project site and determined that the proposed project is feasible from a geotechnical engineering perspective.

As stated in Mitigation Measure F-1a on page IV.F-14, "The proposed project shall comply with requirements of the most recent California Building Code which include the completion of a site-specific, design level geotechnical report that examines and assesses the potential for the proposed project to be subject to ground shaking, liquefaction, and other seismic hazards associated with the occurrence of a maximum credible earthquake anticipated to affect the Eureka region. The project-specific geotechnical report shall include specific measures to address these hazards including, at a minimum, measures for the design and construction of foundations, underground utilities, and paved areas. These specific measures shall meet or exceed the requirements set in the most recent California Building Code. The Project Applicant shall implement the specific recommendations included in the project-specific geotechnical report as part of the project."

As stated in Chapter IV.F, the project would result in less-than-significant impacts related to geology, soils, and seismicity. As stated on Draft EIR page VI-1, alternatives should "avoid or substantially lessen any significant effects of the project." Given that the proposed project would result in less-than-significant impacts related to geology, soils, and seismicity, the alternatives explored would not avoid or substantially reduce those potentially significant effects. However, the Marina Center Reduced Footprint Alternative contains an intensity of uses similar to those described in the comment.

- 16-158 The comment relates to emergency response times. Section IV.O, Transportation, discusses impacts of the proposed project on traffic congestion, and Impact O-5, specifically addresses emergency access to the project site. Furthermore, Chapter IV.M,

Public Services, discusses impacts to fire services, and would require implementation of Mitigation Measures M-1a through M-1f, that would avoid or minimize the potential for the Marina Center project to have a substantial adverse physical impact on fire protection.

16-159 The comment is related to stormwater infrastructure and their design requirements. Please see responses to comments 16-47 and 16-48, which address stormwater drainage and City of Eureka standards.

16-160 The comment relates to operational hazardous materials violations or spills. Please see response to comment 16-41, which addresses potential operation spills of hazardous materials and concludes that such hazards would be adequately mitigated by existing hazardous materials handling regulations.

16-161 The comment suggests that placement of clean cover material over the project site should never be considered an alternative to actual cleanup of contaminants.

As outlined in more detail in Master Response 4, placement of clean cover material over the project site is not considered an “alternative” to remediation of the project site. Placement of clean cover material over the project site is often used in combination with other cleanup methods to help eliminate exposure pathways when complete excavation and removal is impractical or would increase environmental disturbances onsite. Here, the Project Applicant is proposing to conduct significant, additional remediation of the site, including focused soil remediation and excavation at several key hot spots throughout the property. (Please see Appendix S; see also Draft EIR, Mitigation Measures G-1a and G-1b.) Testing and characterizations of the project site have shown that these remediation measures and the soil material cover would effectively remove any significant risk to human health or the environment.

16-162 The comment states that new streets through the project site should be considered as emergency access routes. Section IV.M. Public Services, discusses impacts to fire services, and would require implementation of Mitigation Measures M-1a through M-1f, that would avoid or minimize the potential for the Marina Center project to have a substantial adverse physical impact on fire protection, including fire access through the project site.

16-163 The comment appears to suggest that the Draft EIR should have analyzed the effects of railroad noise on the proposed residential uses associated with the project in the event that the existing railroad along Waterfront Drive becomes operational. This portion of the railroad is currently not operational and the City is not aware of any plans to resume rail service along this route segment. Given that it is not reasonably foreseeable that potential railroad service would resume along this railroad segment, it would therefore be overly speculative for the Draft EIR to analyze potential noise impacts associated with railroad service along the segment.

- 16-164 The comment suggests that the Draft EIR noise analysis should have considered the Marina off Waterfront Drive as a noise sensitive receptor. However, as disclosed on Draft EIR page IV.K-5, the small-boat basin west of the project site and west of Waterfront Drive is not considered a sensitive receptor because it is primarily used for boat storage, docking, and refueling of bay and ocean-going recreational and commercial fishing vessels. Furthermore, the Marina itself is actually a noise source due to the operations and maintenance of motor-powered recreational and commercial fishing vessels.
- 16-165 The comment states that the proposed project should reconsider uses proposed for the site in the Westside Industrial Study. The comment is noted. The Westside Industrial Study is discussed in Chapter IV.I of the Draft EIR.
- 16-166 The comment states that the Eureka Redevelopment Plan (ERP) is too vague and does not provide enough direction as to particular uses envisioned for the project site, and therefore the proposed project's consistency with the ERP is questionable. The comment is noted. The ERP generally seeks redevelopment of the project site, and the project would be consistent with this goal and other specific objectives of the ERP, as discussed on page IV.I-74 of the Draft EIR.
- 16-167 The comment states that the proposed project does not contribute to waterfront revitalization. Page IV.I-74 of the Draft EIR discusses the consistency of the proposed project with the Waterfront Revitalization Program. The comment states that the proposed project would not meet the goals of the Program; however, the Draft EIR states that the proposed project would achieve priorities of the Program by development and creating an economically viable mixed use development on the project site, which would increase recreation and coastal access through the creation of the wetland restoration area and new transportation facilities.
- 16-168 The comment provides a separate analysis of the proposed project and its consistency with the use restrictions of the use districts proposed for the project site. The comments are noted. The proposed project consistency with the Zoning Regulations and Coastal Zoning Regulations are discussed in Master Response 3. Please also see Draft EIR Chapter IV.I Land Use and Planning for a discussion of permissible uses.
- 16-169 The comment incorrectly states that the findings of significance in the Land Use and Planning chapter represent the views of the Project Applicant and not the views of City agencies.

As stated in the Draft EIR, the City of Eureka is the Lead Agency for the proposed project pursuant to CEQA. The EIR represents the findings of the Lead Agency, and the EIR is the City's document. Physical impacts resulting from the project's potential inconsistency with specific policies are discussed and analyzed in other resource areas of the Draft EIR.

16-170 The comment states that the cumulative effects of the project could make Eureka an undesirable place to live. The finding of significance on page IV.I-81 of the Draft EIR for cumulative land use impacts relates to the potential for the project to conflict with applicable land use plan, policy or regulations. Physical impacts resulting from the project's potential inconsistency with specific policies are discussed and analyzed in other resource areas of the Draft EIR, including cumulative transportation and air quality conditions.

16-171 The comment expresses concern about the proposed land use and zoning changes. As stated on page IV.I-81 of the Draft EIR, the proposed project would convert less than 10 percent of the total public land inventory to non-public uses. This, however, does not include the recreational opportunities that the proposed project would create by developing a multi-use public path along Waterfront Drive and an interpretative trail through the restored wetland.

16-172 The comment appears to have incorrectly interpreted the noise data presented in Draft EIR Table IV.K-2 to show that peak traffic noise exceeds 80 dBA for a significant amount of time each day. However, the data in the table actually shows that during a three hour period, while maximum instantaneous noise levels at the monitoring location exceeded approximately 80 dBA at least three times, that the average noise levels during that three hour period averaged approximately 65 dBA.

The comment also indicates that the traffic associated with the project would greatly increase traffic noise levels at neighboring businesses and residential areas in the project vicinity. However, as presented in Draft EIR Table IV.K-2 (see Draft EIR page IV.K-8), with the exception of along Waterfront Drive, which has no existing noise sensitive receptors, the incremental increase in modeled baseline traffic noise due to the project would range from 0.6 to 1.1 dBA, which would not be perceivable by humans.

16-173 The comment indicates that significant vibration impacts could occur depending on the amount of new truck trips to the area. However, the comment provides no additional information as to how and to whom or on what the vibration impacts may occur. Truck traffic is typically not a significant source of vibration to sensitive receptors given the existing setbacks from roads and that rubber tires tend to provide vibration isolation. As identified on Draft EIR page IV.K-8, operations of the project would result in no known sources of excessive ground-bourn vibration.

The comment also mentions that the Draft EIR failed to consider vibration impacts associated with pile driving activities conducted during construction of the project. This statement is not accurate. For the vibration impact discussion and mitigation measures associated with pile driving construction activities, see Draft EIR pages IV.K-10 and IV.K-11.

16-174 The comment expressed concern about noise affecting sensitive receptors across Waterfront Drive. As disclosed on Draft EIR page IV.K-5, the small-boat basin west of

the project site and west of Waterfront Drive is not considered a sensitive receptor because it is primarily used for boat storage, docking, and refueling of bay and ocean-going recreational and commercial fishing vessels. Furthermore, the Marina itself is actually a noise source due to the operations and maintenance of motor-powered recreational and commercial fishing vessels.

The comment also suggests that the Draft EIR identified a project related increase in noise levels at Broadway and Fourth Street of over 7 dB over ambient conditions. However, Draft EIR Table IV.K-2 (see Draft EIR page IV.K-8) clearly shows an estimated increase in traffic noise over ambient conditions in the vicinity of Broadway and Fourth Street to range between 0.7 and 1.0 dBA, and correspondingly, less than significant.

16-175 The comment states that the project would not result in substantial population increase. The comment is noted.

16-176 The comment requests clarification regarding boat ramp locations. Text on Draft EIR page IV.M-3 is revised as follows (comma inserted):

...the Del Norte Street Pier, the Woodley Island Marina, boat ramps, marshes, and plazas.

No new boat docking locations would be created by the proposed project. Therefore, the proposed project would not significantly affect use of the Waterfront Drive boat ramp.

16-177 The comment questions the effect of the proposed project on public services. As stated on Draft EIR page IV.M-7, under Impact M-1, the proposed project shall include the following mitigation measures:

Mitigation Measure M-1a: All buildings shall be fully sprinkled.

Mitigation Measure M-1b: The Project Applicant shall install fire hydrants and fire water mains as required by the Eureka Fire Department. The location, size and flow of all hydrants and fire mains shall be shown on the building construction plans.

Mitigation Measure M-1c: All traffic calming measures proposed for installation within the parking lots or along internal roadways shall be reviewed and approved by the City Fire Department prior to installation.

Mitigation Measure M-1d: In order to assure that fire apparatus have adequate width to deploy stabilizers, both sides of the Fourth Street extension adjacent to the five-story office building shall be signed as “No Parking.”

Mitigation Measure M-1e: The proposed plaza in front of the five-story office building shall be designed to provide fire emergency apparatus access, this shall include the ability for fire apparatus to drive across the plaza and an eighteen foot wide area to deploy the truck stabilizers. The design of the plaza shall be shown on the building plans and shall be approved by the City Fire Department.

Mitigation Measure M-1f: The Project Applicant shall cause to be installed on all new traffic signals and all existing traffic signals on Broadway between and including Harris Street and Fourth Street an Opticom emergency traffic prompting device, coded to Eureka Fire Department transmitters. Installation shall be coordinated with City of Eureka Engineering Department and Caltrans.

As shown in Figure III-2, and pursuant to Mitigation Measure M-1d, fire apparatus would have access to the southern side of the proposed 5-story building via the Fourth Street Extension. Fire apparatus would have access to the eastern side of the building via the parking lot. Mitigation Measure M-1e would ensure that fire apparatus have access to the western side of the building. As stated on Draft EIR page IV.O-44, under Impact O-5, access drives and internal circulation would be designed to accommodate STAA trucks, which is more than required for fire department maneuverability.

As stated in Mitigation Measure M1-f, the Applicant shall caused to be installed the Opticom emergency traffic prompting device. As stated on Draft EIR page IV.O-4, the proposed project is only required to pay its fair share, and there is no program in place or funding otherwise identified.

Alternatives to the proposed project are explored under CEQA for the purpose of reducing potential significant environmental impacts to less-than-significant levels. Given the proposed project would not have a significant adverse impact on the provision of police and fire services, the exploration of an alternative is not warranted.

16-178 The comment expresses concern about increased crime at the project site due to the proposed project. As stated on Draft EIR page IV.M-2, the Eureka Police Department currently devotes extra resources to the project site due to crime and drug use associated with its current condition. As stated on Draft EIR page IV.M-8, by providing new development on the project site, including new residents, employment, economic activity, and public activity, the project may have a beneficial effect on safety of the area.

Also, the Police Department has indicated that one additional police officer and one police service officer would be needed as a result of the proposed project, and the proposed project would contribute both sales tax and property tax revenues to the City, which would in turn increase the general fund. If the City Council determines through its annual budget review that additional police services are warranted, for either onsite services or offsite traffic enforcement, they would direct some of the increased general fund revenues to the Police Department.

As also stated on Draft EIR page IV.M-8, Mitigation Measure M-2a states that “the Marina Center development shall have an onsite security patrol to handle routine situations that do not require emergency response from the Eureka Police Department.” These routine situations would include minor infractions of shoplifting and drug use.

As stated in the comment, there is no guarantee that the project (or any project) would result in an overall tax revenue increase for the City of Eureka. Please see Master Response 1 for a detailed discussion of the anticipated fiscal impacts of the proposed project.

As stated in under Impact M-1 and Impact M-2, the proposed project would have a less-than-significant impact on the service ratios, response times, or other performance objectives of the Eureka Police Department and the Eureka Fire Department. As stated on Draft EIR pages IV.M-5 and IV.M-7, both the Fire Department and the Police Department have indicated that the proposed project would not substantially affect their emergency response time averages. The proposed project would contribute sales and property taxes that would be directed into the City's general fund and would be available for distribution to the police or fire departments at the discretion of the City Council.

Moreover, to ensure adequate, equal, and fair protection for citizens, police and fire protection services are not directly funded by, or strictly allocated to, specific properties based on anticipated demand. Funding and delegating these services strictly based on anticipated demand at specific properties would result in unequal protection and regressive taxation—the highest-crime areas (often the lowest-income areas) would be required to fully and directly fund their protection due to their relatively high demand for services, while areas with little-to-no crime (often higher-income areas) would pay next to nothing. Please also see Master Response 1 regarding the funding of police and fire services. As stated there, and in response to comment 100-4, the proposed project would result in a net increase in revenues to the City of Eureka, which would flow into the general fund. The disbursement of money from the general fund to public service agencies would be at the discretion of the City Council.

16-179 The comment is related to public services, as well as to seismic events. Please see responses to comments 16-177 and 16-178, which conclude that the proposed project would have a less-than-significant impact on public services responding to seismic events or other emergencies.

The project site, like other areas in the City of Eureka, could be subject to damage caused by earthquakes or tsunamis.

As stated on Draft EIR page IV.F-14 under Mitigation Measure F-1a:

...the proposed project shall comply with requirements of the most recent California Building Code which include the completion of a site-specific, design level geotechnical report that examines and assesses the potential for the proposed project to be subject to ground shaking, liquefaction, and other seismic hazards associated with the occurrence of a maximum credible earthquake anticipated to affect the Eureka region. The project-specific geotechnical report shall include specific measures to address these hazards including, at a minimum, measures for the design and construction of foundations, underground utilities, and paved areas. These specific measures shall meet or exceed the requirements set in the most

recent California Building Code. The Project Applicant shall implement the specific recommendations included in the project-specific geotechnical report as part of the project.

Implementation of this mitigation measure would minimize the potential of the proposed project to expose people or structures to substantial adverse effects. Police and fire services that would be required to respond to damage caused by an earthquake would be similar to those required by other properties in the City of Eureka.

In addition, as stated on Draft EIR page IV.H-23 under Mitigation Measures H-10a to H-10c, the Project Applicant shall prepare a tsunami Evacuation and Response Plan, prohibit residences on the first floor of the development, and adequately deep pile and pier anchor main buildings. Implementation of these mitigation measures would minimize the potential of the proposed project to expose people or structures to substantial adverse effects. Police and fire services that would be required to respond to damage caused by tsunami would be similar to those required by other properties near the waterfront in the City of Eureka.

16-180 The comment requests clarification regarding boat ramp locations. Please see response to comment 16-176, which includes text changes to the Draft EIR to correct the description of boat ramp locations.

16-181 The comment relates to parkland and the proposed project's recreational space. The proposed project would include the pedestrian and bicycle facilities described in Draft EIR Chapter III, Project Description. In addition, as stated on Draft EIR page IV.N-2, under Impact N-1, the proposed project is in proximity to thousands of acres of state and national parks. In addition, the proposed project would not affect the existing ratio of 5.6 acres of local park space per 1,000 residents. Also, as stated on Draft EIR page IV.N-3, under Impact N-2, the project would include development of a wetland reserve that would provide recreation opportunities.

Recreation impacts associated with changes in land use designation and coastal zoning are discussed in Chapter IV.I, Land Use and Planning. As stated on Draft EIR pages IV.I-49 and IV.I-50 in Table IV.I-2, Policy Consistency Analysis, the proposed project would improve access to Humboldt Bay, the adjacent Marina and boardwalk.

16-182 The comment states that the ratio of parkland per resident is misleading because residents of nearby areas also use the parks. As stated in Table 5-1 of the City of Eureka's General Plan, the City aims for a specific ratio of park acreage per 1,000 residents: 3.0 acres per 1,000 residents for community parks, and 1.0 acres per 1,000 residents for neighborhood parks. The City currently exceeds these standards, and, as stated on Page IV.N-2 of the Draft EIR, would continue to exceed these standards with implementation of the proposed project.

Like all parks, some of these City of Eureka neighborhood and community parks may be visited by people that live in areas surrounding the City in other jurisdictions. However, just because surrounding jurisdictions have fewer parks than other areas does not mean that residents of surrounding jurisdictions are forced to visit City of Eureka parks for their outdoor recreational opportunities.

Total public park space available to surrounding jurisdictions is only one part of the total recreational space available to these areas. The areas surrounding the City have lower-density, suburban and rural development patterns where more private recreational space per resident is available than is available to residents in Eureka. Also, like residents of the City of Eureka, residents of surrounding jurisdictions have access to nearby state and national parks, as well as other recreational facilities including golf courses, youth centers, marinas, marshes, plazas, and wildlife areas.

It is beyond the budget and capabilities of the City of Eureka and surrounding jurisdictions, as well as beyond the scope of the proposed project's EIR, to regularly measure visitor usage of every park in the City and to perform surveys to determine what percentage of those visitors live within the City. The standard ratios of community and neighborhood park acres per resident identified in the General Plan were formulated with an understanding that public parks are open to everyone.

Please see also response to comment 3-26, which addresses park space in the City of Eureka and recreational space within the proposed project.

- 16-183 The comment expresses concern about impacts to the Marina boat ramp. The proposed project does not include a marina or an expansion of the existing Marina. Therefore, the proposed project would not increase use of the boat ramp at City Marina, and the boat ramp's capacity is beyond the scope of this EIR. Please also see response to comment 25 40 regarding the boat ramp and Waterfront Drive.

In addition, the traffic impacts of the extension of Fourth Street are analyzed in Chapter IV.O, Transportation. As shown in Table IV.O-6 on page IV.O-28, and as detailed in Figure IV.O-9 on page IV.O-29, Baseline 2010 and 2010 Baseline plus Project-generated vehicular trips are analyzed in the EIR for the intersections of Waterfront Drive with Fourth Street (plus project analysis only), Washington Street, and Commercial Street. For ease of discussion, the EIR designated these intersections as Intersections 4, 11, and 13, respectively. The analysis concluded that these intersections would operate with Levels of Service (LOS) C, C, and B, respectively, with the proposed project. As shown in Table IV.O-8 on page IV.O-35, these LOS would remain C, C, and B with the proposed project plus incorporated mitigation. These LOS are considered acceptable under CEQA, and the proposed project would therefore not limit access to recreational opportunities from Waterfront Drive.

Cars and boat trailers that would park at the Wharfinger Building parking lot would do so with or without the proposed project. The proposed project does not include changes to

the Wharfinger Building parking lot, and therefore parking demand at that lot would not be affected by the proposed project.

In addition, as stated on Draft EIR page IV.O-44, under Impact O-6, the proposed project's conceptual plan would provide 1,585 parking spaces. The Eureka Community Development Department determined that the maximum demand for parking would be less than the provided spaces, except in the month of December. As stated in Mitigation Measure O-6a on page IV.O-45, the Project Applicant shall develop a parking management plan for periods of peak demand that provides a mechanism to direct employees to park off-site in available on-street parking spaces (not in spaces at the Wharfinger Building parking lot). Moreover, the comment states that peak demand for boat parking is on busy summer days, which would not conflict with potential off-site parking by project site employees during the month of December. The potential for the Marina Center project to result in inadequate parking capacity is less than significant.

16-184 The comment states that safe access to parks would be reduced due to increased traffic, and this decreased safety must be analyzed in the EIR. As stated on Draft EIR page IV.O-43, under Impact O-4, the proposed project would have a less-than-significant impact on traffic safety. It is not expected that project traffic would increase the potential for safety conflicts or the accident rate itself because it would not introduce unsafe design features or a mix of vehicle types incompatible with the existing vehicle mix. Improved traffic controls and operations implemented as a result of the proposed project, including those detailed in Mitigation Measures O-1a through O-1k, would be expected to reduce accidents by about 15 percent, per Caltrans methodology. The proposed project would therefore enhance safety on nearby roads, including those providing access to public parks.

In addition, as discussed on pages IV.O-45 through IV.O-48, the proposed project would provide bicycle and pedestrian facilities, as well as incorporate Mitigation Measures O-7a through O-7e. These measures would avoid and minimize the potential for the Marina Center project to conflict with adopted policies, plans, or programs supporting alternative transportation.

16-185 The comment states that the description of Waterfront Drive is inaccurate because it does not mention bottlenecks at various points along the street. Waterfront Drive is considered an urban street minor arterial for purposes of analyzing levels of service. In the *2000 Highway Capacity Manual*, Chapter 10. Exhibit 10-7, "Example Service Volumes for Urban Streets" shows that for a Class IV minor arterial, LOS C generally occurs with volumes less than 1,200 per hour by direction. Since the forecasted 2025 volume for Waterfront Drive on segments is less than 500 vehicles per hour, LOS C and better is anticipated for segments of Waterfront Drive and Railroad Avenue away from stop-controlled intersections. It should be further noted that on urban streets, stop controlled and signalized intersections are typically the bottlenecks and not street sections. This is because traffic controls normally remove more than 50 percent of available time for

traffic to flow past a point or through an intersection. Since street segments retain 100 percent of flow time for traffic, it is only logical that the level of service between intersections is at least as good as at Waterfront Drive and Washington Street. Even with parking and relatively narrow lanes, there is sufficient capacity on Waterfront Drive and Railroad Avenue to move the 500 vehicles per hour (in two directions) along all sections analyzed in the traffic impact study. Therefore, no significant impacts are anticipated and no conclusions are made that widening is needed to carry the relatively low volumes of traffic in 2025 with Marina Center. The p.m. peak hour would experience the highest volumes because of the mitigation of closing off outbound traffic at the access drives at Broadway and Fourth and Sixth Streets.

There are several cross sections along Waterfront Drive while only the cross section near the proposed Fourth Street Extension is provided in the Draft EIR. The report will be revised to provide more information regarding the cross section of Waterfront Drive as such:

- The roadway width near the S curve between Washington Street and 14th Street narrows to about 44 feet curb to curb.
- The roadway width on Waterfront Drive at Commercial Street is measured to be about 48 feet.
- The roadway width on Waterfront Drive at Washington Street is measured to be about 48 feet.
- The roadway width on Waterfront Drive at 14th Street is measured to be about 44 feet.
- Railroad Avenue is measured to be about 44 feet wide to Del Norte Street.
- Waterfront Drive narrows to 28 to 30 feet curb to curb for approximately 700 feet just south of the location for the proposed intersection of the Fourth Street Extension and Waterfront Drive. Parking should not be allowed in this section, at least on one or the other side of the street. No parking restrictions were noted in recent field checks, nor were any parked vehicles sighted.

Previous plans at the City show that the right of way is 60 feet wide with a sidewalk area that varies from six feet to eight feet on both sides. The right of way is 50 feet wide where the roadway narrows near the Marina. The existing roadway width on Waterfront Drive is adequate for travel lanes and widening is not needed.

16-186 The comment states that there is not enough data collected about parking use along streets near the project site to prepare a thorough parking analysis for the Draft EIR. The purpose of describing on-street parking near the project and along Broadway is to document on street parking in the event the proposed mitigation requires removal of the on-street parking. The proposed project does not require removal of parking on Broadway between Fourth and Fifth Streets, nor does it have any impact on parking on the east side of Broadway. With respect to on-street parking on Broadway south of Wabash Avenue, the comment is noted.

Mitigation for the Broadway and Washington Street intersection does call for restriction of on-street parking on one side of Washington Street to accommodate eastbound and westbound left turn lanes. All adjacent uses have off-street parking. It is also proposed to remove on-street parking on the east curb of Commercial Street, for 150 feet south of Fourth Street. The adjacent uses on Commercial Street all have off-street parking. This is noted in the mitigation section of the traffic impact study.

16-187 The comment states that there is not enough data collected about parking use along streets near the project site to prepare a thorough parking analysis for the Draft EIR. The proposed project does not affect on-street parking on the east curb of Broadway between Fourth and Fifth Streets; therefore the discussion regarding on-street parking surveys in the report is only for information. It should be noted that Kristina's Restaurant has reciprocal parking arrangements with the Best Western Humboldt Bay Inn. However, the on-street parking on Broadway is for public use and is not the specific parking supply for the restaurant. The proposed mitigations do not include on-street parking restrictions along Broadway, so further discussions regarding on-street parking are not needed in the report.

16-188 The comment questions dates and hours of data collection for traffic analysis. The Average Daily Traffic (ADT) volumes on Broadway are average in late February and early March. In August the volume appears to be the highest, approximately 10 percent higher than average. The lowest traffic volumes occur in early November and in January where volumes are about 10 percent lower than average. The traffic software used for this analysis, Synchro, considers percentiles of traffic. Therefore, variations of 10 percent and more are already accounted for in the LOS analysis. Another consideration is that while average daily traffic volumes are higher in August than in March, the increase is not necessarily in the p.m. peak hour. The volume of tourist traffic along U.S. 101 does not significantly contribute to the a.m. peak hour or to the p.m. peak hour. The actual p.m. peak hour increase in August is less than 10 percent over the volumes analyzed in the traffic impact study.

16-189 The comment states that the effects of construction and road maintenance is not considered in analyzing the flow of traffic and transit times.

Potential impacts during project construction are evaluated in the Draft EIR on page IV.O-20, and Mitigation Measure O-1a (page IV.O-39) requires that the Project Applicant and construction contractor(s) develop a construction management plan for review and approval by the City's Engineering Department and Caltrans. The mitigation measure identifies various elements of that plan, including scheduling of major truck trips and deliveries to avoid peak traffic hours, and monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the Project Applicant. Coordination among simultaneous construction of this project and other projects would be administered by the City and Caltrans, as appropriate.

16-190 The comment expresses concern that traffic volumes used in the Draft EIR are not representative of year-round traffic conditions on Broadway, for the following reasons: traffic counts conducted in March and April exclude tourist traffic on U.S. 101 in the summer, weather conditions during the traffic counts are not presented in the Draft EIR, and the number of days each intersection was studied is not described in the Draft EIR.

Traffic volume data collection for the Draft EIR followed standard traffic analysis practices by conducting weekday counts only on mid-week days (Tuesday-Thursday) when area schools were in session. An evaluation of weekday versus Saturday conditions, using week-long counts conducted by Caltrans on Broadway (presented on page IV.O-11 of the Draft EIR) supports the analysis focus on weekday conditions. The comment's reference to summer conditions is noted, but summer months are not representative of average peak-period conditions (with tourist traffic offset by schools being closed and residents taking vacations).

16-191 The comment cites Table IV.O-2 in the Draft EIR and expresses concern that the estimated project-generated traffic at the intersection of Broadway and Washington Street is too low, and thus the project impacts and identified mitigation is greater than described in the Draft EIR.

The comment misinterpreted the data shown in Table IV.O-2 of the Draft EIR. The purpose of that table, as stated on page IV.O-11 of the Draft EIR, is to illustrate the comparison of weekday and Saturday peak-hour traffic volumes, which shows that total volumes on Saturday, with the project, would be less than the p.m. weekday commuter peak volumes, with the project. The comment-cited 248 project-generated weekday peak-hour trips represent the northbound through traffic (inbound to the project site) on Broadway at Washington Street, not the total number of peak-hour trips generated by the proposed project. Those trips represent more than 40 percent of the 576 inbound trips estimated to be generated by the project during the weekday p.m. peak hour (see Table IV.O-5 on the Draft EIR). That percentage is in-line with the estimated project trip distribution on Broadway south of Sixth Street, derived using the Humboldt County countywide travel model (described on page IV.O-25 of the Draft EIR).

Table IV.O-2 is revised and is presented below and in Chapter 2, Errata. The correct numbers for Broadway and Washington Street are 242 northbound through project trips, and 195 southbound through project trips (calculated by direct subtraction of Figure 9 volumes from Figure 10 volumes in the Traffic Impact Study). There are an additional 82 southbound project trips turning right and left onto Washington Street (15 to the right and 67 to the left) for a total southbound project trip volume of 277 trips. Adding 242 northbound and 277 southbound trips at Washington Street yields 519 project trips, about 38 percent of the total 1,370 p.m. peak-hour project trips. In other words, 38 percent of all project traffic would use this intersection. The origin-destination studies, as well as the HCOAG model, estimate approximately 40 percent of project traffic would use Broadway to the south of Sixth Street. Table IV.O-2 addresses comments regarding

TABLE IV.O-2 (REVISED)
SATURDAY AND WEEKDAY PM PEAK-HOUR VOLUME COMPARISONS

Location	Movement	Existing Volumes		Project Volumes		Existing + Project	
		Weekday	Saturday	Weekday	Saturday	Weekday	Saturday
Broadway & Washington	NB Thru	1090	828	248 242	347 335	1338 1332	4445 1183
	SB Thru	1475	1226	430 195	550 250	4905 1670	4776 1476
Broadway & Wabash	NB Thru	870	661	169	216	1039	877
	SB Thru	1374	1142	189	242	1563	1384

concerns that the naturally higher retail trip generation of Saturday would result in even higher volumes than weekday p.m. peak-hour volumes. The revised table still shows that Saturday peak-hour traffic with higher project weekend trip generation (28 percent higher than weekday p.m. peak hour) plus background Saturday peak-hour volumes is less than weekday peaks, so the analysis of project impacts using weekday peak conditions is valid.

16-192 The comment refers to a planned micro-simulation model that Caltrans reports it is in the process of developing for traffic on U.S.101 and through Eureka.

It is anticipated that Caltrans would use whatever evaluation tools that are available to them when they review specific improvement projects that are submitted to them to mitigate traffic flow conditions on U.S. 101.

16-193 The comment raises concerns about the evaluation of potential traffic safety impacts that the proposed project would cause.

The Draft EIR and the supporting Traffic Impact Study (TIS) present accident (collision) data for all of the study intersections, and all types of accidents. The Draft EIR specifically discusses rear-end collisions because that has been the predominant type of collision. However, Appendix I of the TIS includes a summary of collision analysis for each intersection, with a collision diagram, type-of-collision pie chart, and type-of-violation pie chart. Causes of auto accidents include when vehicles are traveling at different speeds and at cross paths. The comment acknowledges that mitigation measures (installation of traffic signals [which control conflicting traffic streams] and coordination among the traffic signals [which promotes a smoother traffic flow]) identified in the Draft EIR could result in fewer accidents per vehicle (i.e., lower accident rates), which would ensure that the proposed project would have a less-than-significant impact on traffic safety.

16-194 The comment refers to temporary impacts during project construction. Potential impacts during project construction are evaluated in the Draft EIR on page IV.O-20, and Mitigation Measure O-1a (page IV.O-39) requires that the Project Applicant and

construction contractor(s) develop a construction management plan for review and approval by the City's Engineering Department and Caltrans.

- 16-195 The comment suggests that if the mitigation measures identified for the proposed project were implemented by Caltrans and the City without the project (or with a smaller project) traffic conditions would improve.

The opinion about implementing the mitigation measures identified for the proposed project even if that project were not constructed is acknowledged, but per CEQA, mitigation measures are identified only to the extent that they eliminate or minimize significant adverse impacts associated with a proposed project. There must be an essential nexus (i.e., connection) between the mitigation measure and the project's impact. There also is the need for a funding source (source of money) to pay for the improvements.

The comment also expresses concern about the effect of project-generated traffic on the pavement conditions on area roadways.

According to the Caltrans *Highway Design Manual*, pavements are engineered to carry the truck traffic loads expected during the pavement design life. Truck traffic, which includes buses, trucks and truck-trailers, is the primary factor affecting pavement design life and its serviceability. Passenger cars and pickups are considered to have negligible effect when determining traffic loads. The proposed project would predominantly generate trips in passenger cars and pickups, and therefore would not have an impact on the long-term wear and tear of city streets.

- 16-196 The comment states that the cumulative traffic impacts on other areas of the city are not included in the Draft EIR, and the comment cites specific concerns, including lack of turn lanes and traffic controls. The comment also states that quality of life would deteriorate with the proposed project.

The number of left turning vehicles to both southbound Broadway and southbound Fairfield Street is roughly equal to the westbound volume in the adjacent through plus right turn lane. Therefore, the westbound left lane is actually serving as a left turn lane and the right lane is serving as a through/right turn lane. Since the left turn is not protected, it is common for some westbound motorists turning left to wait for the light changes to yellow. About two vehicles per cycle can make this left turn during the yellow light. The indicated level of service for the westbound left turn traffic is LOS E. However, the overall level of service for all vehicles entering the intersection is a weighted LOS D which is an acceptable level of service on U.S. 101. This is true with or without Marina Center. The model does indicate that 33 vehicles in the a.m. peak hour and 43 in the p.m. peak hour would use Second Street once it is connected to the Fourth Street Extension to Waterfront Drive, which is not significant.

Project traffic on the streets mentioned in the comment is quite small as can be seen in Appendix H of the Traffic Impact Study (in Appendix P of the Draft EIR), where project trips for both a.m. and p.m. peak hours are shown in plots from the model. As shown on the plots, the number of vehicles contributed from the project to each street is as follows:

14th Street

a.m. peak period: 8 to the westbound, and 3 to the eastbound
p.m. peak period: 6 to the westbound, and 29 to the eastbound.

Wabash Street east of Broadway

a.m. peak period: 15 to westbound, and 6 to eastbound
p.m. peak period: 18 to westbound, and 12 to eastbound

Henderson Street

a.m. peak period: 24 to westbound
p.m. peak period: 31 to westbound

Sixth Street east of Broadway

a.m. peak period: 49 to westbound
p.m. peak period: 71 to westbound

These volumes are all within the capacity of these streets, and the intersections would all operate at LOS C or better in 2010 through 2025.

With respect to the quality of life, there is no question that traffic on Broadway will increase significantly over today's levels. However, the proposed project is primarily a part of normal regional growth and does not represent an increase in the total economic growth forecast for the next 20 years. In other words, much of the traffic increases anticipated in the traffic impact study are to occur regardless, albeit from different locations along U.S. 101 in Eureka. Traffic since 1980 has increased, on average, about 1.5 percent per year, and will continue to do so with or without the proposed project, generally. With the proposed project it is likely that nearby intersections would experience more growth than otherwise, such as on Broadway between Wabash and Fourth Street, and on the Fourth/Fifth Street couplet to I Street. However, mitigations are proposed to accommodate this growth at study intersections with the development of Marina Center. While traffic is expected to increase due to a multitude of other development projects in the vicinity of the proposed project, it is not certain that needed traffic improvements would be made if the project were not approved.

16-197 The comment suggests that if the mitigation measures identified for the proposed project were implemented by Caltrans and the City without the project (or with a smaller project) traffic conditions would improve.

The opinion about implementing the mitigation measures identified for the proposed project even if that project were not constructed is acknowledged, but per CEQA,

mitigation measures are identified only to the extent that they eliminate or minimize significant adverse impacts associated with a proposed project. There must be an essential nexus (i.e., connection) between the mitigation measure and the project's impact. There also is the need for a funding source (source of money) to pay for the improvements.

- 16-198 The comment expresses opinions about the traffic performance measure "Vehicles Miles of Travel" and about the perception of overcrowding and congestion regardless of how well traffic flows.

The VMT measure that the comment cites is one of two measures (the other being "Vehicle Hours of Travel") that together provide a direct estimate of travel speed (as described on page IV.O-27 of the Draft EIR). The Draft EIR evaluated average travel speeds in sections of Broadway that would have closely-spaced traffic signals under mitigated project conditions in order to provide a more-detailed assessment of traffic flow. The micro-simulation analysis tool can examine how one signalized intersection may affect operations at another because traffic backs up from the first through the second. Regarding "perception" versus "reality", the Draft EIR's analysis shows that after implementation of the identified mitigation measures, all intersections on Broadway in the project area would operate acceptably (i.e., without adverse congestion), so the average driver would have no reason to divert from Broadway onto other roads. The commenter's perception is not proven out in the quantified traffic analysis.

- 16-199 The comment states that traffic would use other routes aside from Broadway. Project trips were traced using the model through much of Eureka and environs. The contribution of the project to traffic on F Street, S Street, Myrtle, and Pine Hill is minimal and does not change the levels of service significantly on the routes mentioned. The model does distribute project traffic throughout the city, but because project traffic dissipates beyond the study intersections, there is no need to extend the analysis to additional segments and intersections than are already in the study. Please also see Master Response 7, which discusses trip distribution of traffic generated by the proposed project. Please also see response to comment 32-9, which concludes that the proposed project would have a less-than-significant impact to nearby neighborhood streets.

- 16-200 The comment expresses concern for dangerous situations created by traffic accessing the left turn lane onto Wabash. The travel time via Hawthorne Street to Broadway, then to Del Norte Street or Wabash Avenue towards Costco is less than the other routes suggested by the comment (e.g., going east, then north to Wabash Avenue, and west to Costco). With signal coordination, the northbound traffic on Broadway from Hawthorne Street, to Del Norte Street, and Wabash Avenue should not have a problem moving to the left turn lanes approaching the intersections, although without signals being coordinated, it could be a problem. However, proposed mitigations include development of effective timing and coordination plans for Broadway. Coordination would minimize northbound queues on Broadway at Wabash.

- 16-201 The comment expresses an opinion that installation of signal-coordination conduit would damage the road.

Installation of signal interconnect on Broadway would be done to Caltrans standards, which would ensure that the roadway would not be damaged. The Project Applicant would pay for the implementation of the mitigation measure, so neither City nor Caltrans budgets, to which the comment refers, would be affected.

- 16-202 The comment expresses concern about increased traffic at intersections near the project site. The intersections on Waterfront Drive and Railroad Avenue are expected to operate at LOS C or better in 2025 with the proposed project, in both a.m. and p.m. peak hours. Traffic from Marina Center on Waterfront Drive would use 14th Street, Washington Street, or Wabash Avenue to access Broadway. The levels of service at these intersections are maintained at LOS D or better. However, the comment is correct in that delay for eastbound left turns to northbound U.S. 101 would significantly increase. In 2006 during the p.m. peak, the average delay for eastbound left turns on 14th Street was 67.4 seconds (Appendix C), and in 2025 with the project, that delay is anticipated to increase to 105.5 seconds. Total intersection delay, or the average delay for all entering vehicles in 2025 with Marina Center is estimated to be 30 seconds, and today delay is measured to be 21.3 seconds in the p.m. peak hour.

The amount of vehicular traffic from Marina Center into Old Town via Second and Third Streets is very minor, less than 100 vehicles per hour in either direction distributed among Waterfront Drive/First Street, Second Street and Third Street. This is because modeling shows little interaction between Marina Center trips and Old Town trips, and as mentioned in the comment, these routes are far slower than using Fourth and Fifth Streets for trips to and from the east. This added time would discourage all trips excepting those that actually do start and end in Old Town itself. The addition of perhaps one vehicle per minute in each direction on First, Second and Third Streets in Old Town should not be noticeable to those trying to park and to cross these streets as pedestrians. Most traffic heading east on U.S. 101, would use Commercial Street and C Street to get to Fifth Street in the p.m. peak. Westbound traffic on Fourth Street can simply enter the project site directly with no need to use First, Second or Third Streets. Only traffic originating from the Old Town would use these streets to get to the Marina Center. Comparing Figures 10 and 15 in the traffic impact study, there are 119 additional southbound trips on Commercial Street at Fourth Street and 193 additional southbound trips on C Street at Fourth Street during p.m. peak hour. This is approximately 40 percent of the total outbound traffic from the project site.

- 16-203 The comment states disagreement with installation of turn signals and recommends alternative measures. The left turn signal for southbound left turns to eastbound Harris Street would occur before traffic exits the mall. As traffic exits the mall the light for northbound Broadway would be green. Therefore, there is no basis for shortening the

available green time for traffic leaving the mall. The two intersections would be controlled with one signal controller so the signals would be automatically coordinated.

- 16-204 The comment expresses concern about loss of parking on Fourth Street. The provision of a southbound left turn lane and northbound right turn lane at Waterfront Drive and Fourth Street Extension would certainly require that parking be prohibited for 150 feet on the west curb north of the intersection. Since the level of service of this intersection in 2025 with the proposed project would not change without a northbound right turn lane into the Marina Center, there would be no need for restricting parking on Waterfront Drive south of the Fourth Street Extension. There would only be approximately 6 to 7 parking spaces lost on the west curb north of the intersection. As described on page IV.O-4 of the Draft EIR, on-street parking is generally allowed on Waterfront Drive, but few if any vehicles are found parked on that road because off-street lots at buildings along Humboldt Bay accommodate most of the observed parking demand. Therefore, the impact of removal of the parking spaces to accommodate the proposed turn lanes would not be significant.

In the worst case, this parking restriction would require those using Waterfront Drive to park about 150 to 200 feet further away, or less than one minute further from their destination. While not a criterion or policy, recreational and commercial parking within 1,200 feet of the final destination is considered acceptable at LOS C. If people need to unload bulky items at the Marina, they can use the existing loading zone prior to finding an on-street parking spot.

The comment expresses an opinion that installation of a southbound left-turn lane and northbound right-turn lane on Waterfront Drive at the proposed project site access would require removal of parking spaces on parts of this street, and that such parking removal would be unacceptable. Please see response to comment 16-204.

- 16-205 The comment expresses an opinion that the proposed mitigation measures would have major impacts on Waterfront Drive and on people who use it.

The Draft EIR analyzed the project's transportation effects on Waterfront Drive by evaluating impacts at its intersections with the proposed project site access, Washington Street, and Commercial Street. In addition, as stated on Draft EIR page IV.O-46 of the Draft EIR, the project would develop a section of the Waterfront Drive multi-use (pedestrian and bicycle) path east of Waterfront Drive. The comment does not identify any specific mitigation measures as having major impacts on Waterfront Drive, and therefore, other than response to comment 16-202, above, which discusses potential impacts to Waterfront Drive, no specific response is possible.

- 16-206 The comment expresses an opinion that the proposed mitigation measure to prohibit access from Fairfield Street to Wabash Avenue or Broadway (directing traffic on Fairfield Street south of Hawthorne Street to use Hawthorne Street to Broadway) could create a dangerous problem.

The comment provides no evidence or reasons why the described vehicle movement would be dangerous. As stated in the Draft EIR, drivers would have sufficient distance (about 0.25 mile) to maneuver into the left turn lane on northbound Broadway at Wabash Avenue.

- 16-207 The comment expresses an opinion that diverting project-generated traffic to exit onto Waterfront Drive instead of Broadway would cause problems (increased congestion, etc.) on other city streets.

Please see response to comment 16-202, which states that intersections on Waterfront Drive and Railroad Avenue are expected to operate at LOS C or better in 2025 with the proposed project, in both a.m. and p.m. peak hours. Also, as stated in response to comment 31-1, traffic on Broadway would increase by 33 percent by the year 2025 with or without the proposed project, and the mitigation measures identified in the Draft EIR would reduce most impacts to less-than-significant levels.

- 16-208 The comment expresses an opinion about problems at the Broadway / Harris Street intersection due to traffic exiting and entering the Bayshore Mall.

The comment provides no link to the proposed project or to the Draft EIR analysis of impacts associated with the project. Therefore, no further response is warranted.

- 16-209 The comment expresses an opinion that the finding of “less than significant” for most of the Traffic impact section is unwarranted.

See responses to specific comments above about the analysis of potential impacts in the Draft EIR.

- 16-210 The comment expresses an opinion that an increase in the number of accidents, instead of an increase in the rate of accidents, should be used to judge the project’s traffic safety impacts.

Given an intersection’s prevailing accident rate (accidents per million vehicles), an increase in the number of vehicles would result in an increase in the number of accidents at that intersection. However, the significance criteria for traffic safety impacts are (per CEQA Guidelines) whether the project would change the roadway character (e.g., create a new design feature like a sharp road curve or a dangerous intersection) or the character of the traffic (e.g., change the mix of vehicles from all passenger cars by generating heavy trucks). Those changes caused by a trip-generating project would increase the rate of accidents, which in concert with the higher traffic volume, would increase the number of accidents substantially more than a project that did not cause an increase to the accident rate.

- 16-211 The comment expresses an opinion that response time for police and fire vehicles would be adversely affected by the project (citing reduced travel speeds on Broadway).

As stated on Draft EIR page IV.O-34, Broadway (U.S. 101) all study intersections would have an acceptable average travel speed (though about one to two mph lower with the project than without the project). As described on page IV.O-44 of the Draft EIR, the average travel speeds would be more than adequate to accommodate emergency vehicle access needs, and the combination of new and more direct routes between Broadway and Waterfront Drive, coupled with good internal circulation, would enable effective emergency service to the project site as well as provide more direct routes to Waterfront Drive. In addition, if warranted by circumstances, sirens and flashing lights would facilitate faster speeds by emergency vehicles. The finding of less-than-significant project impact is appropriate.

- 16-212 The comment expresses an opinion that providing angled parking spaces on Second Street would be dangerous.

As described on page IV.O-44 of the Draft EIR, the conceptual plan of the proposed project shows on-street angle parking along the north side of Second Street between Broadway and A Street, with the angled parking using an indented curb so that on-street parking on the south side of Second Street would not be affected. The combination of recessed parking spaces and relatively low traffic volumes on this section of Second Street would ensure that parking maneuvers would be safely accommodated.

- 16-213 The comment expresses an opinion that if railroad service were restored for the North Coast Railroad Authority, there would be a dangerous rail crossing on Fourth Street (project-proposed extension to Waterfront Drive).

The Draft EIR (Impact O-7, page IV.O-45, and Mitigation Measures O-7a, O-7b and O-7c, page IV.O-47) identifies and mitigates the safety and access concerns that would exist if a freight or passenger line were to operate along the western property boundary under project development.

- 16-214 The comment states that traffic impacts in other areas of the city should be examined. As can be seen in Appendix H, project trips are shown throughout the city, although the vast majority of project trips are on U.S. 101 east and south of the project. Study intersections were selected through the collaboration of the City of Eureka and Caltrans as those most likely to be impacted by the development. New model runs (not available in 2007-2008) include all the projects in Table VI of the Traffic Impact Study, identified by the City as potential future development. It should be noted that the total 1.5 percent annual growth in vehicle traffic volume on U.S. 101 would include the effects of the proposed project and the other development identified in the Traffic Impact Study. The intersection of Del Norte Street and Broadway is a study intersection with expected LOS B in the a.m. and LOS C in the p.m. peak hours in 2025. No more than 10 project trips per hour are estimated to use Short Street in the p.m. peak hour. Please also see Master Response 7, which discusses the trip distribution of the traffic impact analysis.

16-215 The comment makes statements similar to those expressed in comment 16-208 (regarding use of Waterfront Drive).

See response to comment 16-208.

16-216 The comment questions whether private property owners in the area affected by Mitigation Measure O-8b have been consulted about that measure, and also expresses an opinion about the current use of the right curb lane in that area and Mitigation Measure O-8b's effect on that current use.

Mitigation Measure O-8b would not affect project site access for adjacent property, and private property owners have no rights or responsibilities that pertain to the configuration of the public right-of-way. Neither the proposed project nor Mitigation Measure O-8b would adversely affect the use of the comment-cited right curb lane, and no further response is warranted.

16-217 The comment states that project-generated traffic would result in impacts for which mitigation measures are necessary, but that mitigation measures are not fully funded.

Commercial and retail growth in Eureka will result in similar traffic volumes on U.S. 101, with or without Marina Center, in the future year of 2025. A light industrial project would result in fewer trips to and from this site than the proposed project, but other planned commercial and retail development in the U.S. 101 corridor are expected to result in an approximate 33 percent increase in traffic volumes. Therefore, the needed mitigation measures remain the same, with or without Marina Center. Currently, there is no traffic impact fee program in the Eureka area (excepting specialized applications for signals, etc.). Thus, the City and the developer would enter into a development agreement or other reimbursement or credit agreement so that the needed mitigation measures are implemented prior to the project receiving occupancy permits. As each new phase is proposed for construction, the Project Applicant would ensure that the applicable intersection and roadway segments are improved before that phase of the project, along with the cumulative projects in the area, contribute traffic in excess of the acceptable threshold for the subject intersection or roadway segment.

As for 2025 cumulative impacts, the Project Applicant cannot be obligated to pay more than its fair share, and as noted in the EIR at page IV.O-54, there is no program in place or funding otherwise identified to ensure completion of the mitigation measures within the time period necessary to avoid the 2025 cumulative impacts. Consequently, these impacts are identified as significant and unavoidable. Nonetheless, the City of Eureka can seek funding from future projects or develop regional fee programs that may ultimately address this shortfall and ensure that the unacceptable levels of service are avoided. Until then, however, these cumulative impacts would remain significant and unavoidable.

16-218 The comment summarizes previous comments 16-189 and 16-191.

See responses to comments 16-189 and 16-191 regarding traffic volume data collection following standard traffic analysis practices.

- 16-219 The comment makes statements similar to those expressed in comment 16-208 (regarding use of Waterfront Drive).

See response to comment 16-208.

- 16-220 The comment makes statements similar to those expressed in comment 16-208 (regarding use of Waterfront Drive).

See response to comment 16-208.

- 16-221 The comment repeats the concern raised in comment 16-207 regarding traffic movements in the area of Broadway between Hawthorne Street and Wabash Avenue.

The comment provides no evidence or reasons why the described vehicle movement would be dangerous. The Draft EIR states, drivers would have sufficient distance (about 0.25 mile) to maneuver into the left turn lane on northbound Broadway at Wabash Avenue.

- 16-222 The comment states what the Draft EIR says about impacts at the intersection of Koster Street and Wabash Avenue, and requests analysis of traffic impacts on the intersections of Short Street / Wabash Avenue and Short Street / 14th Street (tied to use of Waterfront Drive by project-generated traffic).

See response to comment 16-208.

- 16-223 The comment requests analysis of additional streets and intersections (ties to an opinion that traffic would divert off Broadway onto other City streets).

The Draft EIR's analysis shows that after implementation of the identified mitigation measures, all intersections on Broadway in the project area would operate acceptably (i.e., without adverse congestion), so the average driver would have no reason to divert from Broadway onto other roads.

- 16-224 The comment expresses concern over traffic increases in general and states that the proposed project is too large. The future growth will increase current traffic volumes by approximately 33 percent on U.S. 101 by the year 2025. This is true with or without development of Marina Center. Although, traffic loads in the vicinity of Marina Center, particularly on the one-way couplet of Fourth and Fifth Streets east of Broadway will see the greatest increase locally. The proposed mitigation for long-term project impacts is to divert traffic to the south via Waterfront Drive and Railroad Avenue, and to east via Washington Street, 14th Street, Wabash Avenue, and Hawthorne Street. Repairs and resurfacing along U.S. 101 would be more difficult with higher traffic volumes, with greater need to complete much of the work in the evening and late-night hours, which is

done elsewhere as a routine. Model runs suggest that diversion of traffic to routes other than U.S. 101 is not likely because any such alternate routes are either longer in distance or would take much longer in terms of travel time. Through traffic would not use these alternate routes unless directed by permanent or changeable message signs. Local drivers would typically use the routes that have the least delay, and there is evidence that alternate routes would be utilized by local drivers as opposed to using U.S. 101. However, model runs for 2030 do not suggest that volumes on potential alternative routes change to the extent that they would experience unacceptable levels of service. The project traffic assigned to Fourth and Fifth Streets at R Street (SR 255 to Samoa) results in acceptable levels of service during both a.m. and p.m. peak hours, with or without project traffic, in 2030. The model assigns 40 project trips in the a.m. peak hour and 73 project trips in the p.m. peak hour at U.S. 101 and State Route 255. The anecdotal evidence of congestion could be due to a one-time event the commenter is aware of.

- 16-225 The comment requests to know what the total retail square feet are in the City of Eureka. Exhibit 2 from the Master Response 1 under “Vacancy in the City of Eureka” shows an inventory of retail space in Eureka. Total retail space is 3.1 million square feet with 275,400 square feet currently vacant, implying a vacancy rate of 9.0 percent.

The comment states that the industrial park in Redway should not be included as a cumulative project. CBRE Consulting included this project because it is in the defined primary market area. Inclusion is conservative in that the cumulative impacts from the Redway project and Marina Center present a worst case scenario.

The comment states that the proposed Fortuna retail shopping center at the Pacific Lumber Mill site is not likely to occur. A conversation in April 2009 with a planner at the City of Fortuna revealed that the project is not currently moving forward although some retailers are still interested in the site.

The comment mentions the Ridgewood Village project in Cutten, located on Ridgewood Drive, as likely to increase impacts to local retailers. The City was not aware of the project at the time of the Notice of Preparation for the Marina Center project in April 2006. According to an official at Humboldt County, this project has not been approved and an environmental impact report is currently being prepared. The proposal includes 275,000 square feet of commercial/office space and 52,000 square feet of retail such as a grocery store and/or pharmacy. Without knowing the specifics of the type of retail that may be built at this project it is difficult to assess the impacts. However, Marina Center does not have a grocery store or pharmacy planned. A grocery store and pharmacy built in Cutten, over five miles from the project site to the southeast, would primarily serve the local neighborhood (see also Master Response 1). Because of the distance from the project site, the Ridgewood Village project would not be expected to impact the major shopping and business centers in Eureka. Neighborhood shopping centers of this type are not designed to be regional or tourist shopping destinations, and thus would not likely to impact Bayshore Mall or the Downtown or Old Town shopping districts.

The comment states that the “addition of huge retail projects without additional industrial development will ultimately lead to disaster for the local economy...” In fact, plans for Marina Center include 70,000 square-feet of light industrial space.

The comment states that if the planned Home Depot store closes it would be difficult to retenant the space. The proposed zoning would allow the building to be retenant with light industrial uses. The economic impact and urban decay study assumes that the store would be successful and not close. However, CBRE Consulting believes that an empty Home Depot space could be retenant. Larger spaces are more difficult to retenant than smaller spaces because there are fewer businesses that require a large space. However, the Home Depot space could be divided to accommodate two or more retailers.

There are many examples of big box spaces being retenant. A recent article published by Costar discusses alternative tenant uses and strategies for filling retail vacancies, even absent a significant turnaround in the economy. This article cites many prospective non-traditional tenants that are proven alternatives for traditional tenants, including government uses, educational uses, medical uses, recreational/family fun uses, fitness uses, second-hand/overstock uses, and seasonal/temporary uses. In addition, the article cites some traditional tenants that are still in expansion mode. This Costar article proceeds to list examples of leases executed by these uses in the past six months nationwide, including at least 60 university/college/vocational school leases and preschools/day care centers, 120 leases for medical uses, 30 leases for recreational/family fun uses, 350 leases for fitness uses, almost 100 leases for consignment stores, thrift shops, Goodwill and antique stores, and even many traditional tenants such as 350 wireless phone/mobile device retail leases, 800 quick service restaurant leases, 50 hobby/craft retailer leases, 60 pet care/supplies leases, 375 salon/spa leases, and 80 beauty supply store leases.⁵

While this lease activity is on a national basis, and not specific to Eureka, it nevertheless demonstrates how existing retail uses, even large spaces, can be retenant in down periods by non-traditional uses, dispelling the expectation that only traditional retail uses can fill retail vacancies. One example of this in Eureka is Bounce-A-Palooza, a store providing entertainment for young children at the Bayshore Mall. According to a conversation with a leasing official at the Bayshore Mall in April 2009, this store is a recent addition to the mall and fills a relatively large space. Kohl’s retenanting the Mervyn’s space is another example of large spaces in Eureka being successfully retenant. To further this point, Eureka has other examples of large retail space being filled by alternative uses, such as the former 95,000-square-foot Mall 101 being converted to office space and the former Pay-N-Pak building measuring 35,000 square feet, now a multi-screen movie theater.

⁵ “Filling Vacant Retail Boxes Requires Thinking Outside the Box”, by Sasha M. Pardy, www.costar.com, March 4, 2009.

The comment states that “urban decay happens when control of retail is lost to outside chain corporations who have no connection with the community.” In fact, urban decay can happen anywhere that buildings are not maintained during vacancy. In the case of Marina Center, although many national chain stores may occupy the space, the center would be owned and managed by a local Eureka entity that has a long standing reputation as being involved in the community.

16-226 The comment disagrees with Draft EIR determinations regarding stormwater runoff. As stated on Draft EIR page IV.H-19 and page IV.Q-7, the proposed project would include stormwater quantity and quality control measures, including preparation of a stormwater pollution prevention plan, attainment of an Erosion Control Permit from the City of Eureka, preparation of a drainage plan that would ensure that the increase in stormwater runoff would remain within 1 cubic foot per second (cfs) for a 10-year storm event, construction of a drainage/sediment basin to contain runoff exceeding the 1 cfs, and construction of grassy swales to absorb runoff. As stated on Draft EIR page IV.H-17, the proposed project would include providing downgradient sediment traps or other BMPs that allow soil particles and pollutants to steel out before flows are released into surrounding receiving waters or storm drains. As stated on Draft EIR page IV.H-20, mitigation measures would include drop inlets to capture water and grassed swales to filter pollutants. These measures would ensure that project-related impacts on stormwater quantity and quality are reduced to a less-than-significant level.

16-227 The comment states that building culverts for a 10-year flood would not be not adequate. Please see response to comment 16-48, which reiterates that the 10-year flood standard is the City of Eureka’s design standard for stormwater culverts.

As stated by the Federal Emergency Management Agency, “The term ‘100-year flood’ is misleading. It is not the flood that will occur once every 100 years. Rather, it is the flood elevation that has a one percent chance of being equaled or exceeded each year.” Similarly, a 10-year-flood is not a flood that would occur once every 10 years. Instead, it is a flood elevation that has a 10-percent chance of being equaled or exceeded each year.

Also, a 100-year- or 10-year-storm event is not the same as a 100-year- or 10-year-flood event, respectively. Several factors can independently influence the cause-and-effect relation between rainfall, elevation, and flooding.

As stated on Draft EIR page IV.H-19, Mitigation Measure H-4, the Project Applicant shall prepare a drainage plan that ensures that any increase in stormwater drainage runoff in a 10-year storm event remains below 1 cubic foot per second (cfs) threshold. If that threshold cannot be maintained in a projected 10-year storm event, the plan shall provide a retention/siltation basin to limit stormwater runoff to pre-project flows. These measures would ensure that the impact from flooding on-or off-site is reduced to a less-than-significant level. Please also see Chapter 2, which explains that Mitigation Measure H-4a is now correctly labeled as “Mitigation Measure H-4.”

According to City-Engineer staff-initiated changes, City of Eureka street drainage facilities are design based on the following criteria:

- Facilities to pass a 10-year storm with no surcharge or flooding of any portion of the traveled way of streets;
- Facilities to pass a 25-year storm with no overtopping of street curbs.
- Facilities to pass a 100-year storm with no major flood damage to any structures.
- Recommendation that structures be set a minimum of 0.5 feet above the curb.

The proposed project would meet these standards.

16-228 The comment expresses concern about operational hazardous materials releases. As stated on Draft EIR page IV.G.-22 under Impact G-2, during normal operations, limited quantities of miscellaneous hazardous substances such as gasoline, diesel fuel, fertilizers, pesticides, solvents, oils, and paints would be brought onto, stored, and potentially sold at the project site. As with any liquid or solid, during handling, storage or transfer from one container to another, the potential for an accidental release exists. Future occupants and users of the project site including the light industrial users would be required to comply with federal, state, and local regulations associated with the proper transport, use, storage, and disposal of hazardous materials and wastes. Consequently, significant impacts related to the transport, use, or storage of hazardous materials are not anticipated. However, because there is a possibility of stormwater contamination from hazardous materials associated with the development, and because the project would result in an increase in impervious surface area on the site, the following mitigation measures are included in the Draft EIR, and they would reduce the potential impact of accidental release of hazardous materials into the environment:

Mitigation Measure G-2a: The following measures shall be undertaken to the satisfaction of the RWQCB and the County Department of Environmental Health, HazMat Division. All potentially hazardous or regulated materials that are used at the project site during construction activities shall be appropriately covered, handled, stored, and secured in accordance with local and state laws. No hazardous wastes shall be disposed of at the project site. Absorbent materials shall be maintained at locations where hazardous materials are used or stored, in order to capture spilled materials in the event of an accidental release. An emergency response plan shall be developed and implemented for the project site. All jobsite employees shall be trained to respond to any accidental releases.

Mitigation Measure G-2b: The Project Applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) and implement construction site best management practices in accordance with the guidelines for erosion control and pollution prevention during construction that can be found in the *California Stormwater Best Management Practices Handbooks*. The guidelines recommend techniques for erosion and sediment control, non-storm water management, and waste management and materials pollution control. The Project Applicant shall implement site-appropriate measures from these guidelines.

- 16-229 The comment points out that there is no analysis of increased air pollution resulting from slowing traffic on Broadway and suggest that a reduced project would reduce such impacts.

Please see response to comment 16-16 related to the slowing of traffic in the project area, which states that for the purposes of the proposed project, an average vehicle speed of 35 miles per hour is used based on the assumption that vehicle speeds would generally fluctuate by approximately 20 miles per hour under and over this speed. In addition, only a small portion of the miles traveled per trip would occur on Broadway. Therefore, the emissions presented in Draft EIR Table IV.C-5 effectively account for any slowing of traffic that would occur on Broadway as a result of project implementation.

The alternative of a Reduced Project is addressed in the EIR per CEQA requirements.

- 16-230 The comment summarizes comments made previously in this letter (regarding use of Waterfront Drive and potential effects on it and other City streets).

See responses to comments 16-202 and 16-204.

- 16-231 The comment summarizes comments made previously in this letter (regarding traffic congestion, air pollution, accidents, perceived crowding, and diversion off Broadway onto other City streets).

See responses to comments 16-196, 16-199, 16-200, and 16-210.

- 16-232 The comment summarizes comments made previously in this letter (regarding funding of mitigation measures identified in the Draft EIR). Please see response to comment 16-125, which states that the proposed project would include construction of this infrastructure onsite, the fair share of which would be paid for by the Project Applicant, as stated on Draft EIR page IV.I-42. The owner of the property would also pay monthly rates, depending on usage, for utilities, as well as taxes to local, state, and federal agencies.

- 16-233 Please see response to comment 16-228, which discusses operational hazardous materials release and concludes that existing regulations regarding hazardous materials handling would reduce impacts to less-than-significant levels. The impact is therefore not included in the Impact Overview Chapter.

- 16-234 The comment states that developing the project site would result in an impact because it removes that land from inventory of land available for other uses. As stated on Draft EIR page VI-6, coastal-dependent development or use means any development that requires a site on or adjoining the sea in order to function, and coastal-related development means any use that is dependent on a coastal-dependent development or use. As stated on Draft EIR pages IV.I-76 to IV.I-79, the proposed zoning for the Marina Center project would include Limited Industrial (ML), Waterfront Commercial (CW), and Conservation Water (WC) districts. The ML district would reserve appropriately located areas for industrial

plants and related activities—these activities could include water-related uses, depending on market demand. The CW district would encourage coastal-dependent and coastal-related uses, and it would protect and maintain certain industrial uses that require water access. The WC district would protect and enhance the valuable wetland fish and wildlife habitats, and water-related passive recreational uses would be permitted there. The Service Commercial (CS) District and Office and Multifamily Residential (OR) Districts are not restricted to waterfront areas. Nonetheless, water-dependent and -related uses, such as boat repair facilities, are permitted in CS districts. Additionally, drainageways and pump stations are conditionally permitted in OR districts.

The project is therefore not reducing the overall inventory of land currently zoned for coastal-dependent or coastal-related.

Moreover, every rezoning of property results in a reduction in total land designated for some uses, and an increase in total land designated for other uses. These changes are not considered significant environmental effects or irreversible environmental changes, per se. Each rezoning is analyzed within its surrounding land use context to determine the potential environmental effects that could occur.

Beyond the scope of the EIR, proposed rezonings are also analyzed within the context of the macro- and micro-economic climate in which they occur.

16-235 The comment relates to rezoning of land from Public and Quasi-Public designations to other land use designations. Every rezoning of property results in a reduction in total land designated for some uses, and an increase in total land designated for other uses. These changes are not considered significant environmental effects or irreversible environmental changes, per se. Instead, each rezoning is analyzed within its surrounding context, as well as within the context of the potential environmental effects that could occur. The change of land use designation and zoning are detailed in the Chapter II and in Chapter IV.I, and the potential resulting environmental impacts are discussed throughout the Draft EIR.

Contrary to the comment, a change of land use or zoning designation from Public does not necessarily remove the land from public use. As the proposed project demonstrates, an 11.89-acre publicly accessible wetland and recreation area would be created in land rezoned from Public. In addition, as described in Master Response 4, several non-public uses are principally permitted on the project site under its current zoning.

16-236 The comment states that the project would result in permanent change to the wetland and tideland. Although no land use change is permanent, as stated on Draft EIR page V-2, development of a particular use generally commits future generations to similar uses. However, given that the project site is currently primarily vacant, the development of an 11.89-acre wetland reserve, as well as a mix of retail, restaurant, industrial, office, and housing uses, would be a beneficial development of the site, improving aesthetic quality, productive use of land, the wetland habitat, and public access. Development of land is not

in and of itself an environmental impact or an irretrievable loss of resources. Development is analyzed within its surrounding context, which in this case is urban area of the City of Eureka.

16-237 The comment states that other projects within the larger area should be included in the cumulative impact analysis, especially related to transportation impacts. Please see page IV.O-48, under Cumulative Impacts, for a discussion of the methodology used for cumulative transportation analysis. As stated there, first historical trends of traffic growth volume are established. In addition to these volumes, substantial other development activities nearby are included, as stated in the third paragraph under the heading.

As stated in the comment, the two projects described would not add substantial new traffic, and they are therefore included in the trends of traffic growth projected to the year 2025.

Cumulative air and noise impacts are also based on the traffic volumes of this methodology. The project area for cumulative impacts for other impact categories are based on appropriate scales depending on the impact category discussed.

16-238 The comment states general disagreement with findings of less-than-significant impacts for every impact category.

As stated on Draft EIR page IV.A-16, it can be reasonably concluded that the proposed project would not result in a significant adverse effect. It would improve the visual quality of the area by redeveloping the mostly vacant brownfield site, introducing public amenities, restoring a wetland area, and implementing a streetscape program. The proposed project is being developed in a formerly industrial area. To the south and northwest are industrial uses, and service uses, including a grocery store and motels. These uses are not developed in the “Victorian Seaport” or “quaint architecture” described in the comment, but are developed in utilitarian architecture typical of their uses. The proposed project would therefore improve visual quality compared with existing conditions and with surrounding development.

As stated on Draft EIR page IV.F-14, the proposed project would result in a less-than-significant impact to the potential to expose people or structures to substantial adverse effects, including liquefaction. The seismic stability of the proposed project’s 5-story building would not be comparable to the seismic stability of freeways and neighborhoods built in the mid 20th Century or earlier that are cited by the comment. The California Building Code is more stringent now than it was during the mid 20th Century. In addition, the height of a building is one of many factors in determining its ability to withstand a major seismic event, as evidenced by the fact that most buildings in the San Francisco Bay Area withstood the Loma Prieta Earthquake in 1989 with little or no damage.

As stated on Draft EIR page IV.G-22, future occupants and users of the project site would be required to comply with federal, state, and local regulations associated with proper transport, use, storage, and disposal of hazardous materials and wastes. It is beyond the scope of this EIR and the proposed project to evaluate the effectiveness of these regulatory programs.

Regarding stormwater runoff, please see responses to comments 16-226 and 16-227 which state that drainage systems would be designed to handle 10-year storm events, as required by the City of Eureka. Response to comment 16-228 details the mitigation measures included in the Draft EIR that would ensure that a hazardous materials release had a less-than-significant impact on water quality.

As stated on Draft EIR page IV.C-8, NCUAQMD Rule 430 requires Project Applicants to take reasonable precautions to prevent particulate matter from becoming airborne, with specific measures listed.

Regarding the plan for hazardous materials remediation, please see Master Response 4 and new Appendix S.

As stated on Draft EIR pages IV.K-16 and IV.K-17, the proposed project, in combination with other potential planned future development, would result in a less-than-significant noise impact and would not make a cumulatively considerable contribution to cumulative noise impacts.

The City of Eureka does not mandate that proposed development projects include a percentage of low- or moderate-income housing. However, as stated in Table IV.I-2 on page IV.I-32, the project would provide a mix of moderately sized one-, two-, and three-bedroom residential units that would accommodate a range of income levels.

Regarding police and fire services, please see responses to comments 16-178 and 16-179, which reiterate that the proposed project would have a less-than-significant impact on these services.

Regarding the provision of recreational facilities, the proposed project would include an 11.89-acre wetland with associated passive recreational facilities, as defined in response to comment 148-11. Also, as stated in Chapter III, Project Description, the proposed project would require a rezoning from the City Council. The Draft EIR therefore acknowledges that a rezoning is required, and the proposed project's inconsistency with existing PQP plan designation is disclosed.

The proposed project's physical scale is discussed in Chapter IV.A, Aesthetics. Please see Master Response 1 for comments related to Urban Decay. Also, an analysis of the potential environmental impacts of both a Limited Industrial Zoning Alternative and a Marina Center Reduced Footprint Alternative are provided in Chapter VI.

16-239 The comment states that the Alternatives chapter is not adequate because it does not analyze all potential alternatives and instead suggests that only the proposed project can be developed.

The Draft EIR does not suggest that the proposed project is the only available development alternative for the project site. As required by CEQA, lead agencies (in this case, the City of Eureka) are required to analyze the potential environmental impacts of proposed projects. As stated on Draft EIR page VI-1, “The ‘range of alternatives’ is governed by the ‘rule of reason’ which requires the EIR to set forth only those alternatives necessary to permit informed public participation and an informed and reasoned choice by the decision-making body (CEQA Guidelines Section 15126.6[f]).

“A reasonable range of alternatives for comparison must include those alternatives that would feasibly attain most of the basic objectives of the project and would avoid or substantially lessen any of the significant effects of the project” (CEQA Guidelines Section 15126.6). CEQA generally defines “feasible” to mean an alternative that is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, technological, and legal factors. In addition, the following may be taken into consideration when assessing the feasibility of alternatives: site suitability, economic viability, availability of infrastructure, General Plan consistency, other plans or regulatory limitations, jurisdictional boundaries, and the ability of the proponent to attain site control (Section 15126.6(f)(1)).

“The requirement that an EIR evaluate alternatives to the proposed project or alternatives that address the location of the proposed project is a broad one; the primary intent of the alternatives analysis is to disclose other ways that the objectives of the project could be attained while reducing the magnitude of, or avoiding, the environmental impacts of the proposed project. The discussion of alternatives does not need to be exhaustive and an EIR need not consider alternatives for which the effects cannot be reasonably determined and for which implementation is remote and speculative.”

The Draft EIR includes a screening analysis of 24 alternatives, many of which are taken directly from public comments during the scoping period. These alternatives represent a reasonable range of development types and alternative development sites. Each of these alternatives is screened to arrive at a final list of four alternatives, including No Project, Marina Center Reduced Footprint, Limited Industrial Zoning, and Off-Site Shoreline Property.

16-240 The comment expresses disagreement with Table VI-1, which lists alternatives explored and their potential to reduce significant adverse impacts. The comment states that the table expresses the opinions of the Project Applicant.

As stated in the Draft EIR, the Marina Center Mixed Use Development Project Environmental Impact Report (EIR) was prepared by Environmental Science Associates, in consultation with other consultants and the City of Eureka. As stated in Chapter I,

Introduction, the City of Eureka is the Lead Agency for the proposed project, and as required by CEQA, the completed document represents the judgment of city staff. The document is a tool prepared by city staff to inform the ultimate decision makers, the City Council, regarding the proposed project

Table VI-1, Significant Impact Screening, is a screening-level analysis to determine whether the alternative fully avoids or substantially lessens at least one of the significant environmental impacts of the proposed project. The alternatives cited by the comment are the Reduced Footprint, Limited Industrial, “any Public Use,” and College of the Redwoods. For purposes of responding to the comment, it is assumed that “any Public Use” would include, but not be limited to, the following Alternatives: Covered Swimming Pool, Horticultural Gardens, and Wetland Restoration and Public Park.

Contrary to the comment, as shown in Table VI-1, the above-listed alternatives are determined to potentially reduce impacts to traffic, air quality, and noise. The Marina Center Reduced Footprint, Covered Swimming Pool, Horticultural Gardens, and Wetland Restoration and Public Park Alternatives are determined to potentially avoid or substantially lessen traffic impacts. The Horticultural Gardens and Wetland Restoration and Public Park Alternatives are also determined to potentially avoid or lessen air quality impacts. And the Reduced Footprint, Covered Swimming Pool, Horticultural Gardens, and Wetland Restoration and Public Park Alternatives are determined to reduce noise impacts.

As shown in the table, the only alternative determined to significantly reduce geology / seismic impacts is the No Project Alternative. As discussed in Chapter IV.F, the proposed project is not anticipated to result in significant impacts related to geology / seismicity. As detailed in the Mitigation Measures, all structures and buildings would be constructed according to the California Building Code. Any Alternative that includes the construction of any building or structure onsite or nearby, including all of the Alternatives listed above, would expose buildings and people to similar seismic conditions. Those conditions would be mitigated by similar Mitigation Measures. Therefore, only the No Project Alternative—which restricts access to the project site, proposes no new structures, and proposes no construction on another site nearby—has the potential to reduce significant environmental impacts created by the proposed project.

As discussed in Chapter IV.H, Hydrology and Water Quality, low-lying coastal areas may be susceptible to flooding or inundation due to tsunami events. Given that all of the Alternatives mentioned above would still open up the project site to public access and public and/or private development, none of them would avoid or substantially lessen the impact of a tsunami on the site. The only Alternatives that would lessen impacts caused by a tsunami would either continue to restrict access to the project site, have a limited number of visitors and few structures, or be constructed in another location away from the low-lying coast and out of the potential zone of a tsunami event.

Finally, the total number of anticipated avoidances / reductions of significant impacts is not relevant in the Alternatives screening methodology. As discussed in Chapter VI, the information in Table VI-1 is distilled and carried forward into Table VI-4, Final Alternative Screening, on page VI-15. The final alternatives screening does not rank alternatives based on the total number of significant impact categories that could be reduced by the alternative. Instead, significant impact reduction—to any degree—is considered one of three criteria used to screen alternatives for detailed evaluation. Therefore, all of the alternatives mentioned above meet the first criterion—reduction/avoidance of *at least one* significant impact. However, as shown in the table, only the Marina Center Reduced Footprint Alternative, the Limited Industrial Zoning Alternative, and the Off-site Shoreline Property Alternative meet all three criteria. Therefore, these three Alternatives are carried forward for evaluation. As required by CEQA, the No Project Alternative is also carried forward for evaluation.

16-241 The comment disagrees with the definition of the No Project Alternative, and the impact reduction and feasibility determinations of other alternatives.

As stated on Draft EIR page VI-16, the purpose of the No Project Alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. As stated in CEQA Guidelines 15126(e)(2), “the ‘no project’ analysis shall discuss the existing conditions at the time the notice of preparation is published...as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.”

The purpose of the No Project Alternative is not to speculate the outcome of other planning processes and attempt to analyze them. The Lead Agency cannot speculate the entitlements and approvals that would be required after a separate planning process resulted in a different development proposal, nor can it delay the analysis of the proposed project until a separate planning process and development proposal is completed. In addition, the Lead Agency cannot know the final number of uses, square footage of uses, their configuration, or number of users of a different development proposal, so it cannot analyze them. If the results of any other planning process were to result in a different proposal for the project site, and that proposal requires discretionary approval, that project would be subject to CEQA and it would undergo environmental review.

Please see response to comment 16-239, which explains that the Draft EIR includes a reasonable range of alternatives. Pursuant to CEQA, the purpose of the analyses in the Marina Center Mixed Use Development Project Draft EIR is to evaluate the proposed project, not every possible development scenario available under every other planning process.

16-242 The comment states that more Alternatives should be explored. Please see responses to comments 16,239, 16-240, and 16-241, all of which discuss the Draft EIR’s compliance with CEQA in its screening and discussion of alternatives, including the required No

Project Alternative. As stated in the Draft EIR, the Alternatives are presented as a tool for decision makers to compare potential environmental effects of other development scenarios. However, decision makers are not bound to “select” a specific alternative. Decisions to grant entitlements and approvals are based on numerous factors, environmental and otherwise. Decision makers can choose to approve the proposed project as described in the EIR, to approve the project pursuant to certain conditions, to approve an iteration of the project that is a combination of the proposed project and/or one or more of the Alternatives, or to deny the project, as long as the potential environmental effects of the final decision are adequately disclosed. It would be wasteful and unnecessary to “combine” every potential iteration of development use, size, and location presented in each Draft EIR Alternative into separate, distinct alternatives to present this information.

As stated in Chapter VI on pages VI-22 to VI-23, the Marina Center Reduced Footprint Alternative would substantially reduce impacts to biological resources, traffic and noise. As stated on Draft EIR pages VI-27 to VI-28, the Limited Industrial Zoning Alternative would substantially reduce impacts to biological resources and traffic. The Shoreline Property Alternative would only reduce impacts to biological resources.

Regarding the exclusion of a large single-tenant retailer in a separate alternative similar to the Reduced Footprint Alternative, such an alternative would be similar to the Marina Center Reduced Footprint Alternative, and it would likely result in comparable environmental effects to those of the Reduced Footprint Alternative. However, the suggested alternative does not meet as many of the project objectives as the Reduced Footprint Alternative. Under CEQA, an alternative can be rejected if it fails to meet most of the project’s objectives. Therefore, the Marina Center Reduced Footprint is chosen for analysis.

- 16-243 The comment expresses support for a No Retail Alternative. As stated in Table VI-4, Final Alternative Screening, the “No Retail” Alternative is determined to be feasible, despite the comment’s statement to the contrary. However, the No Retail Alternative is determined to not avoid or reduce at least one significant environmental impact. Therefore, it did not pass the most essential screening criteria for Alternatives, pursuant to CEQA.

As stated in Chapter I, Introduction, the Lead Agency for the proposed project is the City of Eureka.

- 16-244 The comment states that “mixes” of presented Alternatives would be feasible. Regarding “mixes of available alternatives,” please see response to comment 16-242, which states that not every iteration of every alternative is required to be separately analyzed in the EIR.

Pursuant to CEQA, the Draft EIR is required to analyze the proposed project, not the goals of other planning processes. Please see response to comment 16-241, which states

that the Lead Agency cannot speculate as to the final outcome and proposals of other planning processes.

- 16-245 The comment expresses support for other planning processes related to the project site. Please see response to comment 16-241. As stated in the comment and in response to comment 16-241, other planning processes did not come to a determination regarding uses for the project site. Therefore, those uses have not yet been determined, and the No Project Alternative cannot and should not speculate what they would be nor attempt to analyze their potential environmental effects. The No Project Alternative cannot assume that the hazardous materials on the property would be remediated.

Pursuant to CEQA, the EIR analyzes the potential environmental impacts of the proposed project and selected alternatives. It is beyond the scope of the EIR to analyze existing property values or speculate on future property values.

- 16-246 The comment relates to the Reduced Footprint Alternative. The potential impacts of the Marina Center Reduced Footprint Alternative, as compared to the potential impacts of the proposed project, are discussed in Chapter VI.

- 16-247 The comment expresses disagreement with components of the Reduced Footprint Alternative.

Figure VI-2 shows smaller retail spaces in buildings north of the Fourth Street Extension. It is not possible for developers to have all tenants for a proposed project commit to leases before it is determined that the project is approved. Therefore, the specific tenants of those spaces have not yet been determined. As stated on Draft EIR page VI-19, the spaces would be for retail and restaurant businesses. The identification of which specific stores, or potential chain stores, that would locate in the spaces is not substantially relevant to the number of vehicular trips that would be generated or to the analysis of other potential environmental effects. See also response to comment 17-1.

Please see Master Response 1, which discusses the economic effects of national retail stores versus local retail stores while reiterating that these effects are outside the consideration of CEQA.

Regarding the orientation of the large, single-tenant anchor store, it is determined that the entrances should be on the northern side because the property immediately adjacent to the south is not part of the project site. Putting entrances on the eastern side of the building would not be feasible for site orientation, visibility, parking, and traffic circulation.

Regarding the office component of the Reduced Footprint Alternative, it is beyond the scope of the EIR to analyze potential changes in commercial office rental rates caused by the proposed project. For a discussion of potential physical urban decay effects of the proposed project, please see Chapter IV.P, Urban Decay, and Master Response 1.

Comments regarding preferred uses are noted.

- 16-248 The comment expresses opinions related to the potential development and feasibility of the Limited Industrial Zoning Alternative. Comments are noted. The potential environmental effects of the Limited Industrial Zoning are analyzed in Chapter VI, Alternatives. As stated on Draft EIR page VI-13, this alternative is economically feasible. It is, however, beyond the scope of CEQA and the EIR to define economic parameters to determine which alternative would be “best” economically.
- 16-249 The comment disagrees with the Offsite Shoreline Property Alternative. The comment is noted.
- 16-250 The comment disagrees with the conclusion of the Environmentally Superior Alternative. The comment states that the Limited Industrial Zoning Alternative should include industrial uses on both the project site and on the Schneider Industrial Land property. It is beyond the scope of this Draft EIR to analyze an alternative that both is not on the property controlled by the Project Applicant and does not meet the objectives of the Project Applicant for creating a destination retail center. As stated in Chapter VI, CEQA requires the analysis of a reasonable range of alternatives, not an analysis of every potential development scenario both onsite and off-site.

However, as stated on Draft EIR page VI-7, Off-Site Schneider Industrial Land is one of the 24 alternatives screened for detailed analysis in the Draft EIR, but it is separate from the Limited Industrial Zoning Alternative. As stated on Draft EIR page VI-2, under Assumptions, “off-site alternatives would construct the Marina Center to the maximum extent achievable constrained only by the property size.” Therefore, under Off-Site Schneider Industrial Land Alternative, the proposed project’s retail, residential, office and industrial uses would be developed at that Schneider site.

As stated on Draft EIR page VI-15, this alternative is screened determined to be infeasible because it would require acquisition and merger to accommodate the proposed project, assumes a willing seller and willing buyer, and it is unlikely that the loss of properties zoned Coastal Dependent Industrial would be socially acceptable with the proposed Marina Center uses. Therefore, this alternative is screened from further analysis, including traffic analysis.

Therefore, comments regarding the potential traffic impacts of the Limited Industrial Zoning Alternative that includes industrial uses on the Schneider property site are considered speculative.

- 16-251 The comment states that the project as described in the Notice of Preparation (NOP) is different from the proposed project. Please see Chapter III.E, Proposed Project Compared to the NOP Project for a description of the differences made to the project since the Notice of Preparation.

- 16-252 The comment reiterates electrical design concerns of a comment letter related to the NOP. As stated on Draft EIR page B-3, “the potential electrical design conflicts along Broadway are noted and will be addressed during the electric design phase.”
- 16-253 The comment states that the traffic analysis is not adequate because it is not inclusive of areas farther away from the project site. The project traffic was distributed onto all streets within the Greater Eureka Area Traffic Model, and the volume and location of those trips are portrayed in Appendix H. Larger plots (24 inch by 36 inch) including street names are available at the City because the amount of information in Appendix H does not easily lend itself to a letter-size print. As mentioned in other responses, Waterfront Drive is classified as a Major Collector by the City of Eureka, and as such is intended to carry significant volumes of traffic from traffic generators to the principal arterial system. Based on the model, the proposed project is expected to add less than one additional car per minute to Old Town streets; as such the impacts of the project on Old Town are less than significant.
- 16-254 The comment summarizes a comment made previously in this letter (regarding analysis of safety effects if railroad service were restored for the North Coast Railroad Authority).
- See response to comment 16-214 regarding the fact that the Draft EIR (pages IV.O-45 and IV.O-47) identifies and mitigates the safety and access concerns that would exist if a freight or passenger line were to operate along the western property boundary under project development.
- 16-255 The comment relates to a previous comment about the NOP. Descriptions of the methodologies that would be used in the EIR to identify pollutants are beyond the scope of responses to comments received on the Notice of Preparation. Those descriptions are included in the Draft EIR in relevant sections.
- 16-256 The comment summarizes comments made previously in this letter (regarding funding of mitigation measures identified in the Draft EIR, and implementation of those measures without construction of the project). Please see response to comment 16-125 regarding funding of mitigation measures. As stated there, the proposed project would pay its fair share toward mitigation measures.
- 16-257 The comment states that adequacy of mitigation measures is not guaranteed. In each section of the EIR, mitigation measures are identified for the purpose of reducing environmental effects of the proposed project. The adequacy of mitigation measures would be determined by the City Council when the project entitlements are considered, and they would be reviewed again by regulatory agencies when the Project Applicant seeks their permits or approvals. Analyses of the adequacy of specific mitigation measures is beyond the scope of responses to comments on the NOP, and it is not possible to determine specific mitigation measures until after the analyses are performed.
- 16-258 The comment states that the Alternatives chapter is inadequate. Comment is noted.

16-259 The comment states that the cumulative impact analyses are inadequate. Cumulative Impacts are discussed in the Impact Overview on pages V-3 through V-5, as well as in each impact category section. The list of projects included in the cumulative impact analysis growth scenario are included in Table V-1 on page V-4.

Cumulative air quality and greenhouse gas (GHG) emission impacts of the proposed project, in combination with other development, are discussed in Impacts C-3, and C-6, on pages IV.C-15, and IC.C-19, respectively. As stated on Draft EIR page IV.C-16 under Impact C-3, the Marina Center project would contribute to the region's non-attainment for PM10, which would result in a cumulatively considerable net increase of a criteria pollutant. This impact is significant and unavoidable, and it is not "glossed over" in the Draft EIR. As discussed on pages IV.C-19 to IV.C-21, three types of analyses are used to determine whether the project would conflict with State goals for reducing GHG emissions. Given that the project does not pose any apparent conflict with the list of CARB early action strategies, the project's contribution of GHG emissions would be quite small and not conflict with the State's ability to meet the AB 32 goals, and the project includes implementation of energy-saving measures, the proposed project would not make a cumulatively considerable contribution to GHG emissions. Therefore, the impact would be less than significant.

Please see pages IV.C-16 and IV.C-17 for a discussion of exposure of sensitive receptors to substantial pollution concentrations. As stated on Draft EIR page IV.C-17, long-term emissions associated with the proposed project would not result in a significant health risk. It is beyond the scope of this project and Draft EIR to analyze in detail the emissions that would be generated from other proposed projects. However, as stated on Draft EIR page VI.C-17, the Humboldt County grade for Particle Pollution Days as having improved from B to A, the best grade possible, in the *State of the Air: 2008* report, which lists short-term particle pollution, year-round particle pollution and ozone pollution in an annual report card. Therefore, the air in Humboldt County has actually improved, and the impact of the proposed project would not be cumulatively considerable.

Cumulative impacts on hydrology and water quality are discussed on page IV.H-24 under Impact H-11. As stated there, the identified mitigation measures would reduce the potential impacts of the project on hydrology and water quality, to a less-than-significant level, and the project would not have a cumulatively considerable contribution to cumulative hydrology and water quality impacts. This determination includes impacts to stormwater runoff.

Finally, the scoping process is a period in which members of the public and government agencies were invited to comment on the scope of the EIR, as detailed in the Notice of Preparation. The purpose of these comments is to inform the Lead Agency in developing an appropriate scope to cover the potential environmental impacts of the proposed project. It's neither appropriate nor possible for the responses to scoping comments to provide detailed findings of environmental impact analyses. Furthermore, there is no

CEQA requirement to respond to NOP comments. The analyses were undertaken as part of the preparation of the Draft EIR, in which summaries of the methodologies and results are provided.

Please also see responses to comments 16-22 (which discusses thresholds for determining significance), 9-35 (which discusses reemployment transfers and their effect on greenhouse gas emissions), 9-10 (which discusses employee distributions), and 9-9 (which discusses thresholds of significance and mitigation measures).

16-260 The comment requests more information regarding site cleanup. Please see Master Response 4 and Appendix S for additional information on site remediation planning.

16-261 The comment states that comments on the NOP are not addressed, even though they are addressed in various sections of the EIR. For more detailed responses regarding traffic impacts “off-Broadway,” please see Master Response 7, as well as response to comment 32-9. These responses conclude that the proposed project would have a less-than-significant impact on areas off Broadway.

Regarding urban decay, please see Master Response 1, which answers several comments regarding the potential local economic effects of the proposed project. Regarding remediation of contamination, please see Master Response 4 and new Appendix S. Regarding 10-year-flood impacts, please see response to comment 16-227. Regarding particulate pollution cumulative effects, please see response to comment 16-259. Impacts related to seismic events are discussed in Chapter IV.F, Geology, Soils, and Seismicity. Regarding impacts to the Marina boat ramp, please see response to comment 16-176. Please also see response to comment 25-40 regarding the boat ramp and Waterfront Drive. Safety impacts due to the railroad right-of-way are discussed under Impact O-7 on page IV.O-45. Truck traffic and related mitigation measures are discussed throughout Chapter IV.O, Transportation.

16-262 The comment disagrees with the Alternatives analysis conclusions. The comment is noted. Please see responses to comments 16-239, 16-240, 16-241, and 16-242, which address the range of alternatives required for analysis under CEQA.

16-263 The comment states that the aesthetics analysis is incomplete. As stated in Chapter IV.A, the proposed project would result in less-than-significant impacts to scenic vistas, scenic resources, and the visual character or quality of the project site. The only potential aesthetic impact for which mitigation measures are identified is the project’s creation of a new source of substantial light or glare. Therefore, the detailed analysis of the aesthetic impact of each alternative presented in Chapter IV only determines whether the alternative would lessen the impact of light and glare. As stated in the analysis, only the No Project Alternative would substantially lessen or avoid that impact.

- 16-264 The comment states that the Alternatives analysis is inadequate. Please see responses to comments 24-8, 16-239, 16-240, 16-241, and 16-242, which address the ranges of the alternatives to be analyzed under CEQA.
- 16-265 The comment states that the Alternatives analysis is inadequate. Please see response to comment 16-242, which reiterates that the alternatives analyses screened 24 separate alternatives and fully analyzed 3 of them. The Draft EIR cannot, and CEQA does not require, the alternatives analysis to include every possible iteration of every possible land use at the project site.
- 16-266 The comment states that the Alternatives analysis is inadequate. Please see responses to comments 24-8, 16-239, 16-240, 16-241, and 16-242, which reiterate that the alternatives analyses screened 24 separate alternatives and fully analyzed 3 of them. The Draft EIR cannot, and CEQA does not require, the alternatives analysis to include every possible iteration of every possible land use at the project site.

The scoping process is a period in which members of the public and government agencies were invited to comment on the scope of the EIR, as detailed in the Notice of Preparation. The purpose of these comments is to inform the Lead Agency in developing an appropriate scope to cover the potential environmental impacts of the proposed project. It is neither appropriate nor possible for the responses to scoping comments to provide detailed findings of environmental impact analyses. Furthermore, there is no CEQA requirement to respond to NOP comments. The analyses were undertaken as part of the preparation of the Draft EIR, in which summaries of the methodologies and results are provided.

- 16-267 The comment requests further detail regarding site remediation. Please see Master Response 4 and new Appendix S for detailed discussions.
- 16-268 The comment states that cumulative air quality impacts are not adequately addressed, due to lack of recent monitoring of pollutants from cumulative sources. The health risk assessment summarized in Appendix E evaluates the incremental health risk associated with projected construction equipment, diesel delivery truck emissions, parking lot traffic emissions, and emissions from traffic on U.S. 101 in the immediate vicinity of the project site. The overall impacts and basin wide considerations such as those mentioned by the comment are addressed in the comprehensive basin air impacts section. Please also see Master Response 2, which discusses the methodology and thoroughness of the air quality assessment.
- 16-269 The comment expresses concern about loss of tenants in the proposed project. Please see Master Response 1, under “Vacancy in the City of Eureka.” The comment states concern about what might happen if the entire proposed center is unsuccessful and closes. This is partially addressed in the previous response to the question of whether the Home Depot space could be re-tenanted in comment 16-226. The economic impact and urban decay study assumes the proposed project would be successful and then considers the potential impacts to existing retail. However, the current site is a brownfield with environmental

- contamination, blighted buildings, and debris piles strewn throughout the project site, which are typical examples of urban decay. In the process of building Marina Center, the developer would be cleaning up the site of environmental contamination and debris, building new buildings, restoring wetlands, and creating walking and biking trails. If the entire project is unsuccessful and closes, which is highly unlikely due to the many different uses provided by Marina Center, the site would still be greatly improved and available for redevelopment. Environmental cleanup and the restoration of wetlands on the project site are positives for the City of Eureka regardless of whether the planned mixed use development is successful.
- 16-270 The comment requests further detail regarding site remediation. Please see also Master Response 4 and new Appendix S for more detailed discussions.
- 16-271 The comment is related to the impacts of inserting a large project in an existing urban environment. The impacts of the proposed project are analyzed throughout the Draft EIR. The project is not analyzed in a vacuum, but is considered in relation to surrounding sites, transportation facilities, infrastructure, land uses, and governing regulations. For example, the surrounding contextual land uses, as well as the potential for the project to divide an established community, are analyzed in Chapter IV.I, Land Use and Planning. And Chapter IV.O, Transportation, includes existing and projected future levels of traffic, which is generated by surrounding uses as well as uses farther away, in the analyses of potential impacts.
- 16-272 The comment relates to site remediation. For further discussion of site remediation, please see Master Response 4 and new Appendix S, which discuss these actions.
- 16-273 The comment relates to site remediation. For further discussion of site remediation, please see Master Response 4 and new Appendix S. In addition, the contamination present at the project site is an existing condition that is present regardless of the proposed project.
- 16-274 The comment relates to site remediation, specifically Union Pacific Railroad's responsibilities. Please see Master Response 4 and new Appendix S, which discusses these obligations.
- 16-275 The comment relates to economic impacts of the proposed project. Please see Master Response 1, under The 1999 Bay Area Economics (BAE) report "Economic Impacts Assessment for New Retail Development" regarding a proposed Wal-Mart Store in Eureka.
- 16-276 The comment relates to smart growth. The project's relation to smart growth principles is detailed in pages IV.I-11 to IV.I-13 of the Draft EIR. As stated in this section, the proposed project is a mixed-use infill development of a brownfield site at the city center, which would include a mix of land uses that would connect the industrial section of the city with the commercial Downtown area. Big box stores and smart growth are not

- mutually exclusive—please see response to comment 128-1, which further explains that big box stores can and do exist within dense urban fabrics. The proposed project also includes 54 residential units. However, with or without the inclusion of any residential units, the proposed project still adheres to several smart growth principles. Smart growth is not limited to the development of commercial and industrial uses close to suburban residential development—it also includes the development of infill sites in urban centers as opposed to on the urban fringe.
- 16-277 The comment relates to tsunami hazards. Please see responses to comments 16-35 and 16-37, above, which find that the proposed project would have a less-than-significant impact related to tsunami hazards.
- 16-278 The comment relates to site remediation. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.
- 16-279 The comment summarizes comments made previously in this letter and purportedly by other commenters during the scoping meetings, held April 5, 2006 and May 5, 2006, as applied to the Draft EIR.
- Potential traffic impacts are discussed in Chapter IV.O. Please also see Master Responses 6 and 7 regarding traffic impacts on Broadway and trip distribution in the traffic study.
- 16-280 The comment requests more Alternatives be analyzed. Please see responses to comments 24-8, 16-239, 16-240, 16-241, and 16-242, which explain that the Draft EIR includes a reasonable range of alternatives pursuant to CEQA.
- 16-281 The comment states that the economic impacts of the proposed center and, in particular, a big box chain store, are not analyzed. In fact, these issues are the core focus of the November 2006 report, and have been verified in ERA’s 2007 peer review and further referenced in CBRE’s 2008 updated letter.
- 16-282 The comment refers to the existing zoning of the project site and the required entitlements for the development of the proposed project. The entitlements and approvals required for the proposed project are detailed on page III-17.
- 16-283 The comment relates to aesthetic impacts, which are analyzed in Chapter IV.A, Aesthetics.
- 16-284 The comment asks why the URBEMIS printout sheets identify Mendocino County and if that has any relevance to the emissions numbers. The URBEMIS emissions model requires that users provide the project location based on a list of options. The location selected determines the vehicle and equipment emissions factors that are used to estimate emissions. The model has no option to select the North Coast Unified Air Quality Management District, which is the air district where the project is located. Therefore, for the model run conducted for the project, the location “Mendocino County Air Pollution

Control District” is selected based on its close proximity to the project area. The emissions associated with vehicles based in the project area and in the area of the Mendocino County are very similar.

- 16-285 The comment indicates that the Air Quality Appendix is not intelligible to the educated layman without extensive explanation and that no explanation is offered. The appendices are technical documents that may require expertise to understand. It is the Draft EIR that takes the technical information and makes it understandable to the general public.

The URBEMIS printout sheets are designed to be self explanatory and the comment does not indicate what part of the appendix sheets need explanation. In general, URBEMIS estimates emissions based on construction, area source, and vehicle emission sources. The appendix begins with a summary of the three emission source types followed by a breakdown of detailed emissions estimates and assumptions for each of the sources.

- 16-286 Please see Master Response 1, under “The Effect of the Bayshore Mall on Local Businesses.”

The comment states concern that recent layoffs in Humboldt County mean that there would not be enough income to support Marina Center. Please see Master Response 1, under “New Recessionary Conditions” for a response to this.

The comment states that new retail does not produce increased spending capacity in the economy. Please see the response to comment 14-1, titled “Sales Tax Estimate,” which finds that sales tax receipts would increase with the proposed project.

The comment criticizes Table 2 in the CBRE November 2006 report for not showing diverted sales as a percentage of total sales. This is shown in Table 8 of the same report.

The comment states that a statement in the CBRE November 2006 report about Bayshore Mall successfully competing is no longer true. Conditions at the Bayshore Mall have changed greatly since fieldwork was done in late 2005. Vacancy has risen at the Bayshore Mall from 7 percent in late 2005 to 23 percent as of April 2009. This high vacancy rate is a concern. However, there are several examples of re-tenanting at Bayshore Mall including the large Mervyn’s space that Kohl’s will move into. Despite the vacancy rate the shopping center is being kept in good condition with no signs of urban decay.

The comment states disagreement that Marina Center would encourage greater patronage of Old Town businesses despite its proximity. Please see the response to comment 16-80 for information on how Marina Center could benefit retailers in Old Town. These areas are specifically addressed in the November 2006 report. In addition, see Master Response 1 under “Vacancies in the City of Eureka” describes the current condition of those areas as of April 2009.

The comment criticizes the CBRE November 2006 report for not mentioning the Ridgewood Village project in Cutten or the large Safeway planned on Harris Street. These projects were not planned at the time of the original report. Please see the response to comment 16-225 for information on the Ridgewood Village project. The Safeway project is a small 25,000-square-foot Safeway store at Harris Street and Harrison Avenue that plans to open a larger store across the street. Grocery stores of this nature are not planned in the Marina Center development and typically serve their surrounding neighborhoods instead of regional markets as Marina Center is designed to do.

The comment states that the analysis of impacts to the City of Eureka's General Fund in the November 2006 report is unacceptable for several reasons. The comment states that the increased costs to the Fire Department are underestimated because they were based on the original application that had a four-story building whereas the current application includes a five-story building. Other costs that the comment thinks should be accounted for are street lighting, increased street maintenance needed because of increased traffic, and "the City's share of 'mitigation' efforts on Broadway." The comment claims that the Target store in Eureka has not brought in the estimated amount of net revenue to the city and that other shopping center developments have much higher estimates for increased police and fire costs; however, the comment gives no numbers or documentation for these claims. Fiscal impacts are not relevant to CEQA. However, the analysis did examine the costs of providing fire and police services to Marina Center compared to the increased revenues expected from the retail stores. In addition, the 1999 BAE Report analyzed impacts to the General Fund and also found net positive impacts.

The comment expresses disbelief in the analysis of jobs impacts in the November 2006 report is accurate because the Humboldt County economy is cut off from other areas and the amount of retail spending available in Humboldt County is limited. Please see Master Response 1, under "Jobs/Wages Impacts" for more about the estimate of jobs impacts.

In regards to the case studies provided in the November 2006 report, the comment claims that the number of home improvement stores existing before Home Depot was built in other cities was not presented. In fact, Tables 16 and 17 in the report list the number of stores (labeled outlets in the tables) existing before and after the Home Depot stores opened in Woodland and San Rafael. This is also discussed in the text which comments that Woodland did not experience a pronounced decrease in the number of building materials and home furnishings and appliances stores after the Home Depot was built. In San Rafael there has been a substantial increase in the number of building materials and home furnishings stores in the years after Home Depot was built.

The comment states that Eureka and Home Depot have a disproportionate number of home improvement stores given the population. He then states that this means that impacts on home improvement stores due to Marina Center would have a larger impact on this sector due to the current high number of stores. The comment does not offer any

figures to form the basis for his opinion. The current sales base of home improvement stores, which includes all stores, is taken into account in the retail sales leakage analysis.

The comment states criticism of the small number of contractor interviews that were conducted. The intent of the interviews is to determine if it is common for contractors to leave Humboldt County to buy building supplies. The interviews were meant to be representative, not exhaustive, which they were. The retail sales leakage model is based on residents' personal spending. The leakage of contractor spending for business, therefore, is not explicitly in the model. CBRE Consulting considered this a significant enough factor in Humboldt County to adjust for in the model.

The comment states disbelief that Humboldt County residents travel to Crescent City to buy goods at the Home Depot store and that this belief is based on the fact that the commenter never saw the Home Depot parking lot in Crescent City more than a quarter full. The Home Depot store in Crescent City was not open when the contractor interviews were conducted. Contractors did say that they travel to Home Depot stores in Redding and Ukiah as well as Home Depot stores in Klamath Falls and Medford, Oregon. Information obtained from Home Depot indicates that since the Crescent City store opened, shoppers from the Eureka trade area are indeed shopping there. Credit card transaction records for this store indicate that in 2008, \$4.3 million in credit card sales were made to shoppers based in the Eureka trade area. From largest to smallest, the locations contributing to this sales volume include Eureka, McKinleyville, Arcata, Fortuna, Trinidad, Blue Lake, and Bayside. These credit card sales did not include cash sales or sales to other populated areas of Humboldt County such as Ferndale, Rio Dell, Scotia, Hydesville, and other unincorporated areas of Humboldt County within the Eureka trade area. Therefore, the amount of \$4.3 million is likely an under estimate of Humboldt County sales at the Crescent City store. Given the much greater proximity of Marina Center to these places, these retail sales dollars spent in Del Norte County's Home Depot store would be recaptured if a Home Depot store opened in Eureka.

The comment criticizes the November 2006 report for relying on sales per capita figures taken from a time when housing prices were rising. The November 2006 report uses sales per capita figures from 2004. These were the most recently available data at the time. It is the usual procedure to try and use the most recent data. In the attached Exhibit 1, referenced in Master Response 1, under "New Recessionary Conditions," the per capita sales trends are shown. The most recent full year of sales data available is 2007. The 2004 per capita sales figure in Eureka in constant dollars was \$27,249. Per capita sales peaked in 2006 at \$29,097, whereas the 2007 figure was back down to near the 2004 level at \$27,311. If the analysis were redone today with the most recently available annual data, the per capita sales figure would not be appreciably different. Given current declining sales trends it is likely that per capita sales will continue to fall until recessionary conditions reverse. By the time Marina Center opens in 2011 it is expected that per capita sales will have recovered.

Also note that the retail sales leakage analysis does not use historical performance of sales or per capita sales to project future sales or spending. Instead the consumer price index for all urban consumers in California is used for existing years. For future years it is assumed that inflation would average 3.0 percent. Therefore, the spending and sales figures were not inflated based on particular years that happened to have high growth rates.

The comment faults the November 2006 report for failing to consider the possible closure of the Bayshore Mall. Despite its current high vacancy rate, Bayshore Mall is being kept in good condition with no signs of urban decay and is still a viable commercial property evidenced by the upcoming remodel and opening of Kohl's department store in the former Mervyn's location. CEQA does not require every conceivable scenario to be investigated. The closure of the Bayshore Mall is not considered a likely scenario.

The comment states that increased traffic to the Old Town district will negatively impact retailers by making the area less walkable. Traffic congestion issues are not usually covered in economic impact and urban decay analyses. However, increased traffic through Old Town is likely to benefit retailers because it exposes the existing stores to potential new customers. Additionally, new employment opportunities created by Marina Center's development on a blighted brownfield site where no employment exists presently would provide a new source of potential customers within walking distance of the Old Town district's shops and restaurants.

The comment faults the November 2006 report for not mentioning two specific Eureka appliance stores as well as two specific home improvement stores in McKinleyville. The stores mentioned in the report and listed on the maps are meant to be representative, not exhaustive.

The comment states that the \$17.3 million in home furnishings and appliances leakage is "highly inflated." This topic is addressed in the response to the Philip King letter section 14-1 titled Projections. Sales base figures and thereby retail sales leakage were inflated using conservative assumptions based on the historic rate of inflation in California.

The comment states that leakage in the apparel category is largely going to on-line retailers such as L.L. Bean or Coldwater Creek. Both of these retailers mentioned by the comment also have brick and mortar stores in addition to their on-line and catalog sales. If an L.L. Bean or Coldwater Creek store opened at Marina Center it would likely recapture some of these sales. The comment also feels that a survey should be done of a "cross section of average shoppers to determine their current habits or the probable changes" from the introduction of new apparel stores to the market area. CEQA does not require shopper surveys as part of the economic impact and urban decay analysis. Many shopping patterns can be seen in the retail sales data. In addition, shoppers may not know how their habits would change until they see the product offerings at new stores. Shopper surveys would provide additional information but would not provide conclusive data for economic impact and urban decay analyses.

The comment states concern that local bookstores may close because of new competition from the Marina Center. The November 2006 report does conclude that 18,000 square feet of specialty stores could close. However, that would not necessarily lead to urban decay if the store spaces are retenanted and/or if the buildings are maintained.

The comment states that retail sales leakage in the restaurants category will not be recaptured because leakage is from people traveling out of the area for unrelated reasons. The model's leakage estimate is a net figure giving the overall potential. The underlying trends include residents traveling and eating outside the county as well as tourists coming into Humboldt County and eating at local restaurants. The comment also feels that only restaurants in Eureka would be impacted by Marina Center. This is a difference of opinion. CBRE Consulting defined the primary market area as Humboldt County. Therefore, impacts are measured against the entire market area. According to Board of Equalization data for the first quarter of 2008, restaurant sales in Eureka accounted for 45 percent of total restaurant sales in the county. Assuming that the impacts are proportional to the amount of restaurants in different parts of the county, the impacts just on Eureka would be 45 percent of the total impacts figure of \$2.5 million in 2010 dollars.

On the topic of garden store impacts, the comment states that this category is already well served by existing nurseries and that impacts from Home Depot's garden center would cause some to close leaving large spaces that could become examples of urban decay. The November 2006 report found that 15,500 square feet of garden supplies stores may close due to impacts from Marina Center. Closures do not necessarily lead to urban decay. CBRE Consulting believes that most Humboldt County nurseries have greater selection and more specialty landscaping products than the typical assortment of plants sold by Home Depot. Existing nurseries, especially if they provide good customer service, would likely compete well with Home Depot's garden center. If there are closures, however, urban decay would not necessarily result if the stores are retenanted, redeveloped for other uses, or maintenance is kept up on the properties.

The comment states that rural businesses in Humboldt County have a small profit margin and therefore it would only take small impacts to lead to store closures. This is an opinion not substantiated by evidence. Without knowing the individual performance of stores, it is impossible to say what level of impacts might lead to closures. CBRE Consulting believes that in rural economies, some businesses do well because of a lack of competition. Rural areas with few retail choices can be more vulnerable to higher prices than urban areas, which have many competitive options. The current state of the economy and many store closures in Eureka mean that the remaining stores have less competition and consumers have fewer choices. Marina Center would bring in new retail options and healthy competition to the region.

The comment states disagreement with the November 2006 report's discussion of the possibility that a Lowe's store may be built in Fortuna. He feels that this possibility is unlikely. This is a difference of opinion. The economic impact and urban decay study is

written to conservatively consider likely possibilities and determine the worst case scenario of impacts on existing retailers. Given the Marina Center proposal, it is important to understand the implications of a possible Lowe's store being built in Fortuna. At the time that the economic impact and urban decay study was conducted, the City of Fortuna was aware of interest in building a Lowe's store on the Pacific Lumber Mill site and its possibility was being discussed publicly. If the Fortuna projects goes forward Eureka would not benefit from the sales taxes, but likely would be impacted by the competition.

The comment states that not enough interviews were conducted with local brokers. There are very few commercial real estate brokers working in Humboldt County. The ones interviewed have extensive experience in the area and their opinions did not vary widely. Broker opinions are meant to supplement the retail sales leakage analysis and field observation by providing on-the-ground knowledge of the market. Although field work is done to observe and assess the retail market, local brokers have a much more in-depth perspective on the history of tenanting and re-tenanting in the market area.

The comment states that the vacancy rate for Old Town and Downtown shopping districts presented in the November 2006 report, 8 to 10 percent, is too high for those areas. In fact, the report stated that vacancy in the shopping districts was between 5 and 10 percent. Current vacancy is higher at 10 to 15 percent. Vacancy of 5 percent is considered a healthy rate, but given the current recession and drop in consumer spending, it is not surprising that vacancy has grown higher in some parts of Eureka. However, vacancy itself does not indicate the presence of urban decay and does not necessarily lead to urban decay. Please see Master Response 1, under "Vacancy in the City of Eureka" for a full discussion.

The comment states dispute with CBRE Consulting's statement that the project site is currently in a state of urban decay. The comment instead considers the project site to be "open space." In fact, the project site has a long history of development on it and currently suffers from environmental contamination, the presence of blighted buildings, and debris piles, and has been an historic haven for crime and drug use. All of these characteristics are consistent with the definition of "urban decay" rather than public open space. Its location and current state of urban decay next to other developed parts of Eureka makes it a classic example of a brownfield urban infill site.

The comment states concern about the municipal impacts on surrounding cities if they lose sales tax dollars due to new competition from Marina Center. Please see Master Response 1, under "Fiscal Impacts in the City of Eureka and Other Jurisdictions" for a discussion.

The comment states that the November 2006 report overestimated the new jobs that will be created by Marina Center. Please see Master Response 1, under "Jobs/Wages Impacts" for additional discussion.

The comment states that CBRE Consulting ignored the 1999 BAE Study done on a proposed Wal-Mart store in Eureka. Please see Master Response 1 for a comparison of methods and conclusions between the November 2006 report and the 1999 BAE report.

The comment states that CBRE Consulting did not contact local government about population projections. In fact, the Humboldt County Association of Governments (HCAOG) was contacted for the November 2006 study. HCAOG said that they did not do their own projections and recommended the projections from the California Department of Finance (DOF), which were used in the study. The City of Eureka also approved use of the DOF projections at that time.

The comment states that CBRE Consulting's retail sales leakage model is not appropriate for rural areas. The retail sales leakage model is benchmarked to the State of California, not to an urban area such as San Francisco or Los Angeles. Therefore, it is not biased towards urban trends. The comment does not offer any evidence for the model being biased.

The comment states that the leakage figures from the November 2006 report were inflated. He compares figures from the November 2006 report to figures used in the 1999 BAE report. The two reports were done in different time periods, and therefore use population estimates, forecasts, and sales data from different time periods. The results of each study, therefore, should be different, especially if trends in population and sales have changed over time. As discussed in the response to Philip King's comment letter section 14-1 titled "Projections," sales base figures and thereby retail sales leakage were inflated using conservative assumptions based on the rate of inflation in California.

The comment criticizes CBRE Consulting's estimate for average household income in Humboldt County, but does not give an alternative source that is more accurate. Given recent layoffs in the area, the comment surmises that average incomes have fallen. Although average income is currently dropping due to the recessionary conditions, this trend is likely to reverse by the time Marina Center opens. The economy is expected to rebound after some period of disequilibrium.⁶

The comment states concern that retailers who are currently struggling during this economic recession will be impacted even more by Marina Center. It is important to distinguish between current impacts due to the economy and future potential impacts due to increased competition from Marina Center. The current store closures and vacancies are due to economic conditions, not to the proposed project. Also, as stores close, the remaining stores benefit from decreased competition. For instance, Sears may be selling more clothes now that Mervyn's closed as consumers shift their, albeit lower, spending to the remaining apparel outlets. Given these various trends and shifts it is difficult to predict impacts. However, if Marina Center does not perform as expected, because of decreased consumer spending, the impacts on existing stores from the project would be

⁶ "Economist See a Rebound in September", by Phil Izzo, Wall Street Journal, April 9, 2009.

lower. Existing stores may feel additional impacts from the economy, but that cannot be attributed to the project.

- 16-287 The comment relates to provision of public services and response times. Please see responses to comments 16-176, 16-177, and 16-178, which reiterate that the proposed project would have a less-than-significant impact on public services.
- 16-288 The comment relates to provision of public services and response times. Comments noted. Please see responses to comments 16-176, 16-177, and 16-178, which reiterate that the proposed project would have a less-than-significant impact on public services.
- 16-289 The comment relates to parking and vehicular trips on Waterfront Drive and states that the traffic study data are incorrect. The proposed project would add approximately 400 vehicle trips to Waterfront Drive south of the Fourth Street Extension, and about 480 vehicle trips to Waterfront Drive north of the Fourth Street Extension during the p.m. peak period in 2025. The capacity of Waterfront Drive at stop controlled intersections is roughly twice the projected traffic volumes even with the parked cars on street. Even though the traffic volume is expected to grow, the levels of service are expected to remain within the acceptable range established by the City of Eureka. The average speeds along this section of Waterfront Drive may drop because of slower vehicles travelling through the Marina, but the capacity of the street, as described above, is far higher than the projected use.
- 16-290 The comment relates to trucks stopping on Waterfront Drive. The classification of Waterfront Drive and Railroad Avenue as a Major Collector indicates that this route is designed to carry traffic between significant traffic generators and the principal arterial system. The fact that trucks stop, park, and otherwise impede traffic on this route is an enforcement issue, and not a significant impact of the proposed project.
- 16-291 The comment seeks to correct the Traffic Impact Report categorization of use locations. The Safeway is in the Eureka Mall shopping area a few blocks east of Broadway on Harris Street between Ocean Avenue and Central Avenue while the Henderson Center is about one mile east of Broadway. The traffic analysis lumped all nearby retail on Harris Street and Henderson Street into one category in the report.
- 16-292 The comment expresses concern about the methodology of the data collection for the traffic impact study.

The Average Daily Traffic (ADT) volumes on Broadway are average in late February and early March. In August the volume appears to be the highest, approximately 10 percent higher than average. The lowest traffic volumes occur in early November and in January where volumes are about 10 percent lower than average. The traffic software used for this analysis, Synchro, considers percentiles of traffic. Therefore, variations of 10 percent and more are already accounted for in the LOS analysis. Another consideration is that while average daily traffic volumes are higher in August than in

March, the increase is not necessarily in the p.m. peak hour. The volume of tourist traffic along U.S. 101 does not significantly contribute to the a.m. peak hour or to the p.m. peak hour. The actual p.m. peak hour increase in August is less than 10 percent over the volumes analyzed in the traffic impact study.

It should be noted that the traffic counts were not collected on rainy days.

16-293 The comment expresses concern about the methodology of the data collection for the traffic impact study. The weeklong traffic volume analysis in Appendix A shows clearly how traffic varies from day to day on U.S. 101 in Eureka. The standard deviation for p.m. peak hour traffic is 30 vehicles per hour (in either direction) leading to a 90 percent confidence interval for p.m. peak traffic of the weekday average plus or minus about 75 vehicles. The weekday p.m. peak hour is the highest hourly volume during the day and also during the week. The a.m. peak hour standard deviation is slightly lower. Again, the Synchro Software analysis does consider variability in peak hour volumes, and the resulting LOS values are included in the report. Manual counts were made on one day, but machine counts help traffic engineers to calculate likely variation in the manual counts due to days of the week. The monthly volume reports from Caltrans contribute to the understanding of seasonal variations on the LOS analysis in the traffic impact study.

16-294 The comment expresses frustration that some mitigation measures perhaps would not be implemented without the proposed project. Traffic volumes on U.S. 101 will increase with or without the proposed project, and the project has very little if any impact on accidents due to drivers turning into or out of driveways confronted with higher volumes in the future. The proposed project represents a portion of total growth in commercial and retail activity in Eureka, and without Marina Center, this growth would be experienced at other and nearby locations along U.S. 101. Without the Marina Center project, there is neither a funding source nor program to implement the mitigation improvements, as are proposed to be made by the project proponent. It is unlikely that other smaller retail and commercial projects other than the proposed project would create the need for such mitigation by themselves. Without a program to make such mitigations, traffic growth will still occur without a comprehensive plan to implement the identified traffic improvements.

16-295 The comment expresses concern about the methodology of the data collection for the traffic impact study, specifically the timing of the traffic counts. As mentioned and substantiated in other responses to comments, the daily and seasonal variations in traffic are well within the analysis methodology used for LOS estimates in the traffic impact study.

16-296 The comment states that the left turn delay onto Broadway is substantial and accuses the traffic consultant of not adequately driving and timing the various intersections to determine this fact. It is true that side street delays would increase, even with mitigation. The LOS criterion is a report of the weighted average delay at a study intersection. It is suggested that the LOS calculations in the various appendices of C, D, E, and F be

reviewed along with the report. For example, as indicated in Appendix C, for the existing conditions during the p.m. peak, the average delay for all entering traffic at intersection 5, Washington Street and Broadway, is 16.7 seconds, resulting in LOS B. However, for the eastbound left turns the delay is 57.3 seconds at a LOS E. Referring to Appendix F, for the future year of 2025 with Project conditions, intersection 5 is expected to operate with a delay of 29.7 seconds resulting in a LOS C in the p.m. peak. However, delay for eastbound left turns is expected to be 65.8 seconds, or LOS E. The eastbound driver on Washington Street trying to turn left to northbound Broadway currently experiences almost a minute of delay, on average, and in the future this delay would increase by 8.5 seconds.

The TJKM project manager and several other traffic engineers from TJKM have all driven U.S. 101 within the City of Eureka on many different peak hours at many different times of the year from 2005 through mid-2008 and have noted long queues. The simulation model very closely represents actual travel conditions along all of U.S. 101 in the a.m. and p.m. peak hours with estimated travel times within 10 percent of observed travel times. Similarly, actual observations of intersection operations were made at all study intersections by traffic engineers who are knowledgeable of traffic signal timing. The traffic study analysis was completed with extensive and full knowledge of actual travel conditions along U.S. 101 in Eureka over several different months of the year.

16-297 The comment states that the Draft EIR should consider implementing mitigation measures without the proposed project or with one of the alternatives.

Calculations are made of three project alternatives plus the No Project Alternative for 2025. An industrial park is included in the analysis. Some of the alternatives resulted in different directional flows than the proposed project. With an industrial park, 82 percent of total traffic is inbound in the a.m. peak, and 79 percent is outbound in the p.m. peak. With the proposed project, while there may be more traffic overall in the p.m. peak, it is 42 percent inbound and 58 percent outbound, and more evenly balanced by direction. Traffic can be added to the off-peak, non-critical direction at a signalized intersection with little impact on LOS.

Again, the obvious point is that the mitigation program would not happen without a funding source or program to implement the improvements. None is available at this time, and CEQA does not require a Lead Agency to evaluate an alternative that implements mitigation measures without implementing the project.

16-298 The comment states that traffic to the proposed project will grow over time, causing more traffic than predicted.

An extensive review of available research on trip generation changes over time was made in responding to this comment, and revealed that there is no evidence that trip generation rates for an existing shopping center change over time, excepting an initially higher demand associated with new store openings. Referring to the *Trip Generation* published by the Institute of Transportation Engineers, from the Second edition through the

8th edition, it is concluded that shopping centers with retail floor areas between 300,000 and 500,000 square feet have p.m. peak hour trip generation rates of about 3.73 per 1,000 square feet. The rate has decreased since the 1979 Second edition (i.e., from 5.2 per 1,000 square feet to 3.73 per 1,000 square feet).

In June 1996 in *ITE Journal* (the technical journal for the Institute of Transportation Engineers), “Trip Generation Characteristics of Shopping Centers” showed that traffic volumes on adjacent streets were poorly correlated with trip generation generally, excepting very small strip commercial centers such as gas stations, fast food restaurants, convenience markets and similar small stores. The coefficient of determination (r^2) is an indicator of how well variations of an independent variable (such as gross floor area, employees, parking and street traffic volumes) “explain” variation in trip generation for any particular shopping center. Gross floor area had an r^2 of 0.80 while adjacent street traffic volume had an r^2 of only 0.12, meaning that the gross floor area explains 80 percent of why trip generation varies at a shopping center while adjacent street traffic only explains 12 percent. The study reviewed trip generation at 576 shopping centers throughout the United States from the 1960s through the mid-1990s. Of the 576 shopping centers analyzed, there were 66 of similar size to the proposed Marina Center. The average trip generation rate in this extensive study (3.66 per 1,000 square feet) is lower than published in the *ITE Trip Generation* reference (3.73 per 1,000 square feet in the 5th Edition) which is the same as the current 8th edition. Our conclusion is that trips into and out of Marina Center would not grow over time and that the trip generation for 2025 is a valid estimate.

16-299 The comment relates an experience of traffic queues on southbound Broadway and states that the traffic consultant did not analyze the correct times to include such queues.

The traffic engineers completing the analysis of traffic impacts for the Draft EIR have also witnessed queues extending from northbound Broadway back on to Henderson Street in the p.m. peak hour as well as lengthy queues north of Wabash Avenue to Washington Street. The LOS values are for the entire peak hour, and it is expected that extremely heavy surges of traffic would occur during the peak periods and would cause long queues to form. On Broadway the highest 15 minute volumes are 9 percent higher than the average 15 minute period volume, and a 9 percent increase under existing traffic conditions is sufficient to queue vehicles on Broadway for well over 1,000 feet per lane, but not for the entire peak hour.

The main bottlenecks on Broadway are at Wabash Avenue and Henderson Street. At the intersection of Broadway and Wabash Avenue, there are five approaches (Broadway north and southbound, Wabash Avenue east and westbound, and Fairfield Street). Fairfield Street absorbs at least 20 percent of the total capacity of the intersection due to minimum green time, pedestrian clearance and “lost time,” or the yellow and all-red clearance interval for Fairfield Street traffic. At Henderson Street the volume of westbound left turners is far greater than the volume of right turners in the p.m. peak, yet westbound traffic is divided between just two lanes with one to the left and one to the

right. The proposed mitigations for these intersections greatly increase the capacity for Broadway through reducing the amount of green time needed for cross streets (at Wabash Avenue) and on Henderson Street (providing two westbound left turn lanes). The analysis in the traffic impact study shows that the mitigation is sufficient to maintain acceptable levels of service with higher traffic volumes after the initial phases of the project are opened in 2010. By 2025 there is insufficient capacity on Broadway to accommodate the total traffic demand, so diversion of Marina Center traffic onto Waterfront Drive/Railroad Avenue and Hawthorne Street is proposed to keep traffic on Broadway north of Hawthorne Street within its available capacity. It should be noted that traffic from commercial and retail growth at locations in other than Marina Center could not be diverted to Waterfront Drive, so even with the intersection improvements at Wabash Avenue, 14th and Washington Streets, future demand on Broadway without Marina Center (and the diversion to Waterfront Drive) would be greater than can be accommodated north of Wabash Avenue.

16-300 The comment relates to the traffic on Waterfront Drive and questions the determinations regarding significance of traffic impacts at intervening intersections.

The capacity of Waterfront Drive is related to controlled intersections rather than segments between controlled intersections. In 2025 in the p.m. peak hour with the project, the traffic demand at the intersection with Washington Street, a stop-controlled intersection, is expected to be a little over half the total capacity of the proposed all-way stoppage. The capacity of Waterfront Drive, Railroad Avenue and Hawthorne Street away from controlled intersections is at least 1,500 vehicles per hour in each direction. With directional hourly volumes less than 400 per hour in either direction, Waterfront Drive and Railroad Avenue would operate at less than a third of their capacity between stop-controlled intersections. Even during the busy times of the year, the future volume is not expected to total up to half of available capacity. Traffic leaving Marina Center, wishing to travel east on U.S. 101, would likely use the new signals on Fourth Street at Commercial and at C Street to get to Fifth Street to turn left and continue east. Only minimal traffic is expected to travel to Old Town, and almost no traffic would use Second or Third Streets to travel to the east because it would take too long due to the multiplicity of stop signs. There was no intent to reduce traffic on Fifth Street. The reason is that closing the access drives for outbound traffic onto Broadway necessitates bringing eastbound traffic out on either Second or Third Streets, or out onto Waterfront Drive to Commercial and then south to get back to Fifth Street.

16-301 The comment states disagreement that the highest trip generation occurs during weekday rush hours. The combination of commuter peak traffic with project traffic is highest in the weekday p.m. peak hour. Appendix A of the Traffic Report, which is Appendix P of the Draft EIR, includes a detailed comparison of weekday peak hour traffic plus project traffic versus Saturday traffic with the project. Table 5-5, below, is reproduced from Appendix A and shows the comparisons based upon actual traffic volumes plus weekday and Saturday peak generation by the project. There is much more volume information in Appendix A than shown in the table below.

**TABLE 5-5
EXISTING TRAFFIC VOLUMES + PROJECT VOLUMES**

Location	Movement	Background Volumes		Project Volumes		Background + Project	
		Weekday	Saturday	Weekday	Saturday	Weekday	Saturday
Broadway & Washington	NB Thru	1,090	828	248	317	1,338	1,145
	SB Thru	1,475	1,226	430	550	1,905	1,776
Broadway & Wabash	NB Thru	870	661	169	216	1,039	877
	SB Thru	1,374	1,142	189	242	1,563	1,384

16-302 The comment states disagreements with several aspects of the project trip distribution, trip generation, and alternative routes. These disagreements are addressed below.

The offset intersection on Broadway at Sixth Street and the southern access drive is necessitated by the used car dealer property. The offset does cause a need for increased clearance intervals and additional lost time, and the intersection would operate better if the drive could go straight in from Sixth Street. A 10 percent increase in traffic on Broadway in August brings the whole intersection closer to LOS E with additional queuing and delays. Because the intersection works for almost all months excepting August, the mitigation is effective. When the expected traffic growth on the Broadway/U.S. 101 corridor and additional phases of Marina Center are built, the outbound movements at both Fourth and Sixth Streets would be closed off to maintain adequate levels of service at those intersections. The decision to close off the driveways to outbound traffic would be based upon monitoring of traffic flows and delays, and would occur before the levels of service deteriorate to a significant level.

The access from northbound Broadway to the inbound drive at Fourth Street would be via a new signal at Fourth Street and Commercial Street and Fourth Street and Broadway. Peak northbound traffic is expected to queue less than 100 feet 95 percent of the time and southbound traffic on Commercial Street at Fifth Street is expected to queue less than 100 feet 95 percent of the time. Since the analysis model has been demonstrated to accurately estimate traffic operations including travel times, stops and queues, the problems mentioned by the comment are not likely to occur.

The travel times are based upon four different days during four different times of the year. In meetings regarding traffic operations with the City and Caltrans, local traffic officials also expressed this same view. TJKM staff conducted travel time runs during the evening and found that overall travel times were less than had been experienced in calibrating the model, much to the surprise of the officials who all thought that traffic was particularly congested. Subjective evaluations of traffic on Broadway are bound to be pessimistic because there is a high volume of traffic with long queues under present conditions. Actual, real-time measurements belie those impressions, and the travel times in the traffic report are realistic and valid measures of system performance.

Alternate routes would only be sought if the resulting travel times are less via the alternate routes. The model assigning traffic is also very sensitive to travel times, and would immediately divert traffic to alternate routes if congestion becomes too great on Broadway. In fact, the mitigations would serve to lessen, if not eliminate diversion of local traffic to alternate routes. It is not expected that these routes would have less overall travel time for through traffic, even if improved and mitigated for the other development.

Increased maintenance is a function of public responsibility and is paid through gas tax and other transportation funding programs already in place.

As indicated in Table V under “Mitigated, Baseline Traffic + Project”, in the a.m. peak, there would be an average of 1.87 stops per vehicle between I Street and Broadway, 1.16 stops per vehicle between Fourth and Washington Streets, 1.35 stops per vehicle between Washington Street and Wabash Avenue, and 1.99 stops per vehicle south of Wabash Avenue with coordinated signals. The same values in the p.m. peak are 2.95 stops per vehicle in Downtown, 1.82 between Fourth and Washington Streets, 1.40 between Washington Street and Wabash Avenue and 2.31 south of Wabash Avenue. These are for both directions of travel, half in one direction and half in the other. The driver may stop 3.05 times southbound, and 3.22 times northbound on U.S. 101 in the City of Eureka in the a.m. peak, and 4.86 times southbound and 3.62 times northbound in the p.m. peak over the same distance. The comment is correct that vehicles turning onto Broadway are not likely to be in the coordinated group of vehicles traveling on U.S. 101. Because LOS is a measure based upon delay per vehicle at an intersection, coordination serves to reduce the numbers of vehicles that have to stop, thus reducing delays per vehicle and improving LOS overall. The comment on vehicles trying to enter Broadway at the Bayshore Mall during peak times is noted. In 2010 with Marina Center, that movement would be at 90 percent of capacity. At 90 percent capacity, it is inevitable that there would be cycle failures – that is some vehicles getting the green light may have to wait until the next green to access Broadway. This information is in Appendix E. The overall LOS for the Bayshore Mall signal is C in the p.m. peak (with Marina Center, and with mitigation).

- 16-303 The comment expresses various concerns related to project site access, circulation, parking, location of uses, pedestrian experience and safety, and bike lane widths. These issues are discussed below.

It is expected that visitors to Marina Center would also visit Old Town, sometimes by parking once and walking between, but more likely parking at both destinations.

The comment about reducing parking along Waterfront Drive is responded to in response to comments 16-202 and 16-205, above. Also please see Draft EIR Chapter IV.O, which finds that there would be a less than significant parking impact associated with the proposed project. Waterfront Drive is classified as a Major Collector, and that implies use for significant traffic flows between traffic generators and the Principal Arterials such as

Broadway. As such use of Waterfront Drive for staging, loading and other non-traffic flow purposes is incompatible and is an enforcement issue.

Large trucks circulating on Waterfront Drive would necessarily conflict with users of the Marina if they use Waterfront Drive as a staging area, temporary parking area, etc. Again, as a Major Collector, the function of Waterfront Drive is to connect traffic generators with the Principal Arterial system, in this case, the Marina and Marina Center with U.S. 101 and other Principal Arterials. If conflicts become severe, the issue is one of enforcement of the California Vehicle Code and the Municipal Code with respect to parking, loading and the uses of public streets.

The Class I bicycle trail along the project frontage on Waterfront Drive would be designed in conformance with Caltrans design specifications.

- 16-304 The comment expresses concern that some projects are not included in the Cumulative Impacts Analysis, such as the planned Super-Safeway and the Ridgewood Village project. The comment also questions the mitigation measures that route traffic onto Waterfront Drive from Broadway, stating that such mitigation measures are not acceptable.

If a Super-Safeway is developed at Harris and Harrison Streets, a traffic impact study would necessarily be prepared documenting expected changes in traffic operations because of the increased size and intensity of the Safeway. The County would need to review these impacts and proposed mitigation, and if they find that development acceptable they can permit the increased size; otherwise, they can deny the application. Whether they do or not is not relevant to this study because this application precedes the Safeway proposal, if there is indeed an existing proposal at this time.

The Ridgewood Village project in Cutten includes some retail uses, but is primarily residential. The project does not add traffic to Broadway over what is expected, it only constitutes a share of the anticipated growth on Broadway from home-based trips to industrial, commercial, retail, recreational and institutional uses throughout Eureka and beyond. The expected 1.5 percent increase in traffic on U.S. 101 is mainly from residential development such as Ridgewood Village.

The additional projects that may be developed are identified in the traffic impact study, and their impacts are included in the 2025 + Project scenario. The added traffic from Marina Center (plus the additional future traffic from elsewhere) even with the mitigation measures would result in future traffic operations having more delay than at present, but in all but one case (Koster and Wabash), levels of service remain acceptable. The traffic study (Appendix P of the Draft EIR) on page 46 states that.... "The analysis ...shows that Marina Center traffic can be accommodated in addition to traffic increases due to other development through 2025."

The 33 percent increase in traffic on U.S. 101 will occur with or without Marina Center as stated in responses to earlier comments in this letter. The fact that Marina Center provides the City of Eureka and Caltrans with the means of a funding source and a comprehensive program to improve the U.S. 101 corridor to accommodate future traffic growth is notable, and would probably not occur without the resources provided by the development of Marina Center.

The assigned traffic on Waterfront Drive and Railroad Avenue in 2025 anticipates that less than 50 percent of the capacity of this route would be used by that time. At no point in the traffic study is extension of Waterfront Drive to Hilfiker proposed as mitigation.

In most cities with a grid network, there are many alternative routes for distribution of traffic. Eureka does not have complete, alternate routes to U.S. 101, so through traffic and the majority of local traffic trying to access Downtown merchants and offices as well as Old Town and the waterfront, use U.S. 101. Normal local growth will result in growth in traffic demand in this corridor that exceeds its capacity on Broadway between Fourth Street and Wabash Avenue whether Marina Center is built or not. The ability to divert a major share of future growth onto Waterfront Drive is not desperation, but using an opportunity to distribute future traffic demand on at least one other major route that is currently underutilized.

16-305 The comment states that there are no good alternate routes for traffic on Broadway.

Traffic would re-enter Broadway at Hawthorne Street. Broadway south of Wabash Avenue has a much greater right of way width and also has greater capacity. Traffic would not divert through Old Town because it represents an alternative route much slower than using C Street to get to Fifth Street and east. The diversion via Waterfront Drive merely places traffic on routes that have the capacity including Broadway South of Wabash Avenue. There is sufficient width on Broadway to stripe three southbound lanes. There is less need for three northbound lanes because the peak direction in the morning has less traffic demand than in the p.m. peak hour.

Reducing the size of Marina Center would surely lessen the traffic volume to and from this location. However, equivalent economic growth would occur at alternate locations, most likely also along U.S. 101, as evidenced in the traffic impact study (Appendix P of the Draft EIR) in Table VI and mapped in Figure 14. Reducing the size of Marina Center would reduce the levels of funding for improvements to U.S. 101 provided by the project, would not substantially reduce future traffic volumes along Broadway and it would make it more difficult to divert U.S. 101 traffic to Waterfront Drive.

16-306 The comment questions whether funding would be available for transportation-related mitigation measures. The traffic impact study shows which mitigation measures must be provided at the sole cost of the developer, and others where the developer is responsible for a fair share of the costs. While the Draft EIR traffic analysis assumed full development and opening of Marina Center by 2010, project construction is more likely

- to occur over an extended period of time. As each new phase is proposed for construction, the Project Applicant would ensure that the applicable intersection and roadway segments are improved before that phase of the project, along with cumulative projects in the area, contribute traffic in excess of the acceptable threshold for the subject intersection or roadway segment. Please see Master Response 6.
- 16-307 The comment states that funding for infrastructure reinforcement is not detailed in the Draft EIR. It is beyond the scope of the Draft EIR, CEQA, and the Utility Impact Analysis included in Appendix Q to detail the mechanisms used to finance private utility upgrades.
- 16-308 The comment states that the Draft EIR does not address the increased solid waste and how it would affect City Garbage's operations. Contrary to the comment's assertion, as stated in Appendix Q, according to the General Manager of City Garbage, the proposed development would not adversely impact their system. There would be no need for additional trucks or other capital improvements.
- 16-309 The comment is related to existing wastewater treatment loads. For a detailed discussion of wastewater treatment capacities, please see responses to comments 80-4 through 80-13, which include a discussion of peak wet weather flow capacity, average dry weather flow capacity, and the NPDES permit process.
- 16-310 The comment states that information is not provided in the Draft EIR about the infrastructure planned for stormwater runoff. To the contrary, impacts to stormwater runoff are described in Chapter IV.H, Hydrology and Water Quality, and Chapter IV.Q, Utilities and Service Systems.
- 16-311 The comment asks whether a cell tower would be part of the proposed project. The project characteristics are discussed beginning on Draft EIR page III-2.
- 16-312 The comment states that the "project" must identify funding sources for mitigation measures. It is beyond the scope of the Draft EIR and CEQA to detail mechanisms used to finance infrastructure and utility upgrades included in the mitigation measures.

Comment Letter 17

January 30, 2009

City of Eureka
Community Development Department
Attn: Sidnie L. Olson, AICP Principal Planner
531 K Street
Eureka, CA 95501
DEIRcomments@ci.eureka.ca.gov



RE: Marina Center Mixed Use Development Project

Dear Ms. Olson:

This letter is submitted on behalf of the Environmental Protection Information Center (EPIC). EPIC is EPIC is a Humboldt County based non-profit organization that actively works to protect and restore forests, watersheds, coastal estuaries, and native species in northwest California. EPIC was established in 1977 by local residents in Humboldt County. EPIC works to ensure that state and federal agencies follow their mandate to uphold environmental laws and protect endangered species.

EPIC joins in the comments submitted on behalf of the Northcoast Environmental Center, Humboldt Baykeeper and Californians for Alternatives to Toxics. We find serious flaws in the Draft Environmental Impact Report ("DEIR"), as documented by these many comments. We urge the City to reject the DEIR, and deny any amendments to its General Plan, zoning ordinance and Local Coastal Plan.

Our comments focus in particular on land use and public trust issues.

Land Use Issues Are Not Adequately Evaluated.

The City of Eureka and its citizens are being asked to buy a pig in the poke - a scheme of development, the actual contents and timing of which are not disclosed. Yet the applicant seeks fundamental changes to the governing law and constitution for the City, through amendments to the General Plan, the Local Coastal Plan, and the zoning ordinance, to satisfy its scheme. In this disastrous economy, where banks, major employers, and real estate are collapsing every day, the City of Eureka should be very careful about such a proposition. In the absence of specifics as to what will in fact be built, the likelihood of the project moving forward in whole or in part is at best, very speculative. The project applicant wants approval of a scheme to adjust to its liking an important and unique resource area within the City and Coastal Zone, and if it gets that approval, only then will it decide what happens and when. Because the DEIR lacks specifics, the impacts analysis is deficient.

The DEIR does identify intended types of developments, but fails to provide the kind of specific information that informs an adequate analysis of potential impacts, and

fair opportunity for public review. For example, while the DEIR speaks of anchor stores, it does not identify them. Only when one gets near the end of the DEIR is a Home Depot store referenced. Only when one searches in Appendices is there reference to a Home Depot. But other than that, the DEIR lacks the kind of information that would provide an ability to understand what will be included in the proposed Marina Center. This hinders an adequate scope of analysis.

A project of this magnitude must be disclosed in detail in order to understand its potential for significant impacts. While there are a number of elaborate studies attached to the DEIR, they provide little to shed light on the actual agenda of the applicant.

The need for specifics is required all the more because of the tumultuous downturn in our economy. The effects of this project on the economy of the citizens of Eureka and Humboldt County will be disastrous. The economic analysis, dated November 2006, is now clearly outdated given the deep recession plaguing our state and this country. The City of Eureka and Humboldt County are not immune from this adverse economic situation. According to the study, the project as a whole could divert a maximum of \$49.3 million in sales from existing Humboldt County retailers, and \$30.5 million from City of Eureka retailers. While the study attempts to rationalize these impacts over the long term, it nonetheless acknowledges that if stores cannot withstand the downturn in sales, they may be forced out of business. This includes stores providing home furnishing and appliance, apparel, eating and drinking, building materials, speciality stores, garden supplies and other retail stores.

These projections were made based upon a very different economy than now exists. The City cannot ignore the effect of this devouring project on the good people of Eureka and their businesses and any earlier projections must now be reconsidered as the effects will only be magnified. This project is not about benefitting the hard-working people in this community who are struggling to maintain their livelihoods and the local economy, but rather fulfilling the whim of the project applicant - who proposes only design, with no real substance. This project will hurt the economy by taking away jobs and businesses. The City cannot ignore this. (Two prime examples of such new economic information relevant to this project and to the area: Home Depot has eliminated some 7000 jobs and is closing stores; while both the Humboldt Redwood Company and Green Diamond Resource Company are laying off workers due to the downturn in the economy.)

Given the widely understood acknowledgment that the economic downturn will be with us at least through 2010, the City should not accept on face value that this project will proceed as proposed. In all likelihood, some or all of it will be abandoned, and corners will be cut to save money for the applicant. The City must ensure against this by requiring, up front, commitment from the project proponent as to what actual facilities will be constructed, to be occupied by what stores and businesses, and when. To accept less is to invite a bait-and-switch that could affect the future of Eureka and Humboldt County for decades or longer.

17-1 cont.

17-2

17-1

17-3

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5-284

The project is also a poor design in its attempt to place divergent land uses within the project site. One needs only to look at the area surrounding the project site to understand that this is not a location for residential uses. It is next to a lumber mill, other industrial uses, and a busy highway. Moreover, locating some of the proposed uses on this site is contrary to the Coastal Act. The DEIR provides no justification for this mixed-use scheme.

17-4

The project proposes a four story parking garage – a first for Eureka. Its size and location is entirely inconsistent with the prevailing land uses in the area, and will have a negative visual and aesthetic impact on the community.

17-5

According to the DEIR the project applicant’s objectives begin with a desire to complement the existing Downtown and Old Town uses. This project will not do that – it will compete with those uses, and undermine provisions of the City’s General Plan to ensure that the Core of the city – the Downtown area – be the focus for development. Let’s be clear about what the Marina Center project is – a mall, just like the other malls which are struggling to survive, and which contributed to the demise of the Downtown Core area. This project is not consistent with the City’s General Plan, and should be rejected.

17-6

As a general matter, the DEIR’s Table IV.I-2 Policy Consistency Analysis is hardly an “analysis.” It provides pages of policies and framework, with little or no analysis as to the project’s relationship to those policies, or the potential for impact. Most often, a summary conclusion is provided, without the kind of critiques necessary to understand if compliance is present.

17-7

This is particularly true with regard to the list of Land Use goals and policies for the Core area, wherein the DEIR repeatedly states are “not relevant.” Those provisions are directly relevant because they establish that the Core area is where development is to occur — not on the outskirts, not in the Coastal zone, and not as a satellite island next to a lumber mill. This project is in direct contradiction to all of these policies. The City has declared that it wants the Core Area to be revived, to be the center of development, including the Waterfront area within the Core – to prevent any further decay as has already occurred as a result of past mall-type development. This project violates those provisions – because it takes the very kind of development needed and called for by the General Plan for the Core Area, and places it outside the Core area. And as the economic information reveals, this project will have an adverse impact. This project will cause further decay and blight, and the host of impacts associated with such decay.

17-8

This project will also harm views of the waterfront, and will create a massive presence that will directly impact the existing nature of the waterfront area along Waterfront Drive to the west of the project site.

17-9

It is a leap of logic to treat this as a residential project so as to find consistency with the residential neighborhood goals and policies of the City’s General Plan. The project will create an isolated residential development in the midst of industrial and

17-10

residential uses. It will not be a neighborhood as contemplated by the plan. While the notion of such a mixed use development may work in an urban city like Emeryville, it is not what the City of Eureka needs. The city’s policy prohibits new residential uses within or directly adjacent to industrial areas. The project violates this, as the parcels proposed for redesignation as Office Residential are adjacent to the industrial areas within the project site. The project violates the policy to locate higher density residential development in Downtown and Old Town, by instead placing it in and adjacent to industrial uses outside of those areas. The City needs more low income housing. The City needs vibrant residential neighborhoods. This project offers neither.

17-10 cont.

The project is also inconsistent with the commercial development policies because it will adversely affect the economic vitality of the Core Area. It will be an isolated and sprawling commercial activity along a major road, instead of development in the Core Area. It does nothing to consolidate and upgrade existing commercial centers.

17-11

The project violates the policy to protect industrially designated land from residential, commercial and other unrelated and incompatible uses, by seeking to change zoning to allow mixed use with combines incompatible uses.

17-12

The project also violates the policy to locate museums and cultural facilities within or adjacent to the Core Area.

17-13

The project tips its hand of support to the North Coast Railroad Authority, by maintaining adequate right-of-way along the rail corridor in anticipation of future rail service. It is not secret that the project applicant is actively supporting such rail service, and the NCRA intends to extend its service to Eureka. However, the DEIR provides no analysis of the potential land use conflicts associated with reinstatement of rail service and the proposed project.

17-14

The DEIR claims that the project will improve access to Humboldt Bay, but provides no facts or data to support that conclusion. We contend just the opposite will occur, as the project will obscure views and appreciation of the Bay and its resources.

17-15

The project violates the City’s policies limiting development within wetlands, by allowing wetlands in the Coastal Zone to be filled.

17-16

The project violates policies governing hazardous materials and toxic contamination, because there is no plan or design provided which documents that those policies will be satisfied. Instead, the DEIR promises that some site remediation plan will be completed in the future by the Regional Water Quality Control Board. But that plan does not now exist, and thus cannot be relied upon as a basis to claim consistency with the provisions governing presence, exposure, transport, and disposal of hazardous materials. In the absence of a plan to review, the DEIR cannot claim compliance with these policies, nor can it adequately analyze the potentially significant effects of the known presence of those materials on the site, in relation to the project.

17-17

The DEIR provides some noise analysis data, which documents noise at times that

17-18

are not relevant. For example, the presence of an active lumber mill adjacent to the site provides a significant noise source – yet the data was collected after 5:00 p.m., when the noise is not nearly as significant. Residential and office uses are incompatible with such noise. The project cannot claim consistency with the City’s policy that incompatible uses shall not be allowed to encroach on existing noise-producing uses.

17-18 cont.

According to the DEIR, the Westside Industrial Area Study identifies the Balloon track as an industrial site. The project conflicts with this by its mixed use proposal to allow professional, retail and residential uses. As noted above, the project is not consistent with the Eureka Development plan as it proposes development outside of the Core Area, thereby undermining the revitalization of that area. Nor is this project “infill,” as it is intended to act as a universe unto itself, at the expense of the rest of the community.

17-19

17-20

The DEIR’s project description lists several entitlements and approvals sought by the project applicant, yet those approvals are not integrated into the analysis of impacts provided in Chapter IV. This leaves the reader in a quandry as to what is the relationship between the project elements and approvals, and the Chapter IV analysis of impacts. The project description also indicates that the project is expected to be constructed in phases – yet the project phasing has yet to be identified. It promises a Development Agreement, but it is unclear whether there would be one or many such agreements for each phase of development.

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17-22

Development Agreements are negotiated tools used to ensure that once agreement is reached, no new rules, regulations, and official policies governing the permitted uses of the land, governing density, and governing design, improvement, and construction standards and specifications, will apply to the development of the property. While the DEIR discloses that Development Agreement(s) will follow, it fails to disclose the effect of such a tool, and what it could mean for the project site and area. It is not outlined, detailed, or discussed within the EIR. While it is something that may follow approvals, it too is subject to CEQA, yet it is not discussed in the DEIR as a future action, in the context of a cumulative effect or otherwise. And because a Development Agreement locks in the standards, policies and rules which will apply to the project into the future — acting as an assurance that nothing more will be required of the project applicant regardless of changed circumstances — it has the potential to result in significant effects. Under these circumstances, the terms of a proposed Development Agreement must be disclosed in this DEIR, as it is part of the overall project. Its impacts need to be disclosed and evaluated.

17-23

Because the project is only in design, with no commitment as to full build-out, it is incumbent upon the City to require a more robust analysis of alternatives in order to prevent significant environmental effects, including (1) no full build-out, (2) limited singular use such as a light industrial or public use, and (3) a project which does not include existing wetland and public trust lands.

17-24

Public Trust Issues Are Not Adequately Evaluated.

While the EIR mentions the public trust doctrine, it does little to analyze the impact of development on state-owned public trust lands. It concedes the potential for such ownership, but fails to provide adequate information as to the trust lands, advising that an investigation is underway. This is insufficient. The public has a right to know the potentially significant effect from this project on sovereign lands and public trust resources. The clarity as to ownership is key when addressing land use issues, claimed wetland mitigation, and overall impacts to the trust resource. It is not appropriate to refer the reader to other areas in the impacts analysis, because none of those areas effectively evaluate the potential for significant environmental impact on trust lands and resources.

A few fundamental principles govern this concern. The reclamation of tidelands subject to the public trust does not, without more, terminate the trust; filling alone does not remove the trust. (*City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515, 535 [*“City of Berkeley”*].)

While the state may transfer ownership of tidelands, such alienation is “in strict subordination” to public uses. (*People v. California Fish Co.* (1913) 166 Cal.576, 593.) “Although these powers include disposal of trust lands in such manner as the interests of navigation, commerce, and fisheries require, tidelands subject to the trust may not be alienated into absolute private ownership; attempted alienation of such tidelands passes only bare legal title, the lands remaining subject to the public easement.” (*City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 482.)

17-25

“The common law public trust here described is to be distinguished from the constitutional prohibition set forth in article XV, section 3. The former does not of itself forbid the alienation of tidelands but merely insures that when such lands are subject to the trust (i.e., have not been removed therefrom by proper legislative determination), they remain so subject even after alienation. The constitutional provision, on the other hand, flatly forbids alienation of certain tidelands-i.e., tidelands within two miles of an incorporated city-Whether or not they are trust lands at the time of alienation.” (*Ibid.*)

Moreover, key to the scope of the public’s right in tidelands is “the right to preserve the tidelands in their natural state as ecological units for scientific study.” (*City of Berkeley*, 26 Cal.3d at 521.)

“There is a growing public recognition that one of the most important public uses of the tidelands-a use encompassed within the tidelands trust-is the preservation of those lands in their natural state, so that they may serve as ecological units for scientific study, as open space, and as environments which provide food and habitat for birds and marine life, and which favorably affect the scenery and climate of the area. It is not necessary to here define precisely all the public uses which encumber tidelands.”

(*Marks v. Whitney* (1971) 6 Cal.3d 251, 259-260; see also *National Audubon Society v.*

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Superior Court (1983) 33 Cal.3d 419, 434-435; *Center for Biological Diversity v. FPL Group, Inc.* (2008) 166 Cal.App.4th 1349, 1360-61.)

17-25
cont.

The EIR fails to provide an evaluation of the potential effects of the proposed project on the outstanding public trust resources and the alteration of those lands from their natural state, including the loss of open space and scenery. It fails to even accurately disclose the extent of the public trust resources and obligations. This must be provided in order to address the impacts to the trust from filling of wetlands, affecting tidelands, loss of open space and scenery. The EIR also does not evaluate the effects of the proposed removal of Public/Quasi Public land use designation on the public trust resources. Nor does the EIR evaluate the ongoing injury to the public trust from the presence of hazardous and toxic materials, and fails to outline how those materials will in fact be removed or remediated so as to protect public trust areas. While the EIR implies that the site will not be cleaned up but for the project, it fails to define how, when and in what manner the site will be cleaned up – leaving to speculation that anything will occur and whether it will be effective.

17-26

Cumulative Impacts Are Not Adequately Addressed.

The DEIR fails to evaluate the potential for cumulative effects related to this project. EPIC understands that the City of Eureka is considering the opening First Street between H and I, which would have the effect of creating a transportation network from the north end of town, at Target, all the way to the south end of town along Waterfront Drive. The potential for this opening to converge with the traffic levels and patterns anticipated to result from the project must be analyzed to understand what effects this may have on the overall transportation route along the Humboldt Bay.

17-27

The California Department of Transportation lists in its official 2008 State Transportation Improvement Program (STIP) the extension of Waterfront Drive from Del Norte Street to Hilfkier Lane. This identified extension could have cumulative effects relevant to both the construction phase of the project, as well as the underlying transportation analysis for the project. Yet it is not included for analysis. The 2008 STIP also lists railroad crossing improvements at Waterfront Drive and 1st Street. This project too could result in cumulative construction impacts, but does not appear to be referenced in the DEIR.

17-28

17-29

The DEIR advises that the project will be designed to accommodate STAA trucks, yet the DEIR fails to mention or analyze as a cumulatively related Caltrans project entitled “Richardson Grove Operational Improvement Project” which is currently under public review through circulation of a Draft EIR. The claimed need for the project is to accommodate STAA trucks, providing an express connection between that project and this development, yet the project is not even mentioned in this DEIR. To the extent one project intends to facilitate the movement of goods, and this project intends to create a market for goods, some analysis must be provided.

17-30

And as noted above, the DEIR does not include the potential for impacts

17-31

associated with the contemplated Development Agreement(s). Giving away the right to regulate land use carries with it the potential for conflicts and impacts to the environment, particularly for a project as large as this and to be located in such an important unique and natural resource area.

17-31
cont.

Conclusion

EPIC urges the City to reject the DEIR as inadequate in its analysis of impacts, and deny the project including any amendments to its General Plan, zoning ordinance, and Local Coastal Plan.

17-32

Sincerely,

Robert Scott Greacen
Executive Director

Enclosures:

- CalTrans 2008 State Transportation Implementation Plan (STIP) list for Humboldt County
- CNN Money: Home Depot Cutting 7,000 jobs
- Times-Standard: Layoffs in Scotia follow cuts at Korbel
- email from Sidnie Olson, City of Eureka, clarifying dates of review period for Marina Center DEIR

Letter 17: Environmental Protection Information Center (EPIC) (Robert Greacen)

17-1 The comment claims that the contents and timing of the development have not been disclosed and, because the EIR lacks those specifics, the impacts analysis is deficient. The comment acknowledges that the Draft EIR identifies the types of development but fails to provide the kind of specific information that informs an adequate analysis of potential impacts and a fair opportunity for public review. As an example, the comment points to the lack of reference to Home Depot, the proposed anchor tenant, until near the end of the Draft EIR.

Contrary to the comment, the Draft EIR points out with specificity the location and types of uses involved with the proposed project, including identified square-footages, building layouts, and other elements of the proposed project. (Draft EIR, pages III-2 through III-14.) For example, the Draft EIR identifies that the project would include “approximately 313,500 sq. ft. of Retail/Service/Furniture, including 28,000 sq. ft. of Nurseries/Garden; 104,000 sq. ft. of Office; 72,000 sq. ft. of Multi-Family Residential (54 dwelling units); 70,000 sq. ft. of Light Industrial; 14,000 sq. ft. of Restaurant; and 12,500 sq. ft. Museum.” (Draft EIR page III-2.) The Draft EIR even includes a series of maps, figures, and illustrations depicting the proposed building layouts. (Draft EIR, Figs. III-2 through III-5.) With the identified uses and project footprints identified, the project’s effects on transportation, biology, air quality, and other environmental issues can be accurately evaluated. (Traffic models, for example, can adjust for a variety of factors and land uses, and those models are the most accurate prediction of actual traffic anticipated for the project.)

Furthermore, whether a national retailer such as the Gap or an independent clothing or other retailer may occupy one of the retail shops would make absolutely no difference to the environmental analysis, particularly as to wetlands, site hydrology, biological resources, and other environmental issues. As the courts have explained, the identity of the specific tenant is generally irrelevant under CEQA. (*Friends of Davis v. City of Davis* (2000) 83 Cal.App.4th 1004 (identification of a Borders bookstore as a prospective tenant in a retail development did not compel the agency to conduct supplemental environmental review); *Maintain Our Desert Environment v. Town of Apple Valley* (2004) 120 Cal.App.4th 396 (“The fact that a proposed tenant may give rise to public controversy and debate, absent some valid and factually supported environmental concern, does not implicate CEQA.”); compare *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 (distinguishing *Apple Valley* and holding that the characteristics of the shopping centers’ tenants at issue in the case – two 220,000 square-foot Wal-Mart Supercenters – was necessary to accurately identify and analyze the environmental consequences of approving those two projects).)

What is more, identification of tenants for this sort of mixed-use project so far in advance of actual construction is often impractical given the time between preparation of the EIR and eventual construction of individual units, all of which is dependent on the ever-changing market and occupancy of other retail space throughout the City. The Draft EIR does, however, disclose that the project's largest retail store Home Depot is the proposed anchor tenant, and evaluates the various impacts of the project based on the operation of other Home Depots throughout the State (e.g., related to peak-hour traffic, light, and noise impacts). But that is no guarantee that Home Depot would be the ultimate tenant. If a substitute anchor tenant ultimately comes forward to construct the anchor building, the City would have to evaluate whether that constitutes a change in the project or circumstances warranting subsequent environmental review. For the time being, however, the Draft EIR accurately identifies and evaluates the project's potentially significant adverse effects on the environment, and no further information or analysis is required.

- 17-2 The comment is a continuation of the previous comment regarding the recent downturn in the economy. The comment states that more detail is necessary in the Draft EIR Urban Decay analysis because the previous study, completed in November 2006, is outdated.

Please also see Master Response 1, under "New Recessionary Conditions."

- 17-3 The comment states that the City must recognize that the proposed project would not proceed as stated in the Draft EIR, given the recent economic Downtown. As stated in Chapter IV.P, Urban Decay, the proposed project would have a less-than-significant impact on urban decay. The EIR analyzes the potential environmental effects of the proposed project, pursuant to CEQA. The City Council will make its determination on the proposed project based on a number of variables, including economic, environmental, and social variables. As a general matter, however, the economic viability of the proposed project is beyond the scope of CEQA and this Draft EIR. Please see also Master Response 1, under New Recessionary Conditions, which addresses the recent economic downturn in relation to the proposed project.

- 17-4 The comment states that the project site is not an appropriate site for residential uses, and states that the Draft EIR does not provide justification for this mixed-use scheme.

The proposed project is an urban in-fill, mixed-use development embodying the major principles of smart growth, including redevelopment of a blighted urban brownfield, a pedestrian-friendly design, and includes multi-story residential development located in close proximity to significant employment sectors of the project and the Downtown/Old Town Core Areas. Additionally, a significant area of the project is devoted to open space.

The project site is close to 40 acres in size and would contain industrial, office, commercial, residential and natural resource based zoning that is consistent with adjacent zoning in the project area. The larger scale commercial zones are proposed to be sited adjacent to arterial transportation corridors and similarly zoned properties to the east and south, the multi story office and residential building are placed close to the waterfront

where workers and residents would be able to enjoy water views and use the newly created biking and walking trails which would connect to the underutilized boardwalk areas of Old Town.

The light industrial portions of the project are proposed to be sited adjacent to existing warehouses occupied by a fish processing plant, a beer distributor, a pipe supply company and other light manufacturing businesses. The areas of the project site that have the capability to reestablish biologically superior, tidal influenced estuarine wetlands would be zoned for resource conservation. Developments of this nature are typically placed in areas of “land use transition” as the urban core develops into higher uses than their historical single use zoning allowed. In summary, the mix of proposed development uses on the project site would be appropriate and consistent, while complementing the zoning and uses allowed in adjacent properties.

Please also see Master Responses 3 and 5 concerning Coastal Act and Local Coastal Program consistency.

- 17-5 The comment states that the proposed 4-story parking garage would be entirely inconsistent with the land uses in the area. As described on page III-13 of the Draft EIR, the proposed project would include approximately 1,590 parking spaces, 462 of which would be housed in the proposed four-story parking structure. A visual simulation of the proposed parking garage is depicted in Figure IV.A-4b. The parking garage would be designed to be aesthetically compatible with its surroundings.
- 17-6 The comment states that the proposed project’s retail uses would not complement those retail uses already existing Downtown and in Old Town. As stated on Draft EIR page III-15, the proposed project’s objectives include maintaining Eureka’s status as the “hub” of employment, retail commerce and tourism in Humboldt County, by complementing the existing Downtown and Old Town uses.

As stated on Draft EIR page IV.P-1, the project site is currently in a state of urban decay and negatively influences its surrounding neighborhood, including the Historic Old Town.

As stated in page IV.P-3 under Impact P-1, sufficient retailer demand is anticipated to exist to absorb vacated space in the event that existing Humboldt County retailers close due to any perceived or real negative economic impacts of the Marina Center project, and/or other identified planned projects.

The proposed project would result in a less-than-significant impact on urban decay, and the project could meet the objective of complementing existing Downtown and Old Town uses. Please also see Master Response 1, which provides further detail of the proposed project’s potential impacts to vacancy in the City of Eureka.

As stated in Chapter IV.I, Land Use and Planning, the proposed project is not consistent with existing land use designations of the Local Coastal Program and consequently an amendment to the LCP is proposed. Please see Master Response 3.

- 17-7 The comment states that the Policy Consistency Analysis provided in Table IV.I-2 is not adequate.

As stated on Draft EIR page IV.I-15 of the Draft EIR, the City Council is ultimately responsible for determining whether an activity is consistent with the General Plan. Perfect conformity with the General Plan is not required; instead, the City Council must balance various competing considerations and may find overall consistency with the plan despite minor inconsistencies with specific provisions. Furthermore, the potential inconsistencies with General Plan goals and policies do not themselves create a significant environmental impact under the thresholds established in CEQA Guidelines Appendix G. These policies are, instead, expressions of community planning and organization preferences. The potential physical impacts of the project's inconsistency with specific policies are discussed and analyzed in the Draft EIR.

The project site is geographically located just outside the Core Area. As such, the proposed project is not subject to General Plan policies related to development within the Core Area. The City Council will consider the appropriateness of the proposed land uses and proximity of the project site to the Core Area when determining the consistency of the proposed project with the goals and policies of both the General Plan and Local Coastal Program.

- 17-8 The comment states that General Plan policies related to development in the Core Area are directly relevant to the proposed project. Since the project site is geographically located just outside the Core Area, the proposed project is not subject to General Plan policies related to development within the Core Area. The City Council will consider the appropriateness of the proposed land uses and proximity of the project site to the Core Area when determining the consistency of the proposed project with the goals and policies of the General Plan related to commercial development.
- 17-9 The comment states that the proposed project would impact waterfront views. As discussed on Page IV.A-7, Impact A-3 of the Draft EIR, the proposed project would substantially alter the visual quality of the project site, including the views of the project site from Waterfront Drive and Humboldt Bay. Please see Master Response 8, which addresses the views of and through the project site from the west.
- 17-10 The comment states that the proposed project should not be treated as a residential project in relation to the Policy Consistency Analysis and the General Plan. As stated in response to comment 17-7, and discussed on page IV.I-15 of the Draft EIR, the City Council is ultimately responsible for determining whether an activity is consistent with the General Plan. Perfect conformity with the General Plan is not required.

- 17-11 The comment states that the proposed project would harm the Core Area and that it is consistent with commercial development policies.

The project site is geographically located just outside the Core Area. As such, the proposed project is not subject to General Plan policies related to development within the Core Area. The City Council will consider the appropriateness of the proposed land uses and proximity of the project site to the Core Area when determining the consistency of the proposed project with the goals and policies of the General Plan related to commercial development. For further discussion of the proposed project's potential impact to existing retail in the City of Eureka, please see Master Response 1.

- 17-12 The comment states that the proposed project is inconsistent with the General Plan because it allows for a mix of uses on land that is currently zoned for industrial uses. As stated in response to comment 17-10, and discussed on page IV.I-15 of the Draft EIR, the City Council is ultimately responsible for determining whether an activity is consistent with the General Plan. The proposed mixed used development scheme of the proposed project does not entail mixing incompatible uses. In addition, not all of the project site is currently zoned for industrial use—a large portion of the project site is currently zoned for Public uses.
- 17-13 The comment states that the proposed project is inconsistent with the policy to locate museums and cultural facilities in the Core Area. The comment is noted. In regards to locating a museum outside the Core Area, as stated in response to comment 17-7, and discussed on page IV.I-15 of the Draft EIR, the City Council is ultimately responsible for determining whether an activity is consistent with the General Plan.
- 17-14 The comment states that the Draft EIR does not provide an analysis of whether reactivation of the railroad right-of-way for train use would present any conflicts. In fact, potential conflicts associated with the reactivation of the railroad right-of-way are discussed in the Draft EIR under Impact O-7 beginning on page IV.O-45.
- 17-15 The comment states that the proposed project would impede access to the Bay. The comment is noted.

The proposed project would augment coastal views, as discussed on page IV.A-16 of the Draft EIR, by providing trails along the edges of the restored Clark Slough, and providing enhanced opportunities for viewing Humboldt Bay. Amenities along the trail would include benches and other street furniture. Furthermore, the proposed project would be expected to increase pedestrian activity on the project site, which in and of itself would increase opportunities for waterfront viewing. View corridors through the project site from the Fourth Street extension, between the proposed buildings along Waterfront Drive, and from the proposed multi-use trail along Waterfront Drive would all be designed to augment coastal views.

- 17-16 The comment states that the proposed project violates General Plan policies regarding the filling of wetlands. The comment is noted.

As stated on Draft EIR page IV.I-15, the City Council is ultimately responsible for determining whether an activity is consistent with the General Plan and Zoning Ordinance. Policies related to filling of wetlands within the coastal zone are discussed specifically in Master Response 5.

- 17-17 The comment states that the proposed project does not yet have an approved remediation plan, and that the lack of such a plan means that the Draft EIR cannot claim compliance with policies related to hazardous materials remediation. The comment is noted.

Please see Master Response 4 and new Appendix S, which discuss the Supplemental IRAP and site cleanup in the proposed project's first phase.

- 17-18 The comment indicates that although some noise measurement data are presented in the Draft EIR, the data are limited to late afternoon periods, which would not be relevant to some of the ambient sources in the area, such as operations at the nearby lumber mill. While it is true that the short term noise measurements were collected mostly in the late afternoon, this was done in order to capture ambient conditions associated with the p.m. peak traffic hour, which is the most significant noise source in the project site vicinity. However, at least one a long-term noise measurement was collected at the project site that provided continuous noise data for a 24-hour period (see Draft EIR page IV.K-4), a measurement more pertinent to off-site noise sources such as industrial operations.

The comment goes on to indicate that the project would be incompatible with the existing noise producers in the area. As disclosed on Draft EIR pages IV.K-7 through IV.K-10, the proposed development of sensitive uses (i.e., residences, museums, and offices) associated with the project would result in significant impacts that would be mitigated to a less-than-significant level through adequate setback, buffering, and construction design to State interior noise standards.

- 17-19 The comment notes that the Draft EIR identifies the project site as an industrial site and that the project conflicts with this by proposing mixed-use on the site. As stated on Draft EIR page IV.I-73 of the Draft EIR, although the proposed project would be consistent with many of the recommendations and objectives of the Westside Industrial Area Study, it is true that it would not be consistent with the fundamental objectives of developing the project site solely as an industrial park as expressed in the study. However, because this policy was not "adopted for the purpose of avoiding or mitigation an environmental effect,; this inconsistency is not considered a significant effect under CEQA.

- 17-20 The comment states that the project is inconsistent with the Eureka Redevelopment Plan, however, as noted on page IV.I-74, the proposed project would contribute to achieving many of the goals of the Redevelopment Plan, including revitalizing the water front, improving access to the Core Area, and remediating an existing brownfield.

Infill is the use of land within a built-up area for further construction, especially as part of a community redevelopment. Infill often focuses on the reuse of obsolete or underutilized sites in the built environment. Therefore, the proposed project, would by definition, be an infill project.

- 17-21 The comment states that the Draft EIR does not include an analysis of project approvals and instead includes an analysis of the proposed project.

As stated on Draft EIR pages III-17 and III-18, “the project would require the following approvals and discretionary actions of the City of Eureka:

- Local Coastal Program amendment;
- Coastal Development Permit;
- Conditional Use Permit;
- Subdivision approval;
- Site Plan Review and Architectural Review;
- Grading permits;
- Building permits; and
- Development Agreement

Other approvals may be required from the following agencies:

- U.S. Army Corps of Engineers
- National Marine Fisheries Service
- Public Utilities Commission
- California Coastal Commission
- California Department of Fish and Game
- California Department of Transportation
- State Land Commission
- North Coast Regional Water Quality Control Board
- North Coast Unified Air Quality Control Board”

CEQA requires an analysis of the whole of the action, including all related discretionary approvals. In addition, several approvals are mutually dependent, and their potential impacts are interconnected, such that one approval typically cannot occur in a vacuum. It is the whole of the action that could potentially create environmental impacts. Therefore, Chapter IV of the EIR does not distinguish potential impacts among different project approvals. Instead, the potential impacts from the entire project are analyzed.

Nonetheless, many of the approvals listed above are individually discussed in Chapter IV, as follows:

- The required Local Coastal Program amendment is discussed in Chapter IV.I;
- Conditional use permits are discussed in Chapter IV.I;
- Subdivision approval is discussed in Chapter IV.I;

- Site plan and/or architectural review are discussed in Chapters IV.A, IV.H, IV.I, IV.M, and IV.O;
- Grading is discussed in Chapter IV.C, IV.D, IV.E, IV.F, IV.G, IV.H, IV.I, and IV.K;
- Building permits are discussed in Chapters IV.H, IV.I, IV.K, and IV.L; and
- As stated on Draft EIR page III-15, a Development Agreement would be entered into to assure full compliance with the recommended mitigation measures

Also, the agencies listed above are individually discussed throughout Chapter IV, as follows:

- The U.S. Army Corp of Engineers and the National Marine Fisheries Service are discussed in Chapter IV.D;
- The California Coastal Commission is discussed in Chapters IV.D, IV.G, and IV.I;
- The California Department of Transportation is discussed in Chapters IV.A, IV.H, IV.I, IV.K, IV.M, and IV.O;
- The State Lands Commission is discussed in Chapters IV.E and IV.I;
- The North Coast Regional Water Quality Control Board is discussed in Chapters IV.D, IV.G, IV.H, IV.I, and IV.Q; and
- The North Coast Air Unified Quality Control Board is discussed in Chapter IV.C, Air Quality.

17-22 The comment states that project phasing has yet to be identified, and states that it is unclear whether there would be a development agreement for each phase.

Please see Master Responses 4 (site remediation), 5 (Coastal Act consistency) and 9 (cultural resources); and response to comment 9-6, concerning project phasing. The project could be subject to one or several development agreements for the phases of the project or other improvements. Regardless, the project mitigation measures shall be enforceable either through development agreements or through conditions of approval which would be adopted along with the project approvals and entitlements necessary for construction of the proposed project.

17-23 The comment states that the details of development agreements, which are determined after CEQA, should be subject to CEQA because the implementation of such agreements can cause environmental impacts. Please see Master Response 4 for a discussion of Phase 1 of the proposed project. As stated on Draft EIR page III-15, before the City approves the phasing plan and associated discretionary entitlement (e.g., the Development Agreement), the phasing and mitigation plan would be evaluated to ensure that there are no changes to the project, changes to surrounding circumstances, or other new information that triggers the need for supplemental or subsequent environmental review.

17-24 The comment states that a more robust alternatives analysis is required.

Please see responses to comments 16-239, 16-240, 16-241, and 16-242, which explain that the Draft EIR includes a reasonable range of alternatives. The Draft EIR includes the Marina Center Reduced Footprint Alternative, the Wetland Restoration and Public Park Alternative, and the Limited Industrial Zoning Alternative. If outside forces delay implementation of latter portions of the proposed project, or portions of these alternatives, then the potential environmental effects of the portions that had been implemented would be less than those at full built out for each of these scenarios. These lessened effects would result because the project site would undergo less intense use. For a more detailed discussion of construction timeline, please see Master Response 4.

17-25 The State Lands Commission is discussed in Chapters IV.E and IV.I of the Draft EIR. Please see response to comment 8-1, which states that the investigations into the extent of public trust lands is ongoing. The comment states that the Draft EIR fails to provide adequate information related to the potential ownership of the land. However, as stated on page, IV.E-8, an investigation is under way with the State Land Commission to resolve any public trust land use title issues.

17-26 The comment states that the EIR does not evaluate the effects of the proposed removal of Public/Quasi Public land use designations on public trust resources. The comment also claims that the EIR fails to evaluate ongoing injury to the public trust due to the presence of hazards and toxic materials, and fails to outline how those materials would be removed and remediated so as to protect public trust areas.

Please see response to comment 8-1, which state that the investigation into the extent of public trust lands is ongoing. Please also see Master Responses 3 and 4 regarding the Local Coastal Program land use regulations and hazardous materials remediation, respectively.

At its heart, CEQA applies to public agency decisions to carry out, authorize, or approve projects, and requires public agencies to first evaluate the project's effects on the environment and avoid or reduce the project's significant environmental effects when it is feasible to do so. The project's effects, in turn, are measured against the environmental setting, or environmental baseline. Here, the "ongoing injury" referenced in the comment pertains to existing contamination at the project site, which is part of the environmental baseline. It is not, therefore, a consequence of the project. Thus, the EIR is not tasked with evaluating ongoing issues, but only impacts associated with approval and development of the proposed project.

The project proposes to remediate the contaminants that already exist on the site so that the property can be redeveloped and a portion restored to functioning wetlands and waters within and surrounding the slough remnant. With the latter elements, the project actually proposes to improve existing environmental conditions – i.e., the environmental baseline. The Draft EIR at pages III-14 and IV.G-19 through IV.G-21 provides some information on the form of cleanup. Master Response 4 and the Supplemental Interim Remedial Action Plan (SIRAP) attached as Appendix S provide additional cleanup

details. Remediation of the site would include debris removal and the use of soil excavation, site grading, and the placement of clean material over portions of the site. In conjunction with these remediation activities, and as outlined in the Draft EIR, the project would also restore approximately 11.89 acres of wetlands surrounding Clark Slough. This is proposed to be accomplished by excavating and recontouring a portion of the area surrounding Clark Slough in order to create expanded and enhanced wetlands onsite.

As stated in response to comment 8-1 and pages IV.E-4 through IV.E-8 of the Draft EIR, it is uncertain whether and to what extent there are any public trust lands within the project site. Indeed, the Project Applicant has taken the position that the lands proposed for development are not public trust lands. Even if impressed with the trust, however, the public trust doctrine does not dictate a particular use, nor does it favor one public trust use over another. That some of the property is currently designated as “Public/Quasi Public” is little relevance, as those General Plan and zoning designations authorize a host of land uses that might conflict or otherwise be injurious to the public trust-consistent uses (e.g., commerce, navigation, and fisheries). For example, the Public/Quasi Public General Plan and zoning designations would allow institutional uses such as schools, government office buildings, equipment maintenance yards, churches, cemeteries, laboratories, hospitals, airports, power stations, correctional facilities, and even sewage treatment plants. (See, e.g., Eureka General Plan (Feb. 23, 1999), pages 1-7 and 1-8; Eureka Municipal Code (2007), Section 155.056.) Conversely, some of the project’s proposed land-use designations are entirely consistent with the public trust (e.g., Waterfront Commercial and Water Conservation). But again, choosing appropriate land uses among the various uses authorized under the City’s General Plan and zoning designations is a policy issue that does not itself implicate CEQA. CEQA instead pertains to the physical changes in the environment resulting from the proposed project, and those physical changes have already been evaluated thoroughly in the Draft EIR.

17-27 The route via First Street noted by the comment is too constrained and is not expected to “attract” traffic other than trips between Old Town and Marina Center, which would be expected to constitute a small proportion of Marina Center trips.

17-28 The comment states that the extension of Waterfront Drive should be included in the transportation analysis for the proposed project.

The City of Eureka does not have the authority to extend Waterfront Drive south of Del Norte Street without the express approval of the Coastal Commission. Because of this constraint the extension of Waterfront Drive is not included as a mitigation for the project or for relieving Broadway from the growth in traffic volumes, regardless whether Marina Center is developed or not. A model run indicates that Waterfront Drive could remove approximately 15 to 20 percent of all traffic on Broadway for trips destined to locations west of Broadway and north of Bayshore Mall if Waterfront Drive were extended to Hilfiker; however, these projections are not considered in developing the Marina Center mitigation plan.

- 17-29 The comment states that the Draft EIR should have included the scheduled rail crossing improvements in the transportation and/or construction analysis. Rail crossing improvements are maintenance type improvements typically characterized by temporary construction impacts. If and when these improvements are actually scheduled, they would be subject to separate CEQA review. Marina Center is not expected to impact this route significantly (see response to comment 17-27).
- 17-30 The comment relates to the planned design accommodation for STAA trucks. The provision that all mitigation and onsite circulation be adequate for STAA trucks is just that: in the event that STAA trucks are allowed in the future due to improvements to U.S. 101 south of Eureka, then the mitigation improvements completed for this project would be consistent with this class of trucks. There is no intent on the part of the Project Applicant or the City to promote STAA trucks in Humboldt County, but only to accommodate them if they are allowed in the future.
- 17-31 The comment states that the Draft EIR does not include the potential for impacts associated with development agreements.

As stated on Draft EIR pages III-17 and III-18, the project would require approvals and discretionary actions of the City of Eureka, including execution of one or more development agreements. As stated on Draft EIR page III-15, the development agreement would encompass mitigation measures agreed upon by the Project Applicant and City.

- 17-32 The comment urges the City of Eureka to reject the Draft EIR as inadequate in its analysis. The EIR satisfies the requirements of CEQA and as such provides the sort of environmental information necessary to inform the public and the decision makers as required by law.



Sent via email and U.S. Postal Service

January 28, 2009

Ms. Sidnie L. Olson, AICP
Principal Planner
City of Eureka
Community Development Department
Eureka, CA 95501

RE: LETTER OF SUPPORT – PROPOSED MARINA CENTER PROJECT

Dear Ms. Olson:

Following careful review, please accept this letter as an expression of strong support for the above referenced project. The Board of Directors of the Greater Eureka Chamber of Commerce believes that this project will serve the best interests of our business members as well as the employees and families that they support.

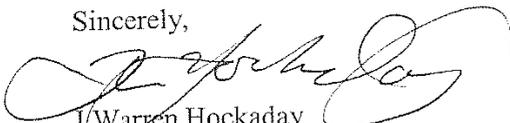
The proposed project will remove a longstanding blighted, brown field property and will create employment opportunities and significant economic vitalization for the entire community. The Board believes that this far-sighted proposal is comprehensive, responsible and combines environmental integrity with sound economic development planning.

Further, once completed the Marina Center will provide a vastly enhanced public value in an area that has otherwise been no more than an unhealthy public nuisance. This project will restore wetlands; provide expanded pedestrian and bicycle access and a regionally significant economic driver. The Board recognizes that additional potential impacts will be evaluated and possibly modified during the CEQA review and accordingly reserves the ability to comment further as the process moves forward.

The Greater Eureka Chamber of Commerce strongly supports this project in principle and encourages your favorable consideration toward the goals of creating economic opportunity, preserving environmental and cultural resources and the restoration of a long neglected property on the Eureka waterfront.

Thank you for your attention to this matter. If you have any questions, please feel free to contact me.

Sincerely,


J. Warren Hockaday
President/CEO

RECEIVED
JAN 30 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

18-1

Letter 18: Eureka Chamber of Commerce (J. Warren Hockaday)

- 18-1 The expression of strong support for the proposed project, and the discussion of the project's merits, is noted.



January 30, 2009

Sidnie L. Olson, AICP, Principal Planner
City of Eureka
Community Development Department
531 "K" Street
Eureka, CA 95501

RE: Marina Center Mixed Use Development Project
Draft Environmental Impact Report

Dear Ms. Olson:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for Marina Center Mixed Use Development Project. The Eureka Heritage Society wishes to dispute the DEIR's conclusion in section IV.E that the site is not considered historically significant for the purposes of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA.)

It should be stated that the proposed site qualifies as a historic resource under as defined by NHPA and CEQA because of its historic significance to the City of Eureka. On page IV.E-11, the eligibility criteria for NHPA and CEQA state "...are associated with events that have made a significant contribution to the broad patterns of our history." Few events surpass the railroad as an event that contributed to the broad pattern of our history, both locally and nationally. The railroad was an indisputably important component in the development of Eureka and Humboldt Bay.

While the DEIR addresses each of the resources; structures, foundations and other rail-related features, and the turntable separately, it does not address the impact of the project on the resources as a whole. The DEIR states that none of the resources are *separately* considered historic; however, together the remaining resources do tell the story of the railroad within the City of Eureka and its importance on Humboldt Bay. The DEIR must make a convincing case that the resources *together* do not meet the NHPA and CEQA guidelines.

19-1

In addition, on page IV.E-9, the figure shows the project overlaid on the 1946 aerial photo of the project site. In reviewing this photo/overlay, the project is adjacent to the building located at 502 Broadway, the building that currently houses the Nilsen Company. This building is predates 1958 and the impact of the project on it must be addressed in DEIR.

19-2

Sincerely,

Mary Ann McCulloch
Chair, Preservation Committee

Letter 19: Eureka Heritage Society (Mary Ann McCulloch)

- 19-1 The comment states that the Draft EIR must make a convincing case that the entire former railroad facility does not constitute a historic resource, although the comment recognizes that each piece of the railroad facility individually does not qualify as a resource.

As described on Draft EIR page IV.E-14, the cultural resources survey found several foundations and other rail-related features of the historic-era railroad yard area remaining on the project site but in a greatly dilapidated condition. The modern conditions of the project area have a lack of original integrity that greatly reduces their significance. As discussed in the Draft EIR, the site of the Eureka rail yard, turntable, switching station, and depot is not considered eligible for inclusion in the National Register of Historic Places or the California Register of Historical Resources because all the original buildings associated with the rail yard and the original depot have been demolished. Therefore none of these remnant rail yard features, either individually or collectively, are considered historical resources for the purposes of CEQA.

- 19-2 The comment states that the potential impact to the building at 502 Broadway must be analyzed in the Cultural Resources chapter of the Draft EIR. The building at 502 Broadway is adjacent to, but outside of, the project area. While this building may predate 1958, no significant direct or indirect impacts to this property are anticipated as a result of the proposed project, as this building would remain unaltered by the project.



Humboldt's advocate for transportation choices

707.833.4411
www.green-wheels.org



City of Eureka
1443 G Street
Eureka, CA 95501

City of Eureka
Community Development Department
Sidnie L. Olson, AICP
Principal Planner
531 K Street
Eureka, CA 95501-1165

January 30, 2009

Ms. Olson,

Thank you for the opportunity to comment on the DEIR for the proposed Marina Center. Green Wheels is a community organization which works for a healthier community, economy and environment, advocating for balanced and sustainable transportation on the North Coast.

The Marina Center Project, should it be built as proposed, is an unfortunate lost opportunity for Eureka's traffic safety, public health and economic vitality.

Eureka's Problems

Eureka is the second most dangerous amongst 96 comparable California cities when it comes to motor-vehicle-related injuries and deaths.¹ For such a small town, it has heavy traffic. There are substantial economic woes as well.

Some of these problems stem in part from transportation and land use policy that treat Eureka like a patch of asphalt for non-Eureka residents to drive over on their way to work or shopping. Due to land use decisions that limit housing development while emphasizing automobile-accessed retail development, Eureka has 30% of the jobs in Humboldt County and a large share of the retail space, but only 20% of the population. Thus large traffic volumes are generated as non-Eureka residents commute to work or drive to shopping destinations, and fierce competition between retailers to attract a limited customer base.

Eureka's streets are designed with an emphasis on traffic throughput over safety and livability. High-speed one-way couplets have been installed on H and I Streets, Harris and Henderson Streets, and 6th and 7th Streets to maximize the speed and volume of traffic through Eureka neighborhoods.

The glut of retail in Eureka, without a large local population to support it, results in substantial blight. When the Bayshore Mall was built, many Old Town businesses failed. Now the Bayshore Mall, with recent tenant bankruptcy filings is threatened with blight.

The proposed Marina Center threatens to exacerbate all these problems by introducing parking-intensive, large retail spaces with little housing or other uses to balance it. The results will be

↓ 20-1

increased traffic with associated emissions, noise, traffic injuries and deaths, and increased competition amongst retail establishments for a limited customer base.

↑ 20-1
cont.

Lost Opportunity

Ironically, using a different strategy, the developer could generate much more value from the property while at the same time addressing many of these issues. The site is within walking distance of two major grocery stores. It is close to recreational opportunities on the bay, at the Eureka Marsh, and on the boardwalk in Old Town. The commercial center of Humboldt County is a ten minute walk away. There is great potential for housing and offices with phenomenal bay views. Yet the project proposes not much more than one housing unit per acre.

We are not suggesting that this site should be developed only with residential units. The Coastal Commission has staked a position disallowing housing on the ground floor. The key is to implement a classic mixed-use strategy that maximizes the use of the site for housing and businesses, rather than wasting land on parking, which generates no revenue for the developer or the city.

Mixed-use developments enable a developer to do more with less land and less parking. Housing can be placed above retail and offices. Parking demand is substantially reduced since residents park at different times of day than employees and customers.² Coupling high density mixed-use development with strategies to facilitate pedestrian, bicycle and transit access can further reduce parking needs, increasing the amount of profitable development and boosting tax revenue by supplying retail and businesses with employees and customers.³

A large scale example of this approach is the Pearl District in Portland, Oregon. A blighted collection of industrial properties in close proximity to the downtown was developed into a high density mixed-use neighborhood with excellent pedestrian, bicycle and transit facilities. The developer made substantial profits, and the citizens of Portland view the project as a jewel in the crown of their downtown.

20-2

While providing bicycle and pedestrian facilities is an easy and obvious strategy to reduce parking demand, thus freeing up more land to facilitate more substantial development of the site, there are major failures in addressing non-motorized access to the site. Furthermore, the scale of the site makes this a lost opportunity to anchor and reorganize the transit systems around a transit-oriented development. In fact, in Green Wheels' April, 2008 call for feasibility study of Bus Rapid Transit for the Humboldt Bay Region,⁴ one alternative alignment runs through the Balloon Tract property to create such a transit-oriented development opportunity.

A mixed-use approach that takes advantage of multimodal access to the site would not only facilitate a higher value project for the developer, and more reliable tax revenues for the City. Such an approach could act to facilitate reduction in Eureka traffic by giving more people the opportunity to access all the amenities of downtown Eureka without relying on their cars. That means more business activity with fewer parking problems for the whole downtown.

Failure to Plan for All Modes

Inconsistency of this project with Eureka's 2004 Strategic Visioning is worth taking note of. First, the Strategic Visioning calls for a mixture of uses on the waterfront, including housing, which is not included in this project in a substantive way. Second, it calls for promotion of bicycle and pedestrian use of city streets.⁵ The proposed project is particularly deficient in this regard.

20-3

5-302

Some of the failures in the Transportation Section of the DEIR stem from a failure view the project from the perspective of users of the site other than motorists. For example, bicycle access exiting from the site to the 7th Street bike route requires the bicyclist to proceed straight across Broadway on 6th Street from the right turn lane (there is no through lane or crosswalk on the eastbound side of 6th street), mount the curb and walk or ride her bicycle south on the sidewalk on Broadway, against traffic, cross Commercial Street, and cross 7th Street to reach the 7th Street Bike Lane. The crossings of Commercial Street and 7th Street against traffic on the sidewalk will put bicyclists in a location where motorists exiting Broadway will not expect them. Therefore this bike route design is inappropriate without radical changes the access design.

When outlining transit access to the site, the authors neglected to properly research the Redwood Transit System schedule, citing inaccurate schedule information (which is easily available at www.redwoodtransit.org). The document also fails to clarify the location of transit stops. Because of high traffic speeds, high traffic volumes and lack of space for buses to pull over, there are few transit stops close to the site even though transit routes pass close to it. In the EIR, transit stops need to be indicated on the maps showing where transit service exists so the public has an opportunity to understand how this project is served by that transportation mode.

The only traffic impact metric used was Level of Service (LOS) for motor vehicles. There are measures of the quality of service for other modes, such as the Bicycle Compatibility Index to measure changes in bicycle quality of service,⁶ and a measure of transit quality of service as well.⁷ Given the Eureka Visioning's stated goal of promoting bicycle and pedestrian use of city streets, the EIR needs to measure traffic impacts for bicyclists and transit users, and compare it with a mixed-use transit-oriented development alternative.

Back to the Drawing Board

The Balloon Tract represents such a great opportunity for renewal in Eureka that the degree to which this project fails to seize that opportunity is staggering. While I have laid out some options for developing the site to its full potential, there are certainly others. However, the current design is so removed from what would provide optimal value to either the developer or the City of Eureka that we recommend the developer start over.

There are approaches to urban design which accommodate public input in a way that brings a large proportion of the public on board, neutralizing the NIMBYism associated with infill projects. One approach is a design charrette in which the developer involves stakeholders from a broad array of interests in an intensive initial design process. While such a process has greater upfront costs, the resulting project can move forward more easily afterward with broad support from the community. We suggest starting over and doing this to get a project developed that the developer and the people of Eureka can all enjoy and be proud of.

Sincerely,

Chris Rall – Executive Director
Green Wheels

CC:
Eureka City Council

20-3
cont.

20-4

¹ Office of Traffic Safety. 2007. Available at: www.ots.ca.gov/Media_and_Research/Rankings/default.asp.
² Shoup, Donald. 2005. *The High Cost of Free Parking*. Chicago: Planners Press. First chapter available at: <http://shoup.bol.ucla.edu/Chapter1.pdf>
³ Strategic Economics, Hamilton, Rabinovitz & Alschuler, Inc., Urban Explorer. 2004. *Towards the Future: Jobs, Land Use and Fiscal Issues in San Jose's Key Employment Areas 2000-2020*. Whitney & Whitney, Inc.
⁴ Green Wheels. 2008. *Bus Rapid Transit for the Humboldt Bay Region: A Call For Feasibility*. Available at: www.green-wheels.org/brt/feasibilitycall
⁵ Eureka City Council. 2004. *Strategic Visioning*. Available at: www.ci.eureka.ca.gov/civica/filebank/blobload.asp?BlobID=2184
⁶ Federal Highways Administration. 1998. Available at: www.ntl.bts.gov/DOCS/98095/index.html.
⁷ Nelson Nygaard. 2006. *Downtown Glendale Mobility Plan: Transportation Performance Measures and Street Typology*. Available at: www.ci.glendale.ca.us/planning/pdf_files/5CMobilityPlan/GLENDALE_PerfMeasures_StreetsRPT.pdf.

Letter 20: Green Wheels (Chris Rall)

- 20-1 The comment states that the proposed project would result in increased parking, traffic, noise, deaths, air pollution, and urban decay.

As stated in Chapter III, Project Description, the proposed project includes retail, restaurant, office, residential, parking, and recreational spaces. The potential for the project to result in significant impacts to urban decay are discussed in Chapter IV.P of the Draft EIR. The potential for the project to result in significant impacts to transportation are discussed in Chapter IV.O. The potential impacts to Air Quality are discussed in Chapter IV.C and the potential impacts to noise are discussed in Chapter IV.K.

- 20-2 The comment states that there is an opportunity for more and higher-density housing to be developed on the project site instead of surface parking. As stated on Draft EIR page III-15, the project's objectives include the objective to develop an economically viable mixed-use project to include several components, only one of which are residential uses. Significantly increasing the number of residential units in the proposed project would require removing some of the other components and may increase some of the project's environmental effects (e.g., wastewater and a.m. peak-hour traffic patterns). In addition, increasing residential uses would result in a decrease in lands for development that would provide jobs. Therefore, a higher-density residential development would not meet the project's objectives.

- 20-3 The comment disagrees with several aspects of the transportation analysis. First, the comment states that the proposed bike route is not safe. Second, the comment states that the transit routes described are not accurate. Third, the comment states that the Draft EIR should have used the Bicycle Compatibility Index (BCI) to measure changes in bicycle quality of service.

Although engineers are working to develop a modeling tool for evaluating compatibility of roadway segments for bicycle travel (e.g. the proposed BCI), there are no accepted level of service indices for bicycles. The BCI model applies to mid-block street segments only, and is primarily intended for use on "through" streets. In other words, the BCI does not account for major intersections along routes where bicyclists may encounter a stop sign or traffic signal, such as along Broadway. Thus, the EIR does not rely on the BCI in its traffic analysis.

While specific roadway features for bicyclists have not yet been determined, the proposed project would provide improved alternative routes for travel by bicyclists. For example, with the project, bicycles could be routed to access the Seventh Street bike lanes from the Marina area, which would provide easier and safer access. There would be signs installed in the Marina Center and on streets to guide bicyclists to the Fourth Street exit, direct them to turn right on Broadway to go south, turn left to eastbound Fifth Street,

turn right on B Street to go south, and finally turn east on Seventh Street to access the Class II bike lane. Please also see response to comment 5-6.

The proposed project would provide bike storage as well as construction of the Class I bikeway along the project frontage on Waterfront Drive. Provision of a route through the project site would provide a direct connection between Downtown and the Marina.

Queuing on Broadway for both northbound left turns into Marina Center at Sixth Street as well as for southbound traffic heading for Washington Street prevents any reasonable attempt to get bicyclists (and pedestrians) across Broadway between the north side of Sixth Street and the north side of Washington Street. There are no ideal solutions for bicyclists traveling towards the Class II bike lanes on Seventh Street. The proposed route as indicated above does require out of the way travel, but it provides a route through the project site for the bicyclist travelling from the Marina to the bike lane on Seventh Street.

Regarding incorrect description of transit routes, please see response to comment 29-6, which includes a text correction regarding the local transit services.

- 20-4 The comments suggesting other planning processes in relation to the project site are noted. It is beyond the scope and capability of this EIR and CEQA to analyze the environmental impacts of projects and plans not yet developed through a suggested alternative design charrette process. The Lead Agency is required by CEQA to analyze the proposed project. As stated in Master Response 4, the City of Eureka does not own the project site.

Comment Letter 21

Comment Letter 21



Our goal: To improve and encourage bicycle commuting
P.O. Box 9054, Eureka, CA 95502-9054

January 31, 2009

City of Eureka
Community Development Department
Sidnie L. Olson, AICP
Principal Planner
531 K Street
Eureka, CA 95501-1165

Re: MARINA CENTER DRAFT EIR

Dear Ms. Olson:

This letter reflects our comments on the proposed Marina Center project as presented in the Draft Environmental Impact Report.

1) Impact O-1, Increased Traffic: Concerns (4):

21-1

- a. We have concerns about increased traffic on all streets surrounding the project, especially those that lack Class I or Class II bike facilities, creating increased hazards for cyclists.
b. We have concerns about the lack of convenient and safe bicycle access to 7th Street for eastbound egress from the site.

A bicyclist leaving the site at the 6th Street access would have to perform the following movements to get to 7th Street (as suggested in the Traffic Impact Study) This is not an acceptable solution:

- 1. Dismount the bike at the SW corner of 6th and Broadway.
2. Push the pedestrian call button and wait for the signal to cross to the NW corner, as a pedestrian.
3. Push the pedestrian call button and wait for the signal to cross to the NE corner, as a pedestrian.
4. Push the pedestrian call button and wait for the signal to cross to the SE corner, as a pedestrian.

Sidnie Olson
January 31, 2009
Page 2

- 5. Walk the bike on the sidewalk on the east side of Broadway from 6th to 7th.
6. Wait for traffic to allow the crossing of 7th and Broadway from the NE corner to the SE corner, as a pedestrian.
7. Mount bike and ride east on 7th Ave. in the class II bike lane.

Expecting bicyclists desiring to connect with 7th Street to use any other proposed access points, other than 6th Street, creates out of direction travel and presents increased hazards. The streets off site, used by a bicyclist to connect to 7th street are typically narrow, may see increased traffic as a result of the project, do not offer Class I or Class II bicycle facilities, and are lined with parked cars, which present hazards from vehicle occupants opening doors in the path of bicyclists.

- c. We have concerns due to the Class II Bike Lane on 6th Street ending at Commercial Street, one block short of reaching the project site. This will require bicyclists desiring to enter the project site to merge left into the middle traffic lane to avoid being cut off by traffic turning right onto Broadway. This movement is intimidating to most bicyclists. We suggest a Class II Bike Lane be added to the immediate left side of the right turn lane on 6th Ave at Broadway, to accommodate bicyclists moving straight through the intersection to enter the project site.
d. We have concerns regarding increased conflicts between vehicles and bicyclists at the 5-point intersection of Broadway, Wabash, and Fairfield. Currently, this intersection has recorded a higher than average number of bicycle (and pedestrian) collisions. It is difficult, if not impossible, for a bicyclist northbound on Broadway to clear the intersection if entering on a green signal just prior to changing to yellow, before the cross traffic on Wabash gets a green signal. We suggest the complete closure of Fairfield from this intersection be investigated (not just closed for northbound traffic, as stated in Mitigation Measure O-1b) to make the intersection safer for bicyclists, by bringing the stop bar for northbound Broadway traffic up to Wabash.

2) Impact O-7, Conflicts with Alternative Transportation Plans and Policies:

21-2

Comment:

- a. Mitigation measures O-7a (Maintaining Adequate Railroad Right of Way), O-7c (Smooth and perpendicular RR crossings), & O-7e (Bicycle parking spaces per the Regional Transportation Plan) are important and should remain in the final EIR. The following text from Section IV.O-46 is also important and should remain in the final EIR:

Bicycle Access

The proposed project could generate bicycle traffic, and would provide both short-term and long-term parking for bicycles. Secure racks would be

5-306

Comment Letter 21

Sidnie Olson
January 31, 2009
Page 3

located near building entrances. Bicyclists would be attracted to the proposed project for employment, shopping, dining, and entertainment. Adequate, safe, and secure bike parking should be provided according to 2004 Regional Bicycle Transportation Plan Update (Humboldt County). To be secure, bicycle parking facilities would be in front of the store and visible to customers entering and exiting stores, to minimize the potential for theft and vandalism. Bike parking for employees would be provided as an incentive for employees to ride bikes to work. Bike lockers or a fenced in, covered enclosure with bike racks within, can be locate behind businesses or in the parking structure. With the implementation of Mitigation Measure O-7e (bicycle parking spaces), sufficient bicycle parking would be provided on-site. The project proposes to develop a section of the Waterfront Drive multi-use path, which the City has proposed for installation north of Del Norte Street along Railroad Street and Waterfront Drive. The planned path would extend east along Waterfront Drive to meet up with the soon-to-be-constructed trail along the Old Town Boardwalk east of C Street. The Waterfront Drive pedestrian and bicycle path through the project limits would be beneficial to the community and provide connectivity for further development of the path beyond the project site boundary. The path would be designed to meet the requirements of Chapter 1000 of the Caltrans Highway Design Manual (2004).

Thank you for giving us the opportunity to provide comments on this important project. Please contact us if you have any questions regarding these comments.

Sincerely,



Scott Kelly, President
Humboldt Bay Bicycle Commuters Association

cc: Board of Directors, Humboldt Bay Bicycle Commuters Association

Letter 21: Humboldt Bay Bicycle Commuters Association (Scott Kelly)

- 21-1 The comment suggests an alternate route for biking by guiding bicyclists through the Marina Center site to the Fourth Street exit, then to turn right on Broadway to go south, turn left to eastbound Fifth Street, turn right on B Street to go south, and finally turn east on Seventh Street to access the Class II bike lane.

Bicyclists at the Marina today must travel either south to Washington Street or north to Commercial Street, negotiate railroad crossings, and then head either east on Washington Street to Summer, and then north to Seventh Street to get to the bike lanes, or south on Commercial to Seventh Street, then east on Seventh Street. The proposed project would improve this travel by opening a route directly across the project site to Fourth Street and Broadway. It should be noted that in future, when the mitigation measure is triggered, all project related traffic (except bicycles) going south or east on U.S. 101 would be subject to “out of the way” travel by being routed away from Broadway to Waterfront Drive.

The width of Sixth Street appears sufficient to accommodate the suggestion of the comment, in regards to provision of a Class II bike lane immediately to the left of the westbound right turn lane to accommodate bicyclists intending to enter the project site at Sixth Street. This is something the City can evaluate in its citywide bicycle plan. The proposed project does not preclude the suggested changes.

The clearance interval can be designed to be extended for bicyclists at Broadway, Fairfield Street and Wabash Avenue. The technology now exists so that greater green light extension is provided for bikes detected in the “dilemma zone” so that the light goes yellow for bicyclists less often. However, additional all-red clearance time could also be provided in the event that bikes are detected when the signal “maxes out” its green time. This would be a requirement in the redesign of signal controls for this intersection. Full closure of Fairfield Street is subject to local concurrence and review. There is sufficient capacity for traffic turning onto southbound Fairfield Street at Wabash Avenue to be diverted to southbound left turns at Hawthorne Street, and then to Fairfield Street. The comment is correct that the stop bar could be moved closer to Wabash Avenue with full closure, and this would also lessen pedestrian clearance times. This is something that Caltrans can consider. The proposed project does not preclude the suggested changes, but they would be subject to City review.

- 21-2 The comment states that bicycle parking spaces are important and should remain in the Final EIR. The comment is noted.

Comment Letter 22

Comment Letter 22



City of Eureka
Sidnie Olson
January 30, 2009
Page 2 of 14

January 30, 2009

City of Eureka
Community Development Department
Attn: Sidnie L. Olson, AICP Principal Planner
531 K Street
Eureka, CA 95501

RECEIVED
JAN 30 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Re: Marina Center Mixed Use Development Project Draft Environmental Impact Report

Ms. Olson:

On behalf of the board and staff of Humboldt Baykeeper the following comments are submitted regarding the Marina Center Mixed Use Development Project Draft Environmental Impact Report ("DEIR"). Humboldt Baykeeper has many concerns regarding the analysis that was conducted in the DEIR. One of CEQA's main purposes is to ensure that the public and decision-makers are fully informed about the potential, significant environmental effects of a proposed project. Based upon our review of the DEIR we do not believe that this basic requirement is being met.¹

Our specific comments are outlined below.

I. Humboldt Baykeeper's Involvement with Project Site

In February of 2006 Humboldt Baykeeper served Union Pacific Railroad Company, the former owner of the Balloon Track, with a Notice of Intent to Sue ("NOI") under the Federal Clean Water Act, the federal Resources Conservation and Recovery Act, and the California Hazardous Waste Control Act. Our NOI was based upon the long term contaminated state of the property and for the illegal discharges of pollutants to waters of the United States in violation of federal law. In April of 2006 we filed suit in federal court against Union Pacific for these claims. In October of 2006, after their purchase of the property, Humboldt Baykeeper similarly served CUE VI with an NOI as the current

22-1

¹ Cal. Pub. Res. § 15002(a).

owners of the property, and in June of 2007 filed an amended complaint in federal court naming them in the suit. Despite the fact that the site had been under Regional Board oversight for over 15 years, the contaminated conditions on the property were, and continue, to pose a serious problem to Humboldt Bay and the surrounding community and environment. No cleanup actions have occurred on the property since our suit was filed.

Humboldt Baykeeper's consultants have conducted three site inspections: two of which involved the investigation of site conditions and the third to conduct a dye tracer study to determine the discharge location of a pipe found on the southern boundary of the property. At the outset with these site investigations CUE VI objected strongly – including filing motions with the federal court, which were denied – to Humboldt Baykeeper's ability to share the information gained through our site inspections with others, including other regulatory agencies involved or potentially involved with the site.

22-1 cont.

During these site investigations Humboldt Baykeeper collected numerous soil and sediment samples, conducted fish counts and collected fish samples for dioxin analysis, as well as conducting visual observations. Based upon the information gathered during these inspections and upon the previous sampling conducted at the site, Humboldt Baykeeper's expert consultants prepared a number of reports describing and assessing site conditions. These reports are attached to this comment letter.

In May of 2008 Humboldt Baykeeper presented a large quantity of this information to the City of Eureka. We were contacted by Sidnie Olson requesting additional information that we might have regarding the project site and learned that the City was in possession of little of the information that was available. We provided the city with a full copy of: the file maintained by the North Coast Regional Water Quality Control Board ("Regional Board"); copies of the documents produced to us by Union Pacific and CUE VI regarding the site; the DEIR prepared for the property by WESCO; copies of two wetland delineations conducted by the Huffman Broadway Group; and copies of sampling results from Humboldt Baykeeper's site inspections.² Although all of the documents we provided to the City were in the possession of the project proponent, as well as results of split sample analyses conducted of soil, sediment, and fish samples, they were apparently not provided to the City for their use in the EIR preparation process. None of these documents, for example, are cited as references in the DEIR.

² A copy of the letter provided to the City along with the documents is attached as exhibits 1, 2, and 3. When these documents were provided to the City, Ms. Olson assured me that all materials provided to them would be considered part of the administrative record. Based upon these assurances, Humboldt Baykeeper is not now re-producing copies of the materials already provided and considers them to be part of the record for the CEQA process.

5-309



Comment Letter 22

City of Eureka
Sidnie Olson
January 30, 2009
Page 3 of 14

Comment Letter 22

City of Eureka
Sidnie Olson
January 30, 2009
Page 4 of 14

II. Section IV. Environmental Setting, Impacts, and Mitigation Measures

a. Section IV.A: Aesthetics

As currently written, the DEIR presumes that the development of a mixed use project would create a more favorable aesthetic environment than the current open space vista that is presented by the site. The DEIR states that "[a]lthough some views of the bay and peninsula would be lost as a result of the project, the Marina Center project would, overall, augment public coastal viewing opportunities by providing improvements and amenities." DEIR at IV.A-5. "The project would, however, improve the visual quality of the area by redeveloping the mostly vacant brownfield site, introducing public amenities..., restoring a wetland area, and implementing a streetscape program..." DEIR at IV.A-16. Based upon this statement, the DEIR finds that "The potential impact of the Marina Center project on the visual character or quality of the site and its surroundings would be less than significant." Id. (emphasis omitted).

22-2

Aesthetic considerations are, as recognized by the DEIR, largely subjective. With this in mind, the DEIR needs to include greater discussion of the value of open space views. The Balloon Track is currently the only open space within the project vicinity that allows a view of the bay from motorists along the 101 corridor. Additionally, from the Bay and from the trail along the Bay near the Wharfinger it allows a view up into the City and the mountain skyline behind it. These views would be largely obstructed by the construction of the project, especially considering the intent to construct four and five story buildings as part of the project. See DEIR at IV.A-6 to IV.A-16.

The DEIR should incorporate an analysis that gives greater weight to the positive visual character allowed by having open space between the major thoroughfare through Eureka and Humboldt Bay. It should additionally incorporate an analysis of the benefit of having an open space view within the vicinity of the project.

b. Section IV.C Air Quality

Although the DEIR does contain an analysis of air quality impacts from the proposed project, and does recognize that the project would have a significant impact due to the conflict with achieving attainment status for emissions of PM10, it does not incorporate sufficient mitigation measures to reduce that impact below the level of significance. The mitigation measures included in the DEIR appear to be the minimum that could be required of the project applicant. See e.g. DEIR at IV.C-12 - IV.C-15. Additional mitigation measures that could reasonably be included in order to help reach attainment of PM10 standards in the air basin would include requiring installation of alternative energy generation sources such as solar electric panels and solar water heating.

22-3

The Air Quality section does not appear to assess the impacts on air quality from additional energy usage from the project itself. The analysis includes daily motor vehicle trips, on-site stationary sources, and area sources. DEIR at IV.C-13 - IV.C-14. Greenhouse gasses that are assessed are based upon motor vehicle trips, natural gas usage, and landscape maintenance. DEIR at IV.C-20. This does not include an analysis of the air quality impacts or green house gas emissions from the electricity used to light the structures on site, or to provide electricity for other likely or necessary uses. Furthermore, the analysis does not include the air quality impacts or green house gas emissions from bringing products into and out of the project site. These are significant potential sources of green house gas emissions and must be analyzed in the DEIR.

22-4

In addition to the concerns discussed above, there are concerns regarding cumulative impacts on air quality that are not analyzed in the DEIR. The Humboldt Bay Harbor, Recreation and Conservation Districts Adopted Business Plan for the Redwood Marine Terminal estimates that in the first year of operation, the container terminal would generate up to 4 unit trains per weekly vessel port call (2 southbound and 2 northbound). At full capacity, the terminal would generate up to 12 unit trains per week (6 southbound and 6 northbound) or up to 2 trains per day. A standard intermodal unit train has capacity for approximately 500 TEU (20 TEU per 5-well railcar with 25 railcars per train). This indicates the Humboldt Bay District estimates that at full capacity the Redwood Marine Terminal will be receiving two container ships per day. The District also estimates 30-40 port calls per year from cruise ships. According to the US Environmental Protection Agency, "marine diesel engines used on a variety of different types of vessels ranging in size and application from small recreational runabouts to large ocean-going vessels are significant contributors to air pollution in many of our nation's cities and coastal areas. Marine diesel engines produced today must meet emissions requirements, but the current standards are relatively modest and these engines continue to emit significant amounts of nitrogen oxides (NOX) and particulate matter (PM), both of which contribute to serious public health problems." (<http://www.epa.gov/OMS/marine.htm>).

22-5

Of course, similar emissions and public health issues exist for diesel exhaust from trains.

The DEIR fails to address the cumulative environmental and health effects from these anticipated sources. Because firm estimates exist of the numbers of ships likely to be present on Humboldt Bay upwind of the proposed project, and trains along the rail line immediately adjacent to the project, the cumulative impacts analysis should include emissions, exposures and health risk assessments of these combined sources.

c. Section IV. D: Biological Resources

Biological resources that could be impacted by the proposed project deserve special review due to the complete change that will be occurring at the project site. If the Marina Center Project is approved as proposed approximately 43 acres will be transformed from open space, wetlands, and tidally influenced slough into 313,500

5-310

Comment Letter 22

City of Eureka
Sidnie Olson
January 30, 2009
Page 5 of 14

Comment Letter 22

City of Eureka
Sidnie Olson
January 30, 2009
Page 6 of 14

square feet of retail space, 104,000 square feet of office space, 72,000 square feet of multi-family residential, 70,000 square feet of light industrial, 14,000 square feet of restaurant, 12,500 square feet of museum with approximately 1,600 square feet of parking spaces.³ Although the project does additionally include the creation of an 11.89 acre wetland preserve, the net loss of various habitats is considerable.⁴ Attached to these comments is a Biotic Characterization of Clark Slough and "Balloon Tract" prepared by H.T. Harvey and Associates on behalf of Humboldt Baykeeper and Ecological Rights Foundation. This document contains an additional assessment of the biological resources found, or potentially found, at the project site.

Although the DEIR presents a reasonable overview of conditions found onsite, there are a number of omissions of note. The DEIR states that no mammals have been observed on the site, in fact a striped skunk and the remains of a Virginia Opossum were observed on the site in January of 2008.⁵ Additionally, the DEIR gives little consideration to the habitat value provided by Clark Slough itself. There is no discussion of invertebrate species found in the Slough, nor was there an assessment of what fishes currently, or potentially, reside there. On July 31, 2007 a fish survey of Clark Slough was conducted. This fish survey found a variety of species to be using the slough, most notable being the large number of juvenile Dungeness crab – there were 243 juvenile Dungeness crab found within the stretch of Clark Slough that extends from the tide gate to the box culvert on the property under the gravel road that runs roughly parallel to Waterfront Drive.⁶ Although Dungeness crab is not an endangered, threatened, or special concern species, its commercial and recreational value within the Humboldt Bay and surrounding communities is exceptional.

The DEIR characterizes the wetlands found onsite as being limited in "value" and "function".⁷ Though these wetlands may not provide optimum habitat, their value as foraging areas and freshwater sources for a variety of avian species, as well as habitat (in the case of Clark Slough) for fishes and crustaceans⁸ should not be minimized purely to support their conversion into retail space for the human residents of this area. The proper ecological assessment of the wetland functions present onsite has not even been conducted. According to the California Coastal Commission, in order to determine the function of a wetland an assessment should be made that determine the chemical, biological and physical functions of the specific wetland. Assessment of the biological functions of a wetland, for example, "would include identifying the species of fish that occur in the wetland, identifying their life stages (e.g., young-of-the-year, juvenile, or

adult), and determining the abundances of those species."⁹ Proper assessments of wetland values must be completed to determine the true impacts of the proposed project and for assessing the sufficiency of proposed mitigation measures.

In Impact D-2, the DEIR asks whether the project would have a substantial adverse effect on any riparian habitat or other sensitive natural community and then goes on to explain why the site does not contain environmentally sensitive habitat areas ("ESHA") and discounts the value of the riparian habitat found onsite.¹⁰ Though the discussion provided here regarding the definition of an ESHA under the California Coastal Act is accurate, it ignores the definition for such areas under the City of Eureka's own certified Local Coastal Plan ("LCP"). Under Eureka's LCP:

- "The City declares the following to be environmentally sensitive habitat areas:
- a. Rivers, creeks, sloughs, gulches, and associated riparian habitats, including but not limited to...
 - b. Wetlands and estuaries...riparian areas...
- ...¹¹

When the City's definition of an ESHA is applied to the site, it is clear that the wetlands found onsite, including the wetlands and riparian areas found along the southern portion of the property, and Clark Slough fall within the definitional scope. Thus, contrary to what is stated in the DEIR, these areas must be assessed giving them their proper value as ESHAs. This section goes on to state that the "project's effects on riparian habitat or other natural communities would be beneficial rather than adverse."¹² Further, the DEIR improperly identifies only Clark Slough as a riparian area, though the wetlands found along the southern boundary of the site clearly fall within such a definition. Without giving proper weight to the beneficial values already found within these areas an assessment of the projects potential effects on these areas cannot be made.

Impact D-3 asks whether the project would have a substantial adverse effect on federally protected wetlands protected by Section 404 of the Clean Water Act, it then goes on to discuss how the wetland restoration plan would mitigate the effects of the project to a level resulting in an impact that is less than significant.¹³ This section of the DEIR recognizes that the project will permanently fill approximately 5.54 acres of wetlands.¹⁴ This fill is claimed to be mitigated for through the creation of an 8.98 acre wetland reserve along with 2.91 acres of associated buffers.¹⁵ It is not entirely clear from

22-7
cont.

22-6

22-8

22-7

22-9

5-311

³ DEIR at III-2.
⁴ DEIR at III-2.
⁵ DEIR at IV.D-4; H.T. Harvey at 3, attached as Exhibit 4.
⁶ Exhibit 4 at 8.
⁷ DEIR at IV.D-12.
⁸ See Exhibit 4 at 2-4.

⁹ California Coastal Commission, *Procedural Guidance For Evaluating Wetland Mitigation Projects In California's Coastal Zone*, section 4.2.1.2, available at <http://www.coastal.ca.gov/weteval/we4.html>.
¹⁰ DEIR at IV.D-20.
¹¹ City of Eureka Policy Document at 6.A.6.
¹² DEIR at IV.D-21.
¹³ DEIR at IV.D-21- IV.D-30.
¹⁴ DEIR at IV.D-22.
¹⁵ DEIR at IV.D-22.

Comment Letter 22

City of Eureka
Sidnie Olson
January 30, 2009
Page 7 of 14

the description provided where the wetlands that will be filled are and where the wetlands that will be created will occur on the project site. It can be inferred from the information provided that this wetland preserve will surround or border Clark Slough, and thus the acreage included in the wetland preserve would include Clark Slough within its total acreage.

22-9
cont.

The mitigation ratio provided in the DEIR is 1:1, meaning that approximately one acre of wetland will be created for each acre that is destroyed. According to the California Coastal Commission, the mitigation ratio calculation should be based upon more than just numbers – i.e. 1:1, and instead should factor in function and value information that relies upon information gained from the ecological assessment.¹⁶ Having not conducted a complete ecological assessment, all of the conclusions that follow in the DEIR regarding the benefits of the proposed wetland preserve are unsubstantiated.

22-10

Specific portions of the proposed mitigation are also inadequate. The proposed buffer area of 50 feet (mitigation measure D-3c) is considerably smaller than that required by the California Coastal Commission and required by the City of Eureka LCP.¹⁷ Both require a buffer with a minimum width of 100'.¹⁸ Mitigation measure D-3b provides for the preparation of a detailed Restoration Plan and includes some of the minimum requirements of that restoration plan. The DEIR does not, however, contain a completed restoration plan that would allow public review and concurrence on its sufficiency in mitigating the fill of wetlands currently found onsite.

22-11

An additional issue not discussed in any detail in this section of the DEIR is the fact that the wetland mitigation plan would involve the construction of wetlands in known contaminated soils.¹⁹ This fact deserves careful attention as the mitigation ratio is based upon the idea that the “new” wetlands will be far superior to the wetlands that currently exist on the site. As will be discussed in more detail below, the site is known to be contaminated with petroleum hydrocarbons, metals, and dioxins and furans. The DEIR does not even discuss the fact that it is in these contaminated soils that the wetland will be created, nor does it discuss in this section the fact or the extent of the contamination. This information is crucial to assessing the benefit of the proposed wetland restoration plan. Tissue sampling of fish collected in Clark Slough indicate that dioxins, furans, and arsenic are bioaccumulating in the food chain at the proposed project site. Expanding the intertidal habitat into areas that are contaminated from past industrial

22-12

¹⁶ California Coastal Commission, *Procedural Guidance For Evaluating Wetland Mitigation Projects In California's Coastal Zone* at 4.2.3.3
¹⁷ See DEIR at III-14.
¹⁸ City of Eureka Policy Document at 6.A.19; California Coastal Commission, *Procedural Guidance For Evaluating Wetland Mitigation Projects In California's Coastal Zone* at Ch. 1, § V, available at <http://www.coastal.ca.gov/wetrev/wetchl.html>.
¹⁹ DEIR at IV.D-24.

Comment Letter 22

City of Eureka
Sidnie Olson
January 30, 2009
Page 8 of 14

use could further exacerbate this situation, causing additional risk to human health and the Bay's ecology.

d. Section IV.G: Hazards and Hazardous Materials

Humboldt Baykeeper is particularly concerned with the assessment provided for the potential impacts related to hazards and hazardous materials at the proposed Marina Center project site. The Balloon Tract property is well known to be contaminated with a variety of toxic substances from its former use as a railroad switching and maintenance yard by its prior owner Union Pacific, and its predecessors in interest. Though the DEIR does an adequate job of laying out this previous use and some of the resulting contamination issues from this use, remediation of the property is defined as part of the project itself, there are substantial problems with this section that must be addressed prior to certification of the document.²⁰

22-12
cont.

The first issue that arises in the DEIR is its complete failure to present for public and agency review the actual levels of contaminants still found on the property. The DEIR lists out many of the contaminants found onsite, including petroleum hydrocarbons, arsenic, copper, lead, dioxins, furans and PCBs, but does not state what level these contaminants are found at.²¹ “(T)he EIR should set forth specific data, as needed to meaningfully assess whether the proposed activities would result in significant impacts.”²² Without having this information a meaningful review of the site conditions cannot be made.

22-13

The DEIR also fails to discuss the dioxins and furans found onsite.²³ The DEIR's only reference to dioxins and furans is found in one line of the document: “Recent sediment samples have found dioxins, furans, and PCBs in onsite samples and Clark Slough.”²⁴ In fact recent sampling conducted by Humboldt Baykeeper, split samples of which were taken and analyzed by the project proponent and presumably not shared with the preparers of this DEIR, found elevated levels of dioxins and furans in all of the seven samples that were analyzed for it, as well as in fish tissue samples collected from Clark Slough.²⁵ This sampling data was provided to the City of Eureka prior to preparation of this DEIR.²⁶

²⁰ See e.g. DEIR at I-1, III-2, and III-16.
²¹ See DEIR at IV.G-4- IV.G-11.
²² *Californians for Alternatives to Toxics v. Department of Food and Agriculture*, (2005) 136 Cal.App.4th 1, at 13 (citing *Berkeley Keep Jets Over the Bay Com. v. Board of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1381-1382, 111 Cal.Rptr.2d 598.)
²³ “Dioxins and furans” as used in this letter refers to the full range of polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-p furans and their congeners.
²⁴ DEIR at IV.G-6.
²⁵ See Expert Reports of James Rogers, attached as Exhibits 5 and 6.
²⁶ Provided to Sidnie Olson on May 13, 2008 by Michelle Smith of Humboldt Baykeeper. See letter attached as Exhibit 2. The documents provided at that time included the entire Regional Board file, all documents provided from Union Pacific and CUE V1 to Humboldt Baykeeper through discovery, a DEIR

Comment Letter 22

City of Eureka
Sidnie Olson
January 30, 2009
Page 9 of 14

Comment Letter 22

City of Eureka
Sidnie Olson
January 30, 2009
Page 10 of 14

An additional problem found within this section of the DEIR is its reliance upon one Health Risk Assessment (“HRA”) and an Addendum to that HRA prepared for the property on behalf of its former owner Union Pacific. These documents were prepared in 1996 and 2000.²⁷ This HRA and the HRA Addendum were prepared based upon the known contaminants found at the site at that time, the uses of the property at that time, and upon the hazard levels established for those contaminants in 1996 and 2000. The HRA’s did not assess the hazards posed by dioxins, furans and PCBs, as no sampling had been conducted for those substances. It additionally assessed the property based upon its status as a vacant lot – it looked at the hazard posed to current youth trespassers, future onsite construction workers, and offsite receptors, for example.²⁸ What those HRAs did not evaluate was the hazard posed to the proposed uses of the property found within the project – it did not look at the hazard posed to residential uses, or use of the property as a Discovery Museum for children, for example.²⁹ This flaw is considerable and undermines the ability to rely upon the studies for virtually any purpose in this DEIR. The HRAs are additionally based upon outdated hazard values for many of the substances analyzed. The hazard value for arsenic, for example, is now approximately 5 times more stringent.³⁰ The project proponent does include an HRA prepared specifically for the project, but this HRA only looks at the health hazards posed by diesel emissions from the remediation of the wetlands and from eventual use of the project.³¹ This HRA does not assess the risks posed by the full range of contaminants found onsite, including dioxins, furans, and PCBs, even though it acknowledges that after remediation contamination may still remain onsite.³² It also fails to address all potential pathways of exposure, such as digestion of contaminated fish and shellfish, and contact with contaminated sediments in wetland areas and the slough.

22-14

There are additional problems with the impact analysis and mitigation measures provided for hazards and hazardous substances. The potential hazards posed by the project are discussed in Impact G-1, with the proposed mitigation measures found in mitigation measures G-1a-G-1e. In actual substance, the mitigation measure merely calls for the property to be remediated based upon a site specific workplan that would “meet the requirements of the Regional Water Quality Control Board (RWQCB) or other overseeing agency...”.³³ This mitigation measure is woefully inadequate to meet the requirements of CEQA. Purely basing a conclusion and analysis on the fact that the

22-15

prepared by WESCO on the Balloon Track, two wetland delineations prepared by Huffman and Broadway Group, dye tracer study report dated March 4, 2008, fish tissue sampling results dated February 24, 2008, and laboratory sheets for sampling conducted January 10, 2008 and July 30, 2007.

²⁷ DEIR at IV.G-11- IV.G-14.

²⁸ DEIR at IV.G-13.

²⁹ DEIR at IV.G-13

³⁰ See Expert Reports of Atul M. Salholtra, attached as Exhibits 7 and 8.

³¹ DEIR at IV.G-14.

³² DEIR at IV.G-19.

³³ DEIR at IV.G-20.

requirements of another agency will be met is insufficient under CEQA.³⁴ There is no way based upon the information provided that the public or decision-makers can fully assess the ability of some future prepared and designed workplan to reduce the impact of the project to a “less-than-significant level” as concluded in the DEIR.³⁵ One of CEQA’s main purposes is to ensure that the public and decision-makers are fully informed about the potential, significant environmental effects of a proposed project. This basic requirement is not being met.

22-15 cont.

An initial problem with the undisclosed future workplan being a proposed mitigation measure is that there is no guarantee that such workplan will in fact provide the benefits claimed in the DEIR. There is no legal requirement that the inclusion of mitigation measures will in fact result in their being carried out by the project proponent or required by the lead agency. Mitigation measures are “suggestions which may or may not be adopted by the decision makers. There is no requirement in CEQA that mitigation measures be adopted. The adoption of mitigation depends, among other matters, upon economic and technological feasibility and practicality.”³⁶ By including the workplan as a mitigation measure with no assurances that it will in fact be required, we cannot determine whether it will lessen the impacts of the proposed project to less than significant levels.

22-16

It is inappropriate to allow for some undisclosed future workplan to both reduce the impacts caused by the project regarding hazards and hazardous materials to a less than significant level and to cover the required mitigation for this impact. The DEIR contains no standards or provisions that can be reviewed to determine the effectiveness of these requirements. Generally speaking it is inappropriate to identify as mitigation measures that will be determined at a later date if the mitigation does not describe the nature of the actions to be incorporated and include standards that will be applied to those mitigation measures.³⁷ Here the DEIR contains no standards or requirements that will be included in the workplan, instead merely relying upon an undefined agencies approval. Furthermore, the DEIR contains no reasoning for its decision to defer the identification of the specific remedial measures until a later date.³⁸ The proper approach would be for the project proponent to first prepare a remedial action plan for the site and seek the Regional Board’s approval. At that point the public and all relevant agencies can make a proper assessment of the potential environmental and human health impacts from the proposed project.

³⁴ *Californians for Alternatives to Toxics v. Department of Food and Agriculture*, (2005) 136 Cal.App.4th 1, 17 (citing *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881-882).

³⁵ DEIR at IV.G-21.

³⁶ *Native San/Lyon Communities v. City of Escondido*, (4th Dist. 1993) 15 Cal. App. 4th 892, 908.

³⁷ Cal. Pub. Res. § 15126.4(a)(1)(B). See also *San Joaquin Raptor Rescue Ctr. v. County of Merced*, (2007) 149 CA4th 645, 669; *Endangered Habitats League v. County of Orange*, (2005) 131 CA4th 777, 794.

³⁸ See *San Joaquin Raptor Rescue Ctr. v. County of Merced*, (2007) at 670.

5-313

Comment Letter 22

City of Eureka
Sidnie Olson
January 30, 2009
Page 11 of 14

The public's and the decision makers' need to review a remedial action plan prior to its being an accepted basis for the determination of no significant impact regarding hazards and hazardous materials is underscored by the history of this site. Although the Regional Board has been overseeing activities on the site since the 1980's, the site still has extensive contamination issues.³⁹ As with most if not all state agencies, the Regional Board is severely understaffed and underfunded, increasing the likelihood of inadequate oversight. This problem is exacerbated by the fact that the Regional Board relies entirely upon information provided to them by the project proponent – information which to date has not been complete. For example, although the project proponent has taken samples of onsite of soils and sediments which have been analyzed for dioxins and furans, the results of this sampling has not been provided to the Regional Board. Additionally, there is a known discharge point on the southern boundary of the property which discharges contaminated surface and groundwater into Clark Slough that was not disclosed to the Regional Board until after its discovery by Humboldt Baykeeper. Furthermore, the Regional Board will not be determining what the workplan will contain, instead they will be offering a concurrence with the proposal of the project proponent that whatever they propose will meet the requirements of the California Water Code, not that the undisclosed future workplan, and the resulting project, will not have a significant effect on the environment as required by CEQA.⁴⁰

22-17

e. Section IV. H: Hydrology and Water Quality

Problems regarding the hydrology and water quality section of the DEIR can predominately be classified as inadequate or incomplete information. As an initial note, this section incorrectly states that "Dioxins and PCBs have no immediate effect on health, even at the highest levels found in foods; the potential risks to health come from long-term exposure to high levels."⁴¹ Dioxins are considered likely human carcinogens by the EPA, and even at low exposure levels are known to affect development of the fetus and infants.⁴² In addition to the human health impacts of dioxins, ecological risks associated with dioxin exposure include dermal toxicity, immunotoxicity, carcinogenicity, and adverse effects on reproduction, development, and endocrine functions.⁴³ As noted above, dioxins have been found in site soils, sediments, and fishes.

22-18

Site soils and sediments have been impacted by this contaminant, it has and is likely to continue to be discharged from the site through surface runoff, among other

³⁹ See documents provided by Humboldt Baykeeper from the files of the North Coast Regional Water Quality Control Board.

⁴⁰ California Water Code § 13360(a) "No waste discharge requirement or other order of a regional board or the state board or decree of a court issued under this division shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner."

⁴¹ DEIR at IV.H-3.

⁴² Dioxin Reassessment NAS Review Draft 2004. *available at* <http://cfpub.epa.gov/ncea/cfm/recondisplay.cfm?deid=87843>. See also Exhibit 7 at 12.

⁴³ Exhibit 5 at 14.

5-314

Comment Letter 22

City of Eureka
Sidnie Olson
January 30, 2009
Page 12 of 14

means. Related to the above deficiencies regarding the undisclosed future workplan for site remediation is the lack of discussion of continuing discharges of this substance from the site post-project completion. Though the DEIR does require a construction storm water permit, BMPs, and other site controls, it is necessary to evaluate this chemical's potential to be mobilized off site through construction activities, both on vehicles used on-site, and through becoming air born during construction itself.⁴⁴

22-18
cont.

In addition to the inaccuracies contained in the DEIR report regarding the potential risks of dioxin exposure, the DEIR incorrectly states that the City of Eureka is not currently regulated by an NPDES permit for Discharges of Storm Water from a Small Municipal Separate Storm Sewer System (MS4 Permit).⁴⁵ This is an inaccurate statement of fact – the City has been covered by an MS4 Permit since approximately July of 2006. Its WDID # is 1B03185SHUM.

22-19

The identified impacts and mitigation measures are additionally inadequate. Impact H-2 states that:

"Water supplies for the proposed project would not be derived from groundwater wells and thus the project would not deplete groundwater supplies underlying the project site. In addition, due to the proximity of the project site to Humboldt Bay, increase in impervious surface area resulting from the proposed project would not have a significant impact on groundwater recharge."⁴⁶

This statement inaccurately describes site conditions – even those recognized in the DEIR itself.⁴⁷ The Balloon Tract has two distinct water bearing zones, the upper zone, or the A-zone, is recharged primarily through onsite infiltration of groundwater.⁴⁸ By covering virtually the entirety of the site with impermeable surfaces this A-zone will not recharge through infiltration of groundwater. This inaccuracy in the DEIR needs to be corrected and the impacts to the groundwater bearing zone addressed.

22-20

Impact H-5 recognizes that the development of the proposed project would result in increased levels of non-point source urban pollutants being discharged from the site and eventually into Humboldt Bay. There is no estimate of the increased levels even though this value could easily be estimated based upon information provided in the transportation study, for instance. Without this information it is not possible to determine whether there would be a significant impact on the environment resulting from the increased traffic and storm water flows off of the property. The mitigation measures identified for this potential impact additionally do not provide sufficient information to determine their effectiveness – would the storm water treatment facilities treat vehicle

22-21

⁴⁴ DEIR at IV.H-15-1V.H-18.

⁴⁵ DEIR at IV.H-14.

⁴⁶ DEIR at IV.H-16.

⁴⁷ DEIR at IV.H-10.

⁴⁸ Expert Report of Benjamin Ross attached as Exhibit 9 at 7.

Letter 22: Humboldt Baykeeper (Pete Nichols)

Attachments to Letter 22 are presented in Appendix W.

- 22-1 The comment outlines the ongoing federal court proceeding in the *Humboldt Baykeeper v. Union Pacific* case initiated by the comment under the federal Clean Water Act (CWA) and Resource Conservation and Recovery Act (RCRA), as well as the current and prior conditions at the site. The comment also lists a series of reports and other materials that have been introduced in the federal court proceedings and provided to the City of Eureka, and the comment complains that none of those materials are referenced in the Draft EIR.

The comment does not cite any particular evidence contained in the thousands of pages submitted to the City, and the comment does not explain the relevance of the submitted materials to the City's consideration of the Marina Center Draft EIR. Nevertheless, several general responses can be made about the mass of information and reports submitted with the Comment. First, the files of the RWQCB document the extensive investigation of the site. The files include many dozens of reports on contamination in soil, surface water, and groundwater. These reports identify samples taken from wells in the A and B aquifers, in stormwater, and in soils at the surface, in borings, in pits, and in trenches dug across the site to assess the nature and extent of contamination. These reports establish that contamination is present throughout the site, including the existing wetlands. Second, the files of the RWQCB also show that RWQCB staff are and consistently have been actively involved in the oversight of the investigation and remediation, and they frequently adjust the requirements being imposed on the site owner in response to the data collected. Third, the reports prepared for and submitted with the comment support the conclusion reached in this EIR that the site is contaminated, especially in the wetlands. Fourth, the two principal threats identified by the reports are a threat to Humboldt Bay from stormwater potentially carrying contaminants off the site into Clark Slough, and a threat to birds, wildlife, and people using the site who ingest contamination. Fifth, the interim remediation would resolve the two key threats identified by the reports. Stormwater would no longer be able to carry contaminants into Humboldt Bay, and birds, wildlife, and people who use the site would no longer be exposed to contamination. Sixth, the reports submitted with the comment show that the project would greatly improve baseline conditions related to contamination at the site.

Moreover, despite the fact that materials may not be referenced explicitly in the Draft EIR, they were nonetheless reviewed and considered in preparing this EIR. Some of those materials, including the wetland delineation prepared by the Huffman Broadway Group identified by the comment, are explicitly referenced in the Draft EIR. (See, e.g., Draft EIR, page IV.D-35, referencing the Huffman Broadway Group, Inc., *Investigation of the Presence of Wetlands and Other Waters of the U.S., Balloon Property, Eureka, Humboldt County, California, May, 2006(b)*.) Much of the information simply confirms the information and conclusions already reached in the Draft EIR – that there are contamination issues that remain throughout the project site and that there would be

impacts associated with biological resources, hydrology and water quality, and hazards and hazardous materials. To the extent that the information merely pertains to past uses or prior conditions of the project site, they may be considered part of the environmental baseline but do not represent environmental effects caused by the proposed project. In any event, the materials cited by the comment do not involve any significant new information, and further document references are not warranted.

Please also see Master Response 4 and Appendix S regarding remediation plans for the project site.

- 22-2 The comment states that the Aesthetics chapter of the Draft EIR should include an analysis that gives greater weight to the value of having a large open space (the existing project site) between U.S. 101 and the Bay. The comment states that the proposed project would obstruct those views.

As stated on Page IV.A-16 of the Draft EIR, visual quality is subjective. Visual impact is measured by the amount of visual change adversely affecting an area's perceived aesthetic value or conditions of the setting. Development of the proposed project would result in a change to existing views of and through the project site from public view points in the project vicinity, including U.S. 101.⁷ The project site is currently undeveloped (although previously developed and consequently in a visually degraded state) and does not provide any view corridors that direct ones line of sight toward specific scenic resources. Some views of Humboldt Bay are available between existing buildings along Broadway, and the outline of the distant hills is visible from Waterfront Drive over existing urban development. The proposed project would continue to provide view corridors through the project site from the Fourth Street extension, between the proposed buildings along Waterfront Drive, and from the proposed multi-use trail along Waterfront Drive. Therefore, the project would not substantially impair scenic view corridors.

- 22-3 The comment suggests that implementation of mitigation measures, such as requiring the installation of solar electric panels and solar water heaters, could reduce the project emissions to below the significance level. However, the vast majority of emissions that would be associated with the operations of the project would be related to mobile sources (e.g., automobile and truck traffic) of emissions. Therefore, the suggested mitigation measures would do little to reduce the emissions presented in Draft EIR Table IV.C-5 to a level that would be less than significant. The Project Applicant may chose to utilize these devices, but it is not required mitigation to reduce on impact.
- 22-4 The comment points out that indirect emissions associated with electricity consumption are not quantified or presented in the Draft EIR. It also states that the Draft EIR does not include an analysis of air quality and greenhouse gas (GHG) emissions associated with deliveries.

⁷ View corridors are formed by buildings or other physical elements that guide lines of sight and control view directions available to pedestrians and motorists. View corridors include the total field of vision from a specific viewpoint.

Because power is provided over an integrated electricity grid, indirect emissions from the use of electricity could occur at any of the fossil-fueled power plants in California or neighboring states, or from hydroelectric or nuclear plants or renewable energy sources. For all power plants, it can be assumed that the emissions are reviewed as part of the permitting process before the power plant is built or expanded. In California, the California Energy Commission uses the Application for Certification (AFC) process for major power plants that are greater than 49 Megawatts. The potential impacts of criteria pollutants are reviewed in the local context prior to plants being permitted and licensed. Therefore, indirect emissions of criteria pollutants associated with electricity usage are typically not quantified in CEQA documents, such as the Draft EIR.

Subsequent to the release of the Draft EIR, The Governor's Office of Planning and Research (OPR) has developed preliminary Draft amendments to the CEQA Guidelines for regulatory guidance with respect to the analysis and mitigation of the potential effects of GHG emissions (OPR, 2009). The preliminary Draft CEQA Guidelines Section 15064.4 recommends that lead agencies make a good-faith effort, based on available information, to describe, calculate, or estimate the amount of GHG emissions that would be associated with a project, including emissions associated with energy consumption.

Therefore, although not required, the City believes it would be prudent for the EIR to include the indirect GHG emissions associated with the project's estimated energy consumption. According to Draft EIR Appendix Q, the average daily energy consumption that would be associated with the project would be approximately 23,000 kilowatt-hours (kW-hrs), which is equivalent to approximately 8,395,000 kW-hrs per year. Using an emission factor (0.524 pounds of CO₂ emissions per kW-hr) developed from Pacific Gas and Electric (PG&E)'s carbon footprint calculator (PG&E, 2009) that accounts for PG&E's entire power generation portfolio and other emission factors for CH₄ and N₂O (CCAR, 2008), it is estimated that energy consumption associated with the proposed project would result in approximately 2,000 additional metric tons of indirect GHG emissions per year. This brings the total estimated annual operational emissions to GHG to approximately 22,000 metric tons annually, which would continue to be below the reporting threshold of 25,000 metric tons per year. Therefore, cumulative impacts associated with the project's contribution to GHG emissions would continue to be less than significant.

The following revisions are made to Draft EIR pages IV.C-19 through IV.C-21:

The URBEMIS2007 model also estimates CO₂ emissions from natural gas combustion for space and water heating and fuel combustion for landscape maintenance, based on land use size (number of dwelling units or commercial square footage). Again, the appropriate scaling factors from the State Inventory of GHG Emissions were used to determine the relative amounts of CH₄ and N₂O emitted from residential and commercial fuel combustion. Table IV.C-8 presents the estimated GHG emissions that would result from motor vehicle trips, natural gas usage, ~~and~~ landscape maintenance activities, and energy consumption that

would be associated with the proposed project. In addition to the emissions presented in Table IV.C-8, other GHG emissions would be generated by the proposed project to a lesser extent through indirect sources, including ~~electricity generation and~~ solid waste decay...

**TABLE IV.C-8
ESTIMATED EMISSIONS OF GREENHOUSE GASES FROM PROPOSED PROJECT**

Emission Source	Emissions (metric tons of CO ₂ per year)			
	CO ₂	CH ₄	N ₂ O	Total eCO ₂
Motor vehicle trips	17,801	57	1,118	18,976
Natural gas usage	1,028	48	7	1,083
Landscape maintenance	2	<1	<1	2
<u>Energy Usage</u>	<u>1,995</u>	<u>1</u>	<u>4</u>	<u>2,000</u>
Total Operational GHG Emissions	48,834 <u>20,826</u>	405 <u>106</u>	4,425 <u>1,129</u>	20,064 <u>22,061</u>

... With regard to Item B, project long-term GHG emissions would be approximately ~~20,000~~ 22,000 metric tons per year CO₂e emissions from operations (including emissions from vehicle trips, natural gas usage, ~~and~~ landscape maintenance, and energy consumption). The project would not be classified as a major source of GHG emissions because emissions would be less than the lower reporting limit for industrial stationary sources, which is proposed to be 25,000 metric tons per year of CO₂e.

When compared to the overall State reduction goal of approximately 174 million metric tons per year of CO₂e, the GHG emissions for the project (~~20,000~~ 22,000 metric tons per year of CO₂e or 0.0001 percent of the State goal) are quite small and should not conflict with the State's ability to meet the AB 32 goals.

While this information is provided for informational purposes, it remains speculative as to the precise mix of energy sources that may be relied on by the project and other existing development in the City. With California utilities relying more and more on renewable energy sources (e.g., wind, hydropower, solar, and geothermal), it is entirely possible that the energy provided to this project could come from one or more of those sources and thus would not result in the indirect GHG emissions identified in the new Table IV.C-8. This information does not constitute significant new information and therefore further analysis or mitigation is unwarranted.

Finally, the comment is incorrect in stating that emissions from deliveries were not included in the air quality and GHG emissions analyses. Deliveries are included in the modeling of motor vehicle trips emission sources (see revised Table IV.C-8, above). The URBEMIS 2007 model attributes 6.2 percent of all trips to heavy trucks.

22-5 The proposed Redwood Marine Terminal would increase cumulative air quality impacts as the comment suggests. The Harbor District is currently planning to prepare a comprehensive EIR/EIS to address the environmental consequences, including air quality, of the Terminal expansion. The Terminal project is not included in the Draft EIR's cumulative impacts analysis because it was not yet proposed when environmental review of the Marina Center commenced. Moreover, the Terminal project is uncertain due to a lack of funding and current economic climate. Consequently, it is not considered a reasonably foreseeable probable future project, and no further review is warranted.

22-6 The comment states that the Draft EIR reported that no mammals were observed onsite, and yet the commenter's investigators found a striped skunk and remains of a Virginia opossum. The comment states that there is no discussion of invertebrates or fish in Clark Slough, and yet the commenter's investigators prepared an assessment of Clark Slough in July 2007 and found a number of fish species and a large number of juvenile dungeness crab.

No mammals were observed at the project site when either HBG or ESA conducted field work or reconnaissance surveys at the site. The text of the Draft EIR lists several mammals that would be commonly found at the project site (including Virginia opossum and striped skunk), and these species are listed along with a number of other mammals in Appendix G, Attachment 2, Table 3 of the Draft EIR Volume 2, showing mammals that might occur at the project site. The preparers of the Draft EIR acknowledge that these two species were observed by H.T. Harvey and Associates during their field studies in the project area. It is also acknowledged that the H.T. Harvey study included a wildlife assessment of Clark Slough and that dungeness crabs and a number of fish species were found in the Clark Slough remnant including threespine stickleback, starry flounder, two or three species of sculpin and saddleback gunnel. All are common species. The Draft EIR accurately describes the site conditions and key species, and properly concludes that the project is not anticipated to have any significant adverse effects on special-status or sensitive species or their habitats.

22-7 The comment states that the Draft EIR characterizes the wetlands as limited in value and function, and that although the wetlands are not optimum habitat, habitat value should not be minimized. The comment states that a proper assessment of wetland functions has not been conducted, and that a proper assessment of wetland values must be completed to determine the true impacts of the project and for assessing the sufficiency of proposed mitigation measures.

Although not typically completed as part of analysis pursuant to CEQA, a preliminary functional assessment was performed by HBG and the results were included as shown in Table IV.D-1 of the Draft EIR and the HBG Biological Assessment report at pages 16 through 23. This analysis shows that some functions are provided by the existing palustrine and estuarine wetlands, and that many of the functions are limited by the degraded conditions at the project site, including soil contamination, unchecked off-site

pollutants coming onto the project site in stormwater runoff, and the relatively unvegetated and rip-rapped side walls of the estuarine channel of the remnant of Clark Slough. All of this information and analysis has confirmed that the existing wetlands onsite provide less than optimum function and value, and that the proposed wetland reserve and site remediation would significantly improve the site conditions for species, habitats, and water quality.

The comment states that there should be an identification of the species and life stages of fish occurring in the wetlands. The reports submitted with the comment, however, confirm that there are no fish in the low-quality wetlands to be filled. For example, no sensitive species of fish or wildlife were identified during the site visits identified in those reports. The only fish present are in Clark Slough, which is proposed to be expanded and improved.

- 22-8 The comment states that all wetlands and riparian areas on the project site, including Clark Slough, should be treated as ESHA. The comment states that the Draft EIR states that project impacts on riparian habitat or other natural communities would be beneficial, and yet only Clark Slough is identified as a riparian habitat, even though wetlands along the southern boundary of the project site should be included in this definition. The comment states that the Draft EIR needs to give proper weight to existing beneficial values to assess effects of project.

The Draft EIR correctly points out that the project site does not contain the essential elements of an Environmentally Sensitive Habitat Area (ESHA) as defined by the Coastal Act. The Coastal Act defines environmentally sensitive areas as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments” (Public Resources Code Section 30107.5). The Draft EIR discusses the project site in relation to this definition on page IV.D 20 to 21. This discussion acknowledges that a portion of the project site may be designated as an ESHA under the Coastal Act, but points out that the wetlands at the project site are highly scattered, degraded and largely created from past industrial use of the project site. The project site is dominated by invasive, non-native plant species and lacks suitable habitat for sensitive or special status species.

The preliminary functional analysis contained within the Draft EIR and the accompanying Biological Assessment shows that some functions are provided by the existing palustrine and estuarine wetlands, but that many of the functions are limited by the degraded conditions at the project site, including soil contamination, unchecked off-site pollutants coming onto the project site in stormwater runoff, and the relatively unvegetated and rip-rapped side walls of the estuarine channel of the remnant of Clark Slough. However, the Project Applicant has provided a plan to remediate the contamination associated with the degraded seasonal wetlands and remnant of Clark Slough on the property and replace them with a valuable contiguous estuarine community (see Appendix S). Despite the limited functions provided by the existing wetlands at the

project site, the estuarine restoration would be considered preferable given considerations as indicated on page IV.D-22 to 23 of the Draft EIR and iterated in response to comment 3-9: (1) the site is well-located for creation of a high-quality estuarine reserve, requiring only enhancement of existing estuarine wetland resources, (2) opportunities for creating functional estuarine wetlands are rare, and therefore particularly valuable; here the site is uniquely suitable for estuarine wetland creation, and (3) existing palustrine wetlands are of such poor quality that the restored wetlands are anticipated to be of much higher quality than those currently on project site. After soil remediation throughout the site and creation of contiguous estuarine wetlands at the south end of the project site at an acreage exceeding the extent of the existing combined degraded seasonal and estuarine wetlands, it can be stated that the proposed project would have a beneficial impact on wetlands and natural communities within the property.

Finally, it should be noted that wetlands are not technically defined as “riparian habitat” under state or federal regulatory definitions, and thus the Draft EIR accurately described the biological resources present onsite.

- 22-9 The comment states that the Draft EIR is not entirely clear where the wetlands that would be filled and where the wetlands that would be created occur on the project site. The comment states that because the wetland reserve would surround Clark Slough, the acreage in the wetland reserve should include Clark Slough in its total acreage.

Please see response to comment 1-2, which explains that the project would result in the permanent filling of 6.15 acres of wetlands and temporary filling of 1.45 acres. Mitigation includes establishment of a wetland restoration area of 11.89 acres containing 8.98 acres of estuarine wetlands. The proposed wetland reserve does include the estuarine acreage within Clark Slough in its total acreage. The locations of the existing wetlands are depicted in Figures IV.D-1 and IV.D-2 on pages IV.D-9 and IV.D-10, while the locations of the proposed wetlands are depicted in Figures D IV.D-3 on page IV D-26 of the Draft EIR.

- 22-10 The comment states that without a complete ecological assessment, conclusions regarding the benefits of the proposed wetland reserve are unsubstantiated. In addition, the comment states that the mitigation ratio should factor in function and value information gained from an ecological assessment.

Please see response to comment 22-7, which confirms that the existing wetlands onsite provide less than optimum function and value, and that the proposed wetland reserve and site remediation should significantly improve the site conditions for species, habitats, and water quality. A biological assessment and a preliminary functional assessment of the palustrine and estuarine wetlands have been performed by HBG and the results of the functional assessment are included as shown in Table IV.D-1 of the Draft EIR and the HBG Biological Assessment report at pages 16 and 23. This analysis shows that some limited functions are provided by the existing palustrine and estuarine wetlands, and that many of the functions are limited by the degraded conditions at the project site, including soil contamination, unchecked off-site pollutants coming onto the project site in

stormwater runoff, and the relatively unvegetated and rip-rapped side walls of the estuarine channel of the remnant of Clark Slough. With the planned soil remediation and the creation of contiguous estuarine wetlands at the south end of the project site (mitigation ratio of 1.05:1), the proposed project would have a beneficial impact on wetlands and natural communities within the property. Thus, the proposed mitigation ratio does factor into the function and value of the existing wetlands, as well as the function and value anticipated for the proposed wetland reserve.

- 22-11 The comment states that the buffer area of 50 feet is smaller than required by the LCP. The comment further states that a mitigation measure provides for preparation of a restoration plan, but complete restoration that would allow public review is not included.

As indicated in response to comment 3-10, the buffer zones between commercial land uses developed as part of the Marina Center project and restored wetlands is proposed to be a minimum of 50 feet. Buffers of less than 100 feet are allowable under the LCP where the reduced buffer is deemed adequate to protect the resource. Reduced buffers are included in the proposed project where existing streets, existing rail rights of way, or planned pedestrian trails adjacent to Clark Slough necessitate narrower buffers, and only as long as they provide visual screening and other attributes that help to protect the resource (e.g., earthen berms and native vegetation to minimize disturbing water birds).

A conceptual restoration plan sufficient for CEQA review is included in the Draft EIR (see for instance Figures IV.D-4 and IV.D-5 on pages IV.D- 27 and 28) and is discussed in the Biological Assessment (Appendix D of the Draft EIR). A detailed mitigation/restoration plan would be developed during permit review of the environmental cleanup phase of the Marina Center project, which would include, at a minimum, the elements set forth in Mitigation Measures D-3a through 3f in the configuration shown in Figure IV.D-4.

- 22-12 The comment states that construction of wetlands in known contaminated soils is an issue, and that the remediation plan is crucial to assessing the benefit of the proposed wetland restoration. The conceptual mitigation/restoration plan for estuarine emergent wetlands at the project site assumes that the entirety of the site would be subject to soil remediation and other measures to eliminate potential pathways to sensitive receptors as part of the mandatory site cleanup that must be accomplished under the Regional Water Quality Control Board's Clean Up and Abatement Order before site development. Included in the remediation is removal of existing contamination in Clark Slough, and excavation of soils on both sides of Clark Slough to create the expanded high-quality wetlands. As a result, the new wetlands would not be created in contaminated soil.

Please also see Master Response 4 and Appendix S regarding the remediation of the project site.

- 22-13 The comment requesting additional detail about the existing contamination of the project site is noted. However as discussed in response to comment 6-3, the contamination of dioxins at the project site is disclosed and would be addressed by the Remedial Action

Plan. Although elevated levels of dioxins and furans were found onsite, the levels were within cleanup levels considered acceptable for commercial sites by the California Department of Toxic Substances Control, which recommend cleanup levels of 200-1000 ppt for commercial and industrial sites. The project nevertheless plans to excavate and dispose offsite any soils containing levels within this range, and then cover the remaining contamination with clean cover and, under future phases, parking lots and buildings. The project effect would be beneficial to human health and the environment. It would improve site conditions and prevent exposure to remaining contamination.

See also further discussion of the proposed remediation in Master Response 4 and Appendix S.

- 22-14 The comment states that the Draft EIR relies on the Health Risk Assessments prepared in 1996 and 2000. The comment states that those reports are both outdated and inadequate.

The comment is noted. Numerous investigations of the project site have been undertaken beyond the HRAs cited in the comment. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S. The final cleanup plan would be based on future uses of the site, including any residential and museum uses. Because of the barrier created by the clean cover material and by future parking lots and buildings, future visitors to the site are not expected to be exposed to any quantity of any contaminants remaining in the soil below.

- 22-15 The comment states that the hazardous materials impact mitigation measures included in the Draft EIR are not sufficient because they do not include specific actions that would be required by the RWQCB.

The proposed project includes measures for remediation of contamination at the site and creation of barriers that would prevent any exposure to contamination remaining in the soils below. The RWQCB has concurred with the draft Supplemental Interim Remedial Action Plan for Phase 1 of the proposed project, and it would review and approve the detailed procedures for implementing these measures, and may impose additional measures in the Final Remedial Action Plan.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S. See also response to comment 22-14 above regarding the adequacy of the Health Risk Assessments.

- 22-16 The comment states that hazardous material mitigation measures are not adequate. The comment states that the Draft EIR includes mitigation measures that rely on future plans to be developed and approved by the Regional Water Quality Control Board, and that such dependence cannot be used as mitigation.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S. The RWQCB has the responsibility of

ensuring that any proposed remediation meets the requirements that protect human health which according to the Draft EIR would occur prior to any construction activities. According to CEQA Guidelines Section 15097, “In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects.” The Mitigation Monitoring and Reporting Program (MMRP) is included as Chapter 6 in the Final EIR document, and with the project’s conditions of approval, the project would be legally mandated to implement those measures in order to implement the project.

- 22-17 The comment states that hazardous material mitigation measures are not adequate. The comment states that the public and decision makers need to be able to review a Remedial Action Plan prior to determination of project approval or denial.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

- 22-18 The comment states that the Draft EIR does not include sufficient information regarding hydrology and water quality. The comment also states that the Draft EIR incorrectly characterizes the immediate effect of dioxin exposure on human health.

Dioxins and furans (often referred to collectively as “dioxins”) refer to groups of related compounds that are found in soil, sediment, air, and water all over the world. They are formed as a result of combustion processes, including commercial or municipal waste incineration, the burning of fuels like wood, coal, oil, gasoline, or diesel, and from some manufacturing processes. Dioxins can be formed as a result of natural processes such as forest fires.

There are over 200 different dioxins – all occur naturally in the environment, and only some are considered toxic. Studies have shown that exposure to dioxins at high enough doses may cause adverse health effects. The health effects associated with dioxins depend on a variety of factors including the level of exposure, when someone was exposed, and for how long and how often. There is some concern that exposure to low levels of dioxins over long periods (or high level exposures at sensitive times) might result in reproductive or developmental effects in animals.

Dioxins are associated with the treatment of wood by pentachlorophenol, and there are numerous locations in the Humboldt Bay area in which dioxin contamination has been found in association with former wood treatment facilities. These sorts of facilities are in the vicinity of the project site.

Sampling conducted at the project site has identified dioxins in surface sediment at levels modestly elevated above background levels. There is no evidence that the project site itself is the source of that dioxin. Instead, dioxin is more likely coming from nearby

properties. Dioxin flows into Clark Slough from the municipal stormwater system, which discharges stormwater from this part of Eureka into the upstream end of Clark Slough. There is no evidence that dioxin-containing sediments are moving from the project site to Clark Slough. Dioxins from aerial deposition and offsite sources are likely to collect in the onsite wetlands, which tend to settle out and retain particulate matter. Elevated dioxin levels in the wetlands on the project site could be a concern to birds and other wildlife present in the wetland areas.

Dioxins at the site are a part of the existing environmental setting, and are not a result of the proposed project. The proposed project is expected to reduce or eliminate threats from dioxins on site.

Existing site levels, although elevated, are within the cleanup levels recommended by the California Department of Toxic Substances Control for commercial and industrial settings. Nevertheless, as part of the implementation of the SIRAP, additional testing will be performed for dioxins, and sediments with dioxin concentrations above a cleanup level established by the Regional Board would be excavated and removed offsite. Existing sediments would be covered with clean material, which would act as a barrier and prevent people, birds, and wildlife from coming into contact with contaminated soils. As part of the Final Remedial Action Plan and final project, any additional requirements imposed by the RWQCB would be implemented, and contact would be prevented by the placement of asphalt and buildings. Dioxins are not expected to move offsite through groundwater. Additional testing would be performed to confirm the absence of offsite movement through groundwater.

See also response to comment 23-4.

- 22-19 The comment states that the Draft EIR incorrectly states that the City of Eureka is not currently regulated by an NPDES permit for discharges of stormwater from Municipal Separate Storm Sewer System (MS4 Permit).

The text on page IV.H-14 shall be revised as follows:

...The City of Eureka has ~~not yet~~ been issued a NPDES Discharge of Storm Water from a Small Municipal Separate Storm Sewer System (Small MS4 General Permit) from the SWRCB. The Small MS4 General Permit requires dischargers to develop and implement a Storm Water Management Plan (SWMP) to reduce the discharge of stormwater pollutants to the maximum extent possible. ~~The City has submitted a SWMP to the SWRCB (Knight, 2005). Following SWRCB approval of the SWMP,~~ Stormwater discharge in the City ~~will be~~ is subject to Small MS4 General Permit regulations. The City of Eureka stormwater drainage policies also require new development that would increase storm drainage runoff in a 10-year storm event more than 1 cubic foot per second (cfs) to provide retention/siltation basins to limit new runoff to pre-project flows.

- 22-20 The comment states that the Draft EIR incorrectly characterizes the A Zone, stating that it should be described as recharging primarily through onsite infiltration of groundwater.

As noted on Draft EIR page IV.G-11, the groundwater at the project site is not a source of drinking water. Any reduction of infiltration at the site because of impermeable surfaces would therefore not affect any source of drinking water. A reduction in infiltration at the site may reduce water levels in the A zone, which occurs only in the fill material at the site. Lowering water levels in the A zone would be beneficial, because any contaminant that is not in contact with water cannot be mobilized by water. Although contaminants at the site have not been mobilized by groundwater, and are not expected to be mobilized in the future, lowering water levels provides additional protection.

- 22-21 The comment states that the Draft EIR fails to estimate the increased levels of pollution in runoff that would be generated by the proposed project.

As stated on Draft EIR page IV. H-20, pollutants found in runoff from roofs, parking lots, and roads vary considerably and are dependent on a number of factors. The mitigation measures found in the Draft EIR, H-5a, b and c are designed to implement feasible means of treatment that have been proven as an effective means to control pollutants to the extent possible. See also Master Response 4 for additional discussion of the drainage plan for the proposed project during remediation of contaminants.

- 22-22 The comment states that the Draft EIR fails to analyze the potential impacts to water quality related to sea level rise and tsunamis.

The Draft EIR evaluates the potential for both tsunami and sea-level rise to impact the proposed project (See also responses to comments 3-14 and 3-15, which provide further discussion of tsunami and sea level rise impacts). The proposed project, if approved, would be largely developed and therefore the ability of a tsunami or sea-level rise to affect any residual contamination in the subsurface materials does not appear physically feasible. If the project site were to be inundated by either event, there would be no contact with the contaminated soils or groundwater that currently exists at depth.

- 22-23 The comment states that the Draft EIR did not include correct information regarding the average dry weather flow to be applied for in the next NPDES permit renewal process.

The Draft EIR Utilities and Service Systems section includes information that was accurate at the time of publication. In September 2008, the City of Eureka, as part of the NPDES permit renewal process for the Greater Eureka Area (Elk River) Wastewater Treatment Plant (WWTP), submitted a permitted capacity increase request to the California Regional Water Quality Control Board (RWQCB). The requested average dry weather flow capacity increase was to 6 mgd from the current 5.24 mgd. At the time of the publication of the Draft EIR, on December 1, 2008, that request was still current. As stated on Draft EIR page IV.Q-5, under Impact Q-1, the renewed NPDES permit would include the addition of 0.76 mgd of average dry weather capacity.

After publication of the Draft EIR, however, the City of Eureka elected not to pursue a requested permitted average dry weather flow capacity increase to 6.0 mgd. According to City Engineer Staff-Initiated Changes to the Draft EIR (Chapter 2 of the Final EIR), the 5.24 mgd permitted average dry weather flow capacity will be in effect from 2009 through 2013 and the City currently has adequate capacity under the existing permit to satisfy current and projected demands, including for the proposed project.

Please see responses to comments 9-34, 80-1, 80-6, and 80-9, which further elaborate on the NPDES permit and the capacity allocation agreement with HCSD. As stated there, adequate capacity exists in the WWTP and is allocated to the City of Eureka to serve the proposed project.

22-24 The comment states that the City of Eureka has been using waste water treatment capacity that is allocated to the HCSD. Please see responses to comment 9-34, 80-2, and 80-6, which address this issue and the capacity agreement with HCSD. As stated there, adequate capacity exists and is allocated to the City of Eureka to serve the proposed project.

22-25 The comment states that the cumulative impact analysis in Chapter IV.Q, Utilities and Service Systems, is not based on any analysis and is therefore inadequate.

As stated on Draft EIR page V-3, the cumulative impact analysis in each section is based on a growth scenario that incorporates approved, pending and proposed projects within the vicinity of the proposed Marina Center project, including projects in the General Plan and Redevelopment Plan. These projects are shown in Table V-1 on page V-5. As stated on Draft EIR page V-5, “water demand and wastewater generation, and solid waste generation were based on evaluating the project and the identified foreseeable future projects in the context of the Eureka General Plan, and master plans prepared by service providers.” Please also see responses to comments 9-34 and 80-5, which outline the capacity agreement with HCSD and cumulative projects and concludes that adequate capacity exists within the City’s allocated capacity to serve the proposed project.

22-26 The EIR satisfies CEQA and the comment provides no significant new information, and therefore no further analysis or mitigation is warranted.

Comment Letter 23



RECEIVED
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DEPARTMENT OF
COMMUNITY DEVELOPMENT

January 30, 2009

City of Eureka Community Development Department
Ms. Sidnie L. Olson, Principal Planner
531 "K" Street
Eureka, CA 95501-1165

Dear Ms. Olson:

I write on behalf myself and the Mateel Environmental Justice Foundation. The comments herein are in response to the recent circulation of a Draft Environmental Impact Report ("EIR") for the Marina Center Project ("the Project") on the so-called Balloon Track. The Project is to be implemented adjacent to Clark Slough, an arm of Humboldt Bayll surface areas of the Project (as well as all sewage discharge) drain into Humboldt Bay.

Humboldt Bay is one of the premier estuarian resources on the west coast of the United States. It is home to many endangered species, such as the Green Sturgeon, Coho and King Salmon, the Marbled Murrelet. Clark Slough is a Dungeness Crab nursery and provides habitat for numerous species, including Great Blue Heron and River Otters. Humboldt Bay is also the largest mariculture center on the west coast of the United States. As the EIR notes, Humboldt Bay is listed under section 303(d) of the federal Clean Water Act as an impaired water body due to PCB and dioxin contamination. Recent studies have shown that Humboldt Bay oysters can have dioxin levels in them that the federal Environmental Protection Agency ("EPA") considers to be unfit for human consumption. A full description of the biotic resources of the Balloon Track and Clark Slough is included in H.T. Harvey & Associates, Biotic Characterization of Clark Slough and "Balloon Track", January 2008.1 In the opinion of these expert biologists, the Northern Harrier, White-tailed Kite, Short-eared Owls, Loggerhead Shrikes, Willow Flycatchers, and Yellow Warblers - all special status avian species - are likely to utilize the habitat provided by the Balloon Track and Clark Slough.

23-1

1 This document has been submitted in electronic form attached to the letter Michelle Smith has submitted on behalf of Humboldt Baykeeper. The electronic attachments to Ms. Smith's letter are incorporated by reference into this letter.

5-329

Comment Letter 23

Sidnie L. Olson
January 30, 2009
Page 2

The Project Description is Inadequate Such that it Provides No Basis for Analysis of Potential Adverse Environmental Effects from Site Remediation

According to the EIR, the three principle objectives of the Project are: 1.) Strengthen Eureka as the retail and employment center of Humboldt County; 2.) Develop an economically viable mixed use project; and 3.) Facilitate brownfield redevelopment and urban infill development of property in the redevelopment area of the City of Eureka, (EIR at VI-3.) The Project "would include remediation of the brownfield project site to meet federal and state environmental clean up and water quality standards." (EIR at III-2.) In other words, remediation of the site is not simply mitigation of adverse environmental effects from the Project; remediation itself is a key objective of the Project and an integral part of the Project. In spite of site remediation being a critical objective of the Project, and by definition an important part of the Project, the following is the sum total of the EIR's description of this aspect of the project:

23-2

The project would include remdiation of the existing brownfield site to meet federal and state environmental cleanup and water quality standards. This would include preparing a remedial action plan to be approved by the North Coast Regional Water Quality Control Board. The remedial action plan could require the removal of surface vegetation, the removal of contaminated fill materials, and the placement of cleqn soils on the property. (EIR at III-4.)

The EIR's description of the site remediation - an integral, critical component of the Project - is so cursory as to prohibit any meaningful analysis of potential significant adverse environmental impacts of the Project. As such, the EIR fails to set forth specific data, as needed to meaningfully assess whether the proposed activities would result in significant impacts. The evidence that is available demonstrates beyond cavil that soil at the Project site is both extensively and intensively contaminated with a complicated mixture of hazardous chemicals. Soil is contaminated to the extent that groundwater in both the shallower A-Zone and the deeper B-Zone test positive for various toxic hydrocarbons and heavy metals. Moreover, surface run-off from the site is also contaminated with a similar suite of toxic chemicals. Various congeners of highly toxic dioxins and furans (collectively "dioxin") have also been detected in Clark Slough sediment directly beneath the outfall from a ditch that runs across the Balloon Track. The same dioxin has been detected in the soil and sediment of the ditch. Indeed, sampling of the soils at the Balloon Track, Clark Slough Sediments, sampling of fish tissue taken from Clark Slough all test positive for dioxin and furans in every sample tested for these components. Together these data are evidence that dioxin contamination on the site is discharging into Clark Slough, into Humboldt Bay and is being taken into the food chain of greater Humboldt Bay.

23-3

23-4

As for toxicity of the dioxin that flows from the Project site into Clark Slough and into the Greater Humboldt Bay food chain, the federal EPA has this to say:

23-5

Comment Letter 23

Comment Letter 23

Sidnie L. Olson
January 30, 2009
Page 3

Sidnie L. Olson
January 30, 2009
Page 4

Some of the effects of dioxin and related compounds, such as enzyme induction, changes in hormone levels, and indicators of altered cellular function, have been observed in laboratory animals and humans at or near levels to which people in the general population are exposed. Other effects are detectable only in highly exposed populations, and there may or may not be a likelihood of response in individuals experiencing lower levels of exposure. Evaluation of effects in this health assessment document is based on the concept that lipid-adjusted serum levels approximate the body burden of dioxin and related compounds and that there will be a dose-response relationship between effects and body burden. . . . It is reasonable to assume that developing organisms may be particularly sensitive to adverse impacts from temporary increases above average background exposure levels. . . .

* * *

In TCDD-exposed [dioxin-exposed] men, subtle changes in biochemistry and physiology, such as enzyme induction, altered levels of circulating reproductive hormones, or reduced glucose tolerance, have been detected in a limited number of available studies. These findings, coupled with knowledge derived from animal experiments, suggest that potential for adverse impacts on human metabolism and developmental and/or reproductive biology and, perhaps, other effects in the range of current human exposures. *Given the assumption that TEQ intake values represent a valid comparison with TCDD exposure, some of these adverse impacts may be occurring at or within one order of magnitude of average background TEQ intake or body-burden levels (equal to 3-6 to 60 pg TEQ/kg body weight/day or 40-60 to 600 ppt in lipid). As body burdens increase within and above this range, the probability and severity as well as the spectrum of human noncancer effects most likely increase.* It is not currently possible to state exactly how or at what levels humans in the population will respond, but the margin of exposure (MOE) between background levels and levels where effects are detectable in humans in terms of TEQs is considerably smaller than previously estimated.

In other words, the already abnormally high dioxin levels in Humboldt Bay that render it impaired for these chemicals are exacerbated by any additional dioxin input.

Given the already admitted extensive and intensive and extremely toxic contamination at the Project site, its proximity to Humboldt Bay and Project plans to turn part of the site into residences and to invite thousands of consumers and office workers to visit the site every day, it is clear that an extensive and intrusive site remediation must be done.

As the EIR notes, the Project is proposed to be built on filled tidal marsh that was the site

of a railroad switching, maintenance, and freight yard. Locomotives, railroad boxcars and passenger cars were repaired and refueled at the site. Historically, contamination associated with rail yards as a result of railcar/engine maintenance includes the following:

- Oil and Grease Removal
- Painting
- Locomotive Maintenance
- Treated Railroad Tie Storage
- Track Maintenance
- Site Maintenance (weed removal)
- Waste Handling, Storage and Disposal

Typically, these activities release the following contaminants:

- diesel range organics
- total petroleum hydrocarbons
- polynuclear aromatic hydrocarbons ("PAHs")
- volatile organic compounds ("VOCs") including spent solvents
- heavy metals – antimony, arsenic, beryllium, cadmium, chromium (hexavalent and total), copper, lead, mercury, nickel, selenium, silver, thallium and zinc
- herbicide residuals, including 2,4-D, 2,4,5-T and their contaminants, which include dioxins and furans.

All of these typical contaminants have been detected at the Balloon Track site. In 2002, approximately 700 cubic yards (70 dump truck loads) of hazardous waste (lead and copper-contaminated soil) were removed from one part of the site. Substantial residual contamination remains at the site. Of 241 investigative soil samples taken at the site, there were 124 exceedances of USEPA Region 9 Preliminary Soil Remediation Goals ("PRGs") for arsenic and 19 exceedances for lead. The Project plans to build residences on the site. Since the most protective PRGs are for residential use, all of these constitute exceedances of residential PRGs.

According to Dr. Benjamin Ross, groundwater at the Project's site is also heavily contaminated with these chemicals, indicating that the soil is contaminated to some depth. Monitoring Well 2A ("MW-2A") is located along the western portion of the site and is hydraulically downgradient of a number of the samples exceeding impact to groundwater criteria. Concentrations of arsenic in 8 of 14 shallow groundwater samples collected from MW-2A exceeded the groundwater Water Quality Objective ("WQO") of 0.1 micrograms per liter ("0.1 µg/L").² This shows a potential completed pathway for arsenic soils to impact groundwater and

² Draft Final Remedial Action Plan UPRR Eureka Rail Yard and Adjacent Lease Properties Eureka, California, MFG, Inc., July 1, 2005.

5-330

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23-7

23-8

Comment Letter 23

Comment Letter 23

Sidnie L. Olson
January 30, 2009
Page 5

Sidnie L. Olson
January 30, 2009
Page 6

migrate to Humboldt Bay. In addition, and once again according to Dr. Ross, groundwater from the northern portion of the northeastern portion of the site, which contains numerous samples with arsenic concentrations above the impact to groundwater criteria, flows to Humboldt Bay.³ As to lead, of the 241 investigation soil samples analyzed, 28 exceeded the residential PRG of 150 mg/kg. Soil samples collected at the site also show residential PRG exceedences for antimony, copper, iron, tetrachloroethalene ("PCE"), and PAHs.

Enough is known about the toxic profile of the site to make it clear that large amounts of soil will have to be removed from the site and trucked away. Yet, in spite of the many samples that have already been taken and analyzed, the site is in no way characterized in a way that would be sufficient to determine what kind of remediation would be sufficient. For example, the pipe at the property line of the site and the Del-Reka Distributing Corporation receives discharge from the southeastern ditch and discharges off-site. This discharge was never addressed in the currently existing Cleanup and Abatement Order ("CAO") nor has it ever been sampled by the Project proponents. Thus the water from this discharge location has never been characterized. Site groundwater enters the southeastern ditch from the Site and mingles with stormwater and surface water from the Site before discharging from the Site vi the pipe at Del-Reka Distributing Corporation. There are no monitoring wells that intercept this groundwater flow. Thus, there exists a data gap that prevents determination of pollutant concentrations in the groundwater entering the ditch directly and through discharge from the wetland. The EIR itself, at page IV G-6 admits that, "Recent sediment samples have identified dioxins, furans and PCBs in onsite ditches and in Clark Slough. The sources of these substances have not been identified."

Given that there is massive and highly toxic contamination at the site, that highly toxic chemicals are leaving the site, and the obvious need for an extensive clean-up, the EIR provides next to no information about this aspect of the project. The EIR states that the Project proponent plans to conduct a RWQCB-approved Site remediation. (EIR at IV.G-19.) Once approved, the soil and groundwater management aspects of the remediation component of the Project will finally be described. (*Ibid.*) This description will finally include information about those aspects of the Project that will keep toxic chemicals on-site after completion of the Project. (*Ibid.*) This puts the cart precisely before the horse. What the Project proponent seeks is to gain approval of the Project and then, after approval, finally describe what will be one of the principal components of the project and, at that (too) late date, finally conduct whatever analysis the Project proponent does. This remediation component of the project – and whatever mitigations are associated with it – may or may not mitigate adverse environmental impacts from the Project, but there is no way to make that determination now, at the pre-approval stage of the project. Any analysis of the site remediation component of the Project will thus be no more than a post-hoc rationalization. And by refusing to provide any meaningful description of this critical, environmental effect-laden

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portion of the Project, both agency decision makers and the interested public are deprived of any meaningful ability to review and comment on this the Project. CEQA does not permit an EIR to leave decision makers and the interested public to search outside the EIR for facts and analysis about the Project as if they were pigs rooting for truffles.

There is thus no information available to decision makers about whether soil will be removed from the site, how much soil will be removed from the site, how toxically contaminated that soil will be and thus where it will have to be taken. Decision makers and the public have no information about how many dump truck loads of soil will be carted from the site, where they will go. There is no information whatsoever in the EIR about the environmental effects of trucking soil, what the effect will be on air quality, how likely fugitive spills of contaminated soil will occur, what the effect will be on traffic. The public is given no information in the EIR about whether the site remediation aspect of the Project might include on-site incineration or on-site thermal desorption of hazardous waste. Decision makers and the public are thus deprived of any chance to understand what effects there may be on air quality from excavation of soil and/or incineration and/or thermal desorption of the toxins. The EIR provides no useful information whatsoever that would be of use in analyzing these potential activities for potential adverse environmental effects. The EIR provides no meaningful description of what toxic chemicals will be left at the site after completion of the (completely undescribed) remediation portion of the Project.

The EIR provides no information as to what concentrations there will be of these left-behind chemicals or where or at what depths or proximity to ground water they will be left. Decision makers and the public are thus given no meaningful analysis of potential environmental effects could result from this aspect of the Project. The EIR states that the project will create a "wetland reserve" of 11.89 acres, which will include restoration of the wetland enclosing Clark Slough. (EIR at III-14.) As discussed above, sediment in Clark Slough is already contaminated with dioxin and all available evidence points to the Project site itself as a source of at least some of this dioxin. There will be pedestrian paths along portions of the wetland reserve area. (*Ibid.*) Residences will be constructed nearby. These wetlands will be used as habitat by many of the aquatic and avian species discussed above. Failure to disclose the extent of the site remediation component of the project thus makes it impossible to analyze how the toxic chemicals left behind will affect the public and the wildlife that will be hiking near or using the wetland parts of the Project.

The EIR provides no information as to how long the remediation aspect of the Project will take. There is a currently a CAO pertaining to the Project site that has been in effect since 2001. The responsible parties have still not complied with that CAO. As part of my legal practice, I have reviewed the files of many site remediations conducted using the RWQCB as the lead agency. These remediations typically take years if not decades. For example, at the old Simpson Plywood Mill site at the corner of Waterfront Drive and Del Norte Street (the old Flea

23-11 (cont.)

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5-331

³ Benjamin Ross, PhD, Ground-Water Movement at the Balloon Tack Site, Eureka, California, January 28, 2008.

Comment Letter 23

Comment Letter 23

Sidnie L. Olson
January 30, 2009
Page 7

Sidnie L. Olson
January 30, 2009
Page 8

Mart), the Regional Board began investigating that site in 1991. In July of 1995 RWQCB staff were already discussing with the land owner and Simpson potential methods to remediate soil and groundwater contamination at that site. As of the writing of this letter, more than thirteen years later – and after thousands of cubic yards of soil have been dug up and trucked away from the site and after acres of asphalt has been laid to “cap” contamination, thousands of cubic yards of highly contaminated soil still remain uncleaned up at the site. As of the writing of this letter, the RWQCB still has no idea when it will give a final sign-off on clean up at the old Simpson Plywood Mill site. My point is simply that these clean ups can take decades – as the one at the Balloon Track site seems to have already taken -- and the Balloon Track EIR gives no meaningful information about how long the remediation will take and thus how long dioxin will continue to spill off the site into Clark Slough during the duration of the remediation, how long groundwater contaminated with arsenic, lead, antimony, copper, petroleum hydrocarbons and trichloroethylene will continue to make its way into Clark Slough and into Humboldt Bay. Decision makers and the public thus has no way to analyze potential environmental effects of this critical component of the Project.

At a very minimum, the Project proponent should have to provide an adequate project description. This would require that the Project proponent have a RWQCB-approved work plan for final remediation of the site and this RWQCB-approved work plan should be incorporated into the EIR as at least part of the description of the site remediation aspect of the Project.

The EIR Fails to Analyze for Potentially Significant Adverse Environmental Effects and Fails to Describe Feasible Mitigations for those Potential Significant Adverse Environmental Effects.

For the reasons discussed above, the almost completely missing description of the site remediation aspect of the Project means that there is virtually no meaningful analysis of any potentially significant adverse environmental effects of the site remediation portion of the Project. The EIR’s cursory attempt to discuss potential mitigations suffers from many of the same shortcomings. As mitigation for potential exposures of humans and wildlife to the complex toxic cocktail at the site during the remediation aspect of the Project, the EIR simply notes that it will engage in a RWQCB-approved site remediation, and will do the following to mitigate:

Mitigation Measure G-1a: The project applicant will prepare a site-specific remediation plan and health and safety plan that meets the requirements of the Regional Water Quality Control Board (RWQCB) or other overseeing agency and shall comply with all federal and state regulations including Occupational Safety and Health Administration (OSHA) requirements for worker safety. Applicable regulations and methods of compliance shall depend upon the level of contamination discovered.

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In other words, the EIR says that the Project proponent will comply with all applicable laws and that, therefore, all potentially significant adverse environmental effects (whatever those und-described and unanalyzed potential effects are) will be mitigated to insignificant levels. This is a fatuous statement. By the EIR’s logic, since there are laws and regulations in place everywhere, there can be no potentially significant adverse environmental effects anywhere from anything. If this approach were taken seriously, there would be no need for any EIR for any project, since any project proponent could simply say that a Mitigated Negative Declaration is appropriate since all applicable laws will be followed and, thus, there can be no potentially significant adverse environmental effects from any project. The falseness of the EIR’s obtuse approach is evidenced by the EIR itself which, though it notes that it will comply with all applicable laws and regulations, still concedes that there will be unmitigated, significant adverse effects to air quality.

There is nothing in the Water Code, nor in any State or Regional Water Board regulation that mandates that a RWQCB-approved clean up neither cause nor result in significant adverse environmental effects. Some RWQCB-approved clean ups have required that tens of thousands of cubic yards of highly contaminated soil be dug up and trucked to places as far away as Idaho. The simple act of excavating and hauling that much material would have potentially significant adverse environmental effects to traffic and air quality. The EIR’s reliance on the Project proponent’s willingness to “follow the law” and the requirements of unnamed “oversight agencies”, though laudable, when proposed as a catch-all mitigation for potential adverse effects of remediation, is risible.

Adverse Effects of Stormwater Runoff from the Project are not Adequately Mitigated

The EIR projects that there will be an additional 15,666 weekday trips on area roads caused by the project. (EIR at IV.O-21.) This increase in traffic near the Project site will result in unmitigated adverse impacts to local air quality. (EIR at IV.C-12.) These increased vehicle trips will cause a corresponding parallel and linearly-related increase in adverse impacts to water resources from toxic emissions from these vehicles. Vehicles emit, among other parameters, used motor oil, coolant, tire-dust and gasoline. Monitoring at the site shows that dissolved copper, lead and zinc at levels exceeding water quality objectives.⁴ In addition, the EIR states that the Project will use asphalt to pave a parking lot large enough for more than 1,800 vehicles. Attached is a US Geological Survey Report on polycyclic aromatic hydrocarbon run-off caused by asphalt. To mitigate for the already existing toxic run-off and any increase in toxic run-off, the EIR proposes to, “treat stormwater at drop inlets that capture runoff from roof drains, paved pedestrian areas, and parking, prior to connection to the City’s storm drain system. The project proponent shall prepare and implement a permanent maintenance program for stormwater

⁴ Expert Report of Bruce A. Bell, PhD., *In the Matter of Humboldt Baykeeper and Ecological Rights Foundation v. Union Pacific Railroad Company, et al.*, January 27, 2008.

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5-332

Comment Letter 23

Sidnie L. Olson
January 30, 2009
Page 9

treatment facilities at the site.” (EIR at IV.H-20.) First, the EIR admits that the Project will cause significant increases in the concentration of vehicles on city streets in the vicinity of the project. This will cause a corresponding increase in the amount of motor oil, tire particles, coolant and gasoline that are deposited on the streets in the vicinity of the Project site and, thus, an increase in the concentration of those toxic constituents in the stormwater runoff that enters drop inlets to the city storm drain system in the area near, but not on, the Project site. The stormwater mitigation in the EIR – to treat water that enters drop inlets on site in no way mitigates the increased concentration in these pollutants in the storm drain system via storm sewer inlets on the streets near but outside the Project site. There isn’t even any analysis of this issue in the EIR. Second, the EIR does not specify how stormwater will be treated at the drop inlets on-site. This is problematic, since typical drop inlet stormwater treatment consists of oil-water separators and, perhaps, sand filters. This treatment system may, perhaps, be adequate to remove separate phase hydrocarbons and particulates, but this type of treatment is completely ineffective at removing dissolved phase metals, hydrocarbons and miscible pollutants such as coolant. A filtration system that utilizes carbon filters could, possibly, remove dissolved phase pollutants, but that method is not specified in the EIR. The EIR therefore does not provide adequate information to determine whether the on-site stormwater treatment will adequately mitigate for dissolved phase pollutants.

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Thank you for considering these comments.

Cordially,

William Verick

Attachment

5-333

Letter 23: Klamath Environmental Law Center & Mateel Environmental Justice Foundation (William Verick)

- 23-1 The comment states that Humboldt Bay is a premier estuarine resource, and that Clark Slough is a dungeness crab nursery and habitat for numerous species, including Great blue heron and river otters. The comment also states that recent studies have found that Humboldt Bay oysters can have dioxin levels considered unfit for human consumption. Finally, the comment claims that several species of special status avian species are likely to utilize the habitat on the project site.

Please see responses to comment letters 22-6 and 26-3 for further discussion of dungeness crabs and special-status avian species. As the Draft EIR acknowledges, migrating special-status adult and juvenile chinook salmon (*Oncorhynchus tshawytscha*) and coho salmon (*Oncorhynchus kisutch*) are likely to be present in Humboldt Bay between December 1 and June 30 each year, and could be adversely affected by construction activities on the project site during this period. The Draft EIR thus proposes a series of mitigation measures to avoid or minimize potential impacts on these species, including for example Mitigation Measures H-3a, K-2a, and D-1a (Draft EIR, page IV.D-19).

Green sturgeon occur in nearshore marine waters and the lower reaches of large rivers, and are known to spawn only in the Rogue, Klamath, and Sacramento Rivers. Due to the presence of the tidegates and the marginal habitat conditions in the Clark Slough remnant represented by the channel configuration, rip-rapped banks, and other features, the green sturgeon would not occur at this location, and the proposed project is likely to have no effect on this species.

The marbled murrelet (*Brachyramphus marmoratus*) is a federally-listed seabird species that typically flies inland to nest on the mossy limbs of old-growth trees, and can forage in off-shore waters. The species is not expected to utilize the project site for nesting or foraging.

Dungeness crabs (*Cancer magister*) have been observed in the Clark Slough remnant. eelgrass (*Zostera marina*) can provide nursery habitat for dungeness crab. The lack of significant eelgrass beds or other similar aquatic vegetation limits the usefulness of the Clark Slough remnant for this species. Also, this species is common and abundant in the region, and thus the proposed project is not expected to have any significant adverse effect on dungeness crab. In any event, the Clark Slough remnant would be enhanced with the proposed wetland reserve.

Great blue heron (*Ardea herodias*) have been observed at the project site and flying overhead, and are most likely associated with the rookery located on nearby Indian Island about a half mile away. (Draft EIR, at IV.D-4.) While it is possible that herons could on occasion use the Clark Slough remnant as a foraging area and would be expected to occur in the project vicinity, the project site does not provide habitat suitable to support this

species. (Draft EIR, at IV.D-6.) For example, there are no appropriate nesting sites on the project site, and the narrow and rocky shoreline in this area provides limited feeding opportunities for this species. (Draft EIR, at IV.D-1, D-7.) Also, the great blue heron is common to and abundant in the region. (Draft EIR, at IV.D-3.) While the heavily disturbed project site may provide some limited foraging habitat for herons nesting at Indian Island, development of the project would increase the quality and quantity of appropriate wetland foraging habitat available to this species. Thus, the project would not result in significant adverse impacts on this species. (Draft EIR, at IV.D-19.)

River otters have never been observed onsite, and are not expected to occur in the Clark Slough remnant due to a lack of suitable habitat, the paucity of target prey species, and the existing tide gate which prohibits ingress and egress of this species.

As for dioxin levels in Humboldt Bay oysters, the comment does not list which studies have found that oysters can have dioxin levels at unsafe levels, or where those oysters may come from. While dioxin has been detected in samplings of Humboldt Bay oysters, the extent of the occurrences of dioxin is uncertain and Humboldt Bay oysters continue to be harvested commercially from Humboldt Bay for human consumption. The remediation proposed as part of the SIRAP and FRAP would reduce possible exposure to dioxins from the project site. Further, the project would not increase dioxin levels in Humboldt Bay; and therefore, would not result in adverse impacts to Humboldt Bay oysters, or the oyster industry that is dependent on the oyster cultivation.

As for other avian species identified in the comment as having some potential to occur onsite, a number of those species are addressed in response to comment 26-3, including the yellow warbler. There is a remote chance that some species may occur on rare occasions to forage or as transients, but none of those species are expected to nest or forage regularly onsite due to the lack of suitable habitat. (Draft EIR, Appendix G, Biological Assessment, Attachment 2 Table 4.) The loggerhead shrike (*Lanius ludovicianus*), for example, prefers desert, grasslands and savannah, and will nest in thickly foliated trees or tall shrubs. The project site does not contain thickly foliated trees or tall shrubs that would be considered suitable for nesting by this species. While transient loggerhead shrikes may utilize the project site during winter, the species is unlikely to nest or regularly forage onsite due to a lack of suitable habitat. (Draft EIR, Appendix G, Biological Assessment, Attachment 2 Table 4.)

Likewise, the northern harrier (*Circus cyaneus*) and short-eared owl (*Asio flammeus*), state species of special concern, would not nest onsite due to the lack of appropriate nesting habitat and general disturbance resulting from the urban setting of the project area. (Draft EIR, Appendix G, Biological Assessment, Attachment 2 Table 4.) While winter foraging is possible for the white-tailed kite (*Elanus caeruleus*, a California Fully Protected species), this species would not be expected to nest at the project site due to the lack of appropriate nesting trees and nesting habitat. (Draft EIR, Appendix G, Biological Assessment, Attachment 2 Table 4.) Consequently, the proposed project is not expected to have any significant adverse effects on these species or their habitats.

- 23-2 The comment states that the Draft EIR Project Description is not adequate and provides no basis of analysis of potential adverse environmental effects from site remediation. The comment quotes a summary paragraph in the Project Description and states that this paragraph composes the entirety of the EIR's description of the site remediation. The comment concludes that the discussion of site remediation is so cursory as to prohibit a meaningful analysis of the potential impacts of the proposed project.

First, it should be noted that the contamination at the project site is an existing condition and part of the environmental baseline. The proposed project did not create the existing condition, and is only proposing to improve the site from its current condition.

Second, the summary paragraph in the Project Description does not constitute the total discussion of remediation of contamination at the project site. This discussion is included in Chapter IV.G of the Draft EIR, as well as in the impact and mitigation discussions in that and other chapters (e.g., Impact and Mitigation Measure H-3).

Third, sufficient information has been provided to understand the proposed remediation and evaluate its effects. The proposed project includes measures for remediation of contamination at the site, including excavation of some contaminated soils, and creation of barriers that would prevent any exposure to contamination remaining in the soils below.

For further discussion regarding the remediation plans for the proposed project, please see Master Response 4 and the Supplemental Interim Remedial Action Plan (SIRAP) in Appendix S. A Final Remedial Action Plan (FRAP) will be submitted and must be approved by the RWQCB before development of the Marina Center project as required in Cleanup and Abatement Order (CAO) No. R1-2001-26. The preparation of this FRAP, however, is dependent on the final development plan, and the final development plan is dependent on any changes or conditions that may be imposed by the City Council at project approval. Because the FRAP must address the most current site conditions and project designs, it is impractical at this time to provide further details concerning the FRAP. Nonetheless, the purpose of remediation – to clean up the project site to levels appropriate for the proposed uses – as well as the measures required in this EIR, provide more than sufficient detail to allow a meaningful assessment of the proposed project's environmental effects.

- 23-3 The comment states that the Draft EIR fails to set forth specific data needed to meaningfully assess whether the proposed project would result in significant impacts. The comment also states that the evidence available demonstrates that the project site is extensively and intensively contaminated with a complicated mixture of hazardous chemicals.

All existing site-specific data is discussed in Draft EIR Chapter IV.G, as well as within Master Response 4 and the Supplemental Interim Remedial Action Plan (SIRAP) in Appendix S.

Although there is contamination throughout most of the project site, existing site data and the results of the two Health Risk Assessments (HRAs) prepared for the site show that the contamination is not “intensive.” The California Environmental Protection Agency agreed with the results of the HRA, which concluded that the potential risk for site users was within or below the range of acceptable risks. As a result, the RWQCB concluded that additional remediation was not required for existing site conditions, although additional evaluation would be needed when the site is developed.

- 23-4 The comment states that dioxins have been found at the project site and within the Humboldt Bay and states that the presence of dioxin in these areas is evidence that contamination is entering Clark Slough, the Bay, and the food chain.

Dioxins and furans (often referred to collectively as “dioxins”) refer to groups of related compounds that are found in soil, sediment, air, and water all over the world. They are formed as a result of combustion processes, including commercial or municipal waste incineration, the burning of fuels like wood, coal, oil, gasoline, or diesel, and from some manufacturing processes. Dioxins can be formed as a result of natural processes such as forest fires. There are over 200 different dioxins, all of which occur naturally in the environment. Studies have shown that exposure to dioxins at high enough doses may cause a number of adverse health effects.

Dioxins are associated with the treatment of wood by pentachlorophenol, and there are numerous locations in the Humboldt Bay area in which dioxin contamination has been found in association with former wood treatment facilities. Some of these locations are within the vicinity of the project site.

Sampling conducted at the project site has identified dioxins in surface sediment at levels modestly elevated above background levels. There is no evidence that the project site itself is the source of that dioxin. Instead, dioxin is more likely coming from nearby properties. Dioxin flows into Clark Slough from the municipal stormwater system, which discharges stormwater from this part of Eureka into the upstream end of Clark Slough. There is no evidence that dioxin-containing sediments are moving from the project site to Clark Slough. Dioxins from aerial deposition and offsite sources are likely to collect in the onsite wetlands, which tend to settle out and retain particulate matter. Elevated dioxin levels in the wetlands on the project site could be a concern to birds and other wildlife present in the wetland areas. Dioxins at the project site, however, are a part of the existing environmental setting, and are not a result of the proposed project. The proposed project is expected to reduce or eliminate any threat from the dioxins existing onsite.

Existing project site dioxin levels, although modestly elevated, are within the cleanup levels recommended by the California Department of Toxic Substances Control (DTSC) for commercial and industrial settings. Nevertheless, as part of the implementation of the SIRAP, additional testing would be performed for dioxins, and sediments with dioxin concentrations above a cleanup level established by the RWQCB would be excavated and removed offsite. Existing sediments would be covered with clean material, which would

act as a barrier and prevent people, birds, and wildlife from coming into contact with contaminated soils. As part of the final remediation and closure for the proposed project, any additional requirements imposed by the RWQCB would be implemented, and contact would be prevented by the placement of asphalt and buildings. Dioxins are not expected to move offsite through groundwater because they are insoluble.

- 23-5 The comment summarizes the findings of the U.S. Environmental Protection Agency (US EPA) regarding the toxicity of dioxin and related compounds on laboratory animals and humans. The comment further states that Humboldt Bay contains abnormally high levels of dioxins, and that additional dioxin input would exacerbate such levels.

The existing dioxin levels in Humboldt Bay originate from a number of sources, and are part of the existing environmental setting. The comment provides no evidence of dioxin leaving the site, as opposed to coming onto the site and settling in the wetlands, which tend to accumulate dioxin, and the site is not considered a source of dioxin contamination in Humboldt Bay. In any event, the proposed project would only improve or eliminate exposure pathways on this site as part of the proposed site remediation.

For further discussion of the existing contamination at the project site, please see Master Response 4 and the Supplemental Interim Remedial Action Plan in Appendix S.

- 23-6 The comment states that the Draft EIR admits “extensive and intensive and extremely toxic contamination” which makes it clear that extensive and intrusive site remediation must be done.

As stated in response to comment 23-3, contamination of the project site is not considered intensive. In addition, an extensive and intrusive remediation is not the only option available to remediate the project site, though excavation is proposed to occur within discrete areas of the site where higher concentrations have been detected. There are a variety of remediation methods, however, that can be effective at achieving cleanup and regulatory closure of the project site. The clean cover material and grading of the project site in the SIRAP, and the building, parking lot, and other urban foundations proposed for the Marina Center development, would all create a set of barriers so as to eliminate exposure pathways to humans and the environment.

For further discussion of the existing contamination at the project site, please see Master Response 4 and the Supplemental Interim Remedial Action Plan in Appendix S.

- 23-7 The comment states that typical contaminants associated with railroad use have been detected at the project site and that substantial residual contamination remains at the site. The comment further states that, because the project site would contain residential uses, the most protective US EPA Region 9 Preliminary Soil Remediation Goals (PRGs) should apply to the project site.

Please see responses to comments 23-4 and 23-6. Residual contamination exists at the project site as outlined in the Draft EIR and Master Response 4. These residual

contaminants must be addressed in accordance with the RWQCB's Cleanup and Abatement Order for the project site to receive regulatory closure, and would be required to meet the cleanup standards (both federal and state) necessary to accommodate the proposed land uses, including the proposed residential land uses.

Further, EPA's PRGs are screening levels, not cleanup standards, and do not apply to the site. Residential PRGs apply to situations in which residents have unrestricted exposure to site soils, which is not the case here. Some of the PRGs, including the PRG for arsenic, are routinely exceeded by natural background conditions. EPA recognizes these issues, which are inherent in any system of screening levels. When screening levels are exceeded, additional evaluation is necessary to determine whether a more appropriate number should be used. Final cleanup standards, which are based on considerations more appropriate for an individual site, can be very different from PRGs and other sets of screening levels. Cleanup standards take into account expected exposures to site soils. Here the barriers are expected to prevent any exposures, and cleanup to levels in the PRG range should not be required.

- 23-8 The comment refers to a statement of a consultant to the effect that groundwater at the site is heavily contaminated.

The groundwater is not heavily contaminated. Although groundwater has been contaminated by petroleum hydrocarbons, this contamination is found only in limited areas and has not been migrating offsite. Low levels of metals have been found in groundwater. Metals are naturally occurring, and are allowed in drinking water below prescribed levels. At the site, monitoring for all metals other than arsenic has been discontinued because ongoing monitoring has consistently failed to detect such metals or found them at very low concentrations. For example, arsenic levels at the site are present at concentrations typically found in groundwater and are within the range allowed by drinking water standards.

The comment asserts that arsenic concentrations are above a groundwater objective. Like the arsenic PRB, this objective is lower than natural background levels. It is lower than natural arsenic concentrations in the ocean, and natural arsenic concentrations in many sources of groundwater. The drinking water standard is 100 times higher. Because natural background conditions throughout the Humboldt Bay area are likely to be substantially higher than this objective, the objective is not likely to be applied to the site.

The comment also suggests that there is a potential completed pathway for arsenic to leave the site through groundwater. However, metals in groundwater tend to stick to soil, and there is no evidence that any groundwater leaving the property contains arsenic. The comment refers to a consultant who concluded that groundwater flows into Humboldt Bay, but this consultant did not conclude that the groundwater contains arsenic or any metals. The amount of groundwater leaving the site is very small, and even if it contained arsenic the amounts of arsenic reaching Humboldt Bay would be trivial. Because arsenic is a natural component of soil, Humboldt Bay naturally contains large amounts of arsenic, and more arsenic naturally flows into the bay whenever it rains. The project would not have any significant effect on arsenic in Humboldt Bay.

- 23-9 The comment states that contaminated groundwater from “the northern portion of the northeastern portion” of the project site flows into the Bay. The comment further states that soil samples collected at the project site exceed residential PRGs for lead, antimony, copper, zinc, tetrachloroethylene, and PAHs.

Contrary to the comment, there is no evidence demonstrating or establishing a clear connection between the “A” Zone groundwater aquifer and Humboldt Bay. If there was a connection, the distance between the groundwater and Humboldt Bay is sufficient (over 200 feet away) to protect Humboldt Bay because, as contaminants move through the subsurface, they attenuate naturally. Please also see response to comment 23-6 and Master Response 4 concerning the current site contaminant and remediation levels. These and other soil-related issues identified by the RWQCB would be addressed as part of the remediation and prior to construction of the Marina Center development. Please also see response to comment 23-7.

- 23-10 The comment states that the toxic profile of the project site makes it clear that large amounts of soil would have to be removed from the project site and trucked away. The comment also states that several aspects of the project site (e.g., the discharge of waters from the pipe on the property line), have not been characterized and therefore there is a data gap concerning pollutant concentrations in groundwater. The comment also notes that the EIR says the sources of dioxins “have not been identified.”

As stated in response to comment 23-6, extensive soil excavation is not warranted by existing site conditions. Although some excavation would occur in several discrete areas of the project site, other effective site remediation options are available and would be employed in order to clean up the project site to the applicable levels.

The comment also states that the site contamination is not sufficiently characterized to be able to determine what kind of remediation would be sufficient. On the contrary, the site has been characterized well enough to obtain RWQCB concurrence of the SIRAP, and to evaluate any potential adverse physical changes to the environment associated with the proposed Marina Center. The comment refers to one location, identified as a pipe at the Del-Reka Distributing Corporation, and asserts that the site has not been characterized. This is incorrect. A sample has been taken from the ditch in that area and analyzed for dioxins. The levels were low. Surface water samples are not needed from that area because the water there is located at a distance from the areas of railroad maintenance, and because the water reaching that area has passed through wetlands that would settle out contaminants such as dioxin, as confirmed by the soil sample from that location. In any event, the pipe in question would be removed as part of the interim remedial measures, and therefore any stormwater discharges associated with that pipe would be eliminated.

The comment also asserts that no groundwater monitoring wells have been installed at this location, and therefore there is a data gap. No groundwater monitoring well is needed in that area because it is far from the areas of historical railroad activity, and because groundwater quality in that area is adequately represented by a nearby well that has tested

clean. No information or other data has been produced suggesting that there would be any groundwater contamination at the proposed sampling point. Wells have been installed and adequate monitoring has been conducted at all areas where groundwater contamination was most likely to have occurred – for example, in areas associated with the historic railroad or other site-related activities that involved petroleum or other contaminants.

Please also see Master Response 4 and the Supplemental Interim Remedial Action Plan in Appendix S.

- 23-11 The comment states that “there is massive and highly toxic contamination at the site,” that such chemicals would leave the project site, and that there is an obvious need for extensive cleanup. The comment states that the Draft EIR does not provide sufficient information regarding the cleanup. The comment states that the EIR must include full details regarding the Remedial Action Plan prior to project approval in order to ensure that potential adverse environmental effects are adequately mitigated.

Please see Master Response 4 concerning details of the remediation plans and the current levels of contamination at the project site. The comment confuses and fails to distinguish the baseline conditions of the project site and the ultimate effects of the proposed project. The comment also exaggerates the current contamination levels at the project site. As the Draft EIR acknowledges and details, contaminants remain in the soils onsite. The project proposes to remediate those soils and eliminate exposure pathways and clean up the site to levels appropriate for the proposed land uses. Thus, the project would improve the current site conditions. Any effects of the first phase of the proposed project – Phase 1 – have already been addressed through the Draft EIR’s effects analysis and proposed mitigation measures (see, e.g., Mitigation Measures H-3, D-3, G-1, and O-1a, addressing remediation and construction-related impacts on stormwater, wetlands, worker health, and traffic). The Draft EIR provides more than sufficient information to meaningfully evaluate the effects of the proposed project. Nonetheless, the Final EIR adds information concerning Phase 1 of the proposed project (see Appendix S).

Further, the final remedial measures necessary to satisfy the RWQCB’s Cleanup and Abatement Order and to assure proper regulatory closer are dependent on further site design details that have not yet been developed. Until the proposed project is approved and those design details can be identified (e.g., what sort of foundation may be required for a particular building), it is impractical to add any further remediation details. For example, if building plans are developed and trenching must occur to a particular depth in order to accommodate a proposed building foundation, further remedial measures would likely involve confirmation sampling and, if sampling shows that elevated contaminant levels persist, further soil excavation, removal, or cover would be provided, all in accordance with existing mitigation in the EIR (e.g., Mitigation Measures G-1 and G-2). These sorts of measure are standard measures, and are generally known to be effective at addressing the risks associated with potentially contaminated properties. It is impractical to develop those sorts of design-level measures at this time when building plans have not

yet been developed and such measures may ultimately prove unnecessary depending on the final site and building plans. In any event, since the proposed project must clean up the project site to standards necessary to accommodate the proposed land uses – which itself is an element and objective of the proposed project – the public and agencies can rest assured that such cleanup would occur.

- 23-12 The comment states that the Draft EIR does not include a description of how much soil would be removed from the project site, where it would be hauled, and how many trucks would haul it. The comment states that there is no information on the environmental effects of trucking the soil (like air quality and traffic) or whether fugitive spills of soil would occur, whether soil disposal would include onsite incineration or thermal desorption of hazardous waste, or how much contamination would remain at the project site. Finally, the comment expresses concern about the level of remediation that would occur along with creation of the 11.89-acre wetland reserve.

Please see Master Response 4 concerning additional information on the SIRAP. Regarding soil excavation, excavating the whole project site is not feasible or necessary, and thus large-scale excavation is not proposed by the project. Discrete excavation would be sufficient, and any excavated material would be handled and disposed of in accordance with all applicable laws and regulations. The potential transportation and air quality impacts associated with any such excavation effort are already incorporated into the Draft EIR's traffic and air quality analyses associated with construction activities, and can be mitigated to a less-than-significant level (Draft EIR, Chapters IV.C, IV.G, and IV.O). The handling and disposal of contaminated soils is specifically addressed under Mitigation Measure G-1.

Onsite incineration or thermal desorption are not being considered as part of the project, and are not expected to be needed given the relatively low-levels of contaminants, types of contaminants, and limited amounts of soil that would be removed. Therefore, the air quality effects associated with those efforts are not discussed in the Draft EIR.

Finally, the existing levels of site contamination are adequately described in the Draft EIR. Analysis conducted to date and as part of the SIRAP (please see Appendix S) provides additional information on existing contaminant levels and the levels proposed to be left in place. Ongoing groundwater monitoring has demonstrated that groundwater contamination is minimal. Again, as part of the Cleanup and Abatement Order issued by and under the supervision of the RWQCB, soil contamination must be addressed in order for the project site to receive regulatory closure and to meet the standards and criteria necessary to accommodate the proposed land uses. Contaminated soils in the wetland reserve will be excavated and removed as part of the SIRAP, and the areas along Clark Slough will be excavated down to the natural uncontaminated former mudflats. Clean soils will be used for pedestrian pathways.

- 23-13 The comment states that the Draft EIR does not include information regarding the expected duration of site remediation.

The elapsed time for the remediation to be complete is partially dependent on agency decision making, and how quickly the approving agencies can issue the project's necessary permits. Until those approvals are issued, however, the existing contaminants would remain in situ. The Draft EIR estimates that, once all approvals are issued, Phase 1 of the project would span approximately 12 months (Draft EIR, at III-15). Final remedial action would depend on the time necessary to obtain all necessary entitlements and permits, and would occur concurrently with subsequent phases of the proposed project. This site does not appear to have the complexity or level of contamination at the Simpson Plywood Mill site, and therefore that site does not appear to be a useful analog for gauging how long remediation can take in this instance.

Please also see Master Response 4 and the SIRAP in Appendix S, which describe the proposed interim remediation efforts to be undertaken as part of the proposed project.

- 23-14 The comment states that the lack of information regarding the remediation timeline makes it difficult to assess how long contaminants, including dioxin, petroleum hydrocarbons, arsenic, lead, copper, antimony, and trichloroethylene (TCE) would be left to continue to enter Clark Slough and the Bay.

The contamination on the project site is an existing condition and part of the environmental baseline. Remediation efforts would reduce total contaminants at the project site and would not cause contaminants to spill into Humboldt Bay. Nonetheless, dioxin has been shown to be an insoluble compound (i.e., it absorbs onto soil and does not dissolve). Therefore, it is not expected to be released and transported into nearby water sources. Petroleum hydrocarbons have not been detected in surface water since 2005. The SIRAP addresses the contaminants at the project site. There is no evidence that impacted groundwater is reaching offsite receptors. Finally, there is no evidence to suggest that TCE is an issue at this project site.

- 23-15 The comment reiterates previous comments stating that an adequate project description and a RWQCB-approved work plan for final remediation of the project site should be incorporated into the EIR. The comment reiterates earlier comments that the Draft EIR fails to analyze potentially significant adverse environmental effects of the remediation activities, and that the proposed project cannot rely on compliance with existing laws to ensure that the proposed project has mitigated its impacts.

Please see responses to comments 23-2, -11, and -12 regarding the preparation of the final remedial actions and site closure, which are dependent on the final site plan as informed by potential changes and conditions that may be imposed by the City Council at project approval.

The comment further states that the Draft EIR "logic" implies that as long as all development projects follow laws and regulations pertaining to hazardous materials contamination, all development projects would result in less than significant impacts related to hazardous materials. The comment then states that the Draft EIR does not employ this logic in its finding of significant and unavoidable impacts to air quality.

The comment is incorrect in stating that compliance with existing laws can never serve as adequate mitigation. (See, e.g., *Leonoff v. Monterey County Board of Supervisor* (1990) 222 Cal.App.3d 1337 (court upheld mitigation measure requiring the project to comply with laws governing hazardous materials); *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296 (court upheld mitigation measures requiring compliance with air and water quality standards).) Still, adherence to laws and regulations has different effects on determinations of significance depending on the impact in question. As the comment notes for example, even if the proposed project complies with all regulations and laws regarding emissions, the proposed project would still result in a significant and unavoidable impact on air quality due to its emissions of PM10.

Contamination at the project site is part of the existing baseline condition. The proposed project did not create the condition and instead would remediate it. As stated in responses to comments 23-2, -11, and -12, the final remedial actions are dependent on City Council approval of the proposed project. The work plan would provide the steps to be taken to adequately remediate the project site. Until agency site closure is attained, future phases of the proposed project cannot developed. Therefore, ongoing and continued adherence to legal requirements within the regulatory structure is the only way that the proposed project would be completed. Moreover, Mitigation Measure G-1, as well as the fact that this project site is under an existing enforcement action by the RWQCB, would ensure that the requisite level of cleanup would occur.

Finally, the comment states that other RWQCB-approved cleanup plans have required massive excavation and transport of soils from the project site. Each site is unique, and it does not make sense to compare this site to other sites in regards to the type of remediation that was conducted at other sites, particularly since the level of excavation proposed and approved by the RWQCB for this site is significantly lower than most other remediation projects.

- 23-16 The comment states that the Draft EIR includes an inadequate analysis of the proposed project's impacts to stormwater quality in two respects. First, the comment states that implementation of drop inlets on the project site would not mitigate the potential effects of increased motor oil, tire particles, coolant, and gasoline that would enter storm drains off-site and throughout the City as a result of the proposed project. Second, the comment states that drop inlets would be ineffective in separation of dissolved phase metals, hydrocarbons, and miscible particles—like coolant—from the runoff. The comment states that other methods, such as a filtration system utilizing carbon filter could remove additional pollutants, but that those methods are not discussed in the Draft EIR, and therefore the Draft EIR does not provide enough information to determine whether onsite stormwater treatment would adequately mitigate for dissolved pollutants. Clark Slough receives stormwater runoff from an area of the City of approximately one square mile.

The comment attempts to equate the effects analysis associated with regional traffic impacts with the effects analysis applicable to stormwater quality. The two are distinct. Traffic impacts are measured by evaluating the increase in traffic on the surrounding street

and roadway system caused by the proposed project. Conversely, stormwater impacts focus on whether the proposed project itself would provide a substantial additional source of polluted runoff or cause or contribute to the violation of water quality standards. That analysis was completed, and the Draft EIR ultimately concluded that with the proposed mitigation, the proposed project's effects related to stormwater quality would be less than significant (Draft EIR, at IV.H-15 through IV.H-21). For example, once constructed and mitigated, the project is not anticipated to substantially degrade water quality, violate any water quality standard, or provide a substantial additional source of polluted runoff. (*Id.*) The City's municipal stormwater system is regulated separately under Section 402(p) of the federal Clean Water Act, and is operated by the City under its own municipal stormwater permit issued by the SWRCB. Any vehicle-related discharges of municipal stormwater throughout the City would be covered under this permit. Because the project would remain within the CEQA thresholds set forth in Appendix G, the project's effects on stormwater quality would be less than significant.

The comment also questions whether the project's mitigation will be effective at treating dissolved phase metals, hydrocarbons, polyaromatic hydrocarbons (PAHs), and miscible pollutants such as coolant at the drop inlets onsite. Mitigation Measure H-5a, which addresses treatment at drop inlets onsite, does not specify the specific treatment method. Treatment methods may depend on the specific design features surrounding the drop inlets, as well as the location of those inlets. Standard best management practices (BMPs) and other design features at these inlets such as those identified in the comment have shown to be quite effective at reducing or eliminating these sorts of contaminants from stormwater runoff. (See, e.g., U.S. Environmental Protection Agency, *National Management Measures to Control Nonpoint Source Pollution from Urban Areas*, Pub. No. EPA 841-B-05-004 (Nov. 2005).) The USGS study that focused on PAHs in stormwater runoff found that the PAHs originated from the abrasion of parking-lot sealcoat into pieces or particulates. Therefore, stormwater treatment facilities designed to reduce sediment particulates in stormwater would also reduce sediment-laden pollutants such as asphalt sealcoat which may contain PAHs. The following revisions to Mitigation Measure H-5a (Draft EIR, page IV.H-20) are proposed to help clarify and enhance this measure in line with what the comment has requested:

Mitigation Measure H-5a: The final applicant shall treat stormwater at drop inlets that capture runoff from roof drains, paved pedestrian areas, and parking prior to connection to the City's storm drain system. The project applicant shall prepare and implement a permanent maintenance program for stormwater treatment facilities on the project site. drainage plan shall include design features to capture and treat stormwater from roof drains, paved pedestrian areas, and parking areas before entering the City's storm drain system in accordance with the City's *Construction Low Impact Development (LID) Manual* (March 2009) and the California Stormwater Quality Association's *Stormwater Best Management Practice Handbook* for new development. Treatment methods shall include best management practices and design features that are effective at reducing or eliminating anticipated stormwater pollutants. The Project Applicant shall provide and put into place a funding mechanism to support ongoing maintenance of the stormwater treatment infrastructure on the project site.

Comment Letter 24

Comment Letter 24

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DEIR Comment Letter from Ralph Faust to Sidnie L. Olson

January 30, 2009

January 30, 2009

City of Eureka Community Development Department
Ms. Sidnie L. Olson, Principal Planner
531 "K" Street
Eureka, CA 95501-1165



Dear Ms. Olson:

My name is Ralph Faust and I represent the Northcoast Environmental Center (NEC). The NEC is a coalition of environmental groups that has worked for almost forty years to conserve the area's biological interests in the public interest through environmental information and education and when necessary, activism and litigation.

The comments contained herein are in response to the recent circulation of a Draft Environmental Impact Report (DEIR) for the Marina Center Project on the so-called Balloon Track. The Balloon Track, or Tract, is the premier undeveloped piece of property in the City of Eureka, located in the coastal zone at the Northwest corner of the City. It provides a sweeping panorama of Humboldt Bay as well as being completely in the view shed of tourists and residents recreating on the Bay and along the shoreline. It is adjacent to the Core Area Old Town and Downtown of the City, and its location along Hwy. 101, the only north-south highway in the County, makes it uniquely accessible to tourists and residents alike.

The DEIR in its present form is completely inadequate. It misstates the nature and scope of a number of the project's impacts, and completely ignores others. It ignores the policies of the Coastal Act. It contains a completely inadequate range and discussion of alternatives. The project described in that report and the report itself have numerous problems, and it is our contention that either the project proponent should abandon the project in its present form, or the City should reexamine the project in light of these and other comments and redo the EIR to focus accurately on the impacts of the project and its potential approvability, as is required by law.

WETLANDS

The proposed project would fill wetlands in order to enable a big box commercial development. The DEIR contains two characterizations of the wetlands present on the site, one study based upon the Army Corps of Engineers criteria that identified 7.09 acres of wetlands, and another study based upon the State Coastal Commission criteria that identified 8.76 acres of wetlands. It does not present a third study, also based upon the Coastal Commission criteria, that is in the

possession of the developer if not of the City, that finds an additional 0.442 acres of wetlands on the site including in the turntable area ("Biotic Characterization of Clark Slough and 'Balloon Tract'", prepared by H. T. Harvey and Associates, January 29, 2008). In the absence of further information not presented in the Draft EIR, the largest delineated area of wetlands found in any of the studies consistent with the Coastal Commission criteria should provide the basis for the City's assessment of the project. That would appear to be about 9.2 acres.

In the face of this evidence of the presence of wetlands, the DEIR goes on to conclude, inexplicably, that the project is approvable under the Coastal Act. It does so despite a specific statement that it does not meet the allowable use criteria contained both within Public Resources Code section 30233, and in Policies 6.A.9 and 6.A.14 of the City's certified LCP. The City also completely ignores the fact that Policy 6.A.6 of its certified LCP declares sloughs and wetlands to be Environmentally Sensitive Habitat Areas (ESHA). Public Resources Code section 30240 is strong and explicit in stating that ESHA "shall be protected against any significant disruption of habitat values and only uses dependent on those resources shall be allowed within those areas". This state policy is mirrored in Policy 6.A.7 of the City's certified LCP. Further, the courts have definitively interpreted section 30240 to require the protection of ESHA regardless of the extent to which it may have become degraded. (See e.g., Sierra Club v. California Coastal Commission, 12 Cal. App. 4th 602 (1993); Bolsa Chica Land Trust v. Superior Court, 71 Cal. App. 4th 493 (1999). For a more recent discussion of the protection afforded ESHA in the context of a permit proceeding, see McAllister v. California Coastal Commission, Sixth Appellate District Case # H031283, 12/30/2008).

Apparently, though the decision path is not presented, the City appears to believe that it can find "overriding considerations" for this inconsistency, or that it can "balance" under the terms of Public Resources Code sections 30200 and 30007.5 (DEIR p. IV.I-14). The City has no such authority. "Overriding considerations" does not apply to the Coastal Act. Nor does the City have the ability to utilize section 30007.5 to approve the project. In order for the Commission to approve the project using these sections, it must identify a conflict between Chapter 3 policies, and then find that, on balance, the decision made is most protective of coastal resources. But there are no coastal resources protected by the fill of wetlands pursuant to this project, so no balancing can occur.

The City suggests that the developer's proposal would result in a "higher value" of wetlands on the site. Whether this opinion has merit is irrelevant; the Coastal Commission does not and cannot interpret the Coastal Act to allow fill of a wetland or destruction of an ESHA by a project on the basis that a newly constructed wetland would have "higher values". (See e.g., Bolsa Chica, supra, at 507: "...the language of section 30240 does not permit a process by which the habitat values of an ESHA can be isolated and then recreated in another location. Rather, a literal reading of the statute protects the area of an ESHA from uses which threaten the habitat values which exist in the ESHA" (emphasis in original)).

More to the point, the developer appears to have convinced the City that there can be no cleanup of the toxic contamination on the site without filling the wetlands. This is patently

5-346

24-2 cont.

24-3

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24-2

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson
January 30, 2009

false. Both the present owner and Union Pacific, the prior owner, have an immediate enforceable legal obligation to clean up the site, independent of any proposed development. The particular cleanup plan, which is itself development under the Coastal Act (see Public Resources Code section 30106), will have to be approved not only by whatever relevant state and federal agencies have jurisdiction over the toxic cleanup itself, but also by the City and the Commission under the Coastal Act. Only then will decisions be made regarding the appropriate restoration of the site. In this regard, the City should review the language of its existing LCP Policy 6.A.11, regarding maintaining or enhancing the functional capacity of wetlands or estuaries. Because the site was originally sub-tidal and tidal waters as well as estuarine wetlands, and appears to remain subject to the public trust, there is no reason to suggest that restoration of the site, the Coastal Act basis for dredge of the toxic material from the existing wetlands, requires refilling of the site to eliminate the wetlands and allow for a concrete parking lot and big box commercial development. That isn't restoration.

24-6
cont.

The City and the developer appear to confuse both the necessity for the cleanup with the desire for a particular project and the general requirements for a cleanup outside the coastal zone with the more stringent ones applicable in coastal zone wetlands. Contrary to the project proposal, the outcome of a legitimate "restoration plan" would be that Clark Slough and all of the wetland areas on the site are restored to their original status. The Marina Center only masquerades as a "restoration" project in an attempt to circumvent the clear standards of sections 30233 and 30240. For these reasons, this portion of the DEIR is fatally flawed. At a minimum, the project and the DEIR should be revised to remove all proposed development from the area that includes the slough and all delineated wetlands as well as from an upland buffer area of, at minimum, 100 feet from the boundary of any delineated wetland. There is clearly room for some development on the site, but it almost certainly will be mostly in the area north of the line drawn from 4th Street to the west to Waterfront Drive.

24-7

COASTAL ZONE LAND USES

The DEIR is also flawed in that it does not discuss or take into account the preference of land uses declared in the Coastal Act for development planned in the coastal zone. The Coastal Act, in several sections, particularly Public Resources Code sections 30222 and 30255, sets up a ranking or prioritization of uses to be allowed. The uses proposed for the Marina Center, including private residential, general industrial and general commercial are the least favored uses under the law. Higher priority uses include coastal-dependent (both industrial and non-industrial), coastal-related (those that support coastal-dependent), and visitor-serving commercial and recreational. Although the DEIR notes that the site is not geographically appropriate for coastal-dependent industrial use, no further attempt is made to discuss the prioritization of uses under the Coastal Act. The project is adjacent to a number of parcels zoned coastal dependent industrial, including "a number of vacant parcels owned by the City of Eureka Redevelopment Agency". In this context, and given the City's ability to combine use of this property with that of parcels owned by the Redevelopment Agency, the DEIR is required to analyze these priority coastal uses. For this reason the DEIR is deficient.

24-8

5-347

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson
January 30, 2009

This is especially egregious for a project of this magnitude in a location of this significance. Most particularly, the City must consider the possibility of a visitor-serving use in this area. The City recognizes in various parts of its DEIR that restoration of the slough and creation of wetlands, even at the minimal level proposed by this project in its present form, will be a great attraction for residents and tourists in the area. Imagine: How much more attractive would genuine restoration of the slough and wetlands be? And when that could be combined with the magnificent location of the site that includes views across the Bay in two directions, how nice a location for a destination hotel and restaurant, something completely lacking in Eureka at the present time? The City might consider responding that this vision is beyond the scope of what is required in a DEIR, but it is certainly not beyond the scope of what is required by the Coastal Act; and Coastal Act approval is required for any proposed use on this site that is not consistent with the existing zoning.

24-9

LAND USE AND IMPACTS

More generally, the City appears to take the view that its analysis of the economic impacts of the uses proposed in the project is limited to physical urban decay pursuant to the decision in *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal. App. 4th 1184. The City has attached several lengthy analyses of this issue and appears to have concluded that whatever impacts might occur, they won't rise to the level of causing urban decay, because there is a very low commercial vacancy rate in the area and empty stores will quickly be filled with new tenants. With respect to physical urban decay, this assumes that all areas of the City are equally desirable, and thus that no particular less commercially desirable area will be abandoned. In this regard, the DEIR assumes that the economic effects of this project will be spread throughout the City, with all areas suffering some, but none to the extent that it will reach the level of urban decay. With respect to economics, this assumes that either many more shoppers will come who do not presently shop in Eureka, or that entirely different businesses will be invented. No evidence is presented to justify either of these assumptions.

24-10

Further, the DEIR takes note in passing of the rapidly changing economic conditions that are presently closing stores and draining spending in the economy both locally and nationally, but all of the statistics presented are from the third quarter of 2007 or earlier, and thus completely fail to encompass the magnitude of the present economic shift. At this time, one of the "anchor" stores at the Bayshore Mall has closed and another is in bankruptcy, with no end in sight. Even Home Depot, mentioned in the DEIR as a possible anchor tenant for this project, has recently reported significant financial losses and closed a number of stores. There is no basis to assume at the present time that development of this project will not have a major effect upon other businesses in the City, and particularly in the City's Core Area. Since the new stores are unlikely to market goods different from those already sold in Eureka, the analytical flaw in the DEIR is the apparent assumption that there is an unlimited pool of shoppers, representing what the DEIR estimates to be about 10,620 vehicle trips per day specifically attributable to retail traffic, simply waiting for these new stores to appear. There is no evidence to support this assumption either.

24-11

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson
January 30, 2009

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson
January 30, 2009

Thus, the statement that the proposed project is consistent with Policy 1.L.1 of the General Plan is simply wrong. The discussion notes that the project could draw some customers away from Core Area businesses, but then states that it would "add residents, day-time workers and visitors to an area within walking distance of the Core Area". This is absurd. The DEIR states that the project will generate about 15,700 vehicle trips daily, many of these presumably shopping at the Center instead of in the Core area. Meanwhile, only about 100 new residents will live in the Center. Even if every one of these new residents shopped only in the Core Area, these numbers do not approach equivalency. Nor are very many of the shoppers or office workers in the Marina Center likely to walk 6-12 blocks to eat lunch or shop in the Core Area when options will be immediately available in the Center; and as for driving to Old Town, that would be an unlikely nightmare given the traffic generated by this project.

24-12

It seems clear that the Marina Center will economically bleed the Core Area by drawing away business. As quoted in the DEIR, Policy 1.L.1 states that the "City shall discourage new commercial development within the City that will adversely affect the economic vitality of the Core area. This City shall also encourage Humboldt County to discourage such development in adjacent unincorporated areas". What kind of development could be so detrimental to the commercial success of the Core Area that the City would adopt a formal policy to discourage such development in areas outside the City? Only one kind: the big box "category killer" development that is proposed for the Marina Center. Regardless of its strained interpretation of the City of Bakersfield case, and regardless of whether the big box turns out to be a Home Depot, a Wal-Mart, or something else, the City's support of this proposed project would undercut the economic vitality of its most critical commercial area, the Core Area, to which it has devoted substantial renovation efforts over the past 20 to 30 years, and would also directly contravene General Plan Policy 1.L.1, its primary commercial development policy.

24-13

This raises a more general point with respect to the Land Use policies of the General Plan and the Land Use and Planning section of the DEIR. Simply, there is no analysis in that section. Most of the section, 56 out of 80 pages, consists of a table that quotes policies and then makes a summary conclusion regarding applicability (Consistent, Potentially Inconsistent, or Not Relevant). The discussion in support of these conclusions is summary and trivial at best, or non-existent. One example of this is the Consistency Analysis of Goal 1.B, and the various policies that implement that goal. This is the section that deals with the "Concentrated Mixed-Use Core Area". The Goal of 1.B is to create a "robust central Core Area that provides a clear geographic focus for attracting visitors and residents and for increasing private sector investment". In its analysis of a project within a mile of the Core Area that would build a big box "category killer" and generate about 15,700 vehicle trips a day, the EIR finds this goal and all of the policies that implement it to be "Not Relevant", because the "project site is not located in the area the General Plan defines as the 'Core' of Eureka". No further discussion is provided. This does not pass what lawyers and judges call the "straight face" test; it is, instead, absurd on its face.

24-14

It is not the duty of a commenter to present an extensive analysis of topics that the City did not analyze itself. Suffice it to say that additional goals and policies that need further analysis and discussion, and that are not otherwise discussed in this letter include, but are not limited to:

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5-348

1. Goal 1.H and Policy 1.H.1 pertain to View Corridors. The analysis contained in the Land Use section and in Chapter IV-A is deficient in two respects. First, there is no showing that the project has been designed to protect view corridors to Humboldt Bay through the development. Contrary to the position stated in the Land Use section (p. IV.1-21) the view corridor policies are relevant to this proposed project. In addition, Public Resources Code section 30251 states that "the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance", and that "(P)ermitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas...". This does not apply only to the Core Area, but also to the project area. In addition, it appears that the project has been designed to present to viewers along the shoreline the unattractive backsides of its retail establishments and restaurants that border Waterfront Drive. The City should analyze how this is consistent with protecting views along the shoreline and from important coastal areas such as the Wharfinger Building and the shoreline access areas. Finally, there is presently a view from the shore area inland toward Old Town and to the mountains east of Eureka. The placement of a four-story parking structure and a five-story office building in the development, to be among the tallest buildings in the City, should be analyzed in terms of the policy directives of section 30251.
2. Goal 1.M and several of the related policies that follow pertain to Industrial Development. The elimination of the industrial zoned land along Broadway between 4th and 1st is inconsistent with the clear language of Policies 1.M.1, 1.M.2 and 1.M.10. In addition, the proposed project appears to undermine Policy 1.M.5 and would likely make realization of the goal of Policy 1.M.6 difficult, by changing adjacent uses. Further, if the railroad is again operational, as evidence suggests that the DEIR must assume (see below), it is unclear how the City intends to implement Policy 3.F.2 to ensure an adequate replacement of the railroad functions historically performed at the Balloon Tract. It is also not clear how the City intends to reconcile the proposed development with Policy 3.B.3, which calls for the development of an intermodal transportation center between A and Commercial Streets south of the railroad tracks. The DEIR states that this policy is "Not Relevant" because it contains "no directive for a project applicant", but this is the City's General Plan and the City's DEIR, and thus it is the City's responsibility to reconcile this conflict. All of these Policies require much more extensive analysis and discussion than is provided in the cursory table.
3. Goal 1.N relates to the provision of Community Facilities. Because the area is presently zoned "Public", the DEIR must analyze the rezoned area to another set of uses in terms of its ability to ensure an adequate supply of land for public or quasi-public community facilities. Why is it not important to keep all or a portion of this land zoned "Public", particularly after the cleanup of the site has been completed and a full range of potential uses can be examined? Contrary to the City's assertions, there appears to be almost no "public zoned" land in or adjacent to the Core Area or in the City's populated areas that is not already developed. [See the City's Zoning and Land Use Maps at: <http://info.ci.eureka.ca.gov/gis/maps/pdfs/zoning.pdf> and at [http://info.ci.eureka.ca.gov/gis/maps/pdfs/land use.pdf](http://info.ci.eureka.ca.gov/gis/maps/pdfs/land_use.pdf)]. The City dismisses this Goal as

24-15 cont.

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson
January 30, 2009

not relevant, but the removal of this large and unique parcel from "public" zoning without any identified alternatives makes this decision relevant to the DEIR discussion. The City must analyze and discuss this decision.

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cont.

TRANSPORTATION IMPACTS

The transportation analysis is, to say the least, opaque and bound up with conclusions that are driven by its assumptions. It is based upon traffic studies conducted in March and April, although residents know, as the City knows, that peak traffic use on Highway 101 is during the summer months when significant tourist traffic is added to the ongoing flow of local traffic. This baseline must be corrected. In addition, the transportation section of the DEIR is inadequate because: 1) it does not account for congestion and circulation difficulties caused by drivers trying to avoid or affirmatively being directed to avoid congestion at the project exits onto Broadway and instead using back routes accessed from Waterfront Drive to reach either Old Town or Broadway; 2) it counts already planned mitigation measures necessary to alleviate existing traffic congestion along Hwy. 101 as a result of existing conditions as measures to alleviate the congestion caused by this project, thereby using up all known available mitigation and precluding traffic impacts from any other possible project in the foreseeable future without further decreasing the level of service along 101 (cumulative impacts); and 3) it does not account for the known projected railroad trips along the right of way, particularly as the railroad crosses 1st Street, and also where Waterfront Drive becomes 1st Street and trains proceed along the middle of 1st Street through the Core Area, impacting traffic trying to move from the project site to the Core Area or using Waterfront Drive to get to street access to Highway 101.

24-16

Anyone who presently uses the various north/south streets in the Core Area knows that it is harder and takes longer to get to and across Highway 101 then it does to proceed along 101. Put another way, the most troublesome existing congestion is in the north/south direction rather than in the east/west direction. It is rare for a driver to wait longer than the length of one stoplight as one proceeds in either direction along 101. The lights are not perfectly timed for synchronous flowing traffic, but they are long enough in the green cycle to allow large numbers of vehicles to move through the various intersections. On the other hand, to go north or south along any of the various streets in the Core Area from C Street through at least I Street, to try to get from, for example 3rd Street to 7th Street or beyond, takes much longer. The traffic volume is far heavier along 4th and 5th Streets, but because that road is wider and the green lights are longer, congestion is more troublesome along the north/south lettered streets.

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This is important because the DEIR does not account for all of the various vehicle trips that will be generated by the project. The DEIR assumes that the only traffic congestion that must be accounted for is that along Highway 101. But because the EIR does not account for the fate of the 15,700 daily vehicle trips that are projected to be generated by the project, it leaves the congestion on all of the various adjacent streets and intersections unanalyzed. The DEIR obliquely recognizes this problem when it acknowledges that Koster Street will be impacted at its intersection with Wabash. This recognizes that traffic generated by the project, desperately

24-18

5-349

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson
January 30, 2009

seeking access to Broadway, but unable easily to obtain it at the 4th or 6th Street exits, will try "back road" alternatives. In fact, using these "back road" alternatives as a way to relieve traffic congestion on Broadway is specifically encouraged by the City's traffic consultant, who goes on to recommend closing all direct project access to Broadway by 2025. These alternatives include Waterfront Drive to either Washington or Wabash, with various "shortcuts", e.g. Koster, used as well, and Waterfront and 2nd Streets into the Core Area, with drivers then desperately seeking access to Highway 101 at Commercial, C Street or further east. It is important to recognize and to attempt to alleviate the known problems along Highway 101, but it is not sufficient as a traffic analysis of the impacts of the project. A heavily congested Highway 101 with its lights timed to favor traffic flowing along it rather than onto and across it will inevitably cause serious congestion on all of the back streets surrounding the project. The DEIR does nothing to analyze or to propose to mitigate, if mitigation is possible, these impacts.

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cont.

The City is well aware of this problem in the Core Area, as is evidenced by its General Plan Policy 3.H.2, which requires the City to "balance north-south travel needs through the Core Area (i.e., along E, F, and G Streets) with east-west travel needs by modifying traffic control devices (i.e., traffic signals and stop signs), working with Caltrans as necessary". Thus the City is aware that this is an existing problem, but the DEIR proclaims that this policy is "Not Relevant" to the project because the "project site is not within Eureka's 'Core Area'". This statement completely ignores the fact that the traffic impacts of a project are not limited by the precise boundaries of the project site. Instead they will ripple out throughout the area around the project. The DEIR recognizes this with respect to Highway 101, but largely ignores it with respect to the roads that go to and across Highway 101. For this reason the DEIR analysis of traffic impacts is deficient and must be redone.

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Related to this problem of traffic on the surrounding streets is the issue of coastal access. The Coastal Act mandates the protection of access to and along the shoreline, and it is well recognized that the Coastal Commission focuses upon the relationship of traffic impacts to coastal access. In parts of the DEIR the City recognizes the importance of this coastal access, touting the existing and planned improvements to coastal access in the area. Coastal access presently exists at the foot of Del Norte, at the foot of Washington and north along the shoreline past the Wharfinger Building to the boat harbor, and then from Commercial all along the waterfront through the Core Area. But the DEIR says not a word about how the traffic exiting the project onto Waterfront Drive will affect this coastal access. This impact must be analyzed now, before the analysis is forced upon the City by the Coastal Commission's review of the proposed LCP amendment.

24-20

This analysis is complicated by another potential impact to both traffic and coastal access that is not discussed in the Draft EIR. The Northwestern Pacific Railroad Co., in a memo from John H. Williams, its President to Allan Hemphill, the Chairman of the North Coast Railroad Authority dated January 8, 2009, (copy attached as Exhibit A) stated its intent to operate a "separate short line railroad that would provide both rail freight and excursion passenger train service in the Humboldt Bay Area extending from South Fork...to Samoa". The memo indicates that the project could generate about 6000 rail carloads of aggregate annually with the potential to

24-21

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson
January 30, 2009

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson
January 30, 2009

attract additional traffic. Further, as the City is well aware, the Humboldt Bay Harbor District is proposing a shipping terminal at Samoa, the Redwood Marine Terminal, which would generate additional railroad traffic through the project, at least 12 train trips a week, as well as additional large truck traffic along the Highway 101 corridor. The DEIR indicates that the project would keep the rail line open and free to traffic along its western and northern edge, but provides no further analysis of the impacts of the railroad's actual operation in conjunction with the Marina Center. Because the railroad tracks cross Waterfront Drive in two places, and in particular move directly onto 1st Street near Commercial and then run along 1st Street through the City's Core Area, traffic impacts from the project will be significantly exacerbated by the railroad's operation. In addition to the traffic impacts caused by the renewed operation of the train, the traffic impact analysis must include the projected additional truck traffic generated by the proposed Redwood Marine Terminal. These impacts must be analyzed or re-analyzed, as appropriate, at a minimum from a traffic perspective, because both railroad operation and the proposed Redwood Marine Terminal will affect transportation on the project site and in the area surrounding it.

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In addition, further clogging of traffic along Broadway due to the proposed project will increase the likelihood that drivers in the City will seek alternative routes through the neighborhoods east of Broadway in order to avoid the traffic jams on Broadway itself. Drivers in Eureka know that this already occurs, but adding 15,700 vehicle trips to the mix, as the DEIR forecasts, will exacerbate the problem significantly. Yet the effect of the project's trip generation upon traffic in the neighborhoods east of Broadway was not studied or even mentioned in the DEIR. These impacts must be analyzed as well.

24-22

Further, the project relies upon intersection changes and traffic flow modifications that have been long discussed as necessary to help move existing traffic through the urban area of Eureka along Highway 101, as mitigation for the impacts of this particular project. There are at least three of these that are particularly critical: changing the intersection at Broadway and Wabash to eliminate access from Fairfield, changing the intersection at Broadway and Henderson, thus eliminating what the traffic consultant characterized as "bottlenecks" at both intersections, and installing the electronics to provide for coordination and synchronization of the traffic signals along Highway 101 through Eureka south to Bayshore Mall. These are important changes that Caltrans and the City would have had to cooperate on in order to relieve the existing traffic problems on 101. The financial advantage to Caltrans and the City of having the project proponent finance these changes is clear. But the effect of this is to allow the project to absorb all of the feasible short-term traffic mitigation along this thoroughfare that is presently necessary to fix existing problems, and leave no traffic capacity margin for any other future development that may occur in Eureka or elsewhere that would have traffic impacts on Highway 101 at any time through 2025. Put simply, this project would take Highway 101 to the edge of or over the tipping point of its capacity in its present configuration.

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This is particularly problematic because all available traffic capacity, including that gained by the extensive mitigation that the City proposes, is being utilized for a project that is not a coastal priority use and it makes even more necessary a re-evaluation of the appropriate use

for this unique and critical site. Because there will be no traffic capacity left for Highway 101 that does not compromise levels of service, there can be no possibility that the City will be able to plan for and develop any coastal priority uses at other sites in the foreseeable future.

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As the traffic study makes clear, by 2025 additional mitigation will be necessary. The consultant makes suggestions such as extending Waterfront Drive, widening Broadway to six lanes or diverting Broadway traffic onto neighborhood surface streets, all of which the City is well aware are difficult or impossible for legal, financial and/or political reasons. Particularly egregious in this context is the suggestion of reliance on building Waterfront Drive through existing preserved wetlands when the City has already been put on notice by the Coastal Commission that this is prohibited by the Coastal Act. For all of these reasons, the City cannot use these particular mitigations as the basis upon which to discount the very significant traffic impacts of the project without a much more extensive cumulative impacts analysis, including an examination of all known development plans of all jurisdictions the traffic of which could impact Highway 101 in Eureka.

24-24

WASTEWATER TREATMENT

The DEIR is flawed in that it incorrectly states the existing permitted capacity of the Elk River Wastewater Treatment Plant, incorrectly states the existing legal and contractual capacity of the City to utilize that plant, appears to ignore the fact that the plant already operates at or in excess of full capacity during peak wet weather events, and does not take into account proposed development in the County that has received "will serve" letters from the Humboldt Community Services District that will utilize existing District capacity that the City appears to rely upon to support this project. For all of these reasons the City must revise the DEIR to properly consider this impact prior to approval.

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On December 4, 2008, the City submitted a letter to the North Coast Regional Water Quality Control Board (copy attached as Exhibit B) withdrawing a previous request to increase capacity at the Greater Eureka Area (Elk River) Wastewater Treatment Plant from 5.24 mgd to 6.0 mgd. This is significant in several respects. First, the DEIR finds a "less than significant" impact with respect to the treatment of wastewater from the Marina Center project based upon the assumption that the renewed NPDES permit would allow 6.0 mgd capacity for the plant. Assuming that the projected wastewater of the project would be accommodated with the additional 0.76 mgd that had been applied for, the DEIR concludes that "implementation of the proposed project would not result in the construction of new or expanded wastewater treatment facilities". Because this assumption no longer can be maintained, the City must reanalyze its conclusion.

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The situation is compounded by the fact that the City has been continually and substantially exceeding its allowed capacity at the treatment plant. A letter dated August 2, 2007 from Mark Bryant, General Manager of the Humboldt Community Services District, to David Tyson, City Manager, (copy attached as Exhibit C) describes a continuing practice of the City over a number of years to utilize capacity at the plant that contractually belonged to the District. At the time of that letter the City had been exceeding its capacity rights over a period of six years by

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5-350

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson
January 30, 2009

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson
January 30, 2009

"190,000 to 330,000 gallons dry weather flow" per year. (By way of comparison, the project, according to the DEIR, is estimated to produce approximately 130,000 gallons per day of wastewater.) The District indicated in that letter that it needed to utilize its currently unused capacity in the near future. This is because the District has been giving "will serve" letters to various property owners/developers within the district who are planning major subdivision developments (e.g., Forster-Gill).

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Taken together, this means that the City not only does not have the wastewater treatment capacity that it represented in the DEIR but it also does not legally possess the capacity that it actually has been using for a number of years. For this reason the DEIR must analyze not only the proposed usage of this project in relation to the actual capacity of the Elk River plant, but also the cumulative effect of the District's contractual rights and intent to serve all known future development within its service area and any known future development that the City itself foresees within its boundaries. Based upon the facts in the DEIR and those cited above, the City cannot permit the project because it does not have the available treatment capacity to handle the needs of the project.

24-28

ALTERNATIVES

The Alternatives chapter of the DEIR is deficient in several respects: its definition of the basic objectives of the project is far too narrow, making it suitable only for the proposed project; its screening of the identified alternatives improperly eliminates feasible alternatives; and most importantly, it abdicates the responsibility of the City to actually plan for the site.

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Beginning with the last point, the City's analysis of alternatives is based upon the limiting assumption that a zoning change can be considered for the particular project proposed but not for the "no project" alternative, having the effect of unduly straining the analysis of the latter alternative. The DEIR states (at p. VI-17) that "if the project does not go forward, the property would remain zoned and planned predominantly for Public uses". It then analyzes the possible uses in the Public zone, as if those were the only option to the proposed project. But this is not the case. If the proposed project were fully consistent with the General Plan and Local Coastal Program, and thus did not require an amendment, this analysis might well be appropriate. In that situation, analysis of the alternatives, including the "No Project" alternative, would require alternative uses to be consistent with the existing Plan. But here the Developer is proposing a project that requires a significant amendment to the General Plan and the Local Coastal Program. This means that the alternatives, including the no project alternative, can include any use. The City is not constrained by the proposal of a developer to build something consistent with its Plan. Instead the City can actually plan.

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Limiting the analysis in this way, particularly with respect to the no project alternative, is an abdication of the responsibility to plan for the site. In short, the "No Project" alternative should not assume that only development consistent with the existing zoning will occur on the site. Land Use Planning was conceived and developed in the early 20th century precisely to allow communities to determine their own future rather than having development based solely upon the interests or desires of the landowner, as previously had been the case. The real

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opportunity for the City in the "No Project" alternative is that it can plan what it thinks is best for the site, rather than simply respond to whatever the owner puts forward as its plan. As noted above, this property is probably the premier piece of undeveloped land in the City of Eureka. If the City determines a vision for this site that reflects both the will of the community and an economic opportunity for the landowner, healthy development will follow.

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The definition of the project objectives is hopelessly stilted. Three objectives are identified but all of them are defined in ways that skew the analysis in favor of this particular project as the developer proposed it, rather than looking at a more broad definition of how the interests of the City could most benefit from some project on the site. The first objective is to "strengthen Eureka as the retail and employment center of Humboldt County". Taken at face value, this requires only that whatever project is approved create jobs. It could include but does not require a retail component.

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The second objective is to "develop an economically viable mixed use project (e.g., retail, office, residential, industrial)". This is an attempt to limit the consideration of alternatives to what the developer proposes, but it is disingenuous and ultimately meaningless, because the development proposed here is not real "smart growth" or mixed use growth. Smart growth requires bringing a mix of uses into a residential sector. It was developed specifically as a conceptual attempt to mix other uses into the monoculture of suburban residential development. The Smart Growth Network states:

"Smart growth supports the integration of mixed land uses into communities as a critical component of achieving better places to live. By putting uses in close proximity to one another, alternatives to driving, such as walking or biking, once again become viable. Mixed land uses also provide a more diverse and sizable population and commercial base for supporting viable public transit." (Emphasis added).
<http://www.smartgrowth.org/about/principles/principles.asp?prin=1&res+1280>

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Precisely the opposite is done in this development. Here a few residents are brought into a huge commercial development so that it can be called "smart growth" and "mixed use". But the essence of the development, big box commercial with large parking lots to accommodate the estimated 15,700 vehicle trips daily, remains decidedly not "smart growth". This proposal introduces 54 apartment/condominium units (perhaps 100 residents at most) into a project that includes over 300,000 sq. ft. of retail commercial, and over 100,000 sq. ft. of office space. It actually reduces the amount of industrial use on the site. It is unlikely that even one of the project's two proposed 7000 sq. ft. restaurants could be filled by the residents even if they all decided to eat at the same time. This is big growth, but it is not smart growth.

The third objective, to "facilitate brownfield redevelopment and urban infill development of property in the redevelopment area in the City of Eureka", is also at best misleading in its language. It has two components. The urban in-fill component can be satisfied with any development on this site, as well as in any similar site in Eureka. On the other hand the key to facilitating brownfield development is the cleanup of the toxics on the site, and this is completely unrelated to this or any other development. As the DEIR concedes, the landowner,

24-34

5-351

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson
January 30, 2009

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson
January 30, 2009

as well as Union Pacific, the prior landowner, is under a legal mandate to clean up the site. It is not necessary that this or any other particular development be approved to secure a cleanup. Therefore, it has become an objective of the project only because the developer might hope to link a reduced cleanup obligation to some particular form of development (such as a concrete cap upon which a big box commercial development can be placed), as well as to finance the cleanup through the development. Whatever the reasons for this preference of the developer, it is not an essential project objective that can be used to drive the alternatives analysis for the use of the property.

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Because all of these objectives have been skewed toward approval of the proposal, in ways that are meaningless upon further analysis, the City should redo the alternatives analysis. However, even using the objectives that the City used, the analysis unreasonably excluded some project alternatives. For example, as noted earlier, one possible use for the site that would be a preferred use under the Coastal Act would be a visitor-serving commercial or recreational use. This is presumably what is meant in the Alternatives analysis as a Tourism Use. The Tourism use was found not to meet the Feasibility Screening because it was not "economically" feasible. The explanation given was that "[T]he tourism use would be a public project. The cost to acquire the land, remediate the site and construct the tourist use is economically prohibitive". But this is simply wrong, invented without significant thought. There is no requirement that a tourism use be a public project; private developers do this all the time. Further, as noted earlier, remediation of the site must occur regardless of the future use of the property, so this is no more significant a deterrent than it is to any other possible use. The only reason that the use might be infeasible is that the developer would prefer not to do it; but that hardly satisfies the City's obligation to plan for the site.

24-35

In conclusion, the Marina Center DEIR is inadequate for the following reasons:

1. The project proposes to fill wetlands and eliminate ESHA without taking into account the standards of the Coastal Act and the City's General Plan with regard to those habitat types; if the project is going to go forward, the proposed development must be sited outside of the area of delineated wetlands, including an appropriate buffer.
2. The DEIR assumes that cleanup of the toxics on the site must go forward in conjunction with the proposed project, and thus justifies fill of the wetlands to allow a big box store. There is no basis for this assumption. The cleanup must be disconnected from the proposed project, because separate criteria determine the approvability of each. Only after the appropriate restoration of the site is determined can the site be evaluated for appropriate uses and projects.
3. The DEIR is deficient because it does not take into account the prioritization of land uses under the Coastal Act. An LCP amendment in the coastal zone, particularly on a site of this importance, must consider these priority uses.
4. The Land Use and Planning section of Chapter IV of the DEIR is deficient because it lacks any substantive analysis upon which to determine why the City made the consistency decisions that are presented. The table form, with its cursory comments, is clearly inadequate. As has been noted above, a number of these determinations are clearly

24-36

wrong, or without basis in fact. Because of this, this section of the DEIR needs to be redone.

5. Mindful of the City's apparent position with respect to the *City of Bakersfield* case, the DEIR is clearly inadequate with respect to the economic effect of the proposed project upon other businesses in the City, and particularly in the Core Area. It ignores existing General Plan policy and undermines decades of City efforts to bolster the economic vitality of that area. This is a major decision for the City of Eureka. Unless the City can demonstrate that the Marina Center will draw in new customers that do not presently shop in Eureka, a fact not demonstrated by the City's economic analyses, the economic effect in the City becomes a zero-sum game, in which business is shuffled from one store to another. This has two effects. First, it is likely to lead to significant vacancies and urban decay, particularly in the Core Area, which appears likely to suffer both fierce competition subsidized by major companies with a nationwide pricing scope, and a deterioration in shopper amenities as traffic from the proposed project clogs the streets of Old Town. Second, it is likely to lead to a deteriorating economic situation in the City of Eureka generally, as more money is taken out of town to national ownership, rather than being recirculated within the City by local owners. The DEIR does not adequately address these impacts.
6. The traffic analysis is completely inadequate, limited by its assumptions in ways that prevented a proper evaluation of the fate of the estimated 15,700 daily vehicle trips that the proposed project will generate. It provides inadequate mitigation for its effects upon Highway 101, particularly in light of the cumulative impacts of other known proposed development discussed above, and it completely ignores the problems that will be caused by drivers trying to get onto Highway 101 after exiting onto Waterfront Drive, and the difficulties caused for the Core Area by these exiting drivers and for the neighborhoods south and east of Highway 101 as drivers seek alternative routes to avoid the problems being caused on Highway 101 by drivers exiting the Center.
7. The DEIR is facially inadequate with respect to wastewater treatment because it relies upon a factual assumption that is incorrect. At least as important, any future EIR must discuss the real legal availability of wastewater treatment capacity in light of the City's historic use of capacity that is contractually that of the Humboldt Community Services District and pledged to future use within that district. It appears that the City already may be committed to provide service for existing development in excess of its legal available capacity at the wastewater treatment plant.
8. Finally, the Alternatives chapter of the DEIR does not provide an appropriate range of alternatives for analysis, and is skewed narrowly in order to justify approval of the project. Feasible alternatives were excluded, and no proper analysis of alternatives was conducted.

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For all of these reasons, the City should reject the DEIR and send its planners and the project proponent back to the drawing board. The landowner should plan and carry out a true restoration of the site, cleaning up the toxic wastes in the land and water on site, and restoring to the extent possible the natural habitat values of this site before any development is

24-37

5-352

Comment Letter 24

DEIR Comment Letter from Ralph Faust to Sidnie L. Olson

January 30, 2009

proposed. Meanwhile, the City planners should conduct a true planning exercise, of the sort that was once to be funded by the Headwaters Fund, involving the community at large, and consistent with existing law including the Coastal Act, in order to determine the best use of the site. The premier undeveloped parcel in the City deserves no less.

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Sincerely,



Ralph Faust

Letter 24: Northcoast Environmental Center (NEC), (Ralph Faust)

24-1 The comment broadly questions the adequacy of the Draft EIR. The Draft EIR has been prepared carefully and in accordance with all requirements set forth in the California Environmental Quality Act (CEQA) Statutes and Guidelines. As required under CEQA, the Draft EIR addresses the adverse environmental impacts that would result from the project as proposed and also identifies mitigation measures for all impacts determined to exceed significance thresholds. A reasonable range of feasible alternatives to the proposed project are also considered and evaluated in the document. Further, there has been no “substantial new information” provided in public comments or in this response document, and therefore redoing the EIR is unwarranted and not required by CEQA.

Coastal Act policies are evaluated in the Draft EIR in considerable detail, with policy consistencies and inconsistencies identified. The Draft EIR also specifically addresses any conflicts the proposed project would have with any Coastal Act land use policies adopted for the purpose of avoiding or mitigating an adverse environmental effect. Please also refer to Master Responses 3 and 5 in this Final EIR for further discussion of land use and resource protection issues pertinent to the Coastal Act.

24-2 The comment states that a different wetlands study, prepared by H.T. Harvey and Associates, should be used because it found the highest amount of acreage of wetlands—9.2 acres. As noted in the Draft EIR on page IV.D-11, the EIR relies on the Huffman Broadway Group’s wetlands mapping and analysis because it involved more extensive field work and a more detailed level of mapping, applying the specific delineation methodologies of both the U.S. Army Corps of Engineers and the Coastal Commission. The H.T. Harvey report was a more general biotic study, which included a wetlands assessment, and was not intended to be a detailed delineation of wetland boundaries.

24-3 The comment questions whether the project is approvable under the Coastal Act. The Draft EIR does acknowledge the sensitivity of Clark Slough and associated wetlands on the project site, even in the degraded state within which they presently exist, as well as the various Coastal Act and LCP policies that affect the site. In order for the remediation to occur, the wetlands onsite must be disturbed. The Coastal Act and the City’s LCP were not enacted to frustrate the need to remediate contaminated properties, which is evidenced, for example, in Section 30412 of the Coastal Act. Please also see Master Responses 3 and 5, as well as responses to comments 3-8, 3-17, 3-21, and 3-22 concerning the LCP and Coastal Act policies and remediation needs for the project site.

24-4 The comment disagrees with the City’s contention that there is any possibility of finding “overriding considerations” or “balancing” under Public Resources Code Sections 30200 and 30007.5. Master Response 5 in this Final EIR details the process by which the Coastal Commission will consider policy inconsistencies pertinent to wetland fill. As noted in the Master Response the Commission does have the ability, and authority, to

- balance policy considerations under Coastal Act Section 30007.5 in circumstances similar to that of the proposed project and cites several examples elsewhere in the California coastal zone where the Commission has in fact done that. It should be noted as well that the EIR does not propose to adopt a statement of overriding considerations concerning the fill of wetlands and these policies of the Coastal Act, as this was not found to be a significant and unavoidable impact of the project (see, e.g., Draft EIR, Chapters IV.I and V).
- 24-5 The comment questions the relevancy of proposing development of higher value wetlands on the property in light of Coastal Act policies. As noted above, the Coastal Commission does have the ability and authority to approve development of higher value wetlands under certain circumstances. The Coastal Commission, in its letter commenting on this Draft EIR, seems to acknowledge that a well constructed, relatively large tidally influenced wetland would have greater natural resource value than the existing small, scattered wetland depressions that currently exist on the project site (see comment 3-9). In any event, CEQA is concerned with the existing environmental setting, and whether a project will result in physical changes to the environment. Here, the existing setting includes a number of low-value, degraded wetlands. By creating wetlands with higher functions and values, the project's physical effects on the existing wetlands can be fully mitigated under CEQA.
- 24-6 The comment questions the need for the remediation and wetland restoration activities to be linked as set forth in the Draft EIR. Please refer to Master Response 4 in this Final EIR for further discussion of the history and status of remediation efforts on the project site. A Supplemental Interim Remedial Action Plan has been prepared and approved by the Regional Water Quality Control Board (RWQCB). The interim remedial measures are necessary to comply with the 2001 Cleanup and Abatement Order issued by the RWQCB. Contrary to the comment, it is not possible to remediate the entire project site – which contains low level contamination throughout – without disturbing the existing wetlands. Please also see response to comment 8-1, concerning the public trust and its treatment under CEQA.
- 24-7 The comment again questions the linkage of the site remediation and wetland restoration as proposed under the project as well as the applicability of the Coastal Act. Please refer to Master Response 4, particularly under the subsection entitled “Supplemental Interim Remediation Action Plan and Wetland Restoration,” as well as Master Response 5 concerning Coastal Act policies pertinent to wetland fill. Again, CEQA pertains to the physical changes in the environment that may be caused by the proposed project, and whether those physical changes result in adverse impacts that may be mitigated. Here, the wetlands onsite can be fully mitigated as set forth in the Draft EIR, Chapter IV.D.
- 24-8 The comment states that the Draft EIR is deficient because it does not take into account the preferences and priority of land uses under the Coastal Act. For further discussion of priority land uses under the Coastal Act, please see pages IV.I-13 – IV.I-14 of the Draft EIR, as well as Master Response 3.

- The Draft EIR is not “required to analyze priority coastal uses.” Pursuant to CEQA, the Draft EIR is required to analyze the proposed project, as well as a reasonable range of alternatives. Such alternatives screened for analysis are the Coastal Dependent Industrial Zoning Alternative, the Limited Industrial Zoning Alternative, and the Tourism Use Alternative. These alternatives, as well as others, would include the uses described in the comment. Moreover, just because one use might be a priority use in an overarching land-use plan (like a LCP or General Plan) does not necessarily mean other uses are prohibited. This is particularly true where, as here, the Project Applicant is seeking an amendment to those overarching plans. In any event, a priority use could very well result in greater environmental impacts than a proposed use, and therefore these sorts of policy choices do not constitute the sort of physical environmental changes that concern CEQA.
- 24-9 The comment suggests that the Draft EIR must consider visitor-serving uses in this area, and should consider a more expanded wetland restoration. As required under CEQA, the Draft EIR identifies and analyzes a reasonable range of alternatives to the proposed project that seek to reduce or eliminate one or more significant environmental impacts identified and that are also consistent with most of the basic objectives of the project. Two dozen alternatives were initially identified, including several that included or featured greater visitor-serving uses (see Chapter VI of the Draft EIR). Still, the proposed project would include visitor-serving uses, including recreational uses at the wetland reserve, as well as retail and other uses within the developed portion of the project site.
- 24-10 The comment requests more information regarding the Draft EIR’s conclusion that the proposed project would not result in urban decay in the retail trade area of the City. Please see responses to comments 14-3, 14-4, and 14-6, which discuss urban decay in the City of Eureka, the industrial and office real estate marks, and recent closures and economic conditions, respectively. Please also see Master Response 1, which provides additional discussion pertinent to the urban decay analysis provided in the Draft EIR. Contrary to the comment, the evidence supports the EIR’s conclusion that while the project might have some economic effects, it would not result in urban decay. It is entirely reasonable to conclude that with this mixed-use center, shoppers from areas outside of the City limits would come to Eureka to shop, and that there would be increased economic activity sufficient to support new businesses.
- 24-11 The comment suggests that the analysis provided in the Draft EIR regarding urban decay and other economic issues may be in need of an update given the changing economic climate subsequent to the Draft EIR’s release. The comment also questions the Draft EIR’s assumptions regarding the pool of available shoppers. Please see Master Response 1, particularly the subsection “National Stores vs. Local Stores” which concludes that large national chain stores have the potential to contribute to the local economy to a greater extent than do local stores, in part due to the higher level of employment they support and because of a higher level of charitable giving. The EIR’s economic consultants reevaluated the project in light of the current economy and found, overall, that the Draft EIR’s conclusions were still correct.

- 24-12 The comment questions some of the assumptions and statements pertaining to the urban decay analysis in the Draft EIR and its implications on consistency with General Plan policies. Please refer to Master Response 1 for a more information on the urban decay analysis and other related economic issues raised by the proposed project. In light of this information, the conclusion in the EIR that the project would not result in urban decay of the City's core area remains valid and the project would not be inconsistent with General Plan Policy 1.L.1. It should be noted as well that the traffic analysis relied on a number of sources, including regional traffic models which are considered accurate if not conservative. While these economic and traffic models may not predict with absolute accuracy, they are the best methodologies available for evaluating a project's impacts.
- 24-13 The comment states that the Marina Center will economically bleed the Core Area and restates the opinion that the proposed project would result in urban decay in the City and that therefore the project is inconsistent with General Plan policy 1.L.1. For the reasons stated above and in Master Response 1, the EIR preparers respectfully disagrees. Further, the sort of businesses and other uses in and around the Core Area remain distinct enough that the project and its proposed uses are not anticipated to have the dire results that the comment appears to assume.
- 24-14 The comment states that the policy analysis provided in the Draft EIR is inadequate and too cursory. The approach provided for in the Draft EIR is quite comprehensive and goes well beyond what is typically regarded as adequate policy analysis in the context of CEQA. Table IV.I-16 lists all policies of the General Plan and Local Coastal Program, determines their relevance to the proposed project and then analyzes the project's consistency with them. CEQA, on the other hand, is concerned with those land-use policies "adopted for the purpose of avoiding or mitigating an environmental effect." (CEQA Guidelines App. G.IX(b).) Many of the City's General Plan and LCP policies were not adopted for that purpose. And to the extent that the project might conflict with a particular policy, the physical environmental effects concerning that policy are already addressed in the Draft EIR (e.g., Biological Resources). Ultimately, consistency will be a matter left to the City Council's discretion. The Draft EIR, however, includes sufficient information to alert the public and the decision makers of the project's potential physical and adverse environmental effects.
- 24-15 The comment states that the Draft EIR is deficient because its consistency analysis includes cursory comments, incorrect determinations, and determinations not based on facts. The comment states that the policies requiring further analysis include but are not limited to Policy 3.B.3; Goal 1.H and Policy 1.H.1; Goal 1.M and Policies 1.M.1, 1.M.2, 1.M.5, 1.M.6, and 1.M.10; Goal 1.N; and Policy 3.F.2.

No project can possibly be subject to every encouragement, suggestion, and requirement of the General Plan, given its broad scope. Several General Plan policies state that the City should engage in specific planning studies with other agencies, fund specific programs, discourage specific uses, and seek specific improvements. Many of these policies, however, do not provide specific mandates for Project Applicants, particularly

when the project proposal itself includes amendments to an existing General Plan. The City of Eureka, as Lead Agency for the proposed project, analyzed the proposed project and determined which policies are relevant. The City of Eureka, in other processes, may be adhering to other General Plan policies, but those policies may not apply to the Marina Center project. It is beyond the scope of the Draft EIR to describe every project and process currently undertaken by the Lead Agency. The Draft EIR must focus on the proposed project.

As stated on Draft EIR page IV.I-15, the policy consistency analysis is provided to facilitate the City Council's determination of the project's consistency or inconsistency with the adopted General Plan and Local Coastal Program. The City Council is ultimately responsible for the determination. Perfect conformity with the General Plan is not required; instead, the City Council must balance various competing considerations and may find overall consistency with the plan despite minor inconsistencies with specific provisions. Furthermore, the potential inconsistencies with General Plan goals and policies do not themselves create a significant environmental impact under the thresholds established in CEQA Guidelines Appendix G. These policies are, instead, expressions of community planning and organization preferences. The potential physical impacts of the project's inconsistency with specific policies are discussed and analyzed in the Draft EIR. The specific General Plan Goals and Policies listed by the comment above are discussed below.

Goal 1.B: The project site is geographically located just outside the Core Area. As such, the proposed project is not subject to general plan policies related to development within the Core Area. The City Council will consider the proximity of the project site to the Core Area when determining the consistency of the proposed project with the goals and policies of both the General Plan and Local Coastal Program. Please also see Master Response 1.

Policy 3.B.3: This policy states that the City should work with the Humboldt Transit Authority to develop an intermodal transportation center at a location that could overlap the northeastern corner of the project site.

As shown on pages IV.I-4 and IV.I-5, the proposed project entitlements and approvals would not include a change in the land use designation or zoning of the area between A Street and Commercial Street, south of Waterfront Drive and the railroad tracks. Therefore, any land use controls that would affect the City's ability to pursue this policy would not be changed by the proposed project.

Goal 1.H and Policy 1.H.1: The comment incorrectly confuses the General Plan Policy 1.H.1, which relates to view corridors in the "Core" of Eureka, with California Public Resources Code Section 30251, which states that scenic and visual quality of coastal areas shall be protected.

First, the project site is geographically located just outside the Core Area. As such, the proposed project is not subject to general plan policies related to development within the Core Area. The City Council will consider the proximity of the project site to the Core

Area when determining the consistency of the proposed project with the goals and policies of both the General Plan and Local Coastal Program.

Second, Public Resources Code Section 30251 states: “The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.” Section 30251 is implemented through several state and local regulations, including the California Coastal Act, the Local Coastal Program, and local zoning ordinances. The proposed projects’ impacts on views and scenic vistas are analyzed in Section IV.A of the Draft EIR.

The proposed project would augment coastal views, as discuss on page IV.A-16 of the Draft EIR, by providing trails along the edges of the restored Clark Slough, which would provide enhanced opportunities for viewing Humboldt Bay. Additionally, amenities along the trail would include benches and other street furniture. Furthermore, the proposed project would create increased pedestrian activity on the project site, which in and of itself would increase opportunities for waterfront viewing. View corridors through the project site from the Fourth Street extension, between the proposed buildings along Waterfront Drive, and from the proposed multi-use trail along Waterfront Drive would all augment coastal views.

In addition, as stated on Draft EIR page IV.A-2, “long-range views to the east from the project site are framed by existing development adjacent to the project site and are focused along roadway corridors through downtown Eureka. The upward sloping topography towards Downtown affords views of the downtown skyline, which is more densely developed than the immediate project vicinity, with some buildings extending up to five stories.” Any development on the project site would limit the view across the project site to the east. However, the extension of Fourth Street through the project site would extend the Fourth Street view corridor to Waterfront Drive.

Goal 1.M: This goal states that the City should ensure an adequate supply of industrial land. As stated on Draft EIR page IV.I-27, the portion of the project site designated as industrial land would retain industrial uses. Therefore, the Draft EIR acknowledges this goal, the project is consistent with this goal, and further discussion is not required.

Policy 1.M.1: This policy states that the City shall protect industrially-designated land from pre-emption by unrelated and incompatible uses. As stated on Draft EIR page IV.I-27, the proposed project would change some land designated light industrial to designations allowing for other uses. The Draft EIR therefore acknowledges this policy and its applicability to the project. However, given that only a small fraction of the entire project site is designated for light industrial use, this change is not considered significant.

Policy 1.M.2: The potential inconsistency with this policy is documented on page IV.I-27, as well as discussed in depth on pages IV.I-71 through IV.I-75. The Draft EIR therefore acknowledges this policy and the proposed project’s conflict with it.

Policy 1.M.5: The potential inconsistency with this policy is documented on page IV.I-28, as well as discussed in depth on pages IV.I-71 through IV.I-75. The Draft EIR therefore acknowledges this policy and the proposed project's conflict with it.

Policy 1.M.6: This policy states that the area adjacent to the project site to the east should be considered to be developed as an industrial park. The proposed project does not affect the City's ability to consider such development. More importantly, as stated on Draft EIR page IV.I-28, this policy is directed toward an area outside the project site. As such, the proposed project is not subject to General Plan policies related to development of this area. The City Council will consider the proximity of the project site to this area when determining the consistency of the proposed project with the goals and policies the General Plan.

Policy 1.M.10: The comment provides no details on how the proposed project conflicts with this policy. As stated on Draft EIR page IV.I-28, the project would mix industrial and commercial uses in a carefully planned and compatible development. The proposed project is therefore consistent with this policy, as disclosed in the Draft EIR.

Goal 1.N: This goal states that the City should ensure an adequate supply of land for community facilities and services to meet the present and future needs of Eureka. Contrary to the comment's assertion, the Draft EIR does not "dismiss this Goal as not relevant." As stated on Draft EIR page IV.I-29, the Draft EIR states that the project would develop new commercial uses intended to serve the residents of Eureka. In addition, as stated next to Policy 1.N.6, the proposed project would allocate sufficient area to parks and open space within the project site.

The comment inappropriately confuses community facilities with Public and Quasi-public land use designations and zoning. Community facilities are not required to be located in designated Public and Quasi-public. Indeed, current community facilities are located in a variety of districts within the City. The Draft EIR analyzes the proposed project's consistency with existing land use designations and planning policies, as well as potential environmental land use effects, in Chapter IV.I, Land Use and Planning. The potential effects of the proposed land use changes are also analyzed throughout the Draft EIR in other sections of Chapter IV, such impacts related to transportation, air quality, and noise. The proposed project's impacts on public services are analyzed in Chapter IV.M-1. The Draft EIR, therefore, discusses the potential environmental effects of the land use changes associated with the proposed project.

Policy 3.F.2: This policy states that the City shall work with the railroad to determine feasible locations for switching operations, specifically so the balloon track area can be developed for other uses. The proposed project in no way affects the City's ability to work with the railroad to determine those locations, and it is beyond the scope of the proposed project to do so. Therefore, as stated on Draft EIR page IV.I-39, this Policy is not relevant to the proposed project.

24-16 The comment raises four concerns about the Draft EIR, i.e., seasonal difference in traffic conditions, use of roads as alternative to Broadway, applicability of mitigation measures,

and effects related to the Northwestern Pacific Railroad right-of-way. See response to comment 16-190 regarding the standard approach taken for traffic volume data collection (i.e., conducting weekday counts only on mid-week days (Tuesday-Thursday) when area schools were in session). The comment's reference to summer conditions is noted, but summer months are not representative of average peak-period conditions (with tourist traffic offset by schools being closed and residents taking vacations).

See response to comment 24-22, below, about alternative travel routes. See response to comment 24-23, below, regarding mitigation measures identified in the Draft EIR. See response to comment 24-21, below, regarding issues related to the railroad right-of-way.

24-17 The comment expresses opinions about the relative congestion on east-west streets (U.S. 101 on Fourth and Fifth Streets) compared to north-south streets (lettered cross streets) in the Core Area, and how those congestion levels affect the Draft EIR's analysis of traffic conditions.

It is acknowledged that the City of Eureka General Plan (Policy 3.H.2) recognizes the need to balance intersection traffic signal timings in the Core Area for traffic in all directions. Mitigation measures identified in the Draft EIR would synchronize traffic lights along Broadway. The traffic analysis concludes that even with this mitigation, acceptable levels of service would be maintained along Broadway, as well as the north-south cross streets. Please see Master Response 7 regarding trip distribution and responses to comments. Please see responses to comments 31-1, 32-9, 38-4, 40-2, and 49-1.

- Response to comment 31-1 addresses traffic conditions on Broadway, which would become more congested with or without the proposed project.
- Response to comment 32-9 addresses traffic impacts on two nearby streets, Sixth Street and Seventh Street.
- Response to comment 38-4 addresses traffic impacts to other nearby streets, Henderson and Harris Street.
- Response to comment 40-2 addresses traffic impacts to Waterfront Drive and Railroad Avenue.
- Response to comment 49-1 addresses levels of service at intersections on Broadway.

24-18 The comment states that the Draft EIR analysis does not account for the above-described relative congestion on east-west street compared to north-south streets in the Core Area. The Draft EIR used standard traffic analysis practices by calculating overall delay and level of service at area intersections, and assessing the project's impact on the basis of changes to the intersections' overall level of service. The goal of standard traffic analyses is not to achieve equivalent levels of service on all streets that comprise the intersection, but to achieve a reasonable mix of service levels on the streets so that, overall, the intersection operates acceptably. Please also see Master Response 7 and responses to comments 31-1, 32-9, 38-4, 40-2, and 49-1 concerning City-wide distribution of vehicle trips.

- 24-19 The comment quotes General Plan Policy 3.H.2, which recognizes the need to balance intersection traffic signal timings in the Core Area for traffic in all directions, and expresses an opinion that the Draft EIR is deficient because its policy consistency analysis (Table IV.I-2) states that Policy 3.H.2 is not relevant because the project is not within Eureka's "Core Area". The comment incorrectly melds the policy consistency analysis with the traffic analysis. The Draft EIR's traffic analysis encompasses a study area beyond the immediate project site, including an analysis of intersections in the Core Area. See response to comment 24-18 regarding the fact that the Draft EIR used standard traffic analysis practices to assess overall delay and level of service at area intersections.
- 24-20 The comment states that the proposed project would impede coastal access. The comment is incorrect. The proposed project would augment coastal views, as discussed on page IV.A-16 of the Draft EIR, by providing trails along the edges of the restored Clark Slough, and by providing enhanced opportunities for viewing Humboldt Bay. Amenities along the trail would include benches and other street furniture. Furthermore, the proposed project would be expected to increase pedestrian activity on the site, which in and of itself would increase opportunities for waterfront viewing. View corridors through the project site from the Fourth Street extension, between the proposed buildings along Waterfront Drive, and from the proposed multi-use trail along Waterfront Drive would all be designed to augment coastal views. Also, with improvements to the intersections and roadway sections around the project site, vehicle access should be improved as well. The project is situated landward of Waterfront Drive, and so it would not directly inhibit any coastal access points.
- 24-21 The comment questions how potential reactivation of the railroad right-of-way would affect the proposed project. The Draft EIR (Impact O-7, page IV.O-45, and Mitigation Measures O-7a, O-7b and O-7c, page IV.O-47) identifies and mitigates the safety and access concerns that would exist if a freight or passenger line were to operate along the western property boundary under project development. Also, evaluation of the intersection of the Fourth Street Extension and Waterfront Drive included consideration of how this intersection would function should this become an active rail crossing. If a northbound right turn lane were provided on Waterfront Drive, then vehicles attempting to turn right into Marina Center would be queued away from through traffic proceeding northbound through the intersection. Traffic exiting the proposed Marina Center would wait behind crossing gates until the train clears the crossing. The rail crossing is no different than many other at-grade rail crossings with similar traffic controls. A northbound right turn lane is not recommended until such time the crossing becomes active for train services. It should be noted as well that while there has been some talk about renewing rail service, there is no concrete proposal for doing so. Thus, this possible future use is not part of the environmental setting, nor is it a reasonably foreseeable probable future project. The level of use referenced in the comment is entirely speculative at this point in time, and consequently the EIR need not evaluate that use in conjunction with the proposed project.
- 24-22 The comment requests analysis of additional streets and intersections.

The Draft EIR's analysis shows that after implementation of the identified mitigation measures, all intersections on Broadway in the project area would operate acceptably (i.e., without adverse congestion), so the average driver would have no reason to divert from Broadway onto other roads. Please also see Master Response 7 and responses to comments 31-1, 32-9, 38-4, 40-2, and 49-1 concerning City-wide distribution of vehicle trips.

- 24-23 The comment expresses an opinion that the project should not be allowed to implement mitigation measures that have been discussed previously, but not implemented.

While it is undoubtedly true that at least some of the traffic-related mitigation measures have been discussed in the community for many years, being able to implement them is dependent on funding sources, land entitlements, and other considerations. The proposed project offers the opportunity for the City to obtain funding and the means to help implement those measures, many of which would help alleviate existing traffic congestion as well as address increased congestion anticipated due to the proposed project. The project's traffic-related mitigation measures would address cumulative traffic conditions through 2025. Thus, these measures do leave a capacity margin for future development at least through 2025.

- 24-24 The comment expresses an opinion that the City is relying on Mitigation Measures O-8a and O-8b (page IV.O-54 of the Draft EIR) to disregard the project's significant impacts in 2025. See response to comment 16-217 regarding 2025 cumulative traffic impacts, specifically that the Project Applicant cannot be obligated to pay more than its fair share, and that there is no program in place or funding otherwise identified to ensure completion of the mitigation measures within the time period necessary to avoid the 2025 cumulative impacts. Nonetheless, the City of Eureka can seek funding from future projects or develop regional fee programs that may ultimately address this shortfall and ensure that the unacceptable levels of service are avoided. But, the cumulative effects analysis in the Draft EIR's traffic study is comprehensive, and adequately and conservatively evaluates present and reasonably foreseeable probable future projects.

- 24-25 The comment suggests that the existing capacities at the City's Wastewater Treatment Plant are inadequately addressed and that the impact analysis does not take into account other proposed development projects in the County.

As stated on Draft EIR page IV.Q-1, the Elk River Wastewater Treatment Plant (WWTP) provides service to both the City of Eureka and the surrounding unincorporated areas of the Humboldt Community Services District (HCSD). The WWTP permitted average dry weather capacity is 5.24 mgd. According to City Engineer staff-initiated changes to the Draft EIR, the average dry weather capacity would remain at 5.24 mgd for the next permit cycle (2009–2013).

The HCSD contracts with the City of Eureka for sewer wastewater services allocates up to 30.5 percent of the WWTP permitted capacity for average dry weather flows to HCSD,

which translates to 1.5982 mgd of the current WWTP permitted average dry weather capacity of 5.24 mgd. The remaining 3.64 mgd is allocated to the City of Eureka.

According to City Engineer staff-initiated changes to the Draft EIR, the proposed project would generate 58,563 gallons per day of wastewater, and this wastewater would be accommodated within the 5.24 mgd permitted capacity of the WWTP. Flow records indicate that in 2008 the City was utilizing about 83.6 percent of its contractual 3.642 mgd average dry weather flow capacity. The remaining capacity is 0.597 mgd, which equates to about 2,457 available connections for equivalent single-family dwellings (EDUs). In January 2009, a revised estimate was provided of the number of wastewater EDUs the Marina Center development is anticipated to produce. The new total, 211 EDUs, is well below the previous estimate of 625 EDUs cited in the December 4, 2006 will-serve letter. The City's wastewater commitments to the Bayshore Inn Expansion (28 EDUs) and Lunbar Hills Unit 6 (56 EDUs) totals 296 EDUs.

Therefore, the balance of uncommitted connections contractually available to the City at the WWTP is approximately 2,161 EDUs after accounting for the 296 EDUs already committed for the above mentioned projects. Consequently, there is sufficient capacity at the WWTP to serve the Marina Center development and other future projects.

- 24-26 The comment states that because the City has submitted a letter to the Regional Board withdrawing its previous request to increase the WWTP's permitted capacity, the conclusion in the EIR with respect to available capacity to serve the proposed project must be reanalyzed.

In June, 2008 the Project Applicant requested information from the City regarding capacity of utilities to serve the Marina Center project. At that time City staff intended to apply for the ultimate design capacity, also referred to as 'nameplate' capacity, for average dry weather flow (ADWF) at the Elk River Wastewater Treatment Plant (WWTP) in its NPDES permit renewal application. Also at that time, the City was beginning work on the Phase 2A portion of the City of Eureka Wastewater System Facilities Plan, which was intended to update the analysis of the WWTP's capacity. As a result of that analysis it was recommended by the City's consultants that several capital improvement projects be constructed before applying for the ultimate 'nameplate' capacity, which is 6.0 mgd ADWF. The analysis also determined that that it was not necessary to apply for the full nameplate capacity for the current 5-year planning cycle, since the WWTP is operating at 4.6 million gallons per day and is not expected to reach 6.0 mgd until sometime after 2029. Consequently, in December 2008, the City submitted a revised NPDES renewal application requesting no change in permitted capacity.

As noted in response to comment 24-25 above, City Engineering staff-initiated changes to the Draft EIR indicate that the proposed project would generate 58,563 gallons per day of wastewater, and this wastewater would be accommodated well within the existing 5.24 mgd permitted capacity of the WWTP. Thus, the Draft EIR's conclusion that impacts on the City's wastewater treatment system would be less than significant remains true.

24-27 The comment notes that, according to a letter submitted by the General Manager of the Humboldt Community Services District, the City of Eureka has been exceeding its share of the WWTP's capacity in recent years. As noted above and in staff-initiated changes in Chapter 2 of this document, the wastewater generation estimate for the proposed project has been revised and is substantially less than that estimated in the Draft EIR. Capacity at the WWTP would be adequate to accommodate the proposed project, even when considering other projects in the pipeline.

The contractual relationship between the City and the CSD regarding wastewater treatment capacity allocation is a legal matter and not pertinent to the EIR.

24-28 The comment opines that the WWTP does not have capacity to accommodate the proposed project. As noted above, the EIR authors, City staff, and the record evidence disagree with the comment. There is more than sufficient capacity at the WWTP to accept wastewater from this and other future projects.

24-29 The comment states that the alternatives analysis in the Draft EIR is inadequate for several reasons, including narrowly focused project objectives, improper elimination of feasible alternatives, and failure of the City to "plan for the site."

The Alternatives section of the Draft EIR was prepared in compliance with the CEQA Guidelines and standard professional practice. The City's role in complying with CEQA recognizes that it must respond to applications filed with for private projects. Regarding the project's objectives, they were developed by the City in consideration of the Project Applicant's objectives as well as CEQA requirements. As stated on Draft EIR page VI-3, the first objective is to "strengthen Eureka as the retail and employment center of Humboldt County." Although the creation of jobs alone could result in increased demand on retail uses in the Eureka, the creation of both jobs and retail space would better satisfy this objective.

The second basic objective is to "develop an economically viable mixed use project (e.g., retail, office, residential, industrial)." As shown in Table VI-15, 18 of the 24 alternatives screened for analysis would meet most of the basic objectives of the project, including several alternatives with uses, density, and locations different from those that the developer proposes. These alternatives include, but are not limited to, the Convention Center Alternative, the No Retail Option, the Tourism Use Alternative, the Coastal Dependency Industrial Alternative, the Public Facilities Alternative, the Intermodal Bus Facility Alternative, the College of Redwoods Alternative, as well as several Off-Site Alternatives on land not owned or controlled by the Project Applicant. Therefore, the second basic objective does not limit consideration of alternatives to those the developer proposes.

The third basic objective is to "facilitate brownfield redevelopment and urban infill development of property in the redevelopment area in the city of Eureka." First, the comment's assertion that this objective skews the analysis toward the proposed project is not consistent with the comment's assertion that "the urban in-fill component can be

satisfied with any development on this site, as well as in any similar site in Eureka.” These two statements are contradictory. Second, as shown in Table VI-2, not every alternative screened for analysis meets this criterion, such as the Palco Property Alternative, the Lieber Property Alternative, and the Ocean View Cemetery Alternative. Redevelopment of these sites would not promote urban, infill development in the City of Eureka. Therefore, some redevelopment alternatives that are screened do not satisfy the urban infill component, and it is a valid objective.

In conclusion, the objectives are not too narrow and in fact have clearly enabled a “reasonable range” of alternatives to be considered in the EIR.

Similarly, the screening process for examining potential alternatives to the proposed project is quite thorough and, as required under CEQA, based on economic, social, environmental, legal, and technical factors. Also as required under CEQA, the final screening considered, in addition to feasibility, whether the alternative met most of the basic objectives of the project and avoided or substantially reduced one or more significant environmental impacts identified for the proposed project.

- 24-30 The comment restates the contention that the City can and should take the lead in planning development of the project site. The comment also questions the validity of the No Project Alternative analysis in the Draft EIR, maintaining a wide range of alternative uses are possible because the proposed project requires a General Plan amendment.

Again, the City must respond to an application as submitted and cannot direct an applicant as to what that development must be. Regarding the No Project Alternative, and as stated on Draft EIR page VI-16, the purpose of the No Project Alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. As stated in CEQA Guidelines 15126(e)(2), “the ‘no project’ analysis shall discuss the existing conditions at the time the notice of preparation is published...as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.”

The purpose of the No Project Alternative is not to speculate about the outcome of other planning processes and attempt to analyze them. The Lead Agency cannot speculate the entitlements and approvals that would be required after a separate planning process resulted in a different development proposal, nor can it delay the analysis of the proposed project until a separate planning process and development proposal is completed. In addition, the Lead Agency cannot know the final number of uses, square footage of uses, their configuration, or number of users of a different development proposal, so it cannot analyze them. If the results of any other planning process were to result in a different proposal for the project site, and that proposal requires discretionary approval, that project would be subject to CEQA and it would undergo environmental review.

Pursuant to CEQA, the purpose of the analyses in the Marina Center Mixed Use Development Project Draft EIR is to evaluate the proposed project, not every possible

development scenario available under every other planning process. Please also see Master Response 3.

- 24-31 The comment restates the opinion that the City should lead the planning of the project site. As noted above, the City must respond to an application submitted by a private applicant.
- 24-32 The comment suggests that the basic project objective of “strengthening Eureka as the retail and employment center of Humboldt County” is too stilted in favor of the proposed project. The EIR preparers respectfully disagree and that it, along with the other project objectives, enabled the Draft EIR to consider a reasonably wide range of alternatives in accordance with CEQA requirements.
- 24-33 The comment states the opinion that the project as proposed does not constitute “smart growth” because it doesn’t bring a mix of uses into a residential sector, and that the project’s objectives were an attempt to limit the consideration of alternatives.

Under CEQA, an EIR must articulate the objectives of the project to be considered. They cannot be so narrow as to unnecessarily limit the review of alternatives, but those objectives must still capture the essence of the project. Here, the objectives were quite broad, and allowed the Draft EIR to evaluate a number of project alternatives. The project’s relation to smart growth principles is detailed in pages IV.I-11 to IV.I-13 of the Draft EIR. As stated in that chapter, the proposed project is a mixed-use infill development of a brownfield site at the city center, which would include a mix of land uses that would connect the industrial section of the city with the commercial downtown area. Big box stores and smart growth are not mutually exclusive—please also see response to comment 128-1. The proposed project includes 54 residential units. However, with or without the inclusion of any residential units, the proposed project still adheres to several smart growth principles. Smart growth is not limited to the development of commercial and industrial uses close to suburban residential development—it also includes the development of infill sites in urban centers as opposed to on the urban fringe.

- 24-34 The comment states that cleanup of the toxics on the project site (brownfield redevelopment) is completely unrelated to this or any other development, and that it is not necessary for this project to be approved to allow cleanup of the site.

The Draft EIR does not state that it is necessary to approve the project to allow remediation of the hazardous materials. Some remediation is presumed to occur as part of the Clean Up and Abatement Order issued by the RWQCB. Still, the Project Applicant must obtain permits and appropriate entitlements to conduct the level of remediation proposed to occur here. Such entitlements are subject to CEQA.

In June 2009, after the City circulated the Draft EIR for public review, Environmental Resources Management (ERM) prepared a Supplemental Interim Remedial Action Plan (SIRAP), which is added to the Marina Center EIR as Appendix S. The SIRAP is intended to address existing site contamination concerns of the Project Applicant and the

California Regional Water Quality Control Board, and it is designed to be implemented with or without the build-out of the buildings and related improvements and infrastructure proposed in the project. The Project Applicant has proposed to implement the SIRAP in conjunction with onsite wetland restoration as Phase 1 of the proposed project and incorporating pertinent mitigation measures in the EIR, which are already described in the Chapters III and IV.G of the Draft EIR. Therefore, while this EIR addresses both this initial phase of the project as well as subsequent phases, the SIRAP has independent utility and can proceed on its own in advance of the City's approval of any entitlements necessary for the proposed project itself. Still, a Final Remedial Action Plan and regulatory closure would not occur until final site plans, building configurations, and construction methods are determined.

- 24-35 The comment states that the Draft EIR's conclusion that the Tourism Use Alternative is not economically feasible is not appropriate.

As stated on Draft EIR page VI-1, "a reasonable range of alternatives for comparison must include those alternatives that would feasibly attain most of the basic objectives of the project and would avoid or substantially lessen any of the significant effects of the project" (CEQA Guidelines Section 15126.6). CEQA generally defines "feasible" to mean an alternative that is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, technological, and legal factors. In addition, the following may be taken into consideration when assessing the feasibility of alternatives: "site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries, and the ability of the proponent to attain site control (Section 15126.6(f)(1))."

The Tourism Use Alternative was determined to be an economically infeasible alternative, and it fails to satisfy most of the project objectives. As stated on Draft EIR page VI-2, "alternatives that are not reasonable or feasible need not be discussed at length." If the Tourism Use Alternative were determined to be an economically feasible alternative, no reason exists for the Project Applicant to state otherwise, or for the Lead Agency to avoid exploring its potential environmental impacts. The comment also mentions that the Tourism Use Alternative could be a private, rather than a public project, but provides no evidence on how that could be accomplished or what sort of project that would entail.

- 24-36 The comment summarizes the comments made earlier in the letter. Please refer in particular to responses to comments 24-3, 24-6, 24-8, 24-13, 24-14, 24-18, 24-25, 24-27, and 24-29.
- 24-37 The comment makes a summary statement that the City should reject the Draft EIR and send the Project Applicant back to the drawing board. Ultimately, the City will make a decision about whether to approve the project or not. This decision will be based on many factors, including the disclosure of potential environmental effects identified in the EIR.

Comment Letter 25

Comment Letter 25

January 30, 2009

City of Eureka Community Development Department

Sidnie L Olson, Principal Planner

531 K St

Eureka CA 95501

The following are comments and questions on the Marina Center Draft Environmental Impact Report (DEIR) submitted on behalf of the North Group, Redwood Chapter of the Sierra Club, with over 1,200 members in Humboldt, Del Norte, Trinity, and western Siskiyou Counties.

AESTHETICS

- 1. The DEIR claims that the proposed project would “augment public coastal viewing,” but does not explain how stores ranging in height from 28 to 72 feet would accomplish that. 25-1
- 2. The Final EIR should include a visual simulation of a 1500+-car parking lot. 25-2
- 3. Could the Eureka Design Review Committee bar Home Depot from incorporating fluorescent orange in its store exterior color? 25-3

AIR QUALITY

- 1. The North Coast Air Basin is already in non-attainment status for fine particulate matter (PM10) at a threshold of 16 tons/year. The proposed project is estimated to generate 38 tons/year – more than TWICE the current threshold that is not being met. The proposed project would also result in emissions that exceed thresholds for ROG, NOx, and CO. The project applicant’s proposed mitigations (e.g., electric plug-ins for cars, pedestrian and bicycle zones, voluntary employee carpooling) are weak and their expected air pollution reductions are not quantified. Also, how can one expect pedestrians or bicyclists to make any significant purchases at the hardware/lumber store anchor? (Delivery trucks mean more diesel pollution!) 25-4
- 2. Has the update on the Air Quality District’s PM10 attainment plan (expected in 2008) been completed? If so, the project applicant should incorporate any findings into the Final EIR. 25-5
- 3. Locally, the vehicle trips generated by the proposed project would significantly contribute to greenhouse gas (GHG) emissions. However, since the DEIR sets the scale for determining an “individual discernable effect” as global (i.e., raising the Earth’s temperature), it makes them not significant. The DEIR should compare the 20,000 metric tons/year of GHGs generated by the proposed project as a percentage of local pollutants. 25-6
- 4. The DEIR is vague about what energy conservation measures would be implemented as mitigation. 25-7
- 5. The proposed project is inconsistent with the General Plan Policy to “protect and improve air quality” in the Eureka area. 25-8

BIOLOGICAL RESOURCES

- 1. The DEIR states that no special status plants are “expected to occur” on the project site. Haven’t surveys already been done of the entire property, allowing a definite statement to be made? 25-9
- 2. The proposed project would locate the restored wetland area immediately adjacent to the Anchor 1 (Home Depot) store. What is the width of the proposed buffer? If it is not 100 feet, how was a narrower buffer justified as “adequate”? What type of wildlife would be attracted to habitat next to a 40-foot-high store? 25-10
- 3. Based on two days of field survey, the DEIR claims that the current Balloon Track has “no habitat values.” (However, the report listed 27 bird species observed on the open field site in winter and 14 in summer.) What habitat values are associated with paved parking lots and buildings (47% of proposed project area)? 25-11
- 4. Have studies been done on expected bird kills from new buildings (particularly if glass) and parking lots in the proposed project? 25-12
- 5. It is extremely difficult to recreate a functional wetland (e.g., prone to fill in, non-native plants become established). The project applicant proposes to monitor the wetland for 5 years to confirm its success. How will success or failure be measured, and how was the 5-year cutoff determined? 25-13
- 6. The DEIR notes that public trust issues surrounding the property are “not clear and are being investigated by the State Lands Commission.” The results of this investigation are important and must be considered in the Final EIR. 25-14

CULTURAL RESOURCES

- 1. The potential impacts listed in the DEIR do not match statements from the Preservation Officer of the Wiyot Tribe that two villages may occur on the Balloon Tract. The project applicant should be required to perform subsurface studies to locate cultural resources by ground-penetrating radar, controlled backhoe testing, and augering before any development plan is approved. Excavation for data recovery (e.g., digging up and relocating artifacts and human remains) is the lowest priority for the Tribe and should be respected. What actions would the project applicant take if European remains are discovered? 25-15

HAZARDS & HAZARDOUS MATERIALS

- 1. Groundwater was tested only for petroleum hydrocarbons, metals, and volatile organic compounds. Why was sampling limited to these potential pollutants? 25-16
- 2. The Health Risk Assessments (other than for diesel emissions) were performed in 1996 and 2000. Levels of significance determined by the US EPA may have changed (i.e., been lowered) since then for chemicals of concern. The project applicant should be required to update the HRAs to incorporate any current levels of significance AND to reflect projected (not current) uses. 25-17
- 3. The DEIR devotes two sentences to dioxin, furans, and PCBs, noting only that they were found and sources were not identified. (The nonprofit organization Humboldt Baykeeper found all samples it tested from the Balloon Track positive for dioxin.) The project applicant should be required to test for these substances, as Humboldt Bay is already listed for dioxins and PCBs. 25-18

Comment Letter 25

Comment Letter 25

- 4. What studies were done to model movement of pollutants from the project site into Humboldt Bay? Could the proposed reintroduction of tidal influence to Clark Slough mobilize toxic substances? 25-19
- 5. Throughout the DEIR, the project applicant refers to the site as a “brownfield.” However, it concludes that the site should not be considered for listing as a hazardous materials site because “it is in compliance with Regional Water Quality Board (RWQB) orders.” However, that compliance is based on the current use of the Balloon Track – basically, a vacant lot – NOT on the proposed use. 25-20
- 6. The DEIR mentions project compliance only with RWQB requirements. Don’t other government agencies have jurisdiction over toxics? 25-21
- 7. Remediation measures to be used should be spelled out (e.g., capping vs removal of toxic soils) in any plan brought before the Eureka City Council, not deferred until a future date. 25-22

HYDROLOGY & WATER QUALITY

- 1. The FEMA flood insurance map designating 100-year flood boundaries was last updated in 1986. Were any studies done to determine whether those delineations are still accurate? 25-23
- 2. The proposed project would install impervious surfaces on 29 of 43 acres (47%) of the Balloon Track, increasing peak discharge from the site. How were pre-project flows measured? The project applicant proposes to install culverts to handle only a 10-year storm event. Given the expense of replacing undersized culverts, and the potential for future excavation to stir up any “capped” hazardous substances, culverts should be able to handle a 50- to 100-year event. 25-24
- 3. What would happen to runoff collected in a retention basin, and where would it be located? Wouldn’t the runoff be contaminated with petroleum products from the parking lot? 25-25
- 4. The DEIR does not adequately assess effects of global warming/sea level rise on the proposed project, given that the site elevation ranges from 8 to 12 feet. 25-26
- 5. The proposed project is located in a Moderate tsunami zone. How would an evacuation route be able to handle thousands of cars, especially since the preferred exit (Waterfront Drive) is closer to the ocean than the proposed project? 25-27

LAND USE & PLANNING

- 1. The proposed project would require several changes to existing zoning classifications. The DEIR fails to discuss the desirability of removing a large contiguous segment of industrial land – the premiere piece of property left in the City of Eureka -- from inventory. It also fails to justify using land near the Bay for uses that are not coastal-dependent or coastal-related. The Marina Center does not need to be located on a historic waterfront. 25-28
- 2. While there are some elements of “Smart Growth” in the proposed project (e.g., urban infill), a Big Box (or, as described in the DEIR, “large-format”) store is the driving force behind Marina Center. Generating over 15,000 trips/day should not be considered eco-friendly. 25-29
- 3. Under the California Coastal Act, “visitor-serving commercial recreational facilities” have priority over residential, general industrial, or commercial development on properties in the coastal zone. Given that all of the proposed Marina Center uses are in the lowest priority group of allowable uses, why were they selected over potential higher priority uses? 25-30
- 4. The Coastal Act also states that “coastal-related developments shall not be sited in a wetland” and that wetlands may be dredged or filled for certain specified uses, none of which is operating in the proposed project. (The filling of wetlands for the purpose of site remediation is not listed as a permissible purpose.) Over 5-1/2 acres of wetlands would be filled. 25-31

- 5. The DEIR states that the Marina Center would not divide the existing industrial community of the Westside Industrial Area; would eastwardly expand similar existing commercial uses along 4th, 5th, and Broadway; and would provide large anchor retail spaces on a similar scale as to its south. However, it fails to gauge how well the proposed project would fit in with Old Town (1st through 3rd Streets, lettered cross streets). 25-32
- 6. Nothing in the DEIR would prevent a Wal-Mart from becoming an anchor store in the proposed project. (In fact, the report notes that if the Anchor 1 site becomes vacant, “certain large-format stores have expressed an interest in entering the Humboldt County market.”) Is the citizen referendum where two-thirds of Eureka’s citizens voted to stop a Wal-Mart from being built on the Eureka waterfront binding on the project applicant? 25-33
- 7. The proposed project is inconsistent with the General Plan policy of discouraging new commercial development that will adversely affect Eureka’s Core Area; its preference for upgrading established commercial centers over developing new ones; and developing part of the Westside Industrial Area for nonindustrial uses. According to the Westside Industrial Study, the Balloon Track is the only site available within the city for an industrial park. 25-34
- 8. Where are the 171 acres of vacant land planned for Public use located within the city? 25-35

POPULATION & HOUSING

- 1. Why should the proposed project NOT include some fair share of low-income housing? 25-36

TRANSPORTATION

- 1. Traffic sampling was performed in March and April, which does not take into account tourist season. Have studies been done to determine what time of year Broadway (Highway 101) experiences the worst traffic? Any scenarios projecting traffic increases from the Marina Center should use those numbers as a worst-case scenario baseline. 25-37
- 2. How much traffic will be diverted into adjacent neighborhoods not within the intersections studied in the DEIR (e.g., 6th 7th, Harris)? How were the roadways to study as being potentially impacted by the proposed project selected? 25-38
- 3. The City of Eureka has used existing traffic level of service and delays on Broadway to justify building Waterfront Drive Extension. Thus, how can adding over 15,000 trips a day to the current infrastructure not be determined to be of major significance? (And, conversely, why is WDE seen as necessary, if traffic signal synchronization is purported to mitigate a much-worse traffic problem?) 25-39
- 4. The DEIR fails to mention that Waterfront Drive is used as a staging area for boat launching at the Wharfinger Marina and gets backed up with trailers. Also, there are segments of WD where the road width is narrower than that listed in the DEIR. 25-40
- 5. The project applicant says it will pay its “fair share” of off-site and project access transportation improvements that include new road construction, medians, sidewalks, traffic signals, stop signs, directional signs, lane striping, etc. What is the total cost estimated to be? Would any land acquisition be necessary? Shouldn’t “fair share” equate to 100% of the costs, if such “improvements” would not be necessary if the Marina Center was not built? If not, how is “fair share” calculated? All too often, the public ends up paying for infrastructure that benefits private developers. 25-41
- 6. Mitigation measures rely heavily on actions that would need to be taken by CalTrans or the City of Eureka that are not under the project applicant’s control. (For example, the DEIR states the project applicant will “obtain encroachment permits from CalTrans and cause to be completed/installed mitigation measures A, B, C....”) CalTrans rules on Highway 101: what 25-42

Comment Letter 25

power does the project applicant have to force signal interconnects and optimizing signal coordination timing? And in what time frame would such measures have to be installed to coincide with Marina Center construction and operation? (The DEIR notes that "there is no program in place or funding otherwise identified to ensure completion of the mitigation measures within the time period necessary to avoid the impacts.")

↑
25-42
cont.

7. How will the project applicants deal with the possible resumption of the railroad through Old Town, or trucks carrying containers from the Redwood Marine Terminal now being planned? The DEIR states that the project applicant will work with the railroad to maintain adequate right-of-way and install warning signs and crossing gates at the Waterfront Drive driveway. This would block the main exit from the Marina Center each time a train passed. Also, the trail around the wetland is located partly on the railroad ROW.

25-43

8. The proposed project is estimated to slow morning peak traffic southbound on Broadway from 26.3 to 21.6 mph and reduce the p.m. peak hour speed from 21.2 to 18.5 mph, all well below posted speed limits. How can this not lead to more "road rage" and accidents?

25-44

9. Directing employees to park off-site during December (the DEIR estimates that the proposed project's parking lot could be 94 spaces short) takes on-street parking away from existing merchants during their peak holiday sales season.

25-45

10. Where does the project applicant plan to have speed bumps installed for traffic calming and who would pay for such construction?

25-46

URBAN DECAY

1. The DEIR twists the meaning of urban decay to claim that because the Balloon Track is currently decayed, its cleanup and development would be an improvement, and therefore "eliminate the conditions for urban decay." However, by definition, urban decay includes the physical deterioration associated with high business vacancies. The DEIR fails to quantify how many stores might go out of business if the Marina Center is constructed. Although the report mentions competition from a possible home improvement store in Fortuna, it fails to study the effect of Home Depot on operating companies such as Pierson's, Ace Hardware, and Do-It-Best Hardware.

25-47

2. The DEIR states that 421 jobs may be lost in Humboldt County and the City of Eureka due to construction of the Marina Center, and that 1,246 jobs are projected to be created. Are the types of jobs created/lost comparable in wages and benefits?

ALTERNATIVES

1. The project applicant selected objectives for the proposed project so that only the Marina Center would meet those objectives (i.e., strengthen Eureka as the retail and employment center of Humboldt County; develop an economically viable mixed-use project; facilitate brownfield redevelopment and urban infill development of property in the redevelopment area in the City of Eureka).

25-48

2. The project applicant's objectives for the proposed project listed in the Alternatives section are different from those in the Project Description. For instance, the latter list includes tourism as an objective, but the DEIR does not quantify or explain how the proposed project will increase tourism.

25-49

Thank you for considering these comments.

Letter 25: Redwood Chapter of the Sierra Club (Sue Leskiw)

- 25-1 The comment requests that the Draft EIR explain how increasing building heights would augment coastal views.

The proposed project would augment coastal views, as discussed on page IV.A-16 of the Draft EIR, by providing trails along the edges of the restored Clark Slough, which would provide enhanced opportunities for viewing Humboldt Bay. Additionally, amenities along the trail would include benches and other street furniture. Furthermore, the proposed project would create increased pedestrian activity on the project site, which in and of itself, would increase opportunities for waterfront viewing. View corridors through the project site from the Fourth Street extension, between the proposed buildings along Waterfront Drive, and from the proposed multi-use trail along Waterfront Drive would all augment coastal views.

- 25-2 The comment states that the Final EIR should include a visual simulation of a 1500+ car parking garage.

Visual simulations of the proposed project were taken from five representative public vantage points. As illustrated in Figure III-2, Project Site Plan, and demonstrated in the visual simulations from public view points under Impact A-3, the views of the surface parking would be away from the public streets and shielded from direct view by proposed buildings which would front Second Street and Broadway. Small surface parking lots would be visible from Broadway from Second Street, Third Street and between Sixth and Seventh Streets; however the bulk of the surface parking would be obscured by existing uses (i.e., Bob's Fine Cars and Nilsen Feed & Grain Company). Furthermore, as described on page III-13 of the Draft EIR, the proposed project would include a total of approximately 1,590 parking spaces, only 462 of which would be housed in the proposed four-story parking structure. Thus a visual simulation of an approximately 1,500+ car parking garage would not be representative of the proposed project.

- 25-3 The comment asks that the Design Review Committee bar Home Depot from including orange in its exterior colors.

The Design Review Committee will review the site plans and designs prior to approval and ensure that the goals set forth in Section 155.180 et. seq. of the Eureka Municipal Code are met. The use of the corporate color for the exterior facade of the proposed anchor tenant will be assessed at that time.

- 25-4 The comment summarizes some air quality issues and indicates that the proposed air quality mitigation measures are weak and their expected air pollution reductions are not quantified. It is acknowledged that the City cannot demonstrate the extent that mitigation measures would reduce emissions of PM10, as speculative assumptions would need to be made regarding displaced conventional vehicular trips and efficiencies created by the

measures. As stated in response to comment 12-3, the City has taken a conservative approach to the significance determinations for Impacts C-2 and C-3, identifying significant and unavoidable impacts even with the implementation of mitigation measures. It is nonetheless reasonable to assume that the mitigation measures would result in some level of emission reductions by increasing efficiencies and displacing some conventional vehicular trips.

Please see responses to comments 12-2 through 12-5 for further discussion regarding the quantification of the air quality mitigation measures. As stated above, such quantification is not possible, but it is reasonable to conclude that mitigation measures would reduce emissions.

- 25-5 The comment asks if the PM10 attainment plan for the region was updated in 2008. According to the NCUAQMD, the plan was not updated in 2008 and it anticipates that the plan may be updated in 2009. Therefore, the following text has been changed at the end of the first paragraph on Draft EIR page IV.C-8.

The NCUAQMD is currently reviewing the attainment plan and expects to update the plan in ~~2008~~ 2009 (NCUAQMD, ~~2007a~~ 2009).

- 25-6 The comment indicates that the Draft EIR should have compared the GHG emissions generated by the project as a percentage of local pollutants. However, this comparison would not aid in the determination of whether the project would result in a cumulatively considerable contribution of GHG, which is determined by assessing if the project would conflict with the State goals for reducing GHG emissions, as set forth in Assembly Bill 32, the California Global Warming Solutions Act of 2006 (see Draft EIR page IV.C-20). Climate change is a global issue, and thus should be discussed cumulatively at a broader, or at least state-wide, scale.

- 25-7 The comment states that the Draft EIR air quality section is vague about what energy conservation measures would be implemented as mitigation. As identified on Draft EIR pages IV.C-14 and IV.C-15, Mitigation Measures C-2a and C-2b have components that would conserve fuel energy associated with vehicle use and landscape maintenance equipment. In addition, as identified on Draft EIR page III-16, the project objectives for the proposed project include: use of “green” building materials (e.g., recycled, local, and renewable); energy-efficient HVAC and lighting and control systems; use of natural ventilation and day-lighting; use of efficient plumbing fixtures; and promotion of energy-efficient and environmentally friendly practices during project operation.

As stated in response to comment 25-4, it is acknowledged that the City cannot demonstrate the extent that mitigation measures would reduce emissions, as speculative assumptions would need to be made regarding displaced conventional vehicular trips and efficiencies created by the measures. As stated in response to comment 12-3, the City has taken a conservative approach to the significance determinations for Impacts C-2 and C-3, identifying significant and unavoidable impacts even with the implementation of

mitigation measures. It is nonetheless reasonable to assume that the mitigation measures would result in some level of emission reductions by increasing efficiencies and displacing some conventional vehicular trips. In any event, the largest source of emissions come from mobile sources (commercial and personal vehicles), and it is not possible to regulate vehicle emissions and to dictate individual driving habits or consumer choices. Through its mixed-use design, the project has aspired to reduce the average number of vehicle trips normally associated with individual retail, office, and residential land uses.

- 25-8 The comment indicates that implementation of the proposed project would be inconsistent with the General Plan Policy to “protect and improve air quality” in the Eureka area, which is Policy 6.2 of the General Plan. As stated in Table IV.I-2 on page IV.I-61, the Draft EIR provides the required project-level environmental review and identifies potential air quality impacts and mitigation measures to reduce these potential impacts. The proposed project is therefore consistent with this policy.

In addition, as stated on Draft EIR page IV.I-12, the proposed project “embodies most of the major principles of smart growth, including infill of a brownfield in the city center using a mixture of land uses in a walkable environment adjacent to open space.” Smart growth development results in less air pollution than conventional development.

- 25-9 The comment asks if special-status plants surveys have been performed. No special-status plants were found on the project site during the systematic surveys conducted on the project site April 28 and 29, 2006, and June 17, 2009 (please also see Draft EIR page IV.D-5). Moreover, the project site is heavily disturbed and sustains a number of non-native or invasive plant species. Thus, special-status plant species are not at the project site currently, and are not expected to occur. However, the proposed wetland reserve would provide suitable habitat for such species.

- 25-10 The comment asks about the buffer around the wetland, and about what types of wildlife would be attracted to habitat next to a 40-foot high store. As stated on Draft EIR page III-14, there would be a 50-foot buffer around most of the wetland area. The quality of the habitat to be provided is likely to be a stronger determinant of wildlife use than its separation from a structure, as is evident from other productive wetlands in urbanized areas.

- 25-11 The comment states that the Draft EIR concludes that the project site has “no habitat values.”

The Draft EIR does not state that there are “no habitat values,” only that there is no suitable habitat for special-status species (Draft EIR, page IV.D-2). The proposed wetland reserve, once completed, would have much higher function and value as habitat and wetlands than the existing disturbed landscape.

- 25-12 The comment asks about “bird kills from new buildings,” presumably from bird collisions, and from parking lots, where the impact cause is not clear. Bird collisions can be a concern, and in some cases can be significant. However, statistically these impacts mainly occur where buildings are higher than 250 ft, and cause collision hazards to birds on migration routes or birds descending from migration to forage or rest. Building heights for the project would range between 28 and 36 feet and the impact is not expected to be significant.
- 25-13 The comment states that the Draft EIR includes a proposal to monitor wetland restoration for five years to confirm its success, and then the comment questions how success or failure will be measured, and how the five-year cutoff was determined.

A plan for mitigation monitoring and compliance reporting, including monitoring methodology and performance criteria to measure success of the mitigation, would be included within the required wetland mitigation/restoration plan. A five year period of success monitoring is a standard requirement for mitigation plans approved for permits of this type, and is the period of time necessary to evaluate whether wetland vegetation, hydrology, and species habitats are forming and functioning naturally. Success would be measured against the performance criteria outlined in Mitigation Measure D-3b. The wetland reserve must retain hydrology, vegetation, and other site characteristics necessary to maintain equal or greater function and value to the current physical conditions of the wetlands. Also, under Mitigation Measures D-3b and -3d, in addition to the five-year monitoring, the restoration plan would include long-term maintenance, monitoring, and contingency plans, as well as an endowment for long-term management. The five-year assessment is but only one milestone for evaluating and ensuring long-term success.

- 25-14 The comment states that the State Lands Commission investigations regarding the extent of land subject to the public trust doctrine must be considered in the Final EIR. Please see response to comment 8-1, which addresses the status of those investigations and the implications of those investigations to the analysis under CEQA. Further analysis in the Final EIR is unwarranted.
- 25-15 The comment relates to the potential for Wiyot Villages to be present beneath the project site, and proposes that the Project Applicant conduct subsurface testing to locate cultural resources by ground-penetrating radar, controlled backhoe testing, and auguring before any development plan is prepared.

As described on Draft EIR page IV.E, two potential Wiyot village sites on or near the project area are discussed, Wiyot Village Site 1: Site # CA-HUM-69 (“djerochichiwil”), and Wiyot Village Site 1: Site # 2 (“Moprakw”). Comments requesting subsurface cultural resource studies are noted. Please see response to comment 69-1 and Master Response 9, which includes a revised Mitigation Measure E-2. Implementation of Mitigation Measure E-2 would reduce potentially significant impacts associated with the accidental discovery of historic-era (European) artifacts to a less-than-significant level.

Also, while the revised Mitigation Measure E-2 does not specify which technologies would be employed in the subsurface investigation, that investigation must be prepared in consultation with the appropriate Native American group(s) and would use archaeological-appropriate means to determine the presence or absence of archeological resources in those specific locations predetermined to be culturally sensitive. Preservation of culturally-sensitive resources is typically the preferred approach to protecting the resource, and can be employed to the extent feasible. The treatment plans required under Mitigation Measure E-2 would be prepared in consultation with the appropriate Native American group(s).

25-16 The comment asks why groundwater sample testing was focused on specific pollutants.

As stated on Draft EIR page IV.G-17, “Groundwater sample laboratory analyses have included TPHD, TPHG, PNAs, BTEX, Semi-Volatile Organic Compounds (SVOCs), VOCs, and metals (arsenic, cadmium, total chromium, copper, lead, nickel, and zinc). Under the current MRP, however, site wells associated with the former rail yard are monitored for TPHD, TPHMO, Bunker C fuel oil, and dissolved arsenic.” In addition, stormwater runoff has also been sampled for dioxins and furans. Current testing and monitoring is focused on those constituents of concern based on prior monitoring and testing.

25-17 The comment states that levels of significance determined by the U.S. Environmental Protection Agency may have changed since the preparation of previous Health Risk Assessments (HRAs) discussed in Chapter IV.G, Hazards and Hazardous Materials. The comment also suggests that the Project Applicant be required to update the HRAs to incorporate current US EPA levels of significance and to reflect projected uses.

Uses that could contribute to health risks have not operated on the project site since the early 2000s. The 1996 and 2000 HRAs are considered an accurate assessment of current site conditions. These HRAs, however, are not the most recent site investigations. As described in Master Response 4 and Appendix S, site investigations have been ongoing. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

25-18 The comment states that the Project Applicant should be required to test for dioxins, furans, and PDBs.

The Draft EIR acknowledges that these contaminants have been identified in the stormwater runoff and, as recommended by Mitigation Measure G-1b, any further characterization and remediation work shall be completed prior to any construction activities. This would include the contaminants found in the drainage ditches. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4.

- 25-19 The comment asks what studies were done to model the movement of pollutants through the project site to the Bay, and whether reintroduction of tidal influence to Clark Slough could mobilize toxic substances.

For a discussion of the Remedial Action Plan for the proposed project, please see Master Response 4. This response also addresses the potential for migration of pollutants beneath the project site. Clark Slough is currently tidally influenced, and so there would be no further effects associated with tidal influence within Clark Slough.

- 25-20 The comment states that the discussion in the Draft EIR related to the Regional Water Quality Control Board is confusing because it states that the project is not a hazardous materials site, and yet the Draft EIR calls the site a brownfield.

The discussion under Impact G-4 on page IV.G-23, concludes that due to the remediation completed to date, the proposed remediation for the site, and the implementation of the Mitigation Measures, there would be no impact as a result of the contamination identified at the project site. Interim and final remedial measures must be approved by the RWQCB before the project site may be developed for its intended uses. Please also see responses to comments 6-2 and 6-9.

To clarify the status of the project site, the text shall be revised as follows:

The project site has had a history of hazardous materials releases as discussed above, ~~but and is would not be considered for listing~~ listed as a hazardous materials site under Government Code section 65962.5. However, because it is in compliance with Regional Board orders and all USTs have been removed.

- 25-21 The comment asks whether agencies other than the RWQCB regulate toxics.

The RWQCB is the regulatory agency overseeing the site characterization and remediation efforts at the project site. Other agencies, including the California Environmental Protection Agency (Department of Toxic Substances Control) and U.S. Environmental Protection Agency also have some jurisdiction in these areas.

- 25-22 The comment requests further details in the remediation plan prior to project approval.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S, which is the Supplemental Interim Remedial Action Plan.

- 25-23 The comment asks whether any studies were done to determine whether the FEMA flood insurance maps are accurate.

The analysis in the Draft EIR considered the most current publicly-available FEMA FIRM map for its analysis, which has again been confirmed for the preparation of this Final EIR. Engineering review of the site and environmental documents have found no evidence to suggest that the FEMA FIRM map is in any way inaccurate.

- 25-24 The comment asks how pre-project flows were measured and suggests that culverts constructed as part of the proposed project should be capable of handling a 50- to 100-year storm event.

Pre-project flows at the project site were not measured. As stated on Draft EIR page IV.H-10, for the majority of the project site, there is no existing drainage infrastructure, so measurement would have been speculative. As stated on Draft EIR page IV.H-11, however, the existing site conditions cause runoff from the project site to be generated slowly, and most of the rainfall at the project site is likely to infiltrate the subsurface or to temporarily pond and later evaporate.

The comment regarding 50- and 100-year storm events is noted. As stated on Draft EIR page IV.H-14, however, the City has its own stormwater regulations, which require new development to provide retention / siltation basins to limit new runoff to 1 cubic foot per second or to pre-project flows. As reiterated by Mitigation Measure H-4a on Draft EIR page IV.H-19, the Project Applicant would develop a drainage plan that demonstrates that the culverts would be adequately sized and configured to handle a 10-year storm event.

In addition, Mitigation Measures H-5a and H-5b include implementation of stormwater treatment at drop inlets and grassed swales throughout the project landscape. These best management practices (BMPs) would minimize the potential for the proposed project to create or contribute to runoff that would exceed the capacity of the stormwater drainage systems.

- 25-25 The comment asks where a retention basin would be located onsite, and if the water in the basin would be contaminated with petroleum runoff.

Runoff collected in a retention basin is treated according to the requirements of the City and corresponding NPDES permit requirements. The final drainage plan has not been completed for the project but would be prior to issuance of a building permit. See also responses to comments 7-6 and 16-45 regarding stormwater runoff mitigation measures.

- 25-26 The comment states that the Draft EIR does not adequately address the effects on the project from global warming and sea level rise.

For further discussion regarding global warming and sea level rise, see response to comment 3-15. Contrary to the comment, the Draft EIR did adequately evaluate sea level rise. Based on available data, and even presuming sea level rise occurs at the rate that some have estimated, the project foundations and created wetlands would remain well above sea level for the foreseeable future.

- 25-27 The comment asks how a tsunami evacuation route on Waterfront Drive would be appropriate given the street is closer to the Humboldt Bay than the project site.

Mitigation Measure H-10a states that the Project Applicant prepare an Evacuation and Response Plan that would identify routes of egress and locations of safe haven. In addition, a tsunami warning or alarm system would also be integrated into the building designs. The Plan would be approved by the City prior to issuance of a building permit.

Waterfront Drive is a major street capable of handling large traffic volumes. It is one of many streets that may be incorporated into an evacuation route. It should be noted, however, that vehicular evacuation likely would not be the preferred or necessary form of egress, particularly as the distance to safe havens is not far. For example, ground elevations near U.S. 101/Broadway and points east would be considered high enough to protect people from adverse flooding risks. Vertical routes of egress within the buildings would also provide a relatively quick access to safe haven. Please also see response to comment 153-1, concerning routes to safe haven.

- 25-28 The comment states that the Draft EIR does not discuss the desirability of removing land from potential industrial use from the vacant land inventory. The comment also states that the Draft EIR does not justify the need for the Marina Center to be located on property within the coastal zone.

The Draft EIR analyzes the proposed project's consistency with existing land use designations and planning policies, including policies regulating development of uses in the coastal zone, as well as potential environmental land use effects, in Chapter IV.I, Land Use and Planning. Please also see Master Responses 3 and 5, which discuss land use regulations within the Coastal Zone. The potential effects of the proposed land use changes are also analyzed throughout the Draft EIR in other sections of Chapter IV, such impacts related to transportation, air quality, and noise. The Draft EIR, therefore, discusses the potential environmental effects of the land use changes associated with the proposed project.

Also, Chapter VI, Alternatives, screens several alternatives for analysis, including some that include industrial uses. The Limited Industrial Zoning alternative is carried forward for analysis. This analysis compares the potential environmental impacts of development of industrial use on the site with the environmental impacts of the proposed project. In addition, the Alternatives screening included several off-site locations for the proposed project, some of which are not in the coastal zone. The Draft EIR, therefore, also discloses the potential environmental effects of the proposed project as compared to industrial development.

Finally, it is beyond the scope of the Draft EIR and CEQA to address the "desirability" of rezonings and Local Coastal Program or General Plan amendments. It is also beyond the scope of the Draft EIR and CEQA to justify development of particular uses over others. As stated above, the purpose of the Draft EIR is to analyze the proposed project's consistency with existing land use designations and planning policies, including policies regulating development of uses in the coastal zone, as well as potential environmental effects. Decision-making authorities and regulatory agencies weigh several factors,

including potential environmental effects disclosed in the Draft EIR, when determining whether to grant project entitlements and approvals.

- 25-29 The comment states that the proposed project should not be considered as “smart growth” due to the project-generated traffic.

The comment is noted. As stated in Table IV.O-5, the proposed project would generate 15,666 daily vehicular trips. Nonetheless, as stated in comments 16-275 and 128-1, the project adheres to several smart growth principles. In addition, big box retail and smart growth are not mutually exclusive. Destination retail centers, by their very nature, generate visitor trips. The proposed projects’ location near the Downtown core of Eureka, as opposed to in an exurban or rural setting, however, allows for a higher portion of those trips to be made via modes other than the automobile.

- 25-30 The comment questions why uses of the proposed project were selected given that they are lower-priority uses within the Coastal Zone. The uses of the proposed project were selected because they meet the objectives of the Project Applicant. The Tourism Use Alternative, described on page VI-9 of Chapter VI, would contain uses similar to the “visitor-serving commercial recreational facilities” described in the comment. The proposed project’s uses and their consistency with the California Coastal Act use provisions and the Local Coastal Program are discussed under Impact I-2, beginning on page IV.I-13, as well as in Master Responses 3 and 5.

- 25-31 The comment states that, according to the Coastal Act, wetlands may be dredged or filled only for certain specified uses, none of which are included in the proposed project. Comment noted. Consistency with the California Coastal Act Section 30233 is discussed under Impact I-2, beginning on page IV.I-13, as well as in Master Response 5.

- 25-32 The comment states that the Draft EIR fails to gauge how well the proposed project would fit in with Old Town, specifically the area of First Street, Third Street, and the lettered cross streets. This area is defined as the Core Retail Commercial area in the *City of Eureka General Plan* and *City of Eureka General Plan Design Guidelines*.

As stated on Draft EIR page IV.I-7, implementation of the proposed project would have a significant impact on land use and planning if it would physically divide an established community, conflict with any applicable land use plan, policy or regulation adopted for the purpose of avoiding or mitigating an environmental effect, or conflict with any applicable habitat conservation plan.

As stated in the comment, the Draft EIR provides an analysis of how the proposed project would expand similar existing industrial uses along Fourth Street, Fifth Street, and Broadway westward into the project site. As stated on Draft EIR page IV.I-13, the project would create a transition between the adjacent industrial communities to the northeast and south and the commercial area along Fourth Street, Fifth Street, and Broadway.

The area along Fourth Street, Fifth Street, and Broadway would continue to serve as a transition between Old Town and the project site, as well as the and nearby industrial uses. The proposed project would not physically divide the established Old Town commercial core.

- 25-33 The comment asks whether citizen referendums regarding the use of the property are binding on the Project Applicant. The Lead Agency is required to analyze the proposed project, which includes an anchor retail tenant. The purpose of the Draft EIR is to disclose the potential environmental effects of the proposed project. The Draft EIR does not (and cannot) function as a document that legally restricts specific chains of retailers from locating at the project site—such a restriction is beyond the scope and purpose of CEQA. To the extent that a future tenant proposes to locate at the project site, and the new tenant’s proposed use would significantly alter the analysis and mitigation in the EIR, subsequent environmental review would only be required if the new use triggers the criteria under Section 21166 of the Public Resources Code. Subsequent environmental review may be required under Section 21166 when there are substantial changes in the project or circumstances or new information that would require major revisions in the EIR.
- 25-34 The comment states that the proposed project is inconsistent with the General Plan policies of (a) discouraging new commercial development that would adversely affect the Core Area, (b) upgrading established commercial areas before developing new ones, and (c) developing the Westside Industrial Area as an industrial park.

First, the Draft EIR states that the proposed project is consistent with policies related to new commercial development within the city. As stated on Draft EIR page IV.I-25, Policy 1.L.1 of the General Plan states that the City shall discourage new commercial development within the city that would adversely affect the economic vitality of the Core Area. As stated on Draft EIR pages IV.I-25 and IV.I-26, “the proposed project could draw some customers away from Core Area businesses. It would, however, add residents, day-time workers, and visitors to an area within walking distance of the Core Area. It would ease pedestrian, bicycle, and automobile flow between the project site and the Downtown core by adding traffic signals at busy intersections, constructing a multi-use path along the coast, and extending Fourth and Second Streets into the heart of the project site. This would effectively extend the developed area of Downtown Eureka westward, making the entirety of Downtown Eureka more active.”

Second, the Draft EIR discloses that the proposed project may be inconsistent with policies related to commercial development outside established commercial centers. As stated on Draft EIR page IV.I-26, Policy 1.L.4 of the General Plan states that the City shall encourage consolidation and upgrading of established commercial centers over development of new shopping center within the Planning Area.

Finally, the Draft EIR discloses that the proposed project is not consistent with the goal of developing the Westside Industrial Area as an industrial park. The Westside Industrial

Area Study is discussed on pages IV.I-71 through IV.I-73. As stated on Draft EIR page IV.I-73, the proposed project would not be consistent with the fundamental objective of developing the project site solely as an industrial park. The project inconsistency, however, is not with a policy “adopted for the purpose of avoiding or mitigating an environmental effect.” Therefore, there is not a significant environmental effect.

25-35 The comment asks where the 171 acres of vacant land planned for Public use are located within the City. Members of the public can view the land use planning and zoning maps by visiting the Community Development department or on the City of Eureka’s Community Development web site: <http://www.ci.eureka.ca.gov/>. These maps show the locations of areas planned and zoned for public use. It should be noted that there is no present demand identified for any public uses in the coastal zone, and therefore this proposed project would not displace any other public uses or projects identified in the City’s capital improvement program.

25-36 The project questions why the proposed project should not include fair share housing.

The City of Eureka does not mandate that proposed development projects include a percentage of low-income housing. However, as stated in Table IV.I-2 on page IV.I-32, the project would provide a mix of moderately sized one-, two-, and three-bedroom residential units that would accommodate a range of income levels.

25-37 The comment questions why traffic counts were taken during March and April.

Continuous traffic counts by Caltrans on U.S. 101 south of Eureka may be highest in August. But late February and early March volumes are exactly average, and capture the highest peak traffic associated with work and daily end-of-school vehicle trips. The software used for level of service analysis, Synchro, assesses a range of volumes using the Poisson distribution. The capacity and level of service given for intersections include consideration of the range (or percentile) of traffic volumes given an average count. This is a generally accepted methodology for most accurately gauging long-term traffic impacts.

25-38 The comment asks how much traffic would be diverted to adjacent neighborhoods onto streets not analyzed in the EIR.

Project trips were distributed onto all streets in the greater Eureka Area. By far the majority of project trips are assigned to U.S. 101 and a few other arterial routes such as Sixth and Seventh Streets east into Downtown. The roadways and study intersections were selected through collaboration with the City of Eureka, Caltrans and the City’s environmental consultant, ESA.

Please also see Master Response 7, which addresses Citywide trip distribution.

- 25-39 The comment questions why the proposed project's mitigation measures do not require the extension of Waterfront Drive, given that the extension has been stated to be necessary to relieve existing traffic problems.

While the extension of Waterfront Drive would generally alleviate congestion on Broadway, the extension is an independent project and is not necessary to mitigate traffic impacts associated with the Marina Center project. Traffic signal synchronization and intersection improvements at Wabash Avenue / Fairfield Street and Henderson Street, as proposed in the Draft EIR, would be effective at reducing the delays along the Broadway corridor. The primary means to reduce impacts from increased trips to and from the Marina Center is the increase in capacity on Broadway and the mitigation measure that, when triggered, would divert traffic away from the narrow section of Broadway from Fourth Street to south of Wabash Avenue.

- 25-40 The comment states that the Draft EIR fails to mention that Waterfront Drive gets backed up with vehicles waiting to access the boat ramp and that the street is narrower in some segments.

Follow-up field checks of Waterfront Drive and Railroad Avenue widths have been made and are documented as follows:

- The width of Waterfront Drive at the Marina is measured to be about 44 feet.
- The roadway width is about 28-30 feet south of the Marina for about 700 feet. Following that 700-foot stretch, the road widens to 44 feet. No vehicles were observed to be parked along this section even though there are no signs prohibiting parking. The 28 to 30 foot width is insufficient for parking on both sides of the street, but if necessary, parking could be permitted along one curb (probably the west curb) leaving 20 to 22 feet for two directions of traffic, which is adequate.
- At other locations along Waterfront Drive and Railroad Avenue, the roadway width varies between 44 and 48 feet.

Waterfront Drive is classified as a major collector by the City of Eureka, and as such, its primary purpose is to move traffic, and not as a staging area for boat launches. Technically, boat staging with Waterfront Drive's primary purpose, but this is a traffic enforcement issue unrelated to the proposed project. If, as the comment states, there is inadequate parking at the public Marina, there is an under-utilized boat ramp at the foot of Waterfront Drive adjacent to the Samoa Bridge that has ample parking. Regardless, both of these issues are existing conditions that are independent of, and not a result of, the proposed project.

- 25-41 The comment questions how fair share is calculated in regard to traffic mitigation measures.

The mitigation measures are expected to be constructed within existing right of way, so there should not be a need for land acquisition. Based on current estimates, the total costs

of constructing the mitigation measures along U.S. 101 are under \$3 million, though the final costs cannot be known until the capital improvements are designed and approved. The mitigation is identified with or without Marina Center by 2025 based upon the long term historic growth of traffic volumes on U.S. 101 through Eureka. The 1.5 percent average annual growth results in a 33 percent increase in traffic from 2006 through 2025, even without Marina Center. While the Project Applicant is only required to pay its fair share, and there is no program in place or funding otherwise identified to ensure completion of the mitigation measure. To ensure that the improvements are nevertheless completed within the time period necessary to avoid the impact, almost all of the mitigation measures would be installed by the Project Applicant under a reimbursement agreement with the City or other method for receiving credit against future improvements. Generally, fair share is calculated simply by evaluating the proportion of traffic growth from a proposed project to the total traffic growth by the future year. For example, if traffic increases by 1,000 vehicles per hour at a study intersection requiring mitigation, and if a project's contribution to those 1,000 additional entering vehicles is 400 vehicles per hour, then 40 percent of the mitigation costs are the responsibility of the developer and 60 percent are the responsibility of others.

- 25-42 The comment states that the implementation of many traffic mitigation measures are outside of the Project Applicant's control.

It is acknowledged that very few of the identified mitigation measures can be implemented without the consent and approval of Caltrans. Close liaison with Caltrans has been conducted during the planning for Marina Center to help ensure that those measures would be acceptable. It is acknowledged that Caltrans does not yet endorse and may not approve the mitigation precisely as proposed in the traffic impact study. Nonetheless, given past communications between the Project Applicant, transportation consultants, the City, and Caltrans, as well as general knowledge concerning the technical feasibility surrounding the proposed measures, it is expected that the off-site mitigation can be successfully processed through Caltrans. See also responses to comments 5-1, 16-217, and 25-41 concerning project phasing, "fair share" contributions, and cumulative 2025 conditions.

- 25-43 The comment expresses concerns that reactivation of the railroad right-of-way would cause traffic impacts.

Evaluation of the intersection of the Fourth Street Extension and Waterfront Drive included consideration of how this intersection would function should this become an active rail crossing. If a northbound right turn lane is provided on Waterfront Drive, then vehicles attempting to turn right into Marina Center could be queued away from traffic proceeding northbound through the intersection. Traffic exiting Marina Center would wait behind crossing gates until the train clears the crossing. The rail crossing is no different than many other at-grade rail crossings with similar traffic controls. Since the northbound right turn lane is not needed to maintain an acceptable level of service, the northbound right turn lane is not recommended until such time the crossing becomes active for train services. It should be noted, however, that while there has been public discussions about proposals to restore

rail service, there have been no concrete proposals to do so and therefore the level of service expected is entirely speculative at this point in time. Thus, restored rail service would not be considered a reasonably foreseeable future project.

- 25-44 The comment asks how a slowing of traffic would not lead to road rage accidents.

Traffic accidents are not associated with minor changes in speed. Increases in traffic in the future would occur with or without the proposed project. Further, the traffic modeling conducted for the proposed project shows a decrease in traffic accidents due to the proposed intersection and roadway improvements. Road rage is an enforcement issue regardless of the proposed project.

- 25-45 The comment states that directing employees to park off-site during December would remove on-street parking from existing businesses during the peak holiday season.

Off-site parking is most likely to occur on Waterfront Drive during the busy shopping months of November and December when very little demand for on-street parking in the area exists. Additionally it should be noted that Marina Center would provide adequate parking for its proposed uses and the mixed use nature of the project leads to parking efficiencies as retail shopping traffic is heaviest (weekends and evenings) outside of those time periods when office and industrial employees would occupy parking spaces (weekdays between 7am to 5:30 pm). There is time limit parking on Broadway between Fourth and Fifth Streets, therefore employees are not expected to park there. Other merchants are far enough away from Marina Center that competition for the same on-street parking would not be likely.

- 25-46 The comment asks where speed bumps would have to be installed and who would pay for their construction.

Speed bumps are not identified for installation within Marina Center. Speed bumps have a tendency to disrupt bicyclists, and they also affect truck circulation and jostle cargo unnecessarily. The design of Second Street and the Fourth Street extension could include speed tables or other traffic calming strategies, but this is up to the site designer and architect. The design and construction of the internal streets of Marina Center is the responsibility of the developer. With proper design, it is unlikely that traffic speeds on internal streets would be so high as to constitute a safety threat to the traveling public, bicyclists, or pedestrians.

- 25-47 The comment states that the Draft EIR twists the meaning of urban decay and that it fails to address the operation of the proposed project and its impact on existing businesses.

Please see Master Response 1, under "Potential Local Store Closures." Urban decay is considered an indirect physical environmental impact under CEQA, and can occur when the development of new commercial retail space in a particular market results in (i) the closure of competing businesses, which, in turn, results in vacant storefronts that meet the

definition of “blight” (see, e.g., Cal. Health & Safety Code, Section 33031(b)), or (ii) a physical deterioration so prevalent and substantial that it impairs the health, safety, and welfare of the surrounding community. Effects that may arise include, for example, those associated with aesthetics, utilities and service systems, hazards, or public services. Blight or deteriorating physical conditions may include, for example, buildings in which it is unsafe or unhealthy for persons to live or work; nearby uses that prevent the economic development of those parcels; boarded doors and windows; dumping of refuse or overturned dumpsters; and uncontrolled weed growth or homeless encampments. Here, while the EIR’s original and now updated economic analysis found that some increased vacancies would likely occur due to the proposed project, those vacancies would not be so extensive or prevalent as to result in the physical deterioration of downtown Eureka or other areas of the City. Consequently, the proposed project would have a less-than-significant impact under urban decay. See also CEQA Guidelines Section 15064(e), 15064(f)(6), and 15131(a) for further discussion about economic and social effects, and the extent to which those effects must be evaluated under CEQA.

- 25-48 The comment states that the Project Applicant’s objectives are so narrow so as to allow only the proposed project to qualify.

Please see responses to comments 24-29 and 16-239, which discuss Project Applicant objectives as related to alternatives, as well as the Draft EIR’s reasonable range of alternatives. As shown in Table VI-4 on page VI-15, 18 of the 24 alternatives screened for analysis met the Project Applicant’s basic project objectives. Therefore, the objectives are broad enough such that they can be met by several alternatives.

- 25-49 The comment states that the Project Applicant’s objectives listed in the project description do not include tourism, and that the Draft EIR does not explain how the project would increase tourism.

Contrary to the comment’s assertion, the Project Applicant Objectives listed on page III-15 include tourism:

To maintain Eureka’s status as the ‘hub’ of employment, retail commerce and tourism in Humboldt County.

As stated in Chapter IV.I, Land Use and Planning, the proposed Waterfront Commercial proposed land use designation would allow for tourist-attracting industries. As stated in Chapter III, Project Description, the proposed project would include restaurants, a wetland with associated walkways and benches, bike lanes and pedestrian paths, and lifestyle retail uses, all of which would contribute to increased tourism.

Comment Letter 26

REDWOOD REGION AUDUBON SOCIETY
P.O. BOX 1054, EUREKA, CALIFORNIA 95502



RECEIVED
JAN 17 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

15 January 2009

City of Eureka
Community Development Department
Attn: Sidnie L. Olson, AICP, Principal Planner
531 K Street
Eureka, CA 95501

Dear Sidnie Olson:

Redwood Region Audubon Society has a local membership of approximately 700 households. Our mission is to support the study and enhancement of wildlife and to support sustainable use of our natural resources. Almost anything would be an improvement over the blighted conditions of the balloon tract. A well planned project which benefits the community, looks and functions well, competes with but produces jobs without taking jobs from other businesses, would be a boon to the community.

26-1

We reviewed Volume 1 section IV of the Marina Center EIS and the Appendix G Table 2 Animal Species Observed on the Project Site or Expected to Utilize the Project Site.

We find the CNDDDB list not useful due to the scale of the query, which includes all of Humboldt County. The NDDDB lists are typically viewed as evidence of absence of particular species in a project area. Rather, the various government agency, CNPS, and other lists of species of concern should be utilized as a starting point, with input from various knowledgeable people and the literature, to determine which species should be considered.

We view these lists as not only species that could be negatively impacted by the project, but also those that could potentially benefit from the project as well. Because almost 12 acres of wetland and upland habitat are being restored, there are potential beneficial effects for species conservation. In review of plants to be included in plantings (Section III-4) on the proposed wetland and mitigation area of the project area we would encourage native shrubs and trees adapted to the local area which have wildlife values such as coyote bush, silk tassel, willows, alders, spruce, and grand fir. These plants provide food sources and habitat for birds. Other plants will seed in naturally or be introduced by birds. Unfortunately, we have a problem with human transients and homeless who may desire to inhabit densely vegetated areas. By providing judiciously placed trails in the restoration area the project may encourage diversity of plant species but discourage human habitation. Although no access is being proposed for the wetland reserve (III-14) viewing areas into the mitigation wetland could be included in the project proposal. This could provide some environmental education opportunities for the Discovery Museum.

26-2

A MEMBER OF THE NATIONAL AUDUBON SOCIETY

Comment Letter 26

Redwood Region Audubon Society

On the List/Proposed Threatened and Endangered Species for the Eureka Quad, we would delete all species except the following list, since these are the only ones that would potentially be affected by the Marina Center project:

- Tidewater goby
- Coho salmon
- Steelhead
- Chinook salmon
- Western snowy plover
- Yellow-billed cuckoo
- Bald eagle (although this species is no longer listed under the Endangered Species Act)
- Brown pelican.

The NDDDB query did not produce records of sandy beach tiger beetle, Indian Island rookery, and California clapper rail, but these are worthy of consideration and would have been identified if a good literature review of the area were done.

California Species of Special Concern (SSC) lists need to be consulted. I am not aware of any California SCC mammals that should be included. The following list of birds from the 2008 Bird SSC list should be addressed:

- | | |
|---------------------------|---|
| Brant | effects of the project on eelgrass in the bay |
| Redhead | likely not adversely affected |
| Northern harrier | potential beneficial foraging area |
| Yellow warbler | could benefit from riparian habitat |
| Bryant's savannah sparrow | could benefit with proper grasses and herbs |

From the 1994 Amphibian and reptile SSC list red-legged frog should be included.

From the 1995 Fish SSC coastal cutthroat trout should be considered.

Some shortcomings in the wildlife species analysis:

The EIR cites the following herpetofauna species as seen during a survey on page IV. D-1. "Despite looking under boards and other objects, the only amphibian or reptile observed was the Pacific treefrog during the July 9, 2006, summer survey. Other reptiles that could potentially use the site include Western fence lizard, common garter snake, and gopher snake." I agree with the technique, however in my experience, I would not expect western fence lizard or gopher snake in our wet coastal climate, but have seen garter snakes in my yard. Southern and northern alligator lizards (*Elgaria multicarinatus* and *E. coerulea*) are much more common in local coastal areas. Was the site also checked during the wet season?

In surveys of similar ruderal areas immediately adjacent to Humboldt Bay in March 2003 I found rough-skinned newts (*Taricha granulosa*) under logs and boards on coastal levees in Arcata and northwestern salamanders (*Ambystoma gracile*). I have wandering salamanders (*Aneides vagrans*) and California slender salamanders (*Batrachoseps californicus*) in my woodpile, which is within 1/2 mile of Humboldt Bay and within 2 miles of the project site.

In the DEIR Appendix G Attachment 2 Table 2 mammals observed include Townsend's vole (*Microtus townsendii*). I doubt the identification as *M. townsendii*; they are quite uncommon to rare locally. I have analyzed 4000 spotted owl pellets from northwestern California and southwestern Oregon for diet analysis and looked at owl and raptor pellets from Fay Slough Wildlife Area and Mad River Slough Wildlife Area. I have trapped in ruderal areas such as the

26-3

26-4

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Comment Letter 26

Comment Letter 26

Redwood Region Audubon Society

Redwood Region Audubon Society

area known as "Mount Trashmore" on Arcata Marsh and Wildlife Sanctuary, at Lanphere Dunes unit Humboldt Bay National Wildlife Refuge, in the redwood dominated forest adjacent to Humboldt State University and Redwood Sciences Laboratory. The majority of voles encountered locally were identified as California vole (Microtus californicus) in openings and creeping or Oregon voles (M. oregona) under the tree canopy. On January 27, 2009, I visited the Humboldt State University Museum of Vertebrate Zoology and looked at their collection of local voles. They had full museum specimen trays probably measuring 24 inches by 48 inches each of M. californicus and M. longicaudus, long-tailed vole, probably 40 to 50 specimens of each. The tray of the same size holding M. townsendii held about a half dozen specimens, one of which was indicated as doubtful for that species. I don't know the trapping plan used at the marina site, but any live trapping of vole specimens should be expected to capture the most common species instead of a rare species. In a discussion with the curator at the MVZ, he expressed the same surprise as me that a Townsend's vole, the most rare and least expected vole in our area, was captured. Hall and Kelson (1981) * indicate a marginal record specimen of M. townsendii townsendii from Humboldt Bay near Eureka, but a range map indicates that Little River or perhaps the north end of Clam Beach, both north of McKinleyville, as the southern extent of their range. California vole extends north to Little River on the coast. The range map of California vole in Hall and Kelson (1981) extends north in Humboldt County to Little River. Long-tailed vole range extends from western Canada south to Mendocino, CA, so could reasonably be expected here. In any case none of these voles are considered species of concern, rather my concern is with the accuracy of the field identification done in conjunction with the project.

Aleutian cackling geese (Branta hutchinsii leucopareia) are noticeably absent from the list of observed species. This species was recently taken off the endangered species list. Currently there are tens of thousands of cackling geese flying in skeins of 25 to over 100 birds over the project site each morning and evening. On Audubon led trips at Eureka (Palco) Marsh we occasionally see tundra swans.

Light pollution impacts on migrating birds. Section IV.A-3 and Impact A-4 in EIR. Although already addressed in visual impacts as viewed by humans, we would like to see the light signature into the skies and laterally onto the adjacent area reduced to the maximum extent possible. Studies have shown that artificial lights can draw migrating birds to buildings where fatalities occur when the light-blinded birds fly into buildings and other objects.

Effects of hazardous materials. (IV.G-1) Hazardous materials should be cleaned up to the most reasonable extent possible. We realize that soil microbes will over long periods of time digest and dissolve some toxic materials. Because this project is imminent we don't have decades to wait for natural cleanup. From some reports I am aware of, the major hazardous materials onsite are diesel spills and lead contamination mainly from batteries but also from paints. It is hard to guess what chemical contaminants might have been introduced to the site in fill materials brought into the site. As the wetland mitigation is initiated and either old channels of Clark Slough are reestablished or as new channels are created, there comes a chance on either uncovering contaminants in old fill materials or in exposing the site to contaminants from upstream.

Stormwater Drainage Table IV.1-2 Policy 4 D-4 states "The City shall consider recreational opportunities and aesthetics in the design of stormwater detention/retention and conveyance facilities." Project Compliance Discussion states that it is NOT RELAVANT. Here is an

* ER Hall, KR Kelson (1981) The mammals of North America. Two volumes - John Wiley and Sons, New York, NY.

26-4 cont.

26-5

26-6

26-7

opportunity to direct stormwater runoff from buildings and parking lots into aesthetically created ponds. The created wetland pond properly vegetated could be used to mitigate some of the runoff from the project site and provide birdwatching, a recreational opportunity.

26-7 cont.

Thank you for the opportunity to comment on the project. We are active observers of wildlife in the area and are concerned about the health of natural and man-made habitats and each year lead over 80 field trips and docent led events in the local area. We would welcome working to help the project with the environmental information and interpretive signs (Section III-14) to insure that the information is accurate. (Sea otters do not occur on Humboldt Bay as a sign at the foot of "F" Street implies.)

Respectfully,

Chet Ogan, chair
with John Hunter
Redwood Region Audubon Society
Conservation Committee

5-388

Letter 26: Redwood Region Audubon Society (Chet Ogan)

26-1 The comment states that a well planned project would be a boon to the community. The comment is noted.

26-2 The comments regarding the potential beneficial impacts of the proposed project and particularly the wetland reserve on species conservation and environmental education opportunities are noted. Detail about the enhancement and long-term maintenance of the proposed wetland reserve would be provided in the Restoration Plan and other measures set forth in Mitigation Measures D-3b through D-3f in the Draft EIR.

The California Natural Diversity Database (CNDDDB) is in fact a starting point in the assessment of biological resource issues on the project site and is supplemented by field reconnaissance and review of other scientific information. Please see Chapter IV.D, Biological Resources of the Draft EIR.

26-3 The comment states that the EIR should address additional species from the state species of concern list: brant, redhead, northern harrier, yellow warbler, Bryant's savannah sparrow, red legged frog, and coast cutthroat trout.

A Biological Assessment prepared by HBG serves as a technical resource document for preparation of the Draft EIR and the HBG report is incorporated by reference into the EIR evaluation. The comment lists a number of species that should be added to the species evaluated within the context of the EIR. The species mentioned in the comment are discussed below.

The coast cutthroat trout is specifically evaluated in the Draft EIR. Basic biological information is provided on page IV.D-6, and potential impacts to individuals migrating by the site associated with various construction activities are addressed on page IV.D-19. Work windows limiting pile-driving to periods when the species would not be present and other considerations to limit noise and vibration effects of pile-driving (e.g. smaller sized pilings, use of cushioning blocks, etc.) are identified as mitigation measures on pages IV.D-19 to IV.D-20.

The northern harrier is designated as a Bird Species of Special Concern by the California Department of Fish and Game (CDFG 2009). This species is discussed in the HBG Biological Assessment (page 12). The discussion indicates that northern harrier is a species that could certainly forage over the project site, especially in winter, but that would not be expected to nest at the site due to the lack of appropriate nesting habitat and general disturbance resulting from the urban setting of the project area.

The habitat requirements of northern red-legged frog, a state designated species of special concern, are included in Table 4 of the Biological Assessment report, which specifically indicates that suitable habitat for this species is not present at the project site. Generally, the palustrine emergent seasonal wetlands present within the area of disturbed soils are

not inundated at depths or sufficient duration to satisfy the life cycle requirements for northern red-legged frog. The brackish water within the Clark Slough remnant would be too salty to support this species.

Other species mentioned include brant, redhead, yellow warbler and Bryant's savannah sparrow. These four species are considered as Bird Species of Special Concern by the California Department of Fish and Game (CDFG 2009) and are included on the Audubon Blue List. Habitat for these species is not present at the project site. Humboldt Bay supports the majority of overwintering brant in California, but they are found primarily in protected shallow marine waters with eelgrass beds. Although a remnant estuarine slough occurs at the project site, the degraded nature of this feature and lack of eelgrass beds or other vegetation that could support brant, renders the site conditions as unsuitable to support this species. Redhead is a diving duck (forages in deep water) found in winter on Humboldt Bay. This species of duck forages and rests on large, deep bodies of water of a type not found at the project site. Although yellow warbler has been documented as nesting in mature willow riparian habitats around Humboldt Bay, this species, which is also widespread and common during fall migration, would not be expected to nest in the degraded riparian habitats found at the project site. The preferred nesting habitat of Bryant's savannah sparrow generally consists of pickleweed marsh or moist grasslands near the coast, often with tidal mudflats or with patches of unvegetated upland habitat. In Humboldt County, Bryant's savannah sparrow no longer breeds in the salt marshes but instead have switched to nesting in dairy pastures where they utilize tall grasses and rushes and rushes along roads, fences and canals (Shuford and Gardali 2008). Nesting by this species would not be expected at the project site

- 26-4 The comment states that the western fence lizard and gopher snake should not be included as potential species; southern and northern alligator lizards are more common in local coastal areas, and the list of common herpetofauna should include rough-skinned newt, northwestern salamander, wandering salamander and California slender salamander. The comment also states that the table in the Draft EIR list Townsend's vole as an observed species, but the comment questions the identification. The comment states that the table should include Aleutian cackling goose.

Although western fence lizard and gopher snake are common reptiles in the region, the comment is correct that these two species of reptile are not as suited to conditions at the project site as the southern and northern alligator lizards.

The Biological Assessment tables include species that would be expected to occur at the project site as well as species that were specifically observed at the site during field reviews. The reptile and amphibian species mentioned above (northern and southern alligator lizard, rough-skinned newt, and northwestern, wandering and California slender salamander) are common species that could exist on the project site, though none were observed during biological surveys of the site. Townsend's vole is mistakenly placed on this list instead of the much more common California vole. The California vole was not encountered at the project site during field reconnaissance studies. The comment is also

correct that the list of birds should include the Aleutian cackling goose (the smaller cackling goose was recently split as a separate species from the much more common Canada goose), as Aleutian cackling goose is found around Humboldt Bay, but no cackling geese have been observed on the project site. All of the species mentioned here are quite common, therefore the proposed project would not have any significant effect on these species or their habitat.

26-5 This comment addresses light pollution, and its effect on migrating birds. Please see Mitigation Measure D-3e (Draft EIR, page IV.D-30) which addresses this issue.

26-6 The comment relates to site remediation and encourages full cleanup of the project site.

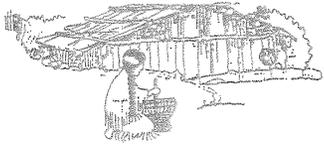
For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S of this document. The Supplemental Interim Remediation Action Plan and mitigation measures in the Draft EIR concerning stormwater would ensure that contaminants are not released to the slough during remediation activities. Further, restoration activities in the wetland reserve area are not anticipated to encounter significant contamination because that area of the site was never subject to industrial uses.

26-7 The comment regarding the opportunity to collect stormwater runoff is noted. As stated on Draft EIR page IV.I-43, Policy 4.D.4 does not provide specific mandates or requirements for Project Applicants. However, as stated in the Project Description on page III-14, the project would create collectively an 11.89-acre wetland reserve, with associated pedestrian paths. While wetlands are natural collection areas for stormwater runoff, the project is not proposing to use the wetland reserve to treat stormwater.

As stated on Draft EIR page IV.H-19, increase in runoff from the project site during post-development conditions would not exceed the capacity of the existing storm drain system. In addition, as stated under Mitigation Measure H-5b on page IV.H-20, the Project Applicant shall incorporate grassy swales into the project landscape plan, to the extent feasible, for runoff conveyance. These grass swales would be aesthetically pleasing areas.

Comment Letter 27

Comment Letter 27



Wiyot Tribe

RECEIVED
JAN 22 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

January 16, 2009

RE: Marina Center DEIR

Sidnie L. Olson, AICP
Principal Planner
Community Development Department
City of Eureka
531 K Street
Eureka, CA 95501-1165

Dear Ms. Olson,

The Wiyot Tribe has reviewed the Draft EIR for the Marina Center Project and has the following comments:

- 27-1

▪ The Tribe applauds the applicant for the thorough and professional assessment of cultural resources that could be present within the footprint of project area. The Tribe also commends the report for clearly discussing the significance criteria and regulatory framework which applies to this undertaking. Of particular note is the consultation criteria under Section 106 of the National Historic Preservation Act, which will be triggered by the involvement of any federal agency in the project permitting or ministerial action.
- 27-2

▪ As noted in the DEIR, two archaeological sites may be present within the study area. The Wiyot village sites of "djerohichichiwil" (CA-HUM-69) and "Moprakw" were identified by archaeologist Llewellyn Loud and ethnographic sources. While these sites have since been obscured, and likely covered by fill materials, they remain significant to both the Wiyot Tribe and the larger heritage preservation community. According to the DEIR, former Wiyot Environmental Director Andrea Davis "noted that the Wiyot Tribe had previously expressed concerns to the City regarding the presence of significant Wiyot cultural sites within or in the immediate vicinity of the project area." The report further states that the village of "djerohichichiwil" is considered to be a "significant and highly sensitive cultural resource associated with Wiyot cultural history and identity."
- 27-3

▪ Due to the high sensitivity of these buried resources, which may include both irreplaceable material culture and human burials, it is imperative that all appropriate measures be taken to re-locate these resources prior to project implementation. It is in the best interests of all parties involved to instigate site identification early in the planning process. This will allow increased options for mitigation measures that will preserve this shared heritage.
- 27-4

▪ Monitoring should not be used as a mitigation strategy. As stated by cultural resource professional Richard Davis monitoring "is only sometimes acceptable as a mitigation measure when the circumstances of an undertaking are such that identification can't really be done ahead of project implementation." He also notes that "when using monitoring as a mitigation strategy, the folks implementing the project also have to be prepared for the monitor to find stuff. The project proponents need to be logistically and legally prepared for the construction delays that might be entailed..."
- 27-5

▪ From a tribal perspective, good site identification is critical to the consultation process. When resources are known, tribes can most effectively participate in the environmental and cultural resources planning process. Without this information, the project risks destroying the site and its resources. This situation is documented by well known preservation expert Tom King - "If monitors find something important,

January 21, 2009

- 27-5 cont.

practically speaking it is very unlikely that they're going to be able to stop destruction of the place where that something lies. The best they're likely to be able to do is delay destruction for awhile..."
- 27-6

▪ Therefore, the Wiyot Tribe requests professional archaeological testing of sensitive areas of the study area, including all areas of potential effect. This will require subsurface testing which may include, but is not limited to, ground penetrating radar, auger tests, and controlled back hoe testing. As described in the DEIR Cultural Resources Chapter IV.E-16, "Given the known and recorded sites in the area and its waterfront location, the project site is highly sensitive for prehistoric occupation, and there remains a possibility that previously unknown significant deposits may be encountered during development especially at depths below approximately 5 to 8 feet. Such unrecorded resources could be damaged or destroyed during project construction, including any subsurface, ground-disturbing activities."
- 27-7

▪ Boundaries and locations of sensitive areas must be determined from consultation and agreement among historical experts, archaeological professionals, and the Wiyot Tribe. As indicated in the discussion of Prehistoric Archaeological Sites (IV.E-15), descriptions of Wiyot village locations are vague and often inconsistent, as are the historical landforms which were dramatically altered by post-contact industrial uses. Further research and consultation is therefore critical to define and plot the areas of potential sensitivity.
- 27-8

▪ As proposed in the DEIR, Mitigation Measure E-2a is NOT adequate for "locating and protecting... potential prehistoric features" and needs to be amended to reflect site identification measures as described above early in the planning process. The geographic areas subject to this mitigation should be reassessed in consultation with the Wiyot Tribe. While construction monitoring must continue to be included in all ground disturbing activities, this should not substitute for pre construction site identification and planning. The Wiyot Tribe does NOT concur that the application of Mitigation Measures E-2a and E-2b as presented result in "Less-than-Significant" Level of Significance after any recommended mitigation measures (pp II-13, II-14).
- 27-9

▪ Training construction workers in identification of cultural resources is commendable, but insufficient for professional cultural resource management. The Wiyot Tribe requests that ALL ground disturbing activities be subject to cultural monitoring by a designated tribal representative and at the discretion of the Wiyot Tribe. Cultural monitoring oversight of ground disturbing activities where cultural resources are suspected is standard practice even when conducted by professional archaeologists. This is not limited to "coring" (requiring further definition) as stated in the DEIR Mitigation Measure E-2a

The Wiyot Tribe appreciates the opportunity to comment on the Marina Center DEIR. We look forward to our future consultation on this project, and to working together to identify and preserve Wiyot resources and our common heritage.

Sincerely,

Hélène Rouvier
Cultural Director/THPO
Wiyot Tribe

HR/hr
cc: Gail Green, Wiyot Tribe Chairperson

RECEIVED
JAN 22 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

5-392

Letter 27: Wiyot Tribe (Helene Rouvier)

- 27-1 The comments applauding the cultural resources assessment in the Draft EIR, including the consultation criteria requirements under Section 106, are noted. The comments do not directly address the adequacy or accuracy of the Draft EIR. Please see responses comments 69-18 and 69-19.
- 27-2 The comment stating that there may be two buried Wiyot villages on the site is noted. The comment that these sites are significant to both the Wiyot Tribe and the larger heritage preservation community is also noted. Please see responses to comments 69-1 and 69-7, which explains that once remediation plans are finalized, a subsurface investigation would be completed in the discrete areas identified as culturally sensitive to help determine the presence or absence of cultural resources associated with the two Wiyot ethnographic village sites which may or may not exist on the project site. Please also see Master Response 9.
- 27-3 The comment states that all appropriate measures should be taken to re-locate buried resources prior to project implementation, and that site identification should begin early in the planning process.

Please see response to comment 27-2, above, which explains that a subsurface site investigation would take place once the remediation plans are finalized. Please also see Master Response 9, which explains that the extent of the villages remains unknown due to imprecise and spotty reporting and documentation of the village sites.

- 27-4 The comment states that monitoring should not be used as a mitigation strategy. Please see Master Response 9, which explains that monitoring is not the sole mitigation strategy for the proposed project. Mitigation Measure E-2a, for example, dictates a number of steps that the Project Applicant must follow if archaeological materials are found, including ceasing construction activities, conducting an independent review of the find by a qualified archaeologist, and then implementing one or a combination of measures (e.g., “removing the object or feature, planning the construction around the object or feature, capping the object or feature with a layer of soil sufficient to protect the integrity of the feature or object, and/or deeding the site as a permanent conservation easement.”). (Draft EIR, pages IV.E-17 and -18.) Given the possibility that no archaeologically significant materials will be found during project construction or monitoring, as well as the fact that any materials found would be protected through the treatment measures required under Mitigation Measures E-2a and E-2b, no further mitigation is required and the project is expected to have a less-than-significant impact on archaeological resources. In consideration of suggestions by commenters, Mitigation Measures E-2a and E-2b on Draft EIR pages IV.E-17 and -18 have been revised to clarify and strengthen the protections for archaeological resources during all phases of the project. Please see Chapter 2, Errata, under Staff-Initiated Changes to the Draft EIR, or Master Response 9, to see these changes.

27-5 The comment states that good site identification is critical to the consultation process. The comment is noted. As stated in response to comment 27-2, a subsurface investigation would be undertaken once remediation plans are finalized. As stated in response to comment 69-1, it would be impractical to require significant trenching, boring, and excavation now, in advance of project approval, and before the specific areas of disturbance are ascertained, particularly given the fact that the project site may not contain any significant archeological materials. Such extensive testing would itself require the sort of permits from regulatory agencies that the project is seeking to obtain (e.g., a wetland fill permit). CEQA does not require the Project Applicant or lead agency to conduct every field test, research study, or experiment before approving an EIR. (*Society for California Archeology v. County of Butte* (1977) 65 Cal.App.3d 832, 838.) Still, the sort of site investigation and treatment suggested by the commenter will be conducted and mitigation will be implemented, if necessary, before project construction. Please see Master Response 9.

The comment also states that monitors would only be able to delay construction. Please see response to comment 27-4 and Mitigation Measure E-2a, which state that if resources were found, construction activity would cease as a first step in the mitigation process.

27-6 The comment states that the Wiyot Tribe requests professional archaeological testing of sensitive areas of the study area. Please see response to comment 69-1, which states that a subsurface investigation would be completed in the discrete areas identified as culturally sensitive to help determine the presence or absence of cultural resources associated with the two Wiyot ethnographic village sites which may or may not exist on the project site. Please also see Master Response 9.

27-7 The comment states that the boundaries and locations of sensitive areas must be determined through consultation and agreement among historical experts, archaeological professionals, and the Wiyot Tribe.

The comment is noted. Please see response to comment 69-7, which states that results of the subsurface survey program would further define the archaeological sensitive areas. All investigations would be conducted by a qualified archaeologist. Please see response to comment 69-16, which states that the Wiyot Tribe would continue to be consulted. Finally, please see revised Mitigation Measure E-2a in Master Response 9, which states that if finds are determined to be significant or unique, a treatment or protection plan shall be developed by a professional archaeologist in consultation with appropriate Native American group(s).

27-8 The comment states that the Wiyot Tribe does not concur that the application of Mitigation Measures E-2a and E-2b would result in a less-than-significant impact to cultural resources and that Mitigation Measure E-2a needs to be amended. The comment states that the geographic areas subject to mitigation must be reassessed in consultation with the Wiyot Tribe.

Please see Master Response 9, which includes a revised Mitigation Measure E-2a. Please also see response to comment 69-1, which states that a subsurface investigation would be undertaken once remediation plans are finalized. As stated in response to comment 69-1, it would be impractical to require significant trenching, boring, and excavation now, in advance of project approval, and before the specific areas of disturbance are ascertained, particularly given the fact that the project site may not contain any significant archeological materials. Please see response to comment 27-8 regarding consultation with the Wiyot Tribe.

- 27-9 The comments stating that construction worker training is insufficient to mitigate potential impacts to cultural resources are noted. Following implementation of a subsurface survey program, archaeological and Native American monitoring would occur in areas predetermined as culturally sensitive. Please also see Master Response 9, which includes revised mitigation measures identifying an archaeological subsurface survey. Also see response to comment 11-1 related to consulting with the appropriate Native American group(s).

Sidnie Olson

From: radromy@aol.com
Sent: Thursday, January 29, 2009 8:59 AM
To: DEIRcomments
Subject: Marina Center

To whom it may concern:

I am writing to voice my support for the proposed Marina Center. I was born here in Humboldt County and am now raising my own family. I am happy to see this area being cleaned up and making way for new jobs and residential living spaces. I am in support of Home Depot coming to Eureka. Frankly, there are far more benefits to this proposal than their are concerns.

28-1

Thank you,

Liz Scott Adams
PO Box 95
Cuttan CA 95534

707 444-9662

Letter 28: Liz Scott Adams

28-1 The comment expressing support of the proposed project is noted.

Comment Letter 29

Comment Letter 29

Sidnie Olson

From: Sidnie Olson
Sent: Wednesday, December 10, 2008 10:07 AM
To: DEIRcomments
Subject: FW: Marina Center- Balloon Tract DEIR comments
Attachments: Doc1.doc

PERSONAL COMMENTS ON MARINA CENTER/BALLOON TRACT, DRAFT ENVIRONMENTAL IMPACT REPORT
David Ammerman Date: December 2, 2008

From: Ammerman, David A SPN [mailto:David.A.Ammerman@usace.army.mil]
Sent: Tuesday, December 02, 2008 10:22 AM
To: Sidnie Olson
Subject: Marina Center- Balloon Tract DEIR comments

<<Doc1.doc>> Sidnie - These are my comments as a private citizen and do not constitute the views of any public agency including the Corps of Engineers. Please add these to the public record. You can make edits if you like, I tend to get carried away with things. Most of my specific comments are on public transit access (there are numerous errors in the DEIR regarding this) and vehicle transportation to and from Marina Center and miscellaneous comments. My official comments as a Corps employee were forwarded to Kelley Reid, our lead biologist in Regulatory yesterday and I've asked Kelley to add them to the official record from the Corps of Engineers. The Corps comments address page specific requests for revisions, clarification or correction.

Thanks, -Dave Ammerman, 707-443-0855

Please accept these general and some specific comments on the DEIR for the Marina Center proposal located between Waterfront Drive and Broadway and bounded by Washington Street on the south as proposed by CUE VI LLC. These are my comments as citizen of Cutten, in unincorporated Humboldt County and not of any public agency.

General comments:

I am in favor of some kind of commercial or light industrial development at the Balloon Tract (herein to be referred to as the "lot"). I agree with the City of Eureka's determination of the next Environmentally Superior Alternative after "No Project" to be the "Marina Center Reduced Footprint Alternative". The full project as proposed by CUE VI LLC with its mixed commercial, retail, office and residential, is in my opinion putting too many eggs in one basket. The height of some of the buildings (up to 72 feet) seems to me out of character for that close to the waterfront with its recreational setting. I can see why taller buildings are proposed, otherwise to have the same capacity with shorter buildings one would have to expand into the wetland areas or upland buffers. The residential and museum components can be left out, if anything to reduce parking capacity. I suppose one could adapt and maintain a residence or condo above the retail floors below as in Old Town, but having residences on the lot seems inappropriate. On the other hand, having someone living on site might provide some level of security over and above what might be provided on a contract basis for the retailers on site, but considering the number of transients (some violent and often under the influence) loose in this town, the residents themselves will desire security.

29-1
29-2

I don't favor the Limited Industrial Zoning alternative, nor the Off-Site Shoreline Property Alternative. The latter I would prefer to remain open space or set aside for waterfront park land or some other recreational use.

I support the applicant's proposal to perform clean up of the site of hazardous and toxic materials, hence their chosen front name, CUE VI LLC (Clean Up Eureka, this chosen phrase might be construed to refer to all of Eureka and not just the lot, and seems to have a slightly derogatory connotation towards the city). The extensive clean up of contamination substances needs to be closely monitored for compliance by the city, RWQCB and Coastal Commission. With the high profile of this project and its on-going controversy, documentation of each step and progress is essential. The developer of the

29-3

5-398

Comment Letter 29

Comment Letter 29

5-399

Lot, certain individuals and environmental groups including BayKeeper , EPIC and NEC to name just a few are in constant disagreement over development of the lot. Some of the individuals and environmental groups have legitimate concerns, others suffer from ultra-hysteria and ride the crusade carpet. With this acrimonious background, it is important to be as objective as possible, which might be extremely difficult as the battle lines have been drawn for years. The usual activist groups always complain of the developer's grandiose plans, but these same groups have never come up with practical or really desirable alternatives of their own.

I support the applicant's proposal to restore and enhance Clark Slough and the wetland areas to be set aside for this project. They need to come up with a viable and adequate plan that meets the standards of the Corps of Engineers, Coastal Commission, California Department of Fish and Game, RWQCB and the City. I believe as far as public agencies go, by far the biggest hurdle for the applicant in terms of permitting will be the Coastal Commission (for that portion of the project that requires a permit direct from the Commission) because of the Commission's very lengthy and cumbersome but at times necessary public hearing, environmental review and related permit processes. The Corps permit process is also getting more complicated, especially with new Compensatory Mitigation Rules and jurisdictional rules that have come out recently. I would like to see an upland or wetland vegetation buffer all the way around the perimeter of the proposed lot, but perhaps that is not practical due to traffic and circulation, and needs of minimum development for economic gain.

Specific comments:

The DEIR's discussion of public transit systems is outdated and needs to be immediately revised. I would not be surprised if either the public or news media picked up on the numerous errors already. It appears that the DEIR preparers and city planner reviewers took no opportunity to ride the transit or take a look at the most recent bus schedules. I am a long time rider of both city and county transit buses. Some of the city routes are rather long, tedious milk runs but if you know where you're going, what you want to do and when to do it, the bus can be an efficient and pleasant way to get around Eureka and the County. These are some of the errors that glower:

Neither the county or city buses run seven days a week, they run six days a week including Saturdays. Saturdays for both county and city buses are on a reduced schedule (usually 10 to 5 p.m. for city buses and slightly longer schedule on Saturday for the County buses). The buses may run on either a Saturday schedule or regular on certain holidays or holiday periods, on some major holidays the buses do not run at all. There is no Sunday service, although many people including myself would take advantage of Sunday service it were offered.

29-4

29-5

29-6

29-7

The route map in the DEIR is not accurate. Example, on both weekdays and Saturdays, the Red Route, after stopping at 3rd and H and 4th and D on its southbound route, makes a right-hand off 4th Street turn somewhere around A Street to the west and follows Commercial Street to Englund Marine and then makes a left onto Waterfront Drive. Both the weekday and Saturday Red Routes pass by the Balloon Tract on Waterfront Drive and past the Eureka Marina. Curiously, there is no designated bus stop between D Street and Koster and Washington intersection (on Saturdays I don't believe the Red Route stops at Koster and Washington but it does during the weekday). I asked the bus driver why they take this diversion route along Waterfront Drive even though there is no stop (it is indeed a scenic route). She said the reason is timing of the route so that the several buses meet at the same and correct time for transfers at Bayshore Mall and other locations, and to maintain the schedule. However, I can easily see the buses serving at least one designated stop at Englund Marine or at the Eureka Marina. I recommend the City discuss with the transit authorities to add a stop or two on Waterfront Drive. I'm sure some riders would stop here. I know I would especially if there is a special event at the Wharfinger Building. If the Marina Center gets approved and built, a stop somewhere along Waterfront (not just Koster and Washington) would be convenient for shoppers at the Marina Center.

29-8

29-9

Another error mentioned: The DEIR states the southbound Koster and Washington Street bus stop is discontinued. This is not correct, this stop is still used by city buses on the weekday Red Route southbound only. It is the northbound stop with the shelter that is no longer used. Why not ask the transit service to move the shelter across the street to the southbound side? The problem with the shelters is like at 4th and D, transients use them for shelter only including Sundays and are potential troublemakers to others including legitimate bus riders.

29-10

THE DEVELOPER, TRANSIT AUTHORITY AND THE CITY SHOULD DO EVERYTHING THEY CAN TO ENCOURAGE PUBLIC TRANSIT TO AND FROM THE MARINA CENTER IF IT IS APPROVED AND BUILT. This can reduce unnecessary traffic entering and leaving the center and clogging city traffic arteries.

29-11

On to traffic. I suggest there be a one way circulation from north to south starting at the Fourth Street extension. Two way traffic entering and leaving the Marina Center in reduced or full configuration will do nothing but snarl traffic both ways on Broadway. I do favor multiple entrances into the Marina Center including near the Eureka Wharfinger Building but keep the main circulation one way. No left turns from northbound even with a stop light. Proper signage, promotional or otherwise can direct out of town traffic to the Marina Center. The locals know to use Waterfront Drive or other secondary entrances.

29-12

Comment Letter 29

Wetlands and Clark Slough:

12 acres should be minimum for wetlands restoration and enhancement on the lot, possibly some more enhanced within the channel of Clark Slough which currently has too much invasive vegetation such as Phragmites or Pampas Grass. Clark Slough is currently a dumping ground by transients and other fools. Maintaining Clark Slough and the wetlands areas should be primary responsibility of the developer with conservation agreement and assistance from City Public Works.

29-13

Bicycles and Pedestrians

Along with public transit, public access on foot and by bicycle (might want to discourage horses unless an unpaved path is available and hitching posts are provided where an area can be cleaned up) should be encouraged and provided for. Bicycle lock racks like everywhere else are essential for those patronizing new center stores.

29-14

Locomotive derelicts:

I've never understood why these dinosaurs are still here. If they are the responsibility of Union Pacific they should be ordered to remove them or be fined. The locomotives are graffiti-ridden, public eyesores and public safety liabilities.

29-15

Thank you for your consideration on these comments - David A. Ammerman

Letter 29: David Ammerman

- 29-1 The comment raises a number of issues about the type of development, the character of the buildings, and whether residential or other proposed uses may be inappropriate. The comment suggests that the full complement of mixed uses may be “putting too many eggs in one basket,” and proposes to leave out the museum and residential components to reduce parking capacity.

This complement of uses is not “putting too many eggs in one basket” as the comment suggests. It exhibits the principles of “smart growth” in that it is a balanced mix of uses that are compatible with the existing zoning and allowed uses of adjacent properties. This sort of development is common for urban in-fill projects where denser development is appropriate, and is in step with the existing office and residential buildings located throughout the adjacent Downtown and Old Town areas of the City. The mix of uses is also important to reducing traffic and other impacts associated with non-mixed use projects. In any event, the comment does not raise any issues pertaining to the sufficiency of the EIR as an informational document, nor does the comment provide any other mitigation measures or alternatives that would further reduce the project’s impacts. The comment instead raises land-use policy and preference issues, and no further response is necessary.

- 29-2 The comment against the residential component of the proposed project is noted. Regarding security at the project site, please see response to comment 16-178.
- 29-3 The comment regarding the cleanup of the project site is noted. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 of this document, as well as new Appendix S.
- 29-4 The comment regarding reviewing agencies for wetland restoration is noted. As stated on Draft EIR page III-18, the project may require other approvals from the U.S. Army Corp of Engineers, the California Coastal Commission, the California Department of Fish and Game, and the North Coast Regional Water Quality Control Board. Please also see responses to comments 4-5—which discusses litter removal maintenance—and 7-1 through 7-5. In addition, please see Chapter IV.I, Land Use and Planning, which discusses necessary Coastal Commission approvals.
- 29-5 The comment states that the project should include an upland or wetland vegetation buffer all the way around the perimeter of the proposed lot, though it may not be economically practical.

Wetland buffer zones are proposed around the entirety of the proposed estuarine wetland restoration area, though no wetland buffer is proposed for the entire property. As indicated in response to comment 3-10, the buffer zones between commercial land uses developed as part of the Marina Center project and restored wetlands is proposed to be a minimum of 50 feet. Elsewhere around the proposed restoration area, buffers of less than

50 feet are proposed where existing streets, existing rail rights of way, or planned pedestrian trails adjacent to Clark Slough necessitate narrower buffers, and only as long as they provide visual screening and other attributes that help protect the resource (e.g., earthen berms and native vegetation to minimize disturbing water birds). A wetland vegetation buffer all the way around the perimeter of the proposed lot (i.e., the entire project site) is not practical or feasible for a number of reasons, including the reasons stated by the comment. In addition, wetland restoration and buffer areas are most effective when they are consolidated and/or contiguous with other wetland or open space areas. A wetland vegetation buffer around the entire perimeter of the project site would fragment the wetlands, make them much more difficult to manage, and probably would not be fully utilized by species due to disturbances.

- 29-6 The comment states that discussion of public transit system is outdated, and suggests a stop on Waterfront Drive for the convenience of shoppers at the Marina Center. The following revisions to the EIR text are proposed to address the updated information from the comment concerning the County and City bus schedules. The text on page IV.O-5 of the Draft EIR is revised as follows:

~~The Humboldt Transit Authority operates local transit service 7 days a week within Eureka. There are four routes: Red, Green, Gold, and Purple. The Red, Gold, and Purple routes are within the vicinity of the project site (see Figure IV.O-2). The Red line, which adjoins the site, operates along Fourth and Fifth streets and along Broadway to Washington Street. It then turns on Washington and extends to Koster Street for southbound service. Northbound service is along Summer Street (parallel to Broadway approximately 500 feet east). The service operates from 6:15 a.m. until 7:00 p.m. with one hour headways.~~

~~The Redwood Transit System operates the regional transit service between Trinidad and Scotia through Eureka. The service operates on three hour headways for the entire route, and offers more frequent, approximately one hour headways between the Arcata Transit Center (about 9 miles north of the project site) and the Bayshore Mall (two miles south of the project site). In the vicinity of the project site, southbound service starts around 9:40 a.m. and ends at 6:15 p.m., and northbound service starts around 9:45 a.m. and ends at 5:55 p.m.~~

Redwood Transit System (RTS) is the public bus system for Humboldt County, which is operated by Humboldt Transit Authority. It provides service between the cities within the County, Monday through Friday and limited service on Saturday. RTS provides service within the City of Eureka along U.S. 101/Broadway/Fourth and Fifth Streets, and it stops at Del Norte Street, Bayshore Mall, and McCullen Avenue in the vicinity of the project site. The fare for adults is \$2.50 per ride, with some discount for children, seniors, and disabled individuals.

Eureka Transit Service (ETS) is the public bus service that serves City of Eureka, offering several routes that run Monday through Friday, and limited Saturday

service. The fare for adults is \$1.40 per ride, with some discount for children, seniors, and disabled individuals.

On weekdays ETS offers Purple, Green, Gold, and Red Routes, of which Gold and Red would serve the project site directly. The Purple Route begins service at H and Ninth Streets and ends service at H and Third Streets. It provides service to the north east area of the City. The Green route begins at Bayshore Mall and ends at Harris and F Streets. It runs along Harris and Henderson Streets. The Gold Route provides service to the west side of the City. Some of the stops in the vicinity of project site are at:

- H Street/Fourth Street
- Sixth Street/C Street
- Summer Street/Seventh Street
- Summer Street/Clark Street
- Summer Street/15th Street
- Summer Street/Wabash Avenue
- E Street/Clark Street

The Red Route begins service at H and Manzanita Streets and ends at H and Third Street. This route is the nearest to the project site on Waterfront Drive. Some of the stops in the vicinity of proposed project are at:

- Fourth Street/D Street
- H Street/Third Street
- Wharfinger Building
- Koster Street/Washington Street
- Bayshore Mall
- Broadway Street/Del Norte Street
- California Street/15th Street
- California Street/Seventh Street

On Saturdays, only the Gold, Rainbow, and Purple Routes operate and they all begin at H and Third Street, and operate from 10:00 a.m. until 5:00 p.m.

This information clarifies the existing bus routes and public transit schedule, but does not affect the determination in the Draft EIR that, with Mitigation Measure O-7d as revised in this Final EIR, the project's impacts on public transit would remain less than significant with mitigation.

- 29-7 The comments correcting the description of transit services are noted. Please see response to comment 29-6, which includes text changes to the Draft EIR description of transit service.

- 29-8 The comments correcting the description of transit services are noted. Please see response to comment 29-6, which includes text changes to the Draft EIR description of transit service.
- 29-9 The comment states that the City should discuss with local transit authorities the possibility of adding a transit stop along Waterfront Drive. As discussed in response to comment 1-8, the Red Route currently operates along Waterfront Drive and Mitigation Measure IV.O-7d is revised to include upgrades to the existing transit stop in front of the Wharfinger Building.
- 29-10 The comments correcting the description of transit services are noted. Please see response to comment 29-6, which includes text changes to the Draft EIR description of transit service.
- 29-11 The comment states that the developer, the city and the transit authority should do everything they can to encourage transit use to and from the project site. This is partially achieved through the proximity of the project to existing public transit routes and through improvements to public transit facilities. The mode split and transportation analysis are provided in Chapter IV.O.
- 29-12 The comment suggests a one-way circulation through the proposed project, southbound on Waterfront Drive, and northbound on Broadway, with no left turns allowed on Broadway. The comment states that two-way traffic would snarl traffic both ways on Broadway.

Waterfront Drive is classified as a Major Collector by the City of Eureka, and as such is intended to carry high volumes of traffic from traffic generators to the principal arterial system. As noted in the traffic study on which the Draft EIR is based, a one-way system using Broadway as a northbound one-way street north of Wabash Avenue is considered and rejected as infeasible because of three reasons: (1) Clark Slough is a physical barrier that prevents a one-way couplet with Koster Street being southbound U.S. 101 north of Wabash Avenue; (2) use of Waterfront Drive as the southbound half of the one-way couplet is too far to the west to serve as the southbound U.S. 101 route as this would increase vehicle miles of travel and would require major physical changes to Waterfront Drive at a high cost, and (3) no reasonable site plan could be developed that included a major, three-lane southbound state highway within the project site. In any event, as the Draft EIR concludes, the levels of service along this stretch of Broadway would remain within acceptable levels with the implementation of the measures outlined in the Draft EIR. (See Draft EIR, pages IV.O-33 through -42, and IV.O-48 through O-54.)

- 29-13 The comment states that 12 acres should be the minimum for wetlands restoration and enhancement. As stated on Draft EIR page III-14, the proposed project would create collectively an 11.89-acre wetland reserve. Regarding maintenance of the wetland, please see response to comment 4-5.

- 29-14 The comment states that public access on foot and bike, including bike racks, should be provided for in the proposed project. The comment is noted. Please see response to comment 118-3, which addressing bicycle and pedestrian access.
- 29-15 The comment questions the remediation responsibilities of the Union Pacific Railroad. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

Sidnie Olson
City Planning Dept
Eureka, CA 95501

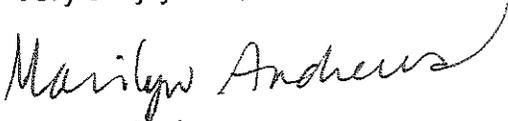
Dear Sidnie:

Re: the new plan for the Marina, and the EIR

Until the Home Depot – and indeed, any other big box store – is removed from the project, I will be against it. In terms of noise, traffic, and other categories on the EIR, a big box store would cause negative environmental impacts which simply could not be satisfactorily mitigated. I 30-1
I 30-2

I live in Arcata, and I own a building in Eureka at 220 First Street.

Very truly yours,



Marilyn Andrews
PO Box 1066
Arcata CA 95518

December 10, 2008

RECEIVED
DEC 11 2008
DEPARTMENT OF
COMMUNITY DEVELOPMENT

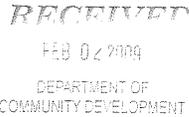
Letter 30: Marilyn Andrews

- 30-1 The comment expressing disagreement with the large anchor retail tenant of the proposed project is noted. Please see Master Response 1, under “National Stores vs. Local Stores,” which discusses the potential economic impacts of a big box store in the proposed project.
- 30-2 The comment states that a big box store would cause negative environmental impacts that could not be satisfactorily mitigated.

As stated on Draft EIR pages V-1 and V-2, the proposed project would result in significant unavoidable environmental impacts to air quality and transportation. As discussed in Chapter IV.K-1, Noise, potential noise impacts would be less than significant or reduced to less-than-significant levels with proposed mitigation measures.

Comment Letter 31

Comment Letter 31



January 28, 2009

Eureka Community Development
531 K Street
Eureka, CA 95501

Re: Marina Center Draft Environmental Impact Report—one public comment

Dear Sirs,

I'm submitting the following abbreviated comments on the proposed DEIR for the Marina Center development on the Balloon Tract... anonymously for obvious reasons. I'm fearful of Mr. Arkley's power and reputation of destroying dissenting individuals in this community. In the past he has used his wealth and power to destroy citizens and their businesses. I do not want to be another one of his victims.

Air Quality, Noise, and Transportation/Traffic:

The proposed Marina Center with a large retail anchor like Home Depot means a huge negative impact on these issues. This area was not planned for intense, high frequency access to a large retail establishment. If Marina Center is developed as planned, huge problems will occur in traffic congestion with automobile and truck traffic. This will be a disaster for Eureka.

31-1

While the developer plans street modifications to enhance traffic flow, it will not work. This area currently suffers from intense traffic during day light hours and especially rush hour times. With traffic congestion comes vehicular exhaust, which impacts air quality. Noise is also a byproduct of traffic, and traffic congestion.

Geology, Soils, Seismicity, Hazardous Materials, Mineral Resources, Biological Resources, Hydrology and Water Quality:

The umbrella issue over all of these concerns is pollution. The Balloon tract is a polluted site after over one hundred years of reckless railroad abuse. Toxins lie under the soils and are leaching into the bay. The site contains portions of underground rivers that flow into the Humboldt Bay. The City of Eureka should have forced the railroad to clean up its toxic mess years ago. This is one of Eureka's worst failures and is an embarrassment to all intelligent taxpayers. Why hasn't Eureka forced the railroads to clean this site? This is illogical and speaks to irresponsibility and stupidity in all past city governments.

31-2

Please mandate that both the new owner and the past owner perform a complete cleanup of this site, so there is no chance of any further future pollution leaching into the bay. Capping the site and cleaning up portions of the site is not acceptable.

Seismic action in the future may also affect structures on the site that have been constructed on filled, liquefaction-prone areas. This action may alter the geology allowing more toxins to leach into the bay as plugs. Plugs are known as concentrated areas of pollution often moving underground through water channels and absorption. Again a full cleanup has to be mandatory.

31-3

The site needs a full clean-up from the original owner and the new owner. This may require legal action, as should have been calculated in the past. It is a tragedy that Eureka allowed the railroad to escape this responsibility. It has to be done before anything is built on this site.

Aesthetics:

The proposed development will be contrast to the existing Marina and surrounding architectural resources. The architectural style should be rethought and should include a reference to other architecture in the area, as well as traditional styles in the City of Eureka.

31-4

Coastal Dependency:

As you know, the California Coastal Commission considers the appropriateness of any development bordering the shore of California. They ask the simple question--does any development fit the need of the coastal lands and would any development with a large retail component fit the surrounding marine area?

31-5

5-408

Of course the answer is no. Marina Center is not appropriate for a coastal area with a marina and fishing industries. The thought of Home Depot on the precious land on the bay is ludicrous. If Eureka approves this laughable use of this land, the Coastal Commission will subsequently embarrass the city with disapproval.

31-5 cont.

I'm amazed that the City of Eureka has allowed this development to progress this far. Eureka's Marina Center will be a source of embarrassment throughout the state. The City of Eureka will be infamous, as they allowed their last, most precious forty three acre parcel on its bay to be used by Home Depot. (subsequently creating huge environmental and traffic problems)

Cultural Resources:

There is a claim that two Wiyot villages used to be on this site. Shouldn't an archeological investigation take place?...before any pollution mitigation and construction begins?

31-6

Population and Housing:

Housing does not belong on this site which is surrounded by industrial zoned businesses. Please think about land use that is more compatible to surrounding businesses and industries. Also again, without a full cleanup of this site the land has a propensity to be a liability to the city, as it is not suited for residential use.

31-7

The Developer's Agenda for the "Environment, the Economy, and the Community":

Citizens of Eureka understand the history, back story, and hidden agenda associated with Marina Center's developer. He has created his own negative abusive reputation. He has threatened city council persons. He has destroyed small businesses. He has sent profane emails to many members of the media and citizens. He has hired private detectives to track county supervisors and other citizens. He has filed frivolous lawsuits against the county and others. He has verbally assaulted many individuals.

He is known as an alcoholic and he is considered by many to be unbalanced. He is a powerful man obsessed with controlling as much as possible with his vast wealth—which has apparently driven him to mental illness. All of this has been played out in a very public theater, where he has been in the limelight.

He has promoted Marina Center as "good for the environment", "good for the economy", and "good for the community". This marketing is filled with half-truths and puffery without any regard for the truth. Marina Center will not be "good for the environment". It will be built on a toxic foundation with little more than a cosmetic cleanup of the worst areas. It will leave a toxic area still toxic, and eventually the City of Eureka will realize that problem and probably pay for it, using taxpayer dollars. This is an outrage.

31-8

Marina Center will not be "good for the economy". Home Depot will destroy many small businesses in Eureka related to construction, home supplies, and even home services. The developer's hidden agenda, as many people know, is to destroy the Pierson's Building Supply business. Robin Arkley believes that Bill Pierson is his political enemy and is famous for making statements against Mr. Pierson. Mr. Arkley is also famous for his poisonous temper and tactics against his perceived enemies...and Bill Pierson is at the top of his list.

31-9

Marina Center will not be "good for the community". Again, Home Depot will destroy many small businesses. The traffic generated in and out of the development will destroy functional traffic patterns even with the "improvements" they plan to add to the infrastructure. This development will create all types of problems in this community and solve only one problem—putting structures on a long-abused parcel of Eureka waterfront. Marina Center has nothing to do with coastal dependency as directed by the California Coastal Commission. The development symbolizes poor community planning and the rule of a developer's power and wealth over intelligence, and logic in city affairs. This again is an outrage for taxpayers.

31-10

The last marketing piece sent throughout the city weeks ago called "Marina Center UPDATE" symbolizes Security National Corporation's and Arkley's shameless strategy in advertising the development to its audience. It is filled with shameless lies. Look closely at the contents and discover that all of the claims are promoted as an evaluation from an "independent study". They also state that it is the "City of Eureka's independent report".

31-11

This communicates to the reader that the study must be honest and even-handed, when in reality many citizens understand that Security National hired the group that conducted the study. It is labeled as the "City of Eureka's report" which is purposely deceptive. This is a classic example of the "fox guarding the hen

31-12

Comment Letter 31

Comment Letter 31

house" and communicates the low level of integrity that is associated with Marina Center and Security National Corporation. Every piece of marketing from Security National has been intentionally deceptive.

↑ 31-12
↑ cont.

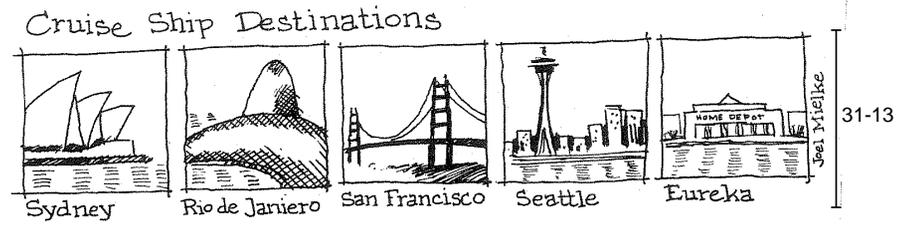
Conclusion:

While everyone agrees that this site should be developed. The current plans for Marina Center discount simple logic and sound city planning. It is a shameful effort to scam the Eureka citizenry. Marina Center will be built on the foundation of toxic lies, deception and greed and Eureka citizens, led by city government will eventually pay the high price of this tragedy.

Can you imagine restoring this site and cleaning the site after Marina Center has been built? The California Coastal Commission will surely condemn this project. If Marina Center is built as proposed it will a huge problem for this city....and an embarrassment.

Sincerely,

A very concerned citizen



Letter 31: Anonymous

- 31-1 The comment has concerns about the impact of the project on traffic congestion and the resulting impacts from vehicular exhaust and noise, and the comment is concerned that the proposed modifications would not mitigate the problems with traffic congestion.

Traffic volumes on U.S. 101 (Broadway) are projected to increase substantially over today's levels, either with or without the project. The proposed project is a part of normal regional growth and does not represent an increase in the total economic growth forecast for Eureka over the next 20 years. Much of the traffic increases that are anticipated in the traffic impact study are to occur from development at various locations along U.S. 101 in Eureka. With the Marina Center it is likely that nearby intersections would experience more growth than otherwise, such as on Broadway between Wabash Avenue and Fourth Street, and on the Fourth/Fifth Streets couplet to I Street. However, mitigations are proposed to accommodate this growth at study intersections with the development of Marina Center. While traffic is expected to increase due to a multitude of other development projects in the vicinity of the proposed project, it is not certain that needed traffic improvements would be made if the project were not approved. For example, commercial and retail growth in Eureka is estimated to result in similar traffic volumes on U.S. 101, with or without proposed project, in the future year of 2025. A light industrial project would result in fewer trips to and from this project site than the proposed project, but other planned commercial and retail development in the U.S. 101 corridor would be expected to result in an approximate 33 percent increase in traffic volumes. Therefore, the needed improvements along Broadway would remain the same, with or without the proposed project. Project mitigations enable continued operation of Broadway at LOS D or better with the project and cumulative traffic growth projected through the year 2025.

The additional projects that may be developed are identified in the traffic impact study, and their impacts are included in the 2025 + Project scenario. The added traffic from the project (plus the additional future traffic from elsewhere) even with the mitigation measures would result in future traffic operations having more delay than at present, but in all but one case (Koster and Wabash Avenue), levels of service remain acceptable. (See Draft EIR, page 46, stating that "Marina Center traffic can be accommodated in addition to traffic increases due to other development through 2025.")

The 33 percent increase in traffic on U.S. 101 will occur with or without the project. The proposed project provides the City of Eureka with a funding source and the impetus for improving the U.S. 101 corridor to accommodate future traffic growth, and these improvements are unlikely to occur without the resources provided by the development of the project.

In any event, Chapters IV.C, Air Quality; IV.K, Noise; and IV.O, Transportation, of the Draft EIR describe impacts of the proposed project, identify measures to mitigate those

impacts, and make findings as to whether the impact after mitigation would be less than significant, or significant and unavoidable. The Draft EIR's analysis shows that after implementation of the identified mitigation measures, all intersections on U.S. 101 in the project area would operate acceptably (i.e., without adverse congestion). All other intersections in the study area would similarly operate acceptably, except Koster Street and Wabash Avenue. The comment raises no specific concerns about the analyses presented in the Draft EIR, and no further response is warranted.

- 31-2 The comment asks that the City of Eureka mandate a complete cleanup of the project site so there is no chance of chemicals leaching into the Bay. The comment is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.

- 31-3 The comment expresses concern that a seismic event would disrupt confined contaminated soils and cause them to leech into the Bay.

A seismic event even today, with the project site in its current state, would not be an issue because the contaminants are largely bound up in the soil and would not mobilize in even the most significant seismic events. Contaminants from this site would be marginal compared to the natural gas and other waste that would flow to the Humboldt Bay in such a large seismic event. Cleanup of the project site is legally mandated, and is subject to past and current cleanup orders being enforced and monitored by the Regional Water Quality Control Board. Further remediation is being conducted in compliance with State and Federal water pollution and contaminated properties laws, and would include site specific remediation in several zones identified in testing. To the extent that some low-level remnant contaminants remain in situ, a cover of clean soils would be placed on the property to ensure that there are no exposure pathways to surface soils.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4. See also response to comment 16-36 for discussion of liquefaction hazards at the project site.

- 31-4 The comment states that the architectural style of the proposed project should be rethought and include a reference to other styles in the area.

As stated in the outline on page III-18 of the Draft EIR, under *F. Project Entitlements and Approvals*, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

- 31-5 The comment stating that the proposed project is not an appropriate use for a coastal area is noted.

As noted in the Draft EIR and in Master Response 3, the project site does not directly border the shore, so the development of coastal-dependent uses may not even be possible at the project site. However, the project site is under the jurisdiction of the California Coastal Commission. Regarding land uses in the coastal zone, please see Master Responses 3 and 5.

- 31-6 The comment questions when further archaeological investigations would take place at the project site.

Draft EIR page IV.E-16 notes that while two Wiyot sites may exist on or near the project area, the archaeological field survey revealed that neither of these potential sites was apparent on the ground surface. With regard to comments about subsurface archaeological testing, please also see Master Response 9.

- 31-7 The comment suggests that housing is an inappropriate use for the project site given surrounding industrial uses, and asks that more compatible land uses be considered. The comment also suggests that without full cleanup the project site has a propensity to be a liability to the city as it is not suited for residential use.

Please see Master Response 4 and responses to comments 16-161, 31-3, and 31-8, concerning the cleanup efforts, available uses of the project site, and responsibilities for cleanup. As proposed in the project description and identified by Mitigation Measure G-1, a remediation plan must be developed and implemented and the Project Applicant must obtain approval for any proposed use and development of the project site from state and federal environmental agencies in order to ensure that the property meets the standards and criteria for commercial and residential uses at the project site. Also, residential uses are entirely appropriate uses for this development site, as they are the sort of denser, urban-type uses that are consistent with the transitional nature of the area located on portions of the project site close to the waterfront where workers and residents can enjoy the Marina views and use the newly created biking and walking trails connected to the underutilized boardwalk areas of Old Town. In any event, the comment does not raise any issues pertaining to the sufficiency of the EIR as an informational document, nor does the comment provide any other mitigation measures or alternatives that would further reduce the project's impacts. The comment instead raises land-use policy and preference issues, and no further response is necessary.

- 31-8 The comment claims that the project would be built on a toxic foundation with little more than cosmetic cleanup of the worst areas, that the cleanup would be incomplete, and that the City would eventually have to pay for it with taxpayer's dollars.

Please see Master Response 4, as well as response to comment 16-161. While the comment is correct that the remediation plan includes the placement of clean materials over the project site to help eliminate exposure pathways to humans and the environment, the plan also involves significant remediation of the project site. Remediation of the project site includes, for example, focused soil remediation at specific hot spots through

excavation, field testing, and offsite disposal of soil and sediments. The project would also more effectively manage stormwater runoff. This combination of cleanup methods has proven effective in a variety of settings, and must be approved by the Regional Water Quality Control Board. Further, cleanup of the project site must be conducted to a level necessary to support each of the proposed uses, including residential and wetland reserve uses. This is part of the project description as well as Mitigation Measure G-1, and thus is a condition of project approval which would be imposed on the Project Applicant and property owner. The financial responsibility for undertaking this cleanup would not fall to the City.

- 31-9 The comment states that the proposed project would “destroy” small businesses in Eureka related to construction, home supplies, and home services. Please see Master Response 1, under “Potential Local Store Closures.”

The comment also makes accusations of the Project Applicant unrelated to the proposed project, its environmental effects, or CEQA. Therefore, no response is provided.

- 31-10 The comment states that the proposed project would destroy local businesses. Please see Master Response 1, under “Potential Local Store Closures,” for a discussion of this issue.

- 31-11 The comment regarding coastal-dependent uses is noted. The project site is in the coastal zone. The project site does not directly border the shore, so the development of coastal-dependent uses may not even be possible at the project site. However, the project site is under the jurisdiction of the California Coastal Commission. Regarding land use policy issues in the coastal zone, please see Master Responses 3 and 5.

- 31-12 The comment claims that the Draft EIR is a promotional piece prepared by the Project Applicant.

The Marina Center Mixed Use Development Project Environmental Impact Report was prepared by Environmental Science Associates, in consultation with other consultants and the City of Eureka. As stated in Chapter I, Introduction, the City of Eureka is the Lead Agency for the proposed project, and as required by CEQA, the completed document represents the judgment of the city. The document is a tool prepared by the city to inform the ultimate decision makers, the City Council, regarding the proposed project.

- 31-13 The comment is a comic strip by Joel Mielke detailing cruise ship destinations, implying that Eureka would not be a typical cruise ship destination due to the presence of a Home Depot. The comment is noted.

The necessary attractions to ensure the success of the cruise ship industry to visit specific locations is outside the scope of the proposed project and CEQA.

Comment Letter 32

Page 1 of 2

Comment Letter 32

Page 2 of 2

Sidnie Olson

From: Anthony & Anne Antoville [a2antoville@gmail.com]
Sent: Thursday, January 29, 2009 4:01 PM
To: DEIRcomments
Subject: DEIR Comments and Attachments-Antoville 1-29-09
Attachments: DEIR Comments Antoville.pdf; ATT13397.htm; AreaPlan07-08-BeginningPart1.pdf; ATT13398.htm

To: Sidnie Olson-
Our DEIR Comments are in the body of the email
Attached: DEIR Comments PDF Copy, Area Plan Area 1 Agency on Aging Updated May 1, 2007
Marina Center Draft EIR Public Comments

Anne Conrad-Antoville and Anthony Antoville
539 G Street, Suite 115
Eureka, CA 95501
(707) 442-5300

January 29, 2009

As owners of a Eureka business that provides services to senior and disabled Humboldt County residents, we have the following comments regarding the Marina Center Draft Environmental Impact Report Chapter IV:

Air Quality

We echo the concerns of Californians for Alternatives to Toxics, including the following concerns:

We are concerned that the project will generate 38 tons per year of fine particulate matter (PM10) yet no significant mitigations have been considered in the DEIR
Why have the following significant mitigations such as upgrading pollution output of diesel trucks such as those required by the ports of Los Angeles and Long Beach, installation of solar panels and passive solar design not been considered?
Why has the DEIR ignored technical evidence provided by the EPA regarding the harmful effects of diesel exhaust, as well as technical information from Agency for Toxic Substances and Disease Registry, and peer reviewed publications of the National Institute of Environmental Health Sciences, especially considering potential health risks and increased health costs for the 2010 - 2020 projected increase of 30.7% in Humboldt County's senior population (see attached 2005-2009 Area Plan Area 1 Agency on Aging)?
Why is there no analysis in the data sets that includes the high ranking for Humboldt County for cancer incidence in California?
Why does the DEIR fail to take into account the following in analyzing cumulative impacts: current PM10 contributors including Evergreen Pulp and Fairhaven Co-Generation plant, corridor effects outside the immediate vicinity of the project area, PM10 and other pollutants from the high level of dependence on combustion of wood for heat in Eureka, or reasonable foreseeable projects such as the Marine Terminal?

G. Hazardous Materials

We echo the concerns of Humboldt Baykeeper regarding hazardous materials at the site and additionally identify Health Risk as being of greater concern to frail individuals including senior citizens, an increasing population group in Eureka, including the following concerns:

Recent sampling by Humboldt Baykeeper found dioxins and furans in site soils, sediments and fishes, the source of these toxics has not been identified in the DEIR
The DEIR HRA used outdated data and limited scope
Why were updated EPA toxicity values not used to determine potential health risks for chemicals of concern at the site?
Why has the increasing and 2010 - 2020 projected increase of 30.7% in Humboldt County's senior population (see attached 2005-2009 Area Plan Area 1 Agency on Aging) not been specifically considered as an at-risk group for Chronic Obstructive Pulmonary Disease (COPD) and Cancer in the DEIR?
Why has the increasing and 2010 - 2030 projected increase of 37.1% in Humboldt County's senior population (see attached 2005-2009 Area Plan Area 1 Agency on Aging) not been specifically considered as an at-risk group for Chronic Obstructive Pulmonary Disease (COPD) and Cancer in the DEIR?
Why did the DEIR Chapter G fail to contain an analysis of hazardous materials risk to wildlife?

Cultural Resources

We request that the City of Eureka respect the Wiyot Tribe by honoring the request of the tribe made in part by the tribe's Cultural Director/THPO Helene Rouvier regarding the ethnographic evidence of one to two Wiyot villages existing within the boundaries of the proposed project including:

Identification of cultural resources early in the planning process through subsurface testing in sensitive areas
Allow the Wiyot Tribe to monitor construction in other areas during all ground disturbing activities

Transportation

As a Eureka business that serves senior and disabled populations located in the downtown area on the corner of 6th and G Streets, we have the following concerns:

Diversion of traffic into neighborhoods east and south of the project area
Why has no extensive review been made regarding additional traffic along the entire corridors of 6th and 7th Streets as drivers avoid longer delays along Broadway near the project site?
Why have impacts related to on-street parking and pedestrian safety along the entire corridors of 6th and 7th Streets not received greater Accident Analysis as drivers avoid longer delays along Broadway near the project site?
Why has the increasing and 2010 - 2020 projected increase of 30.7% in Humboldt County's senior population (see attached 2005-2009 Area Plan Area 1 Agency on Aging) not been specifically addressed in a wider Accident Analysis?
Why has the increasing and 2010 - 2030 projected increase of 37.1% in Humboldt County's senior population (see attached 2005-2009 Area Plan Area 1 Agency on Aging) not been specifically addressed in a wider Accident Analysis?
What provisions have been made regarding an evacuation when a tsunami event is imminent?
Why has Humboldt County's Office of Emergency Services Response Plan not been referenced?
What input from Humboldt County's Office of Emergency Services has been considered related to tsunami events?

Urban Decay

As business owners of a Eureka business in the downtown area, we have the following concerns regarding Urban Decay:

On January 26, 2009 as reported on MSNBC, Home Depot reported to be laying off 7,000 employees (approximately 2% of its workforce) as well as closing the company's smaller Expo chain. What legal provisions exist to guarantee Home Depot will not back out of the Marina project deal before its completion and to keep its store's doors open once the project has been completed?
The Eureka Mall has now become entirely occupied by regional or national chain stores a direct result of the exodus or shuttering by local retailers once the Bayshore Mall opened in 1987/88. Now that many chain stores (e.g. Old Navy, GAP and most recently Mervyn's) have left vast amounts of the Bayshore Mall retail space vacant and have deprived the area of local tax dollars, what provisions have been considered to prevent a recurrence of a similar scenario?
The City of Eureka has a vested interest in redeveloping the Old Town area (with prime waterfront land along the Boardwalk still vacant after 16 years) as a tourist destination based upon the unique quality of this historic location. How has the City of Eureka measured the loss in prospective revenue generated by tourists who expect to visit our distinctive and rare waterfront treasure but instead will be disappointed by the sight of yet another big box retailer?

Thank you for your thoughtful consideration of this matter.

Respectfully,
Anthony Antoville & Anne Conrad-Antoville

5-414

32-8

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32-11

32-12

32-13

32-14

32-1

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32-7

Letter 32: Anthony and Anne Antoville

Attachments to Letter 32 are presented in Appendix X.

32-1 The comment indicates that additional air quality mitigation measures should be identified, including upgrading diesel truck exhaust systems, installation of solar panels, and passive solar design. See responses to comments 12-8 and 12-9 for responses related to the specific measures identified.

32-2 The comment questions why the Draft EIR did not include technical evidence provided by the Environmental Protection Agency regarding the harmful effects of diesel exhaust and other information from the Agency for Toxic Substances and Disease Registry.

Please see Master Response 2, which discusses the air quality analysis and factors considered.

32-3 The comment questions why there is no data set that includes the high ranking for Humboldt County for cancer incidence. Please see Master Response 2, which explains that Humboldt County does not have a high ranking for risk of cancer.

32-4 The comment asks why other projects and emissions sources are not included in the cumulative analysis. To clarify, closely related past projects identified in the General Plan, Redevelopment Plan, and the reasonably foreseeable projects listed in Draft EIR Table V-1, are considered in the cumulative analysis. Cumulative development is analyzed by adding a regional growth rate and adding the project and foreseeable projects to assess cumulative traffic impacts, as well as air quality and noise impacts that would be associated with the additional traffic. Cumulative traffic, noise, and air quality impacts are identified for the year 2030. These cumulative impacts assumed that even though the project-identified mitigation transportation system improvements identified in this EIR would be implemented, transportation and air quality impacts would be cumulatively considerable and not fully mitigable (see Draft EIR Chapter V.C).

32-5 The comment incorrectly states that the historic sources of contaminants found at the project site have not been identified.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

32-6 The comment questions the data used in the hazardous materials analyses and questions why a projected increase in the senior population in the county is not included in the analysis.

For further discussion regarding the subsurface investigations and the Remedial Action Plan for the proposed project, please see Master Response 4. As stated in the response and in new Appendix S, the remediation action plan would ensure that there are no

exposure pathways to contaminants on the project site. Given that no visitors to the project site would have an exposure pathway to the contaminants, the demographics of the visiting population are not relevant.

- 32-7 The comment questions why the Draft EIR did not contain an analysis of hazardous materials effect on wildlife.

The contamination present at the proposed project site is an existing condition and the remediation associated with the proposed project would result in a significant reduction of contaminated materials. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S. For further discussion of the proposed project's potential impacts to biology, please see Chapter IV.D.

- 32-8 The comments requesting subsurface survey of the project area are noted. Following implementation of a subsurface survey program, archaeological and Native American monitoring would occur in areas predetermined as culturally sensitive. Please also see Master Response 9, which includes revised mitigation measures related to subsurface surveys.

- 32-9 The comment questions the adequacy of the traffic impact analysis for Sixth and Seventh Streets. The comment also questions whether the project would cause diversion of traffic into the neighborhoods east and south of the project area, impacts to the on-street parking, pedestrian safety, and accidents on Sixth and Seventh Streets.

The list of study intersections and segments was developed through consultation among City of Eureka, Caltrans District 1, and the traffic and EIR consultants. Subsequently, potential impacts from project traffic were examined at intersections beyond the study area. Utilizing the County's Greater Eureka Area Traffic Model, project trips were traced through much of Eureka and its surroundings. Project trips were distributed onto all streets in the greater Eureka Area. By far the majority of project trips are assigned to U.S. 101 and a few other arterial routes such as Sixth and Seventh Streets east into Downtown. The model does distribute project traffic throughout the City, but because project traffic dissipates beyond the study intersections and those roadways and intersections beyond the study intersections are anticipated to operate at acceptable levels of service, the project would have a less-than-significant impact on those additional segments and intersections and there is no need to extend the analysis further. The project traffic was distributed onto all streets within the Greater Eureka Area Traffic Model, and the volume and location of those trips are portrayed in Appendix H of the Traffic Impact Study (Appendix P of the Draft EIR). As shown there, project trips are shown throughout the city, although the vast majority of project trips are on U.S. 101 east and south of the project site. Project traffic on Sixth and Seventh Streets is relatively small as can be seen in Appendix H, where project trips for both a.m. and p.m. peak hours are shown in plots from the model. As shown on the plots, the number of vehicles contributed from the proposed project to each street is as follows:

Sixth Street east of Broadway:

a.m. peak period: 61 westbound
 p.m. peak period: 62 westbound

Seventh Street east of Broadway:

a.m. peak period: 61 eastbound
 p.m. peak period: 62 eastbound

These volumes are all within the capacity of these streets. Because the project-generated traffic on Sixth and Seventh Streets would be small, the project is not expected to adversely affect the on-street parking and pedestrian access, or to increase the number of accidents on these two roadways.

- 32-10 The comment asks why the projected increase in the City's senior population for 2010 – 2020 and for 2010 – 2030 has not been specifically addressed in the accident analysis. With respect to the aging of population with the potential for increased accident injury and fatality rates, such effects would occur throughout the entire urban area, and any mitigation that results in a lowered accident rate is beneficial. Without the mitigation, but with the higher traffic volumes anticipated with or without the proposed project, the accident severity would be even higher. Therefore, the project has no significant impact on the potential for increased accident severity due to the increasing proportion of senior population to the total population.
- 32-11 The comment asks, in relation to transportation, what provisions are made for evaluation in the event of a tsunami, and why the County's Emergency Services Response Plan has not been referenced. The comment also asks what input from the Humboldt County Office of Emergency Services has been considered related to tsunami events.

Hazards associated with potential tsunami events are addressed in detail in the Hydrology and Water Quality Chapter of the Draft EIR, and specifically pages IV.H-6 through H-9 and H-22 through H-24. In the unlikely event that a tsunami of significant magnitude to flood the project site occurs, specific routes of egress (including vertical egress within buildings) would be identified in the Evacuation and Response Plan identified under Mitigation Measure H-10a. While the specific evacuation routes are not considered as part of the traffic analysis – indeed, egress in the event of a tsunami could occur largely on foot – it is apparent that the available routes for vehicular egress from the project site and the improved traffic operations to accommodate higher volumes of traffic along U.S. 101 would only enhance any plan for evacuation. It should be noted as well that unlike with earthquakes, the warning times associated with tsunami events can be significant, and provide individuals with additional time to evacuate run-up zones.

The comment also asks why the Humboldt County Emergency Services Response Plan has not been referenced and what input from the Humboldt County Office of Emergency Services has been considered related to tsunami events. Humboldt County has been provided the opportunity to comment on the proposed project and Draft EIR, and the

County provided comments on a number of issues related to housing, economic, traffic, visual, biological, and other impacts, but not tsunami hazards. The Humboldt County Emergency Operations Plan is a guidance document addressing the planned response to extraordinary emergency situations associated with natural disasters, technological incidents, and national security emergencies in or affecting Humboldt County. It is not specific to the City of Eureka or to tsunami hazards, though it provides important information about coordinating emergency services and is intended to serve as a secondary “planning reference.” The following reference is added to page IV. H-25 of the Draft EIR:

County of Humboldt, Office of Emergency Services, Humboldt County Emergency Operations Plan, 2002.

Because the Humboldt County Emergency Operations plan does not provide any further detail about tsunami hazards associated with the project site, no further changes to the Draft EIR are necessary.

32-12 The comment asks what legal provisions exist to guarantee the project tenant would not back out of the project. It is beyond the scope of CEQA and this Draft EIR to discuss leases and other agreements between landlords and tenants. The Draft EIR conservatively analyzes the potential impacts of the project as proposed, not the potential impacts of the project if it did not continue operations.

32-13 The comment refers to previous shifts in the local retail market and then asks what provisions are made in the proposed project to keep national retailers in the leasable spaces.

Please see Master Response 1, under “Vacancy in the City of Eureka,” “The Effect of the Bayshore Mall on Local Businesses,” “National Stores vs. Local Stores,” and “Potential Local Store Closures.”

All tenants of the proposed project would sign leases for the spaces they would occupy. If the tenants determine that they would like move out of the spaces leased, they would be free to vacate the space at the end of the lease or, in more extreme circumstances, break the lease. The Project Applicant could not force tenants to remain in retail spaces beyond the terms of the leases. The CBRE Urban Decay analysis considered the potential of Home Depot vacating the project’s anchor store and reported that an empty Home Depot store could be re-tenanted.

32-14 The comment asks whether the Lead Agency has analyzed whether tourists would be discouraged from visiting Eureka as a result of the proposed project. The City has not performed such an analysis, nor does it have plans to do so. Please see Chapter IV.Q and Master Response 1 for additional discussion of impacts related to urban decay.

Comment Letter 33

Comment Letter 33

5-419

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Charis Arlett

Address: 2602 Spring St. Eureka 95501

E-mail: _____

Report does not address the impact a townhome would have on a business like Home Depot (which sells lots of different chemicals)

33-1

Why aren't we considering retention of all the currently existing coastal wetlands? The Balloon Tract could be cleaned up in the same way Baykeeper negotiated with Simpson to clean up the flea market area.

33-2

Signed: Charis

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Charis Arlett

Address: 2602 Spring St. Eureka 95501

E-mail: _____

Impact of bicycle & pedestrian travel zones is not analyzed.

33-3

Need significant scientific & factual data regarding the impacts of diesel exhaust

33-4

Report omits analysis of high ranking of Humboldt County for cancer incidence in Calif.

33-5

Report omits current fine particulate matter contribution by Fairview Co-Generation Plant & Evergreen Pulp Mill (when in operation)

33-6

Signed: Charis

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Comment Letter 33

Comment Letter 33

5-420

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Charis Arlett

Address: 2602 Spring St. Eureka 95501
E-mail: _____

The Wiyot Tribe should be allowed to do
subsurface testing for village sites, before 33-7
any project begins on the site.
Why is land in a coastal zone being
considered for the Marina Center? Why not 33-8
an aquarium like in Monterey?

Signed: Charis

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Charis Arlett

Address: 2602 Spring St. Eureka, 95501
E-mail: _____

Need to address dioxins & furans in site 33-9
soils more seriously
Report used outdated data for Health Risk 33-10
Assessment
What alternative sites could be considered for 33-11
this project rather than prime coastal property?
Why are we considering substituting locally 33-12
owned businesses for nationwide businesses that will
ship money out of Humboldt County?

Signed: Charis

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Comment Letter 33

5-421

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Charis Arlett

Address: 2602 Spring St. Eureka 95501

E-mail: _____

Report omits transportation corridor effects
outside immediate vicinity of project area. 33-13

Report omits analysis of fine particulate matter
(PM10) + other pollutants from the combustion
of wood for heat in Eureka. 33-14

Delivery vehicle emission sites in surrounding
areas not addressed. 33-15

No analysis of risk to wildlife done. 33-16

What are the levels of contaminants found
onsite? 33-17

Signed: Charis

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Letter 33: Charis Arlett

33-1 The comment questions the potential effect of a tsunami on the chemicals sold in a large hardware store. Please see response to comment 3-14, which discusses tsunami hazards.

33-2 The comment asking why the City does not consider the retention of all coastal wetlands and comparing the proposed project to another nearby is noted. Note that the proposed project includes a net increase in total wetland acreage, and it would consolidate and improve the value of the wetland on the project site.

Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI of the Draft EIR.

33-3 The comment indicates that impacts on bicycle and pedestrian travel is not analyzed in the Draft EIR.

As discussed on Draft EIR page IV.O-46, under Bicycle Access, the project would complete a portion of the Class I bike trail along Waterfront Drive, and would provide for secured bike parking at the site. Otherwise, the project would have no significant impact on existing bike routes such as the Class II bike lanes on Sixth and Seventh Streets.

An alternate route to get to the eastbound Seventh Street Class II bike lane is suggested by guiding bicyclists to exit the Marina Center site from the Fourth Street access drive, go south on Broadway to Fifth Street, turn left on Fifth Street to go east, turn south on B Street, and then turn onto Seventh Street connecting to the existing Class II bike lanes on Seventh Street. This out of the way problem already exists for the bicyclists traveling from Waterfront Drive wishing to access the existing bike lanes on Seventh Street. They must either go east on Washington Street to Summer Street and then to Seventh Street, or they can go south from Waterfront Drive on Commercial Street to get to the Seventh Street bike lane. Therefore, the project makes some improvements for bicyclists in that it opens a route directly across the project site from Waterfront Drive to Fourth Street and Broadway. It should be noted that in future all vehicles (excepting bicycles) going south or east on U.S. 101 would be routed away from Broadway to Waterfront Drive. Therefore, the vehicular traffic would also be subject to out of the way travel to a greater extent than bicyclists.

As discussed on Draft EIR page IV.O-46, Pedestrian Access, pedestrian circulation along and crossing Broadway is an existing problem arising from the high traffic volumes along Broadway. Raised medians, improved warnings, street narrowing measures, lighting, etc. have all been demonstrated to reduce pedestrian-related accidents. Recommendations to address similar problems have been made in several recent publications including articles in ITE Journal (January 2004 and May 2007), and a handbook jointly published by FHWA, NHTSA and the Pedestrian and Bicycle Center in March 2009 entitled "How to Develop a Pedestrian Safety Action Plan." In these articles it has been noted that installation of unsignalized pedestrian crossings at multi-lane, high-volume arterial urban streets should

be avoided. This is because high traffic volumes offer no safe crossing gaps, even when considering one direction of traffic at a time along with the potential of the multiple threat exposure from having more than one lane in each direction. If median islands are constructed, they should probably be the Danish offset type so that pedestrians walk facing oncoming traffic in the median and they cross half the street at a time. Pedestrians should not be expected to cross two or more lanes, through a stopped or slow-moving queue of vehicles.

Pedestrian push buttons are provided at the signalized intersections, and the timing and phasing at each signalized intersection is programmed for allowing enough time for the pedestrians to clear the roadway. So even with the signals being synchronized, they still would provide adequate time, as calculated based on the vehicular speeds and width of the intersections, for “WALK” and flashing “DON’T WALK” for pedestrians crossing, when the push buttons are utilized. Consequently, the project is not anticipated to have a significant effect on pedestrian circulation and safety along Broadway. Indeed, the transportation improvement measures identified in the Draft EIR should help improve pedestrian circulation and safety above existing conditions.

The project provides a heretofore unavailable route between Fourth Street and Broadway to the Marina on Waterfront Drive. In addition pedestrian sidewalks along both the extension of Fourth Street and Second Street into the project site would provide additional pedestrian circulation opportunities than exist today.

- 33-4 The comment states that the Draft EIR needs specific scientific and factual data regarding the impact of diesel exhaust.

The assessment of health related impacts due to diesel exhaust, as summarized in Appendix E, are based on data calculated from the existing and projected traffic flows using accepted methods established in the California Air Resources Board (CARB) risk assessment tools. The CARB risk assessment tools follow the Health Risk Assessment guidelines and steps outlined by the National Academy of Sciences. The emission components and rates used in the analysis are for pollutants associated with emissions that are designated as hazardous in CARB’s Emission Inventory Criteria and Guidelines Regulations (Title 17, California Code of Regulations, Sections 93300-93300.5), and CARB’s Emission Inventory Criteria and Guidelines Report.

- 33-5 The comment states that the Draft EIR omits the analysis of the high ranking of Humboldt County for cancer risk. Please see Master Response 2, which includes a discussion that Humboldt County does not have a higher risk of cancer risk.
- 33-6 The comment appears to criticize the Draft EIR for not including emissions associated with a nearby pulp mill and co-generation plant as contributing to the project impacts associated with the project. For the purposes of this CEQA document, emissions associated with these facilities are considered part of the baseline conditions. The impacts

attributable to the project are associated with the emissions that would be generated in addition to those that already exist as the baseline conditions.

- 33-7 The comments requesting subsurface survey of the project area by Native American representatives are noted. Please also see Master Response 9.
- 33-8 The comment suggesting alternative uses for the project site is noted. The City of Eureka, as Lead Agency for the proposed project under CEQA, is required to analyze the proposed project at the location proposed, and controlled, by the Project Applicant. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI.
- 33-9 The comment states that the Draft EIR needs to more seriously address dioxins and furans in the project site soil.
- For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.
- 33-10 The comment states that the Draft EIR uses outdated data for the Health Risk Assessment. For further discussion regarding the Health Risk Assessment, other investigations since the Health Risk Assessment, and the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.
- 33-11 The comment questions what alternative sites would be suitable for the proposed project. Alternative sites are considered in Alternatives 5 through 14, described on pages VI-6 through VI-9.
- 33-12 The comment questions why national retailers instead of local retailers would be tenants in the proposed project. Please see Master Response 1, under “National Stores vs. Local Stores.”
- 33-13 The comment states that the Draft EIR omits transportation corridor effects outside immediate vicinity of project area. Please see response to comment 32-9, which discusses other transportation corridors outside of the immediate project vicinity and finds to significant effects.
- 33-14 The comment states that the Draft EIR did not consider the air quality impacts related to the combustion of wood for heat. The Draft EIR does not consider non-project related combustion of wood for heat in Eureka; however, pursuant to Draft EIR Mitigation Measure C-2b, wood-burning fireplaces or devices would be prohibited at the project site. For discussion related to sources included in the HRA conducted for the project, please see Master Response 2.
- 33-15 The comment states that delivery vehicle emissions are not addressed in the Draft EIR.

The health risk assessment summarized in Appendix E evaluates the incremental health risk associated with projected mobile sources, including diesel delivery trucks. This analysis is included in the Draft EIR to specifically assess the impacts of diesel and automotive emissions at the project site.

- 33-16 The comment states that no analysis of risk to wildlife is done (presumably from air pollution). The Draft EIR does recognize, evaluate, and mitigate increases in PM10 emissions, but extrapolating this to predicting impacts on wildlife would be speculative because there are no existing indices available to determine of effects on wildlife with this amount of change.
- 33-17 The comment asks what the levels of contaminants are at the project site. A summary of the site conditions and contamination levels is found beginning on page IV.G-4, Chapter IV, Hazards and Hazardous Materials in the Draft EIR. In addition, please see Master Response 4 and new Appendix S, which further discuss contamination levels.

Sidnie Olson

From: Eli Asarian [eliasarian@SoftHome.net]
Sent: Saturday, January 31, 2009 12:57 PM
To: DEIRcomments
Subject: Marina center DEIR comments
Attachments: comments_asarian_eir_marina.doc

[Ms. Olson - Here are my comments on the DEIR, attached as a Word document. In case you cannot read the attachment I've also pasted my comments into this email. Thanks, Eli]

Eli Asarian
1614 West Ave.
Eureka, CA 95501
eliasarian@softhome.net
(707) 443-4743
1/31/2009

Sidnie L. Olson, Principal Planner
Community Development Department
City of Eureka
531 K Street
Eureka, CA 95501-1165
(707) 441-4265
DEIRcomments@ci.eureka.ca.gov

Dear Ms. Olson,

Thank you for the opportunity to comments on the Marina Center Environmental Impact Statement (EIR). I was only able to devote a limited amount of time to reviewing the document, so my comments are limited in scope and I was not able to spend much time editing or polishing these comments.

I am an environmental consultant, with most of my working focusing on water quality and fisheries issues. The comments provided herein are my personal opinions, not representing any agency, institution, or organization.

General Comments

Overall, I think that in its current polluted and abandoned state, the Balloon Track property is not currently contributing much positive to the city of Eureka, and development of the site has definite potential for beneficial effects. The Balloon Track's combination of size and central location are unique in Eureka, making it the premier developable parcel within the city and as such it deserves special attention and long-term thinking.

While I know it is not particularly germane the EIR, I will take this opportunity to express my

2/2/2009

disappointment with the process by which the Balloon Track is being developed. I would have much preferred that the City of Eureka have conducted a community-based planning process to craft a development plan for the site. Instead, a private developer has taken the lead and proposed to implement their own vision for the site, which is probably different from what would have come out of a more inclusive public process.

34-1

There are several aspects of the proposed Marina Center project that I find regrettable and would like to be remedied:

- 1. The project is too focused on commercial uses, particularly big box stores.

Why do we need a Home Depot? Would the project really not be financially feasible without an "anchor" store? In my opinion, locally-owned stores have a much more positive impact on the local economy than box-box stores. While big-box stores do provide employment income to the local community, their profits are removed to corporate headquarters in urban areas outside the county. In addition, compared to locally-owned stores, big-box stores are much less likely to hire local accountants, lawyers, or use local banks.

34-2

- 1. The project does not provide enough residential housing

Despite the fact that "affordable housing" is prominently featured in the glossy Marina Center promotional brochure that I received in the mail this week at my Eureka residence, the proposed project offers only 54 residential units, a very small proportion of the overall project area (the 72,000 square feet of residential buildings is only 12% of the 586,000 square feet of buildings proposed for the site). Located in the center of Eureka with excellent bay views, I think housing should be one of the most abundant land uses in any development at the Balloon Track property. Increasing the amount of residential area on the site, and reducing the commercial area, would create a more balanced community and could reduce the traffic and air quality impacts of the project by providing a more opportunities for residents to walk to work.

34-3

- 1. The proposed project has too much impervious surfaces (pavement and roofs) and inadequate stormwater management.

The proposed project would cover 29 of site's 43 acres (67%) with impervious surfaces. A stormwater management plan has yet to be developed to ensure that pollutants from parking lot storm runoff will not pollute the bay. Additional details on stormwater are including the comments below.

34-4

Alternatives

Please add an alternative that does not include the big-box anchor stores, has less overall commercial area, and includes more residential units at all income levels.

34-5

Hydrology and Water Quality

Page II-23 of the EIR states:

"H-4: Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a

2/2/2009

5-426

manner which would result in flooding on- or off-site. Nearly 29 acres of the approximately 43-acre site would be converted into impervious surfaces and would result in an increase in peak discharge. An on-site conveyance system would need to be designed and constructed to adequately convey stormwater from the site."

The best way to deal with stormwater is not to "convey stormwater from the site" but infiltrate it into the ground. The proposed approach is outdated 20th century thinking and should not be allowed in a development that purports to be environmentally sensitive. For more information on general modern stormwater principles, see <http://www.oaecwater.org/> and <http://www.humboldt1.com/~water/>. Excellent local examples of stormwater management include the Potawot Health Village (http://www.humboldt1.com/~water/main_pages/PHVP.html).

Unfortunately, despite some progress (i.e. recently-enacted Stormwater Management and Discharge Control Ordinance, and a Construction Site Erosion Control Ordinance) stormwater management is lagging in Eureka, as evidenced by the fact that most of the houses (including one build by a College of the Redwoods community college class) recently built in my neighborhood feature roof gutters that route stormwater drain onto the paved street, rather than onto a pervious surface where it could be infiltrated.

If the proposed project is to move forward, please improve the stormwater management to make it model of excellence rather than yet another source of pollution.

Page II-23 of the EIR states:

"Mitigation Measure H-4a: The project applicant shall prepare a drainage plan indicating the specifics of the project drainage system. The drainage plan shall demonstrate that the culverts are adequately sized and configured to address peak runoff and protect against a 10- year storm event. The drainage plan shall ensure that any increase in stormwater drainage runoff in a 10-year storm event remains below 1 cfs. Alternatively, if the 1 cfs threshold cannot be maintained in a projected 10-year storm event, the drainage plan shall provide a retention/siltation basin that limits stormwater runoff to pre-project flows. The plan shall be submitted to and approved by the City of Eureka, and recommendations from the City shall be adopted by the project applicant prior to issuance of a building permit.

It is unclear if the "stormwater runoff to pre-project flows" refers to just the instantaneous maximum, or also to the shape and duration of the overall hydrograph. For example, if the pre-project peak flow was 3 cfs but that flow only occurred for 1 hour, does that mean that the drainage plan would allow a flow of 3 cfs to occur for 5 hours continuously?

Page II-23 of the EIR states:

"H-5: Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. *Development of the project site could increase the levels of NPS urban pollutants and litter entering Humboldt Bay, resulting in a potential impact.* The recommended mitigation measures would avoid or minimize the potential for runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff."

Mitigation Measure H-5a: The applicant shall treat stormwater at drop inlets that capture runoff from roof drains, paved pedestrian areas, and parking, prior to connection to the City's storm drain system. The project applicant shall prepare and implement a permanent maintenance program for stormwater treatment facilities on the project site.

Mitigation Measure H-5b: The project applicant shall incorporate grassed swales (biofilters) into the

project landscape plan, to the extent feasible, for runoff conveyance and filtering of pollutants. The maintenance of biofilters on the project site shall be the responsibility of the project applicant.

Since the methods to "treat stormwater" are not specified, the EIR's statement that "The recommended mitigation measures would avoid or minimize the potential for runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff." cannot be verified as necessarily true.

The use of grassed swales is an excellent idea, but the EIR only states that they will be used "to the extent feasible." This language is flimsy and means almost nothing (for example, how will "feasible" be determined?). Swales do take up more space than culverts, so are they by default infeasible? Because the project layout is only partially complete, the vagueness is somewhat understandable, but the language could still be strengthened in a reasonable way such as changing "to the extent feasible, for runoff conveyance and filtering of pollutants" to something like "for runoff conveyance and filtering of pollutants from at least 50% of the area of the site."

In looking at the images shown in the Project Description, I do not see any drainage swales, nor retention basins. This is somewhat troubling, because the stormwater management is most likely to be effective when considered from the beginning of the design process, not added later as an afterthought.

Sincerely,

Eli Asarian

34-6

34-7

34-7 cont.

5-427

Letter 34: Eli Asarian

- 34-1 Acknowledging that the comment may not be particularly germane to the EIR, the comment expresses disappointment with the process of development, and would have preferred a community-based process. While community-based development sounds good, it is often detached from market reality and the community often has very disparate views of what sort of development is appropriate in a given location. The sort of development that one would ideally like to see on a property is not always what the market would support. Also, the community had the opportunity to scope the EIR and to propose alternatives. A number of those alternatives helped to inform the process for developing the proposed project. The comment does not raise issues relevant to CEQA, and no further response is necessary.
- 34-2 The comment states a preference for local retailers instead of national retailers. Please see Master Response 1, under “National Stores vs. Local Stores.”
- 34-3 The comment calls on the Project Applicant and City to expand the amount of housing and reduce the amount of commercial uses to help maintain community balance and reduce traffic and air quality impacts.

The comment proposes more housing, while other comments have proposed less. Although the Draft EIR did not specifically evaluate an alternative that would dramatically increase housing, the Draft EIR did evaluate a reasonable range of alternatives, including alternatives that would reduce or eliminate the proposed commercial uses. (Draft EIR, pages VI-4 through -34.) Changing the project to primarily residential uses would likely fail to meet at least two basic project objectives: (i) strengthening Eureka as the retail and employment center of Humboldt County; and (ii) developing an economically viable mixed use project (e.g., retail, office, residential, industrial). A primarily residential project would create imbalances between employment, commercial, and residential areas and services, place housing directly adjacent to industrial uses without buffers, and would have many of the same or greater environmental impacts (e.g., wetlands, hydrology and water quality, and hazards). Because the Draft EIR already evaluates a reasonable range of alternatives and the comment is raising a policy preference for one land use over others, no further evaluation or alternatives are necessary.

- 34-4 The comment stating that a stormwater management plan must be developed for the project site is noted.

For further discussion regarding the stormwater runoff, please see responses to comments 7-8 and 16-45.

- 34-5 The comment requests an alternative without big-box anchor stores, less overall commercial uses, and more residential units at all income levels. Please see responses to comments 16-239 through 16-242, which explain that the Draft EIR includes a reasonable range of alternatives.

34-6 The comment expresses a preference for onsite filtration of stormwater instead of stormwater conveyance through collection systems. The comment is noted.

For further discussion regarding the use of biofiltration as part of the drainage plan, please see response to comment 7-6.

34-7 The comment requests additional details regarding the stormwater management for the project site. For further discussion regarding the stormwater runoff, please see responses to comments 7-8 and 16-45.

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract ~~AT~~

Name (print): Louise Bacon-Ogden

JAN 20 2009

Address: 2337 B Street

DEPARTMENT OF

E-mail: goldfinch@humboldt1.com

CONTRACT DEVELOPMENT

First, I am not sure that a "created" wetland is an environmentally sound wetland. However, upon reading part IV + reviewing D-3 Table, the enlarged area with a buffer does seem like an improvement. However, I am VERY concerned about the size of the buffer area in comparison with a behemoth parking lot. So many big box stores have an extremely poor maintenance record, "maintaining ONLY their own space." I fear that a congested area on the windy bay will deliver plenty of plastic bags, receipts and packaging into the marsh. Unfortunately, lots of uncaring folks look upon such an area (that will be darkened*) as a great dumping ground for tires, retired Christmas trees, trash or unwanted appliances.

35-1

* darkened area is proper for wildlife but also for miscreants!

Signed: Louise Bacon Ogden

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Letter 35: Louise Bacon-Ogden

- 35-1 The comment states that a created wetland would not be as environmentally sound as the existing wetlands. As discussed on pages IV.D-21 through IV.D-25, the project would have a positive long-term effect by improving the quantity and quality of onsite wetlands, replenishing estuarine wetlands within Humboldt Bay, and enhancing wetland functions and values.

Sidnie Olson

From: Robert Baker [robbaker@suddenlink.net]
Sent: Thursday, January 08, 2009 5:37 PM
To: DEIRcomments
Subject: Marina Center EIR

My Name is Robert Baker and I have concerns about the Marina Center and its EIR. Having worked in Humboldt County retail stores since 1975, in my opinion there would be no decline or increase in jobs or sales, just a shift. From locally owned retailers to out of town corporations. My other concern is, if that shift of sales returns to the local retailer and Home Depot vacates the space it would allow Wal Mart to move in. I also recreate in the local waters and am quite concerned about the quality of the cleanup. I believe that if any of the highly polluted soil is disturbed it needs to be handled in the most environmentally sensitive way. Capping the soil would not do it.

36-1

36-2

Also if there is any significant archeological sites they need to be addressed.
Thank You.

36-3

Letter 36: Robert Baker

36-1 The comment states that the proposed project would only shift jobs and sales and not increase or decrease them. The comment is noted. Please see Master Response 1, under “Jobs / Wages Impacts” and “National Stores vs. Local Stores.”

36-2 The comment states disagreement with the proposed placement of clean cover material over the project site.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S. These sections of the Final EIR describe several remediation measures, including placement of clean cover material over the project site. Note that the hot spots of contamination in the project site soil would be excavated and removed prior to placement of clean cover material over the project site.

36-3 Comments requesting subsurface survey of the project area are noted. Please see Master Response 9, which includes revised Mitigation Measures E-2a and E-2b discussing subsurface surveys.

City of Eureka Community Development Department
Sidnie L. Olson Principal Planner

Dear Ms. Olson:

The fundamental question raised by this proposed project — to develop a strip mall on the city's largest and prime piece of westside waterfront land — is whether such a project can or should legally be built on publicly zoned former salt marsh which has been reserved for public or quasi-public use and which is subject to the Public Trust and to the clear mandates of the Coastal Act which prohibit such development on this kind of land which has been reserved under State law for coastal dependent uses only.

Yet there is no discussion of these essential issues in the draft EIR. Please address in detail these very serious land use matters in the final EIR.

Thank you for your attention now to these crucial waterfront legal political and ecological issues.

Yours truly,
Ken Barr

RECEIVED
4-9-02-2008
DEPARTMENT OF
COMMUNITY DEVELOPMENT

37-1

Letter 37: Ken Barr

37-1 The comment questions whether the proposed project should be built on land zoned for public use and within the coastal zone. Land Use and Planning consistency issues are addressed in Chapter IV.I of the Draft EIR. Please also see Master Responses 3 and 5 regarding the Local Coastal Program and Coastal Act permitted uses. Note that the project site is not owned by the City of Eureka, and several non-coastal-dependent or coastal-related uses are currently permitted to be built pursuant to existing zoning. As stated in the Draft EIR and in Master Response 3, the project site does not directly abut the Bay. Therefore, it is questionable whether coastal-dependent uses could be built at the project site at all.

5-436

January 21, 2009
Community Development Dept.
New Geo. Olson

Re: EIR for Ballona

1. Eureka doesn't need additional ^{Trout} state or restaurants when current ones are struggling. Nor do we want more repetitive housing on our waterfront as there are already units already.

2. The Marina Center will not be the highest and best use of our remaining waterfront would cause more traffic and degradation of 101 Highway and spillage on arterials such as Harris and Henderson.

3. Cleanup of toxic waste in the Ballona Tract should not be considered adequate by bulldozing some of the topsoil, then cover it up with grass as the toxins have gone deep in the ground and are

38-1

38-2

38-3

38-4

38-5

leaching out in the bay.

4. The Ballona Tract should be developed for the good of Eureka residents and long payers, not for outside corporations who pay low wages and send their money out of the community. We didn't want Wal Mart for the same reason - it is not an appropriate development for such a small community!

Thank you for your consideration in this matter.

Norm Beard
6930 Linda Pl.
Eureka CA 95505

38-5
cont.

38-6

Letter 38: Mona Beaver

38-1 The comment states that the market for restaurants within the City of Eureka is saturated. The comment suggests new commercial development is not necessary for the project site. As discussed in the Project Description for the Draft EIR, the objectives for the proposed project are to “maintain Eureka’s status as the “hub” of employment, retail commerce and tourism in Humboldt County,” “restore the Balloon Track to productive use” and “develop an economically viable mixed use project.” Commercial development is one component of the mixed uses proposed for the project site. The economic impacts and potential for any adverse environmental impacts are comprehensively analyzed in the Draft EIR in full accordance with CEQA. Please see Chapter IV.P, Urban Decay and the related Technical Appendices K, L, M and N presented in the Volume 2 of the Draft EIR. Please see Master Response 1, under “Vacancy in the City of Eureka.”

38-2 The comment states disagreement with the market-rate housing component of the proposed project. The comment is noted.

As stated in Table IV.I-2 on page IV.I-32, the project would provide a mix of moderately sized one-, two-, and three-bedroom residential units that would accommodate a range of income levels.

38-3 The comment states that the proposed project would not be the highest and best use of the project site. The comment is noted.

The Draft EIR analyzes potential environmental impacts from the proposed project, as required by CEQA. “Highest and best use” is a term used in the real estate appraisal industry to describe the use that would generate the highest return on investment. The Draft EIR does not address “highest and best use,” and potential return on investment is outside the scope of CEQA.

38-4 The comment expresses concern regarding traffic, the degradation of U.S. 101, and spillover on arterials such as Harris Street and Henderson Street.

Project traffic on Harris and Henderson Streets are relatively small, as can be seen in Appendix H of the Traffic Impact Study (Appendix P of the Draft EIR), where project trips for both a.m. and p.m. peak hours are shown in plots from the model.

Henderson Street east of Broadway:

a.m. peak period: 22 westbound
p.m. peak period: 26 westbound

Harris Street east of Broadway:

a.m. peak period: 0 eastbound
p.m. peak period: 0 eastbound

Consequently, the project's contribution to spillover on arterials such as Harris and Henderson is expected to be less than significant.

Also, please see responses to comments 31-1 and 32-9. Response to comment 31-1 states that the 33 percent cumulative increase in traffic on Broadway would occur with or without the proposed project, and that identified mitigation measures would reduce most impacts to less-than-significant levels. Response to comment 32-9 addresses potential traffic impacts to other corridors outside of the immediate project vicinity.

- 38-5 The comment expresses concern regarding placement of clean cover material over the project site. The comment is noted. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S. These sections of the Final EIR describe several remediation measures, including placement of clean cover material over the project site. Note that the hot spots of contamination in the project site soil would be excavated and removed prior to placement of clean cover material over the project site.
- 38-6 The comment expresses concern about the tenanting of retail spaces within the proposed project by national retailers. The comment is noted. Please see Master Response 1, under "National Stores vs. Local Stores" and "Jobs / Wages Impacts."

Sidnie Olson

From: Laura Benedict [benebythesea@hotmail.com]
Sent: Thursday, January 29, 2009 10:03 PM
To: DEIRcomments
Subject: DIER for the proposed Marina Center Project on Eureka's Balloon tract / Hazardous Materials and Land Use

Hello,

I'm deeply concerned that you might approve the Marina Canter Project with the information you've gathered so far. It falls very short of understanding just what you're dealing with. Just recently there was a sampling taken by Humboldt Baykeeper that found dioxins and furans in site soils, sediments and fishes. We have existing aquaculture businesses here that provide 65 - 90 % of all commercially harvested oysters in California, depending on which article you read. Our oysters are being poisoned this very minute by these toxins that are leaching from the Balloon Tract into our bay. That means we are responsible for poisoning Californians and Americans in general - with our knowledge. This is totally unacceptable.

39-1

The Balloon Tract is at sea level, right at the water table. Toxins have been leaking into Humboldt Bay for over a century now. We must do a very thorough survey of just what lies beneath the soil and what's already in the groundwater. And then the soil must be cleaned up, even if it takes a Superfund. Capping it is not an answer at all. That does nothing to address the pollution that exists in that site. It will only allow further pollutants to seep into Humboldt Bay, the Pacific Ocean and the world. And we know it! We can't allow that to happen.

39-2

As far as Land Use is concerned, Coastal Dependent Industry has priority. We have have existing business right now that must be by the bay, oyster aquaculture being a prime example. Non-industrial visitor-serving coastal related recreational development is second. A Home Depot has nothing at all to do with these land uses. Industrial and commerical development could go inland, outside of the tsunami zone where inundation would spread all the toxins in a hardware store throughout the city. That's dangerous!

39-3

Here is this beautiful site, 45 acres right by the bay. Please clean it up and rethink this whole thing. Industrial use of such a site might have made sense 100 years ago when ships were needed to take products to market, but not now. A big box retail outlet that might not last, makes little sense either. If you must develop it, please think about a large park and recreation area that we all can enjoy. That would go a long way in stimulating our economy in a very real and sustained way.

But see to it that it's cleaned up thoroughly first. That's our responsibility to the world. Think globally, act locally? Here's our opportunity to do the right thing.

Thank you,
Laura Benedict
P.O. Box 596
Eureka, CA
95502

Letter 39: Laura Benedict

- 39-1 The comment expresses concern about contaminants on the project site. The comment is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S. See also response to comments 6-3 and 22-18, 23-4, and 23-5, which address dioxin samples that were taken from the project site.

- 39-2 The comment expresses concern about contaminants on the project site and requests additional sampling and soils testing. The comment is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S. These sections detail the numerous site investigations and planned remediation efforts.

- 39-3 The comment questioning the proposed uses in the project are noted. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI. Regarding the potential for a tsunami to pollute the area due to toxins located in the hardware store, please see response to comment 16-228.

Comment Letter 40

January 30, 2009

Comment Letter 40

City of Eureka Community
Development Department
Sidnie L. Olson
Principal Planner
531 K Street
Eureka, CA 95501

RECEIVED
JAN 30 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Dear Ms. Olson,

This letter is in response to the DEIR on the Balloon Tract. I have many concerns. First of all there are poisons on the site and there is no plan for cleaning them up or even doing a complete analysis of all the contaminants. There are known dioxins and furans on site. The Health Risk Assessment was done with outdated and limited information. The acceptable levels of chemicals like arsenic have been changed since the information was collected. The levels of dioxins and furans have not been evaluated.

40-1

Since I live in West Eureka, I am very concerned about the effects not only to the waterfront, but also to my neighborhood. There will be a huge impact on the level of traffic not only causing congestion, but making walking it even more difficult to walk anywhere in Eureka. There is a plan for a four story parking garage. This would be an eyesore and a possible magnet for crime for decades. What would we do with it if the proposed Home Depot left town? Will people from small communities who are not used to having to drive in such a structure even use it? I have seen a picture of the proposed development. It looks exactly like a similar development in Los Angeles. It is not in keeping with the atmosphere of Old Town or of Eureka. There goes the tourist industry.

40-2

40-3

40-4

40-5

Furthermore, Home Depot and other retailers in the proposed development are not local. Profits will not stay in Eureka or even Humboldt County. They will be in direct opposition to existing businesses. The owners of Home Depot do not live in Humboldt County. The owners of Pierson's do. Why are we acting against our own citizens?

40-6

Historically the parcel contained a slough and an estuary and wetlands. What is being to restore these? This is historically Wiyot land. What is being done to protect Wiyot artifacts and villages?

40-7

40-8

The plan does not include investigation of any other plan for this area. Is this the only thing we can do? It should include other ideas that I know have been proposed for this area.

40-9

This plan meets the needs of outside interests and a few local people with money. It does not meet the needs of the people of Eureka.

40-10

Sincerely,

Carol Binder

Leila Binder

Carol Binder
Leila Binder
1265 C Street
Eureka, CA 95501
268-1385

5-441

Letter 40: Carol and Leila Binder

- 40-1 The comment states that there is no plan for remediation of the project site, the Health Risk Assessment is out of date, and acceptable levels of contaminants have changed since site investigations were done.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S. As noted in these sections, the Health Risk Assessments of 1996 and 2000 were two of several site investigations.

- 40-2 The comment expresses concerns about traffic impact on the waterfront and the congestion in the neighborhoods, which the comment claims would make walking more difficult.

The main roadway along the waterfront is Waterfront Drive, and it is classified as a Major Collector by the City of Eureka. As such, it is intended to carry high volumes of traffic from traffic generators to the principal arterial system. Because the forecasted 2025 volume for Waterfront Drive on segments is less than 500 vehicles per hour, LOS C and better is anticipated for segments of Waterfront Drive and Railroad Avenue away from stop-controlled intersections. Even with parking and relatively narrow lanes, there is sufficient capacity on Waterfront Drive and Railroad Avenue to move the 500 vehicles per hour (in two directions) along all sections analyzed in the traffic impact study. Therefore, no significant impacts on congestion and pedestrian circulation are anticipated along the waterfront.

In the EIR analysis, the project traffic was distributed onto all streets within the Greater Eureka Area Traffic Model, and the volume and location of those trips are portrayed in Appendix H. As can be seen in Appendix H, project trips are shown throughout the City, although the vast majority of project trips are on U.S. 101 east and south of the project site. These volumes are all within the existing capacity of the City streets.

- 40-3 The comment states that the proposed parking garage would be an “eyesore.” As described on page III-13 of the Draft EIR, the proposed project would include approximately 1,590 parking spaces, 462 of which would be housed in the proposed four-story parking structure. A visual simulation of the proposed parking garage is depicted in Figure IV.A-4b. The parking garage would be designed to accommodate adequate circulation. Finally, the Design Review Committee will review the site plans and designs; however, the police department would still need to provide enforcement.

- 40-4 The comment asks what people would do if Home Depot left town, and whether people from small communities would even use it. Please also see response to comment 16-225. The CBRE Urban Decay analysis considered the potential of Home Depot vacating the project’s anchor store and reported that an empty Home Depot store could be re-tenanted. Although larger spaces are more difficult to re-tenant than smaller spaces, the Home Depot space planned for the project could be divided to accommodate two or more

smaller retailers or other permitted uses. Also, there are many examples of large retail spaces being re-tenanted. A recent article published by Costar discusses alternative tenant uses and strategies for filling retail vacancies, even absent a significant turnaround in the economy. This article cites many prospective non-traditional tenants that are proven alternatives for traditional tenants, including government uses, educational uses, medical uses, recreational/family fun uses, fitness uses, second-hand/overstock uses, and seasonal/temporary uses. In addition, the article cites some traditional tenants that are still in expansion mode and the article lists examples of leases executed by these uses in the past six months nationwide.

While this lease activity is on a national basis, and not specific to Eureka, it nevertheless demonstrates how re-tenanting retail uses, even in large spaces, can be re-tenanted in down periods by non-traditional uses, dispelling the expectation that only traditional retail uses can fill retail vacancies. One example of this in Eureka is Bounce-A-Palooza, a store providing entertainment for young children at the Bayshore Mall. This store is a recent addition to the mall and fills a relatively large space. Kohl's re-tenanted the Mervyn's space and is another example of large spaces in Eureka being successfully re-tenanted. Eureka has further examples of large retail space being filled by alternative uses, such as the former 95,000-square-foot Mall 101 being converted to office space and the former Pay-N-Pak building, measuring 35,000 square feet, now serving as a multi-screen movie theater.

As to whether people from small communities would use the Home Depot, please see response to comment 16-286 which reports that the Home Depot store located in Crescent City, California, is drawing customers from the smaller communities in the surrounding market area. The mere fact that Home Depot is interested in locating in this community evidences its conclusion that there is a market for a Home Depot store.

- 40-5 The comment's opinion of the preliminary project renderings are noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 40-6 The comment expresses concern regarding the tenanting of the proposed project with national retailers. Please see Master Response 1, under National Stores vs. Local Stores.
- 40-7 The comment asks what is being done to restore wetlands and Clark Slough.

As stated on Draft EIR page III-14, the project would include the restoration of a wetland enclosing Clark Slough, which traverses the southwestern portion of the project site. Further details of the restoration are provided on page III-14 and in Chapter IV.D, Biological Resources.

- 40-8 The comment questions what is being done to protect Wiyot artifacts and villages. Implementation of revised Mitigation Measures E2a-b would reduce potential impacts to Wiyot artifacts and villages, if any are present in the project area, to a less-than-significant level. Please see Master Response 9 for detailed discussion of mitigation measure revisions.
- 40-9 The comment states that the Draft EIR does not include an investigation of any other plan for the project site. Please see responses to comments 16-239 through 16-242, which discuss the reasonable range of alternatives included in the analysis.
- 40-10 The comment stating that the proposed project does not meet the needs of the people of Eureka is noted. As stated in the project objectives on pages III-15 to III-16, the basic objectives for the proposed project are to maintain Eureka's status as the "hub" of employment, retail commerce and tourism in Humboldt County, to restore the Balloon Track to productive use, and to develop and economically viable mixed-use project. Further detail of each of these objectives is on EIR pages III-15 and III-16.

City of Eureka
Community Development Department
Regarding EIR for the Marina Center Proposal

Dear Reader,

There are issues in the EIR proposal for the development of the Balboa Tract that the public can't address in the 2,000 page document. The few statements I make are about some of the known objections.

The obvious one is the increased traffic on Highway 101 which is already overcrowded, and the spillover on Henderson and Harris; also a degradation of our air quality.

41-1

The proposed cleanup of this area is not adequate for the decades of spilled toxic in this sensitive area. Spraying even it is only a bandage, not the solution to leakage into our waterfront.

41-2

Constructing a big box store, expensive housing, more restaurants and other shops does not culturally meet the need of the community when our economy is in a freefall.

41-3

John A. Linkbeck
7080 LINDA ROAD
EUREKA CALIF. 95503

RECEIVED
JAN 9 11 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Letter 41: John Birkbeck

- 41-1 The comment expresses concerns about increased traffic on U.S. 101 and spillover on Henderson Street. Please see response to comment 38-4, which addresses potential spillover traffic onto Henderson Street.
- 41-2 The comment stating that the proposed cleanup of the project site is inadequate is noted.
- For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.
- 41-3 The comment states that the proposed project is not properly timed considering that the “economy is in a freefall.” The comment is noted. Please see Master Response 1, under “New Recessionary Conditions.”

Dear Mr. Olson,

Jan 28, 2009

Re Balloon Tract,

RECEIVED

JAN 28 2009

Dear Mr Olson,

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Do we really need more retail development?
As I drive through town and visit the Mall I
see so many empty stores.

42-1

The 'Waterfront Housing' will not be affordable
for most people.

42-2

As to the 'short-cuts' in the cleanup process being
asked for, I saw a lot on 101 Street, close to
the Library which is considered to be part of Old
Town. It was a old 'arco' station (although they
denied owning it) I bought ^{the} property approx. 28
years ago. I was informed I had to clean it
up. S.H.N did a lot of the cleanup, tests monitoring,
wells on the property and in the street making
sure no pollution was going to go under the new
library. This took 20 years to be fully completed.
The City is now being asked to 'forgive' part of
the cleanup for the Balloon Tract?

42-3

Finally that parcel could be developed into a
wonderful parklike and quality tourist attraction
which would fit with its location and 'old
Town' much better, and the waterfront.

42-4

Sincerely,
Margaret Birkbeck



Ms Margaret Birkbeck
6427 Brian Ln
Eureka, CA 95503

Letter 42: Margaret Birkbeck

- 42-1 The comment questions whether the retail market in Eureka is saturated. Please see Master Response 1, under “Vacancy in the City of Eureka.”
- 42-2 The comment states that the housing proposed for the project would not be affordable for most people. Please see the response to comment 48-5, which discusses the affordable housing goals of the City.
- 42-3 The comment questions the adequacy of the proposed cleanup of the project site. The comment is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.

- 42-4 The comment suggestive other uses for the project site is noted. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI.

RECEIVED
DEC 17 2008
DEPARTMENT OF
COMMUNITY DEVELOPMENT

James & Kathryn Bardman
1185 Ridgewood Drive
Eureka Calif 95503-6630
707-442-9439

City of Eureka
Community Development Dept.
Att: Sidnie L. Olson, AICP, Principal Planner
531 K. Street
Eureka, Calif 95501

Dear Sidnie Olson:

My husband and I are long time residents of Humboldt County. (40 years+) There is our comment in regard to the Marina Center Development: After years of stagnat, debris filled, homeless habitat, Security National has cleaned up the mess so something worthwhile can finally be built on the Balloon Tract. It will provide jobs in this economic downturn, fill the coffers of Eureka with taxes and beautify the area. What a concept! Its been three years already - why not do the right thing and let this project move forward. What a great boost to the economy of the North Coast and Eureka! Wise waited long enough. Let Security National go ahead with their beautiful project.

Sincerely,
James & Kathryn Bardman

43-1

Letter 43: James and Kathryn Bardman

43-1 The comment expressing support for the proposed project is noted.

Comment Letter 44
Page 1 of 1

Sidnie Olson

From: Carol Bowden [carolbob1@suddenlink.net]
Sent: Monday, December 29, 2008 12:14 PM
To: DEIRcomments
Subject: 101 Eureka-Arcata

City of Eureka
Community Development Department
Attn: Sidnie L. Olson

In re the draft EIR - changes to 101 corridor between Arcata and Eureka:

Do none of the proposed infrastructural changes. Enforce the speed limits as they are now posted. Consider slowing traffic further to 45 miles per hour - even 40 mph. Enough is enough. Drivers must take responsibility for their actions.

44-1

None of this proposed expenditure is necessary.

Sincerely,
Jere Bob Bowden
P.O. Box 1244
Ferndale, CA 95536
707-786-4434

5-451

Comment Letter 44
Page 1 of 1

Sidnie Olson

From: Carol Bowden [carolbob1@suddenlink.net]
Sent: Thursday, January 29, 2009 11:51 AM
To: DEIRcomments
Subject: EIR - Marina Center

To Whom It May Concern:

In re: Draft EIR

Given the apparent inadequacy of the Marina Center's EIR analysis of the impact on Humboldt Bay and its wildlife of toxic contaminants at Security National's proposed building site, this report should be considered unsatisfactory and should not be accepted by the City. Much is at stake here. All possible concerns for the health of the remarkable eco-system that is Humboldt Bay must be addressed completely. Your responsibility is great. Please insist that discussions of environmental issues in the report meet the highest standards.

44-2

Respectfully,
Jere Bob Bowden
P.O. Box 1244
866 Arlington Avenue
Ferndale, CA 95536
707-786-4434

Letter 44: Jere Bob Bowden

This comment letter may be about another project that relates to infrastructure improvements planned for the U.S. 101 corridor between Eureka and Arcata. Nonetheless, the following are responses based on applying the comment letter to this project.

- 44-1 The comment suggests not doing any of the proposed mitigations, instead reducing the speed limit to 40 mile per hour on Broadway and enforcing the speed limit.

Due to the impact of the proposed project on the roadways, specifically on U.S. 101, it is the responsibility of the developer to mitigate the impacts. The speed limit on U.S. 101 on the one-way couplet of Fourth and Fifth Streets in Downtown Eureka plus Broadway along the project frontage to Wabash Avenue is 30 mph. Changing the speed limits further south can only be done through completion of an engineering and traffic survey consistent with the California Manual on Uniform Traffic Control Devices. Caltrans has completed such studies and the speed limits south of Wabash Avenue are appropriate and consistent with state law. Further, the establishment and enforcement of speed limits is a matter for Caltrans and state and local law enforcement, and is not an element of the project or project mitigation.

- 44-2 The comment states that the Draft EIR's analysis of the proposed project's impact on the Humboldt Bay and its wildlife is inadequate. The comment is noted. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S. Note that the contamination of the project site is an existing condition, and the proposed project would remove contaminants from the soil.

Sidnie Olson

From: Brenda Bowie [brenda_bowie@dot.ca.gov]
Sent: Friday, January 30, 2009 10:59 AM
To: DEIRcomments
Subject: COMMENTS

I support the project. I believe it will be good for the community. I love Walmart - bring it on in. It will provide jobs and encourage other shop owners to stop overpricing their goods. I think many good things will happen if the Marina Center gets built.

45-1

Brenda Bowie
Training Coordinator
District 1 - Eureka
(707) 441-5814
FAX (707) 441-5871
CELL (707) 498-0119

Letter 45: Brenda Bowie

45-1 The comment expressing support for the proposed project is noted.

Sidnie Olson

From: John Bowman [johnbbowman@gmail.com]
Sent: Tuesday, December 09, 2008 8:01 PM
To: DEIRcomments
Subject: Comments regarding the Marina Center DEIR

To whom it may concern,

I am writing in response to the Marina Center DEIR. I reviewed the report and the different technical appendices and found that some of the information seems to be very biased in nature. The report from CBRE Consulting, Inc. (Appendix L, Response to Economic Research Associates' October 17, 2007 Peer Review of the Eureka Balloon Track Retail Development Economic Impact and Urban Decay Analysis done by CB Richard Ellis in November 2006,) makes the following statement:

"ERA cites a belief that the possibility exists for dislocation in the local retail market as a result of Home Depot's competitive influences. Accordingly, they indicate it might be helpful to suggest some mitigation measures that the applicant could provide related to displacement rather than urban decay." CBRE Consulting respectfully disagrees with this suggestion, given that the study was conducted in the context of an EIR, where the fundamental issue is the potential for the project to cause or contribute to urban decay, not displacement or the changed orientation of existing retailers. Because the study concluded that no urban decay would result pursuant to the development of Marina Center, a discussion of mitigation measures is not warranted."

I do not understand how an evaluation of the displacement of existing retailers is not important issue during this evaluation. In 1999, the City of Eureka commissioned an economic impacts report for the very same piece of property for a different applicant who was attempting to change the zoning of the property from Public to Commercial for a Big Box development. The report was titled, "Economic Impacts Assessment for New Retail Development" by Bay Area Economics. I am very surprised that the Marina Center DEIR did not review this document. My conclusion is that the information in this study should be considered in the DEIR for the Marina Center.

46-1

Here is a link to the report:

http://www.bae1.com/publications/EurekaWalmartStudy.pdf

The following text is from the report:

"A new big-box home improvement center in Eureka would likely have a greater impact on existing stores in both the City and other parts of the County, since they have not previously faced this kind of competition, and the relative proportion of total building materials/farm implements sales going to this single outlet would be greater than for a general merchandise store. Furthermore, the projected increases in sales in this category are not nearly as great as for general merchandise, meaning that more sales would be captured from existing outlets rather than future increases in this category. The location of a new store either type outside the City but in the County would result in the remainder of the County capturing the projected increases in retail sales in each category as well as reducing current sales within the City. Smaller stores within the City might be less impacted depending on how far away the new store was located. From an overall retail sales revenue viewpoint, this scenario would be the worst for the City of Eureka, and the best for whatever other jurisdiction(s) received the benefit of the increased sales revenues."

46-2

It is clear to me that Chapter IV.P (Urban Decay) of the Marina Center needs to take into account dislocation in the local home improvement sector. There has been many studies that clearly show the effects of Big Box retail stores, and their impact on existing stores, especially small locally owned stores. To simply disregard these studies because a consultant believes that this information is, "in the context of an EIR" is a serious mistake, and only further acknowledges that the applicant is aware of the issue of displacement, and has chosen not to address it formally.

Here is some other statements from the same report that should be taken into consideration in the Marina Center DEIR:

Profile of General Merchandise and Home Improvement Retail Segments

The steady ascendancy of discount merchandising in the U.S. retail market over the past decade has occurred during a period when region-serving shopping centers with large discount anchor stores are supplanting many shopping malls with traditional department stores. Today, big-box retailers such as Wal-Mart and Target, and category killers (large specialist discounters) such as Toys "R" Us and Office Depot, are among the most vital and profitable of retail formats. A major reason for their success is the price consciousness of consumers that intensified during the recession of the early 1990s that has persisted since that time, in spite of many years of economic growth. Over the last 20 years the home

12/15/2008

improvement retail industry has undergone a dramatic shift away from small independent paint, hardware, and lumber stores toward national chain retailers with big-box formats and a wide variety of merchandise under one roof. Home Depot, HomeBase, and Orchard Supply are among the top 10 home improvement retailers in the U.S. As consumers purchase larger homes with more amenities, and as the "cocooning" trend continues (i.e., consumers spending more time at home and more money on home furnishings and décor), retailers such as Home Depot, Home Base, and Orchard Supply expect home renovation and repair expenditures to reach record levels. In spite of the rise of these big-box centers, home improvement retailing still remains fragmented, with only eight percent of the U.S. market captured by the industry leader (i.e., Home Depot).

Impacts on Existing Retailers in Eureka

The best scenario for existing retail sales outlets would be a "no build scenario," with no new competition from either a discount general merchandise store or home improvement center, and increasing retail sales due to increases in population and per capita disposable income. However, the retail environment in the County, particularly for general merchandise stores and other stores selling similar items, is already fiercely competitive. As shown by the data on individual outlets for Bayshore Mall, Downtown, and Henderson Center, there is already a great deal of turnover. A new big-box general merchandise store located within Eureka could capture most of the projected increase in countywide taxable retail sales in its category, but would also capture some sales now going to existing general merchandise outlets both within and outside the City. Any capture from other categories could come from the projected increase in sales rather than a shift of existing sales. The greatest impacts would likely be on existing major general merchandise outlets in the City and County rather than smaller stores that have already been affected by the opening of Bayshore Mall and other big retail stores in the area. Much of the projected increase in general merchandise sales captured by a new store would occur in Eureka even without the new store, since the City already is so dominant in this category.

A new big-box home improvement center in Eureka would likely have a greater impact on existing stores in both the City and other parts of the County, since they have not previously faced this kind of competition, and the relative proportion of total building materials/farm implements sales going to this single outlet would be greater than for a general merchandise store. Furthermore, the projected increases in sales in this category are not nearly as great as for general merchandise, meaning that more sales would be captured from existing outlets rather than future increases in this category. The location of a new store either type outside the City but in the County would result in the remainder of the County capturing the projected increases in retail sales in each category as well as reducing current sales within the City. Smaller stores within the City might be less impacted depending on how far away the new store was located. From an overall retail sales revenue viewpoint, this scenario would be the worst for the City of Eureka, and the best for whatever other jurisdiction(s) received the benefit of the increased sales revenues.

Jobs and Employment Impacts

As retail sales follow projected growth trends, the total number of jobs would increase over time regardless of whether a new store enters the market. The opening of a new big-box general merchandiser or home improvement center in Humboldt County would likely lead to a replacement of some current positions at existing retailers with positions at the new retail outlets. For a new general merchandise store, most of the replacement jobs would be similar to those lost in terms of wages and benefits, and would replace positions in similar types of stores (i.e., large retail chain stores). While the proportion of retail sales in some other sectors including the high-paying food sector would decline as consumers shift purchases to the new general merchandise store, this shift would come from growth in sales and would not lead to the replacement of existing high-paying positions with new lower-paying ones. For a new home improvement center, it is not clear how the wages and benefits would compare to existing outlets; the existing jobs lost may come from a variety of store types, and this retail sector currently has high wages relative to retail in general.

I believe the Marina Center DEIR is not referencing the report, "Economic Impacts Assessment for New Retail Development" because it did not support any of the arguments that would favor the Marina Center Development proposal. This report must be addressed in Chapter IV.P (Urban Decay) of the EIR for the Marina Center project, and a new question must be addressed regarding dislocation in the local retail market as a result of the Home Depot.

Thank you

John Bowman

12/15/2008

5-455

Letter 46: John Bowmen

46-1 The comment requests an evaluation of the displacement of existing retailers.

Please see Master Response 1, under “The 1999 Bay Area Economics (BAE) Report” regarding a proposed Wal-Mart Store in Eureka.

46-2 The comment expresses concern about the proposed project’s impact on the existing local hardware store businesses. Please see Master Response 1, under “Potential Local Store Closures” and under the “National Stores vs. Local Stores” discussion.

1/29/09

Ms Mildred G. Brucker
1400 Nursery Rd Unit 106
McKinleyville CA 95519
mittie

City of Eureka
Community Development Dept.
Att: Sidnie Olson, AICP Principal Planner
531 K St.
Eureka, Ca. 95501

There are several reasons for me to find objections to the creation of the Marina Center proposed by Security National on the 43-acre Balloon Tract overlooking Humboldt Bay. The main one being the nearly 300,000 sq ft Home Depot. It seems to me the comparatively small community, including the towns and villages surrounding Eureka, is already well and has been extremely well equipped from what I've learned to handle and supply the needs of our builders and others in our area and are always willing and eager to do so. I've had my needs always nicely cared for.

47-1

Another reason is to consider is the ^{non-}completion by all Departments' research into the impact on the environment, traffic affecting all surrounding areas; also the overall economic dima outlook doesn't bode well for much benefit financially for our area.

47-2

47-3

It seems that all necessary cautions have not been addressed in several concerns and my objection stands.

Yours Truly,
Mildred G. Brucker

RECEIVED

JAN 29 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Letter 47: Mildred Brucker

- 47-1 The comment states that the home improvement retail demands of the greater Eureka area are already met. The comment does not provide any detail on how this statement relates to environmental effects. Please see Master Response 1.
- 47-2 The comment expresses concern about the traffic generated by the proposed project. The comment is noted. Please see Master Responses 6 and 7 for further discussion of vehicular trips on Broadway and trip distribution.
- 47-3 The comment expresses concern that the proposed project is not timely considering current economic conditions. Please see Master Response 1, under “New Recessionary Conditions.”

Sidnie Olson

From: Lisa B [lisab@humboldt1.com]
Sent: Saturday, January 31, 2009 9:50 AM
To: DEIRcomments
Subject: Marina Center comments

Dear Ms. Sidnie Olson,

I have grave concerns about many aspects of the draft EIR, but most importantly, I am concerned about the environmental impacts outlined in the Baykeeper report on toxic chemicals. We need to plan for the long term health of the bay, and capping over such dangerous chemicals as dioxin, and building on top of them, will only create a toxic nightmare for future Humboldt County residents and wildlife. Stuff that seeps will continue to seep--even if it takes longer than your and my lifetimes. We need to root out the toxic chemicals before building on top of them.

48-1

I am also very concerned about traffic impacts. A couple of weeks ago, I attended a planning meeting which had an agenda item which touched on my own local traffic-nightmare intersections, including Harris and Dolbeer. It was very interesting to learn that city engineers had already graded this intersection with an "F" rating. Based on that, the increased traffic brought on by St. Joseph's recent remodel and the proposed rezoning of a nearby residential lot, would be rated as having "no significant impact". I was shocked! This demonstrates that the process of assessing public safety and appropriate mitigation for traffic issues is deeply flawed. I strongly oppose funneling more traffic into the proposed Marina area site when these kinds of bureaucratic games are being played with risk assessment. It is the public who pays, as I did recently with a totaled-out car in my own neighborhood where the city planning department isn't doing its job in upholding the safety of residents.

48-2

I am also opposed to the proposal to build a Home Depot store. We have no need to put our local hardware stores with knowledgeable, helpful staff, out of business. We don't need any more low-wage retail jobs. We don't need any more retail space downtown--we have empty store fronts.

48-3

48-4

We also don't need any more "upscale" housing. I see upscale houses empty from foreclosure on my way to work every day. We need low income housing that people working all of these low-wage jobs can afford. I work three jobs myself, just to make ends meet in a modest way. I know downtown Eureka workers who ask me if I know of any affordable housing options close to their work sites so they don't have to spend extra money to get to and from work. Is it asking too much to expect that an adult working full time should be able to afford a place to live that doesn't take more than half of their monthly earnings?

48-5

We need a marina project that addresses the needs of the people of the city of Eureka, and we need the city planning departments and city council to stand up to developers with their own agendas that are not in the residents' and taxpayers' best interests. I have been a Eureka city resident since 1990, and I am a 4th generation Californian.

Sincerely,

Lisa Butterfield
2440 Wood Street
Eureka, CA 95501
707-443-2472

Letter 48: Lisa Butterfield

- 48-1 The comment expresses concern about the existing contamination on the project site and whether than contamination leaches into the Bay. The comment is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, and a discussion of the migration of chemicals in the subsurface, please see Master Response 4 and new Appendix S.

- 48-2 The comment expresses concern about the impacts of the proposed project on other intersections in the City farther away from the project site.

Please see response to comment 32-9 and Master Response 7, which discuss impacts to other corridors as well as to intersections farther from the project site. The proposed project would not significantly change the volume of traffic at Harris Street and Dolbeer Street, which is currently operating at LOS F.

- 48-3 The comment states that a national hardware store should not be part of the proposed project due to impacts on jobs, wages, and local businesses. The comment is noted.

Please see Master Response 1, under “Jobs / Wages Impacts” and “Potential Local Store Closures.”

- 48-4 The comment expresses concern about the retail market in the City of Eureka. The comment is noted.

Please see Master Response 1, under “Vacancy in the City of Eureka.”

- 48-5 The comment states that there is greater need for affordable housing in Eureka than for more “upscale” housing such as that proposed by the project. The project is not required by any applicable state or city regulation to include low income housing. Neither State law nor California Department of Housing and Community Development policy requires any local inclusionary housing ordinance within a jurisdiction’s housing element. The City of Eureka is expected to meet its low income housing needs through its compliance with its Regional Housing Needs Assessment planning for its General Plan.

The proposed development of market rate housing is necessary to meet the project’s key objective to “develop an economically viable mixed use project.” As a result of the former railroad use and activity at the project site, the property is currently considered an urban brownfield by the United States Environmental Protection Agency. Consequently, any future site redevelopment involves major clean-up and restoration costs which further reduce the project’s ability to support any below market rate housing development.

Sidnie Olson

From: Joseph Byrd [josephbyrd@suddenlink.net]
Sent: Friday, January 30, 2009 11:14 AM
To: DEIRcomments
Cc: DEIRcomments
Subject: Flaws in traffic projections in the Marina project's EIR

It is difficult to avoid thinking the writers of the Environmental Impact Report for the proposed Marina Center were having a little joke at our expense when they claimed that traffic safety was a positive byproduct of a big-box mall at the foot of Broadway.

The utterly unrealistic Marina EIR is a classic example of public relations spin. The fact is, the traffic impact will be far greater than claimed. After all, southbound traffic from 4th Street to Broadway already is a bottleneck of 3 lanes merging into 2, with two traffic lights in 2 blocks. Add another two high volume feeder streets (planning to serve another 1,500 vehicles!), and we are going to have chaos.

49-1

Another attempt at "spin" is the claim that the further 5mph slowing of congested traffic will be a virtue, because reduced speed will cause fewer accidents. That's what I refer to as the writers' "little joke".

49-2

In fact, in order to get up to an average speed of 21.6mph, the authors had to measure all the way from I street to The Bayshore Mall, including a mile-long stretch that has a 40mph speed limit. Clearly, there will be vast snarls of traffic at stop-and-go speeds the entire length of the Marina Center. And because some drivers exiting the Center will be headed north, the traffic light at Sixth and Broadway – already a stressed intersection – will have to become 3-stage, backing up cars on Broadway even more, impacting the traffic light at West Washington Street. If pedestrian crossings are included, that means the wait will be still longer.

49-3

The idea that people will simply accept those snarls is naïve. Drivers seeking to escape that mess will take to using side streets like Commercial, Summer, and A, which are not intended to handle such volume, and where the likelihood of accident is much greater.

Joseph Byrd
1681 Henry Lane
McKinleyville CA 95519

707.839.4080

Letter 49: Joseph Byrd

- 49-1 The comment suggests that traffic impacts would be far greater than claimed on Broadway.

As indicated in Table VII of the report, under the 2025 Cumulative Conditions, the expected p.m. peak period level of service at the mentioned intersections, assuming that all project mitigation is in place are:

Broadway and Fourth Street: LOS C
Broadway and Fifth Street: LOS C
Broadway and Sixth Street: LOS C
Broadway and Washington Street: LOS C

LOS D operation is acceptable by Caltrans; consequently the resulting LOS C would be better still. Note that by 2025 outbound traffic that formerly traveled onto Broadway at both Fourth Street and Sixth Street would be re-routed to other streets; the letter writer is correct that the volume of traffic is too high to maintain acceptable operations. That is why traffic in later years is to be redirected onto Waterfront Drive to Hawthorne (for traffic continuing south) and to both Commercial and C Streets (for traffic continuing to the north on U.S. 101). (See, e.g., Mitigation Measure O-8a.) The traffic signal at Broadway and Sixth Street would provide for protected northbound left turns, north and southbound traffic on Broadway, and westbound left – through- right from Sixth Street. Pedestrians, as the case today, would be provided a “Walk” signal across the north leg of this intersection.

Also note that traffic has increased by 1.5 percent per year on U.S. 101 in Eureka since 1980 (and perhaps even earlier), and such traffic increase is anticipated to occur with or without the project in the future. The proposed project provides the means to accommodate the higher future traffic volumes, while no plan is currently in place to accommodate future traffic without the proposed project.

- 49-2 The expected smaller number of accidents would not be the result of lower speed as the comment seems to suggest. Instead, it would result from the proposed mitigation measures, such as signal coordination and improvements to the design and operation of existing signals. (Draft EIR, page IV.O-18.) There is no statement in the Draft EIR that lower speeds would contribute to a reduction in the number of accidents.

- 49-3 The comment questions the methodology that concluded that Broadway would operate with an average speed of 21.6 mph with the proposed project during certain times of day.

The intent of measuring travel times between Downtown and Bayshore Mall is not to increase vehicle speeds, but to determine the impacts of higher traffic volumes on the ability of U.S. 101 to maintain through travel capability. Note that the 1.5 percent average annual increase in traffic volumes along U.S. 101 in Eureka would be expected to occur

in some form with or without the proposed project. If none of the mitigation were in place in 2025, average speeds on U.S. 101 through Eureka would be significantly slower, and these calculations are contained in the appendices only. Without the project in 2025 but with a 33 percent increase in traffic, levels of service at the study intersections would be far worse, with many operating at LOS F.

Subsequent studies on other projects with respect to traffic throughout Eureka reveal that project traffic would not cause any significant shifts or diversions of traffic volumes into neighborhoods of Eureka.

Sidnie Olson

From: Madroneweb@aol.com
Sent: Saturday, January 31, 2009 2:00 PM
To: DEIRcomments
Subject: comments on DEIR for Balloon Tract development

January 30th, 2009

Bruce Campbell
1158 26th St. #883
Santa Monica, CA 90403

City of Eureka Community Development Department
Sidnie L. Olson, Principal Planner
531 K Street
Eureka, CA 95501-1165

Re: Comments on DEIR for Balloon Tract development / Marina Center

Dear Sidnie L. Olson and to whom it may concern:

These are my comments on the proposed Marina Center development on the "Balloon Tract" property at Humboldt Bay. No action alternative has thorough enough analysis to gauge its impact on the environment, on residents, on construction workers, or on those who would work or otherwise use the area. Thus, if any of the action alternatives are to be pursued, first there must be a Draft Supplemental EIR which does considerable additional testing for toxics at the site -- and then analyzes those for impacts on wildlife, residents-to-be within the project, for construction workers, and for others.

50-1

There was inadequate testing for toxic materials at the site in the Health Risk Assessment, and even those were assessed for impact considering the area stayed a vacant lot -- rather than have a major development built upon it. These soils should be tested for such materials as 2,4-D, 2,4,5-T, tetrachlorodibenzo-p-dioxin, pentachlorophenol, creosote, PCB, and glyphosate, plus their contaminants and breakdown products. Also, how would excavation, construction, etc. at the site impact the churning up of toxic material which could impact land, bay, and avian species?

50-2

50-3

There was not proper economic analysis of the likely impact which more big-box stores would have on the already low wages and struggling small businesses in Eureka and the Humboldt Bay region. One can use the Bayshore Mall as an example of a development which certainly brought a downward spiral to other businesses around town.

50-4

I also call for a more thorough analysis (in Draft Supplemental and Final EIRs) regarding preferred uses in the coastal zone under the California Coastal Act. Why should this inappropriate development (with public transit serving the development merely "optional") be approved on a contaminated area on what was a slough and estuarine wetland area, and how could such a proposed development have a higher value for wetlands than cleanup and wetland restoration with some visitor-serving amenities which would be in the flow if one abided by the California Coastal Act?

50-5

There is insufficient analysis or sensitivity to concerns that there used to be one and perhaps even two Wiyot Indian villages on this very site proposed for the Marina Center.

50-6

Lastly, there needs to be more analysis about how various proposals for stimulus from the federal government (plus what may actually be received), for opening up Highway 101 to more giant STAA vehicles at Richardson Grove and Confusion Hill, possible revival of the railroad, and other projects have on the proposed Marina Center development -- and the impact on listed species of these multiple actions prioritizing more mega-stores and transport which may encourage more extraction from forests, riverbeds, and elsewhere in the county.

50-7

Thank you for your attention to my concerns on this project, and either develop a reasonable proposal for this important coastal zone area, or abandon this project.

Sincerely yours,

Bruce Campbell

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

5-464

Letter 50: Bruce Campbell

- 50-1 The comment states that there should be a Draft Supplemental EIR that addresses additional testing for toxics at the project site, and then analyzes the potential impacts of those toxics. The comment is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S, which detail the extensive subsurface investigations at the project site. Note that the contamination at the project site is an existing condition, and that the proposed project would excavate and remove soil at contaminated hot spots and place of clean cover material over the project site to remove exposure pathways.

- 50-2 The comment questions the adequacy of the 1996 and 2000 Health Risk Assessments and calls for further site testing. Please see response to comment 50-1, directly above.

For further discussion providing details of the Remedial Action Plan for the project site, please see Master Response 4 and new Appendix S.

- 50-3 The comment questions how site remediation would proceed and asks how it would affect wildlife near and on the project site.

Note that the contamination at the project site is an existing condition, and that the proposed project would excavate and remove soil at contaminated hot spots and place of clean cover material over the project site to remove exposure pathways. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S, which is the recently completed Supplemental Interim Remedial Action Plan (SIRAP). The SIRAP has received conditional concurrence from RWQCB staff.

- 50-4 The comment questions the adequacy of the “economic analysis” in the Draft EIR. The comment is noted.

Please see Master Response 1, under “Jobs / Wages Impacts” for further discussion pertinent to this comment.

- 50-5 The comment calls for an analysis of preferred uses in the coastal zone as related to the proposed project. The comment is noted. Please see Master Responses 3 and 5 for further discussion of coastal zone land use policy consistency.

- 50-6 The comments requesting archaeological subsurface survey of the project area are noted. The comment does not directly address the accuracy or adequacy of the Draft EIR. However, impacts to cultural resources, as well as mitigation measures to reduce potentially significant impacts to a less-than-significant level, are described on

pages IV.E1 through -21 Draft EIR. Please also see response to comment 40-8 and Master Response 9, which detail the survey efforts that would be undertaken.

- 50-7 The comment states that the Draft EIR should include analyses regarding various federal stimulus program proposals, incorporating them into the cumulative analysis. The comment is noted. The list of projects included in the cumulative analysis are presented in Table V-1 on page V-4. As stated on Draft EIR page V-3, the Draft EIR cumulative impacts analyses are based on a growth scenario that incorporates approving, pending, or proposed projects within the vicinity of the project. If the various federal stimulus program proposals are adopted, they would incorporate the Marina Center into their 2010 baseline conditions for any required environmental review. Please also see response to comment 13-4 for a discussion of cumulative impacts to biological resources.

Comment Letter 51

Barbara Clark • 2310 Hillside Drive • Eureka, CA 95501
(707) 442-0743 • barbelark63@gmail.com

RECEIVED

Jan. 30, 2009

JAN 30 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

City of Eureka
Community Development Department
Attn: Sidnie Olson, AICP
531 K St.
Eureka, CA 95501

Re: Marina Center

Having a retail, residential and community use of the Balloon Tract is a good idea, so to that extent I support parts of the Marina Center.

But if it depends on the paving and building for a Home Depot, I oppose it. Can't we remember that a study was done when the Wal-Mart question was before the community which showed that it would damage family owned local businesses. We haven't grown sufficiently that a massive project like that wouldn't harm local businesses.

51-1
51-2

With this economy, we also have so many stores cutting back or closing altogether. It doesn't make sense to bring in another massive retail outlet when people are having to so carefully plan how we spend our dwindling dollars. I'd rather parse them out to the many home building centers we already have here, centers that are owned and operated by our community..

51-3

Thank you

Barbara Clark

Barbara Clark
Eureka

Letter 51: Barbara Clark

- 51-1 The comment expresses concerns about the anchor tenant in the proposed project and cites a previous study related to a proposed Wal-Mart. Please see Master Response 1, under “New Recessionary Conditions,” “The Effect of the Bayshore Mall on Local Businesses,” as well as under The 1999 Bay Area Economics (BAE) report “Economic Impacts Assessment for New Retail Development” regarding a proposed Wal-Mart Store in Eureka.
- 51-2 The comment states that the proposed project could damage locally owned businesses and that the economy could not handle a new retail project. Please see Master Response 1, under “New Recessionary Conditions,” as well as under “The 1999 Bay Area Economics (BAE) Report” regarding a proposed Wal-Mart Store in Eureka.
- 51-3 The comment states that the economic conditions cannot support a new retail project. Please see Master Response 1, under “New Recessionary Conditions,” “Potential Local Store Closures,” as well as under “The 1999 Bay Area Economics (BAE) Report” regarding a proposed Wal-Mart Store in Eureka.

Sidnie Olson

From: George and Kyoko Clark [GKCLARK@ARCATANET.COM]
Sent: Friday, January 30, 2009 4:51 PM
To: DEIRcomments
Attachments: Marina Center Comment #1.doc

January 30, 2009

George Clark
1091 Vista Drive
Eureka, CA 95503

City of Eureka
Community Development Department
Sidnie L. Olsen, AICP
Principal Planner
531 K Street
Eureka, CA 95501

**RE: PROPOSED MARINA CENTER PROJECT
DEIR PUBLIC COMMENT**

Thank you for taking the time to respond to the questions and comments presented below regarding the proposed Marina Center development project, and for including this document and your responses as a part of the public comment process.

I have lived in Humboldt County since 1975 and my family and I owned and operated a successful business in Old Town Eureka for many years. The Balloon Tract property is Eureka's last largest undeveloped, public zoned open space, it is the only available resource and opportunity to significantly expand Old Town's qualities and attraction for tourists and residents in Eureka: Open spaces, greenbelts, bay views, safe, walkable, tree-lined streets, with diverse, locally owned, mixed-use developments and mixed-income residences. This development model is euphemistically referred to as Small Town America, it offers the quality of life that attracts entrepreneurs, residents and tourists alike, and it was the motivating factor for my family to locate our business in Old Town and to buy our home nearby. Expanding this development model and quality of life discourages urban blight by incentivizing capital investment. It is well known that sales dollars at locally-owned businesses recycle three times longer within a community while historically generating the tax-base required to provide fundamental infrastructure, emergency services and schools for America's cities.

52-1

52-2

5-469

Comment Letter 52

Comment Letter 52

However, continuing attempts to make Eureka the "retail hub" of Humboldt County have focused primarily on attracting outside retailers, in fact, during Wal-Mart's bid to locate on the Balloon Tract, a Bay Area Economic study in 1999, found that Eureka was already "...saturated with national retailers...". What we've learned is that this development model has failed to generate the jobs, sales, and tax revenues commensurate with the public costs associated with big box development. For example, Eureka now shares the familiar signs of urban blight experienced by many other rural cities that have focused on attracting low-wage national retailers while neglecting local ownership, light industry and manufacturing. The Marina Center would continue this neglect by limiting locally-owned businesses and by proposing zone changes that reduce light industrial and manufacturing potential. The failure of this development model is evident in Eureka's plummeting average income that is now half the state average, placing huge burdens on social services. Accompanying low-wages in Eureka is the high property crime rate that is now 2 1/2 times the state average and twice the national average. Eureka's wastewater system has languished for 3 decades and updates could soon be estimated to cost 30 to 40 million dollars, (the Martin Slough Interceptor Project). Eureka struggles to fund only 2 full-time traffic police while fatalities for pedestrians, cyclists and motorists are among the highest in California. Our local K-12 schools are loosing facilities or closing down entirely. Low wages, poverty, blight, and unaffordable housing are contributing to Eureka's declining population.

52-3

52-4

The DEIR narrowly defines urban blight by omitting references to the evidence listed above. In addition, there are many more empty store-fronts in Eureka than what is reported in the DEIR, probably due to the rapid economic decline currently taking place. There should be a more current and complete analysis provided by an independent professional. Empty storefronts are another indication of the failure of saturating a community with national retailers, this becomes more apparent during economic downturns. By nature, big box outlets are more susceptible to international fluctuations in oil prices and unstable, rouge nations where labor costs are forcefully repressed. Having displaced local competition the full economic impacts of big box development is revealed as they close in the thousands, leaving huge economic holes in rural communities that could take many decades to recover.

52-5

52-6

In many sections the DEIR fails to consider a "tipping point" to which the Marina Center contributes in creating severe negative impacts on local businesses, traffic, the environment and other areas. In Appendix K, for example, the DEIR observes that small independent businesses persist despite the local construction of national-retail malls, the loss of natural resource industries and national economic downturns. Therefore, the DEIR concludes that there's "no significant impact" expected from adding even more big box stores and national retailers in the Marina Center Project. Few subjects are better researched and understood than the significant and negative impact big box stores have on local independent businesses. Just because a cancer patient is still alive provides irrational justification for increasing tobacco use. Again, the DEIR makes the observation in section IV.O-1 that severe traffic problems already exist on Broadway due to design deficiencies, and since the Marina Center Project mitigation measures, "do not add additional design problems", there's "no significant impact" on traffic. This kind of logic is irrational. Eureka and Cal-Trans have been unable to resolve severe traffic problems for 30 years on Broadway without a 101 highway bypass. Until then, there is no safe way to add 15,666 vehicle trips each day to this area.

52-7

52-8

Finally, an unprecedented economic downturn accelerated in 2008 with a collapsing housing market that closed down some of the world's largest financial institutions, millions of Americans are still being thrown into joblessness, bankruptcy and foreclosure. Most economists are warning that this is only the beginning of a long economic crisis. Despite a 50% drop in gasoline prices in the autumn of 2008, equally inflated consumer goods and services have not followed-suit. The entire socio-economic statistical data relied upon in the DEIR, as referenced in Appendix K and elsewhere, is premised upon the continuing economic and population growth indicators from 2004, extrapolated to 2010, 2015, and 2025. Therefore, the new economic reality requires that all effected sections of the DEIR be completely rewritten or risk remaining completely inaccurate. Also, the DEIR is predicated on population increases, yet, a 2005 census already shows a population decrease of 800 for the City of Eureka, a figure that will likely worsen with the economy. Many thousands of additional national retail stores are slated to close in 2009, some have closed locally just since the release of the DEIR. Some of the DEIR sections affected by these changes and requiring substantial rewriting include, but are not limited to:

52-9

- URBAN DECAY
- POPULATION AND HOUSING
- LAND USE PLANNING
- ALTERNATIVES
- POTENTIAL AREAS OF CONTROVERSY
- OBJECTIVES
- PUBLIC SERVICES
- TRANSPORTATION
- CUMMUALTIVE IMPACTS

The following questions are listed in random order, some are combined together due to their related topic. If any question is not completely answered, (with more than “yes” or “no”) please state the reason(s).

Question #1: Urban Blight

CBRE’s definition of urban blight is too narrowly defined as, “vacant lots with garbage, weeds and homeless encampments”, in effect, the Marina Center property. Will the EIR broaden its definition and address the reality of this development’s impacts on Eureka’s more serious symptoms of blight: Skyrocketing property crime, underfunded and closing schools, numerous empty storefronts, failing wastewater systems, underfunded police and emergency services, falling incomes and the decreasing population that results?

52-10

Eureka’s largest parking lots, (not the vacant lots like the Balloon Tract), account for many of the police calls to report crimes. How will the Marina Center mitigate this problem on its large parking areas?

52-11

Will the Marina Center hire its own security officers?

Question #2: Leakage Analysis

CBRE’s definition of leakage analysis is too narrowly defined as “lost sales capacity that can be recaptured by...the Marina Center Project”. This is a highly speculative assumption with supporting statistics provided by...Home Depot. CBRE claims that 5 local contractors spend, on average, \$75,000 at Home Depot each year, but this may not change if the construction jobs are nearer to those Home Depot’s, hundreds of miles from Eureka! Will the EIR broaden its definition of leakage analysis to demonstrate, in projected detail, how the expected tax revenue from this project will exceed the public costs to Eureka and Humboldt County?

52-12

Will these revenue estimates be reduced by the lost tax revenues from competing businesses anticipated to lose customers due to the Marina Center development?

52-13

Similarly, will the EIR extrapolate these anticipated sales tax revenues into the future to further demonstrate that they will exceed all of the ongoing public costs to Eureka and Humboldt County that are associated with this development: in infrastructure, emergency, police and social services?

52-14

Are there redundant services and retail establishments included in this development that are being, or could be, provided by locally owned businesses? Was this considered in the section on alternatives?

52-15

Question #3: Aesthetics

The Marina Center proposal boasts of its visual resources on Humboldt Bay, yet, all of the commercial buildings, and most of the others, all face either away from the bay or towards each other in a traditional “mall” setting. What are the mitigation efforts to actually build the project to acknowledge the bay such as NW windows?

52-16

There is a large fish processing plant near this development and, being on the bay, more could follow. What mitigating efforts has the Marina Center proposed to cope with the tremendous odors and other potential quality of life detractions that accompany future harbor-related development?

52-17

How will potential industrial rail service of 100 trains per day effect this development, the traffic situation, bike and pedestrian trails?

52-18

Question #4: Population and Housing

Will the EIR recalculate its conclusions to account for decreasing populations in Eureka? How will it accomplish this?

52-19

The DEIR calculations are premised upon Eureka’s outdated 2005 housing element. Since 2005, citizens have moved out, schools have closed, and the State of California has a new category of housing called extremely low-income. In fact, once Eureka’s General Plan and Housing Element are updated they will be required to ensure that affordable housing categories are constructed. How will the EIR address these issues?

52-20

The Marina Center is claiming that it will create 1,092 new jobs without any linkages to the housing needs of these new, low-income, employees. Will the EIR include jobs-housing linkages like other California cities that add \$2 to \$10 per square foot to a fund to build affordable housing?

Question #5: Utilities and Service systems

The DEIR claims that Eureka’s wastewater treatment plant operates at 70% capacity, yet, there is no documentation in the DEIR appendix, nor is any professional research available to corroborate this assumption from the City of Eureka. This kind of speculation will further place thousands of citizens, livestock and wildlife at risk as millions of gallons of sewage continue to escape into Eureka’s marshes, forests and gulches with each heavy rain. Will the EIR correct this erroneous assumption regarding wastewater capacity by providing the actual research required by an independent professional to determine capacity?

52-21

The DEIR claims that Eureka’s wastewater treatment plant operates within its permit issued by the Regional Water Quality Control Board, yet, fails to mention the large penalties imposed upon Eureka for chronic violations that occur primarily due to the systems inability to process wastewater during heavy rain events. For 30 years Eureka has planned the construction of the Martin Slough Interceptor to correct this and to replace its 18 aging lift stations, but Eureka lacks the tens of millions of dollars needed for construction. Will the EIR and Marina Center calculate its estimated wastewater requirements for the purpose of ensuring that tax-revenues from this project’s build-out are adequate to fund the additional demand on Eureka’s system, as well as, the project’s demands on other city and county services?

52-22

Question #6: Traffic

Too many of the intersections studied in the DEIR remain close to the project area failing to account for the increased traffic that will undoubtedly affect many more streets such as Buhne, Harris, Harrison, and Wabash. Will the EIR complete the research required that analyzes the total impact of traffic on these streets and other ancillary neighborhood connections?

52-23

The Marina Center Project is being proposed within Eureka’s most severe and chronic traffic area. Both Eureka and Cal-Trans have been unable to cope with increasing accidents and fatalities in this area for the last 30 years without a complete by-pass on highway 101. It is far too speculative to assume that a few traffic alterations, already researched by Eureka and Cal-Trans, will now suffice. “Unacceptable levels of service” identified in the DEIR, mostly fall within the jurisdiction of Eureka and Cal-Trans without considering the costs and who pays. The DEIR itself claims that there are intersections where mitigation is infeasible and significant, therefore, will the EIR consider a vastly scaled-down version of this development that replaces the largest contributors to traffic, with developments with less impact?

52-24

Will the EIR include a section on public transportation offered within the project and mitigation plans to reduce traffic volume?

52-25

Question #6: Traffic

Cal-Trans calculates an increase in traffic, without this project, by 33% by 2025. Will the EIR work with Cal-Trans to determine the costs of mitigating all traffic issues under consideration, and who will pay these costs, will the EIR extrapolate the results to 2025 or longer?

52-26

Will the EIR computer simulations (and transportation section) be recalculated and programmed to include volatile variations in fuel prices as we’ve already experienced in 2008?

52-27

Will the EIR call for a “Standards of Service Level” to be established by Humboldt County for Broadway? This would eliminate the speculation and ambiguity of traffic impacts expressed in the DEIR. “Acceptable traffic speeds of 9mph” are not acceptable. It will increase the number of cars on the road, cause more accidents and impair emergency vehicle access.

52-28

The project applicant is only required to pay its fair-share with, “no funding in place to ensure mitigation that is required to avoid impacts”, (Page 50). Will the applicant please list its anticipated monetary fair-share contributions and apply them to each mitigation required?

52-29

Will the EIR incorporate quality of life issues for pedestrians, cyclists, tourists and residents and how they are to be affected by traffic?

Question #7: Hazardous Materials

Will the EIR provide more detailed and complete information on how remediation of toxic materials on this site will be mitigated and reduced to less than significant levels?

52-30

Will the EIR include research identifying the sources of furans and dioxin in sediments and fish on this project’s property?

52-31

Will the EIR update the Health Risk Assessment to include exposure pathways from the project, proposed uses, residential use and its construction?

52-32

What are the ecological risks associated with this project?

52-33

Will the EIR utilize updated toxicity values adopted by the EPA for the chemicals listed on this site?

52-34

How will the EIR ensure that there is enough accurate data for the CWQCB to concur? What are the “other overseeing agencies...” that will review this data?

52-35

Question #8: Air Quality

Comment Letter 52

What mitigation measures will be utilized to reduce particulate matter created by construction, reported to violate the Federal Clean Air Act, exceeding NCUAQWD allowances by 200%? 52-36

Question #9: Land Use

The Marina Center project is dominated by big box national retailers, commercial and office developments and does not address the adequate affordable housing required for the proposed increase of over 1,000 new jobs. Its facilities are tossed together and do not compliment each other. Will the EIR abandon its erroneous use of the term Smart Growth which calls for a balanced mix of jobs, housing, and services within a walkable area? 52-37

How does the Marina Center enhance coastal recreation opportunities as a "priority"? 52-38

Which coastal-dependent uses does the Marina Center development support?

What coastal-dependent industry is the Marina Center proposing?

What are the "higher wetland uses" the DEIR refers to that allows this project's wetlands to be filled? 52-39

Question #10: Alternatives

Will the EIR provide an analysis of coastal-preferred uses for this area to be developed? 52-40

What provisions of law require that this property be developed in order to facilitate a complete toxic abatement? 52-41

Many citizens in Eureka would like to see very limited development that capitalizes on this areas unique natural resources by restoring the slough and wetlands and providing for visitor-serving recreational uses. Has the Marina Center applicant considered the open areas at either end of Eureka, on highway 101, for various parts of its developments, as opposed to keeping all aspects of the project intact? Which parcels did it consider, and is the applicant willing to make an offer or wait until they're available? 52-42

Letter 52: George and Kyoko Clark

- 52-1 The comment states preference for a particular pattern of development. The comment is noted.
- 52-2 The comment states that sales at locally owned businesses recycle three times longer than sales at national retailers. The comment is noted. Please see Master Response 1, under “National Stores vs. Local Stores.”
- 52-3 The comment states that efforts to make Eureka the retail hub of Humboldt County have focused on national retailers. The comment is noted.
- Please see Master Response 1, under “Jobs / Wages Impacts,” as well as under “New Recessionary Conditions,” as well as under “The 1999 Bay Area Economics (BAE) Report” regarding a proposed Wal-Mart Store in Eureka.
- 52-4 The comment states that national retailers have failed to generate jobs, sales, and tax revenues commensurate with public costs associated with big box development. The comment is noted.
- Please see Master Response 1, under “Jobs / Wages Impacts” and “National Stores vs. Local Stores.”
- 52-5 The comment states that the Draft EIR should have a more inclusive definition of “blight” and that a urban decay analysis should be prepared by an independent consultant. The comment is noted.
- Please see Master Response 1, under “Vacancy in the City of Eureka.”
- 52-6 The comment states that national retailers are at a disadvantage for several reasons. The comment is noted. Please see Master Response 1, under “National Stores vs. Local Stores.”
- 52-7 The comment states that the Draft EIR fails to consider the “tipping point” to which the proposed project would contribute to negative impacts on local businesses. The comment is noted.
- Please see Master Response 1, under “Potential Local Store Closures.”
- 52-8 The comment questions the threshold for impact significance related to traffic on Broadway. Please see response to comment 31-1 and Master Response 6, which discuss the 33 percent cumulative increase in traffic on Broadway with or without the proposed project, as well as the identified mitigation measures that would reduce almost all significant impacts to less-than-significant levels.

- 52-9 The comment relates to the recent economic downturn as related to the proposed project. Please see Master Response 1, under “New Recessionary Conditions.”
- 52-10 The comment implies that the definition of “urban blight” should be broader and include several significant environmental impacts generated by “this development,” including impacts to public services and utilities and service systems, as well as non-environmental impacts that are often associated with the environmental impact of urban decay. Please note that the proposed project is found to have less-than-significant impacts on public services or utilities and service systems. The comment is noted.
- 52-11 The comment expresses concern about security at the project site. Please see response to comment 16-178, which address police service and site security.
- 52-12 The comment requests clarification regarding the potential tax revenues and public costs associated with the retail component of the proposed project. Please see Master Response 1, under “Fiscal Impacts to the City of Eureka and Other Jurisdictions.”
- 52-13 The comment requests clarification regarding the potential tax revenues and public costs associated with the retail component of the proposed project. Please see Master Response 1, under “Fiscal Impacts to the City of Eureka and Other Jurisdictions.”
- 52-14 The comment requests clarification regarding the potential tax revenues and public costs associated with the retail component of the proposed project. Please see Master Response 1, under “Fiscal Impacts to the City of Eureka and Other Jurisdictions.”
- 52-15 The comment asks whether any of the retail services that would be provided in the proposed project would be “redundant” or could instead be provided by locally owned businesses. Please see Master Response 1, specifically “National Stores vs. Local Stores” and “Potential Local Store Closures.”

The comment also asks whether Alternatives considered redundant services or locally owned businesses. Locally owned businesses that provide the same goods and services as the anticipated tenants would generate almost identical environmental effects. Therefore, exploration of such an alternative would not be productive.

- 52-16 The comment asks why views from internal project buildings are not considered in the aesthetics analysis.

As described on Chapter IV.A, the proposed project would create view corridors through the project site from the Fourth Street extension, between the proposed buildings along Waterfront Drive, and from the proposed multi-use trail along Waterfront Drive, all of which would augment coastal views. The proposed project design is preliminary and is subject to review by the Design Review Committee prior to approval. The proposed buildings along Waterfront Drive would, at a minimum, include northwestern facing windows.

52-17 The comment expresses concern about odors from nearby uses affecting the project site. Please see response to comment 16-92, which discusses odors from the nearby uses.

52-18 The comment questions how potential reactivation of the railroad right-of-way would affect the proposed project.

The Draft EIR (Impact O-7, page IV.O-45, and Mitigation Measures O-7a, O-7b and O-7c, page IV.O-47) identifies and mitigates the safety and access concerns that would exist if a freight or passenger line were to operate along the western property boundary under project development.

52-19 The comment queries whether and how the Draft EIR's analysis and findings consider Eureka's recent population declines. Under CEQA, analysis of a project's environmental impacts should be performed based on the physical environmental conditions as they existed at the time the notice of preparation (NOP) was published (CEQA, Section 15125). In accordance with these guidelines, as shown in Table IV.1-1, the Draft EIR primarily uses 2005 population estimates from the California Department of Finance for its analysis of the project's expected population and housing impacts. Furthermore, the very minor change in the City's current population (which in 2009 is estimated to be 26,002 residents and equivalent to a population loss of 344 individuals) represents only a 1.3 percent population decrease which would not alter the analysis's less-than-significant population impact findings.

52-20 The comment states the opinion that the "2005" Housing Element is outdated and queries how the Draft EIR's analysis and findings consider the forthcoming update to the Eureka's General Plan and Housing Element. Under CEQA, analysis of a project's consistency with applicable general and regional plans should be based on those plans applicable at the time the notice of preparation (NOP) was published (CEQA, Section 15125(d)). In accordance with these guidelines, the Draft EIR evaluated the project's consistency with the City of Eureka's Housing Element (adopted in May 2004) which as of April 2009, continues to be the applicable planning document for housing within the City. The 2004 Housing Element will remain the most applicable Housing Plan for the City until an updated Housing Element is adopted by the Eureka City Council.

52-21 The comment questions the wastewater treatment plan operational capacity. Please see response to comment 9-34, as well as responses to comments of Letter 80, which address wastewater services and capacity. Please also see Chapter 2 of the Final EIR, which includes staff-initiated text changes to the Draft EIR regarding wastewater treatment and NPDES permit applications.

52-22 The comment questions the wastewater treatment plan operational capacity. As stated on Draft EIR page IV.Q-1, the Elk River Wastewater Treatment Plant (WWTP) operates at 100 percent capacity during peak wet weather events. As stated on Draft EIR page IV.Q-2, during periods of high influent flows, the overflow is directed from the effluent holding pond to a temporary holding marsh. Please see response to comment 9-34, as well as

responses to comments of Letter 80, which address wastewater services and capacity. Please also see Chapter 2 of the Final EIR, which includes staff-initiated text changes to the Draft EIR regarding wastewater treatment and NPDES permit applications.

Draft EIR Chapters IV.M, Public Services; IV.N, Recreation; and IV.Q, Utilities and Service Systems analyze the proposed project's demand on city services.

The proposed project would be required to pay its fair share toward infrastructure improvements related to wastewater and stormwater collection systems.

52-23 The comment expresses concern about the impact of the project on the other streets and neighborhoods. The one intersection where the impact is significant and cannot be mitigated is Wabash Avenue and Koster Street, a stop sign controlled intersection. As explained in the traffic study, this intersection is too close to Wabash Avenue and Broadway to signalize and no other mitigation appears physically or technically feasible, including redirection of traffic through traffic controls. See also to response to comment 32-9, which address traffic on corridors outside of the immediate project vicinity.

52-24 The comment questions ether the Draft EIR considers reduction in the size of the project to reduce traffic-related impacts.

Reducing the size of the proposed project would reduce the traffic volume to and from this location. However, equivalent economic growth would still be expected to occur at alternate locations, most likely along U.S. 101, as evidenced in Traffic Impact Study (TIS) Table VI and mapped in Figure 14 (pages 43 and 46 of the TIS, respectively). Reducing the size of the project would not significantly reduce future traffic volumes along Broadway and it would be more difficult to divert U.S. 101 traffic to Waterfront Drive. Moreover, a reduced project would also reduce the amount of the project's "fair share" contribution to regional transportation improvements, which would hamper further the City's and Caltrans's ability to fund transportation improvements that are needed with or without the project. The Draft EIR at pages IV.O-51 through -54 identifies the only transportation-related impacts that may remain significant and unavoidable. See also to response to comment 31-1, which notes that the 33 percent cumulative increase in traffic on Broadway would occur with or without the proposed project, and that identified mitigation measures would reduce almost all of those impacts to less-than-significant levels.

Also, a Reduce Project Alternative is analyzed in Chapter VI.

52-25 The comment asks whether the Draft EIR includes a section on public transportation within the project. Public transportation as mitigation is not considered to be as effective as the vehicle traffic improvements identified in the traffic study. There would be a need to capture perhaps 20 to 30 percent of project vehicular traffic instead on public transportation. Eureka's commercial centers, including Downtown, along with typical residential densities of mostly single-family housing all contribute to a low potential for

increased transit ridership because transit ridership increases typically require higher residential densities and concentrations of commercial activity.

There would be opportunities for local transit agencies to eventually plan and develop transit stops and transfer points near or within Marina Center, but such strategies would come as future opportunities occur and not before, and not as mitigation for traffic growth due to development at the project site. Increased transit ridership is likely when the average employee density exceeds 50 employees per acre, and the average residential density is above 20 dwelling units per acre, and these are far above the observed and anticipated employment and residential densities locally. According to the U.S. Census Bureau, the City of Eureka has a total area of 14.4 square miles, of which 9.4 square miles, or 6,016 acres, is land. As stated in the General Plan (page 13), very little vacant developable land remains within Eureka's city limits. Using the total acreage provided by the U.S. Census Bureau, the 11,765 housing units (2005) are spread among 6,016 acres of land, for a residential density of 1.95 units per acre.

- 52-26 The comment asks whether the [Project Applicant] would work with Caltrans to determine costs of mitigation.

The traffic impact study and the mitigation measures outlined in the Transportation chapter of the Draft EIR show which mitigation measures must be constructed by the Project Applicant, and others where the Project Applicant is responsible for a fair share of the costs. While the Project Applicant is only required to pay its fair share, and there may be no program in place or funding otherwise identified to ensure completion of all mitigation measures, to ensure that the key improvements are completed within the necessary time period to avoid the impact, mitigation measures would be installed by the Project Applicant under a reimbursement agreement with the City or other method for receiving credit against future improvements. Apart from that reimbursement or credit process, fair share is generally calculated simply by evaluating the proportion of traffic growth resulting from a proposed project to the total traffic growth projected in the future year. For example, if traffic increases by 1,000 vehicles per hour at a study intersection requiring mitigation, and if a project's contribution to those 1,000 additional entering vehicles is 400 vehicles per hour, then 40 percent of the mitigation costs are the responsibility of the developer and 60 percent are the responsibility of others. A similar process would be developed with Caltrans to identify the project's fair share contribution and ensure that transportation improvements are completed in a timely manner. The EIR's traffic analysis is a starting point for this fair share contribution analysis, but the project's ultimate fair share contribution cannot be calculated unless and until the timing and phasing of the development is identified, regional contributions to traffic are updated, and the costs associated with each improvement are finalized.

- 52-27 The comment questions whether the traffic analysis needs to incorporate fluctuations in fuel prices.

While variations in fuel prices have affected traffic levels, the effect is only one of a few percent. If fuel prices increase, we would expect traffic volumes to grow at a slightly lower rate than 1.5 percent per year in the corridor. In such event, traffic would flow only slightly better than is forecast in the traffic study.

- 52-28 The comment asks whether the Draft EIR would call for “Standards of Service Level” to be established by Humboldt County for Broadway. The comment also states that “acceptable traffic speeds of 9 mph” are not acceptable.

Broadway is a State Highway under Caltrans jurisdiction. Caltrans has concluded that a level of service of LOS D or better is acceptable on Broadway within the City of Eureka. The 9 mph speed criterion is the LOS D arterial speed criterion for streets with a 30 mph speed limit. The City of Eureka and the County of Humboldt, along with Caltrans, have defined LOS D operations on U.S. 101 as acceptable. It should be noted that the 8.2 mph average speed occurs only between Fourth Street and Washington Street in the p.m. peak hour in 2025, with an average travel time of 150 seconds. If the average speed were 15 mph (LOS C) in this section, the average travel time would be 85 seconds, or 65 seconds less. There is no evidence to suggest that these minor differences in speed and travel time would have any effect on the number of vehicles or accidents along this roadway segment. With or without the project, higher future traffic volumes projected on U.S. 101 could impede the speed of emergency services, but not to a significant extent—as stated in response to comment 16-178, the proposed project would not have a significant impact on response times. The improved traffic signal system and emergency vehicle preempt should actually improve future emergency response times with the project than a non-improved signal system without emergency vehicle preemption.

- 52-29 The comment references page IV.O-50 of the Draft EIR – which is a list of cumulative projects – and asks the Project Applicant to list the proposed project’s anticipated fair share contributions for each mitigation measure.

While unclear, presumably the comment is asking about Mitigation Measures O-8a and O-8b, as the analysis on page IV.O-54 concludes that the Project Applicant is only required to pay its “fair share” for the improvements identified therein. Mitigation Measures O-8a and O-8b are necessary to address full build-out of the project along with cumulative projects in the region under traffic conditions anticipated in 2025. Given that the improvements are not necessary for some time in order to avoid the impact, it is impractical to develop a precise calculation of the project’s fair share at this time. For example, the capital costs of undertaking the improvements and regional transportation needs could change dramatically between now and when the fair share contribution must be paid. In any event, this limit arises from the constitutional principle of “rough proportionality,” and the inability of the City to impose mitigation beyond the project’s fair share. (*Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.Fourth 342 (“Any mitigation measure must be ‘roughly proportional to the impacts of the project.’”) (citing CEQA Guidelines Section 15126.4(a)(4)(B)).)

Here, the project's fair share contributions to the traffic improvements would be derived based on the percentage of vehicle trips through a given intersection or roadway segment resulting from the project. And despite the proportional share limitation, the Project Applicant has agreed to install many of the improvements for which the project is not solely responsible, subject to credit or reimbursement towards future transportation or other fees. Consequently, the project-level measures are enforceable and would be installed by the Project Applicant with construction of the project. (See, e.g., Mitigation Measures O-1c through O-1k.) CEQA does not require that the Project Applicant or Lead Agency specify the precise, fair share amounts at the EIR stage. It is enough to show the commitment to mitigate the impact or, if mitigation not feasible, to make the finding that the impact is significant and unavoidable.

52-30 The comment requests further detail regarding remediation of the project site.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 of and new Appendix S.

52-31 The comment questions whether the Draft EIR would include research identifying furans and dioxins in sediments and fish on the project's property.

The Draft EIR has recognized and identified the potential dioxin and furan contamination that is present at the proposed project site. The remediation action plan developed for the project site would contain a comprehensive plan for protecting human health and the environment. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.

Please see responses to comments 6-3, 23-4, and 23-5, which state that dioxins in sediment samples from onsite ditches and the Clark Slough remnant are discussed on Draft EIR page IV.G-6. Further, Mitigation Measure G-1b states that prior to commencement of construction activities, the Project Applicant must complete characterization and remediation of all contaminants to the satisfaction of the RWQCB. This includes dioxin. Moreover, dioxin sampling is included in the SIRAP referenced above, which has been approved by the RWQCB.

Please also see response to comment 22-18, which discusses dioxins generally, the levels of dioxins found at the project site, and the additional testing that would be performed as part of the SIRAP.

52-32 The comment asks whether the 1996 and 2000 Health Risks Assessments would be updated to include additional information.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S. As stated in these sections, there were several site investigations completed both before and after the two Health Risk Assessments. Exposure pathways are considered in the remediation plan.

52-33 The comment asks what are the “ecological risks” associated with the project.

“Ecology” is the interdisciplinary study of organisms and their interaction with the environment, and it’s often included as a subset of Biology. However, the comment is written under the heading of “Hazardous Materials.” Impacts G-1 through G-9 (pages IV.G-19 through IV.G-26) discussed potential impacts related to hazards and hazardous materials. In addition, potential impacts to wetlands and associated habitats are discussed under Impacts D-1 through D-8 on pages IV.D-18 through IV.D-34. Note that the contamination on the project site is an existing condition, and that the proposed project would excavate and remove contaminated hot spots, as well as remove exposure pathways. For more details, please see Master Response 4 and new Appendix S.

52-34 The comment asks whether the Draft EIR would update toxicity thresholds adopted by the EPA. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S. These sections discuss toxicity thresholds.

52-35 The comment asks how the Draft EIR would ensure that there is enough data for the Water Quality Control Board to agree with its findings.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 of this document. The RWQCB would be the Lead Agency overseeing the remediation efforts, and it may involve other or coordinate with other agencies, such as the Department of Toxic Substances Control or the local health department. The RWQCB would ensure that the Project Applicant provides enough information prior to approval of the remediation plans.

52-36 The comment asks what mitigation measures would be used to reduce particulate emissions.

The wetlands construction equipment emissions used for the health risk assessment are addressed on pages 12 and 13 in Appendix E. The analysis of the health related impacts associated with emissions from construction equipment uses a threshold level because the operational period for the construction equipment is relatively short (on the order of months) and not applicable to a long term, 70 year, health risk assessment. The estimated emissions, as summarized in Table 3 on page 13 of Draft EIR Appendix E, are well below the North Coast Unified Air Quality Management District (NCUAQMD) thresholds. It should be noted that the mass construction emissions estimates for the basin wide discussion presented under Impact C-2, are also below the identified significance thresholds.

52-37 The comment questions the amount of affordable housing and the mix of uses, and claims that the project is not “smart growth” which calls for a balanced mix of jobs, housing, and services within a walkable area.

Please see response to comment 16-7 and Chapter III of the Draft EIR, which states that the project would include up to 72,000 square feet of residential space in 54 multi-family housing units that would include up to 12 one-bedroom units (approximately 1,000 square feet per unit) and 28 two-bedroom units (approximately 1,286 square feet per unit), four larger two-bedroom units (1,500 square feet per unit) and three three-bedroom units (2,000 square feet per unit). These residential units are planned to present an assortment of sizes and pricing to offer a diverse array of housing opportunities for the areas residents ranging from the affordable, entry-level one bedroom units to the higher-end three bedroom units. Also, many of the jobs provided by the project's retail, industrial, and office user's can provide employment opportunities to many currently unemployed and employed residents within the market area. Therefore, many of the individuals to be employed by retail and other businesses within the project likely already reside within existing housing. The housing offered as part of the project would thus contribute to housing opportunities in the market area.

As stated in the response to comment 17-4 the proposed project is a classic urban in-fill, mixed-use development embodying the major principles of smart growth, including redevelopment of a blighted, urban brownfield, a pedestrian-friendly design, multi-story, high-density residential uses located in close proximity to significant employment sectors of the project and the Downtown/Old Town Core Areas. Additionally, a significant area of the project is devoted to open space. The project site is close to 40 acres in size and contains industrial, office, commercial, residential, and natural resource-based zoning that is consistent with adjacent zoning of the area. The larger scale commercial zones are adjacent to arterial transportation corridors and similarly zoned properties to the east and south, the multi-story office and residential buildings are placed close to the waterfront where workers and residents can enjoy the Marina views and use the newly created biking and walking trails which connect to the underutilized boardwalk areas of Old Town. The light industrial portions of the project are adjacent to existing warehouses occupied by a fish processing plant, a beer distributor, a pipe supply company, and other light manufacturing businesses. The areas of the project site that have the capability to reestablish biologically superior, tidally influenced estuarine wetlands have been zoned for resource conservation. Developments of this nature are typically placed in areas of "land use transition" as the urban core develops into higher and better uses than their historical single use zoning allowed, much as the City of Portland has done in its previously industrial areas. The mix of uses as proposed in this development is entirely appropriate and consistent with this pattern of development while complementing the zoning and uses allowed on adjacent properties.

52-38 The comment questions how the proposed project would increase recreational opportunities and what coastal-dependent uses the project would include.

As stated on Draft EIR page III-14, the proposed project would include an 11.89-acre wetland reserve. As stated in Master Response 3, the project site does not abut the Bay, and it is therefore questionable that coastal-dependent uses could be developed at the

project site. The proposed project does not include coastal-dependent uses. Please also see Master Responses 3 and 5, which address the prioritization of uses within the coastal zone.

52-39 The Draft EIR does not contain the term “higher wetland uses” cited in quotation marks in the comment. However, as stated on page IV.I-14, the proposed wetland restoration area would have a net positive effect on the quality of the wetlands at the project site; unlike the existing degraded and scattered wetlands, the restored wetlands would perform all the functions of a healthy wetland. Please also see Master Responses 3 and 5, which address the prioritization of uses within the coastal zone.

52-40 The comment asks whether the Draft EIR would provide an analysis of coastal-preferred uses at the project site.

Please see Chapter VI, Alternatives, as well as responses to comments 16-239 and 16-242. An alternative containing uses similar to the described “coastal-preferred uses for the area to be developed” could be the Coastal Dependent Industrial Zoning Alternative. Please also see Master Responses 3 and 5, which address the prioritization of uses within the coastal zone.

52-41 The comment asks what provisions of law require that the property be developed in order to facilitate a complete toxic abatement.

The comment appears to be asking whether there is any law in California that would compel the development in order to facilitate the remediation, which is one of the identified project objectives. The Draft EIR at page VI-3 explains that one of the basic project objectives is to: “Facilitate brownfield redevelopment and urban infill development of property in the redevelopment area in the City of Eureka.” This is not a requirement of California law as the comment seems to suggest, but rather is a policy objective of the Project Applicant and the City in order to help promote cleanup efforts and infill development. These sorts of policy objectives help guide the City in its consideration of alternatives to the proposed project. The Lead Agency need only evaluate a reasonable range of alternatives. (CEQA Guidelines Section 15126.6(a).) An alternative may be excluded from consideration if it fails to meet most of the basic project objectives. (*Id.*, Sections 15126.6(a)-(c).)

Here, the Draft EIR considered a reasonable range of alternatives and concluded that most of those alternatives would at least partially meet the basic project objective of facilitating brownfields redevelopment or urban infill. (Draft EIR, pages VI-16 through VI-31.) A number of other alternatives are considered and rejected because they would not adequately fulfill this and other project objectives, among other deficiencies. (Draft EIR, pages VI-1 through VI-15.)

52-42 The comment notes that that many citizens would rather see limited development that capitalizes on the area’s unique natural resources by restoring the slough and wetlands

and providing for visitor-serving recreational uses. The comment asks if the Project Applicant has considered splitting up the project and developing portions of it within the open areas at either end of Eureka.

Expressing preferences among land uses is generally a policy matter for the City Council, and is not necessarily a CEQA matter. That said, the Draft EIR did evaluate a number of alternatives to the project, including off-site alternatives, a reduced-footprint alternative, and an alternative that would create more wetlands and open-space onsite for recreational and habitat uses. (Draft EIR, pages VI-4 through VI-34.) Many of the alternatives are considered but rejected in the initial screening because those alternatives are infeasible, failed to meet the project's basic objectives, or did not reduce one or more of the project's environmental effects. An alternative that splits the project into pieces and develops open space north and south of the project site would undoubtedly increase the project's environmental effects by fragmenting coastal habitat and causing additional vehicle trips among the various project components.

The project site was chosen because it is already surrounded by existing development and the needs to be remediated to accommodate any future uses, including recreational and habitat uses. It is questionable whether such remediation would occur in the event that the project was developed in several, disparate locations. Moreover, the project site is within walking distance to the City's Old Town/Downtown areas, and would avoid some vehicle trips among and between these various uses. The proposed project also satisfies the commenter's goals of restoring sloughs and wetlands and increasing recreational opportunities by cleaning up the property, restoring the Clark Slough remnant and 11.89 acres of estuarine wetlands, and installing recreational paths connecting the area to the underutilized portions of the adjacent board walk. So in addition to having fewer adverse impacts than the proposed alternative, the project as proposed makes sense.

Sidnie Olson

From: Jim & Donna [dancebirds@sbcglobal.net]
Sent: Friday, January 30, 2009 5:16 PM
To: DEIRcomments
Subject: Comments on Pedestrian Safety

I have reviewed the traffic analysis portion of the Marina Center draft EIR. There are two deficiencies that I would like to call your attention to:

1. Although pedestrian crosswalks are provided across Broadway (101) at 5th, 6th and 7th, the traffic flow analysis does not indicate that signal synchronization that allows ample time for safe crossing was factored in. Specifically, there was no analysis of how traffic turning onto Broadway would affect pedestrian crossing on the "downstream" crosswalk. It is possible, for example, it might be possible that traffic turning right from 6th onto Broadway could endanger pedestrians crossing at 5th unless right turns are restricted.

53-1

2. The Draft EIR States that cyclists intending to use the east bound bike lane on 7th from Marina Center will need to use the crosswalk at 6th, and take the sidewalk to 7th. There is no analysis on how cyclists walking bikes on the sidewalk between 6th and 7th will affect pedestrian safety. Riding bicycles on the sidewalk is illegal.

53-2

In order to address these two deficiencies more thorough traffic analysis is required. Such an analysis will be possible within two months when CalTrans releases its new traffic simulation software that will be made available to the city, with staff training.

53-3

By using the new software, the city will be better able to assess the effects on traffic, pedestrian and bicycle safety likely to be caused by the proposed Marina Center.

Jim Clark
Eureka Traffic Safety Commissioner

Letter 53: Jim Clark

- 53-1 The comment states that the traffic impact analysis does not indicate whether pedestrian crosswalk signalization would allow enough time to cross Broadway.

Pedestrian crosswalks on Broadway and if the signal synchronization has factored in the timing for the pedestrian crossings at Fifth, Sixth, and Seventh Streets, and how the traffic turning onto Broadway would affect pedestrian crossing on the downstream crosswalk.

Please also see response to comment 33-3 regarding pedestrian circulation and safety across Broadway. Pedestrian crossing times are completely factored into the analysis of intersection operations. No crosswalk is to be provided at Seventh Street across Broadway, nor across the southern leg of Broadway at Sixth Street. Currently, westbound right turns on Sixth Street to northbound Broadway are permitted and occur. The project makes no changes to this movement, or to the existing pedestrian crossings at Broadway and Fifth Street.

- 53-2 The comment states that there is no analysis of how cyclists walking bikes on the sidewalk between Sixth Street and Seventh Street would affect pedestrian safety. Please see response to comment 33-3, which discusses the bike path in this area.

- 53-3 The comment states that a more thorough traffic analysis must be done with new traffic simulation and analysis software.

The traffic analysis for the project used Synchro 6 (and later Synchro 7) plus SimTraffic, a micro-simulation software that provides very detailed analysis of vehicle and pedestrian operation. This was done at the request of Caltrans. The model of traffic operations showed exceptional ability to estimate and replicate existing traffic operations. The software almost completely incorporates signal timing operations and traffic flow theory based on the long-accepted CORSIM model developed by the Federal Highway Administration. The Caltrans software does provide additional capabilities, once calibrated, for simulation of bicycle and transit operations that is unavailable to users of SimTraffic. Nevertheless, neither the Caltrans simulation software nor the Synchro-SimTraffic software used for the traffic analysis in the Draft EIR has the ability to assess the differences in accident potential. Please see also response to comment 5-4 regarding the accident and safety analysis.

Sidnie Olson

From: Gregory Conners [greg@pci-insurance.com]
Sent: Tuesday, January 27, 2009 8:50 AM
To: DEIRcomments
Cc: lglass@foggy.net
Subject: "Marina Center" EIR

Dear Sidney,

Please expand the traffic study for the proposed development on Eureka's "Balloon Track" to include neighborhood laterals. Personally, I use Herrick to F to downtown, Harrison Avenue, Myrtle Avenue, and Arcata anytime I can avoid travel on Broadway. Many local drivers use 14th Street to West Avenue. Every one of these "shortcuts" to Highway 101 will gain use if this project is approved as submitted. Hopefully, the impact on the traffic through Eureka's neighborhoods—and the resulting impact on the neighbors—will be thoroughly considered in your studies of this project.

54-1

Earlier in the process I wrote with my concerns about tsunami and liquefaction hazards specific to this parcel of land. These issues are potentially life-and-death. Traffic may also become life-and-death and times, but affects everyone on a daily basis. It may simply be that this piece of property is poorly located for this project.

54-2
54-3
54-4

Best regards,

Greg

Gregory Conners
Agent/Broker 0488272
P.O. Box 575, Fortuna, CA 95540-0575
Telephone (707) 725-3400
Fax (707) 725-0292

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Letter 54: Gregory Connors

54-1 The comment states that the impact of this project on the other City streets and the traffic being diverted to the neighborhoods should be studied. Please response to comment 32-9 and Master Response 7, which address trip distribution.

54-2 The comment expresses concerns related to seismic events affecting the proposed project.

The Draft EIR identifies the risk to human life in the unlikely event that a tsunami of sufficient magnitude occurs (Draft EIR, at IV.H-22 and -23). The Draft EIR concludes that the risk to human life would be low due to a number of factors, including the Redwood Coast Tsunami Work Group maps, which show the project site as having a “moderate” risk of inundation (Figure IV.H-2), the shape and bathymetry of Humboldt Bay and the protection provided by the Samoa Peninsula, the infrequency of tsunami events, the elevation of the proposed project (10 to 12 feet above MSL), and other natural barriers protecting Humboldt Bay. The Draft EIR nonetheless includes mitigation measures, including structural measures and emergency evacuation measures that would reduce the risks of tsunami hazards to a less-than-significant level. For further discussion regarding the tsunami hazards see response to comment 3-14. For further discussion regarding the liquefaction hazards, see response to comment 16-34.

54-3 The comment states that traffic issues are life and death. The comment is noted.

The proposed project’s potential impacts to traffic-related hazards are discussed on page IV.O-43, under Impact O-4. As stated, after implementation of identified mitigation measures, accidents would be expected to be reduced by 15 percent.

54-4 The comment states that the property may be poorly located for this project. The property, however, is an excellent urban infill location for a mixed-use project. This area of the City is in transition, and the housing, jobs, and services it provides in the Downtown core would continue to upgrade the area. In any event, the comment does not propose an alternative location that would reduce the project’s environmental effects. As such, the comment raises land-use planning and policy issues for the City Council consideration, and not CEQA issues. Therefore, no further response or analysis is required.

JOHN D. COOK
ATTORNEY AT LAW
1190 VISTA DRIVE
EUREKA, CALIFORNIA 95503
TELEPHONE (707) 442-4518

RECEIVED
FEB 02 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Jan 29, 2009

City of Eureka
Community Development Dept.
Attn: Sidnie J. Olsen, 41 PF, P.O. Box
5314 St.
Eureka, Ca. 95501

Dear Sir:

I wish to recommend that you adopt Robin Arkelij's proposed Marina Center Development without further delay.

At any time someone would be interested in investing millions of dollars at these troubled financial times in such a project I do not know unless it is purely civic pride & good citizenship. Please do not kick this gift horse out.

It goes without saying that government has been completely ineffective in developing waterfront blighted areas of any magnitude & this is best left to free enterprise.

Thank you for your consideration

Yours truly
John D. Cook

55-1

Letter 55: John Cook

- 55-1 The comment expressing support for the proposed project is noted. As stated in Chapter I, Introduction, the proposed project requires several approvals from the City of Eureka and other public agencies. The EIR is a document used as a resource to aid in that decision-making.

Sidnie Olson

From: Merry Coor [merryallthetime@yahoo.com]
Sent: Wednesday, January 28, 2009 9:21 PM
To: DEIRcomments
Subject: smart growth/no growth

Dear fine folks.
I am a business owner in Old Town Eureka. It has taken many years for Old Town to get over the Mall. Now, we are doing fairly well in Old Town, though sometimes it is a struggle. Many businesses have come and gone in the 16 years that I have opened.

I think it would be crazy to build any more retail space. There are enough product and retail stores here in Humboldt County. Building many box stores are not going to make life better here, it would destroy most if not all the shops in Old Town and in Down Town, they would make smaller businesses fail, and increase unemployment. 56-1

Doing nothing on the balloon tract is doing something. What's the hurry? 56-2

Think of doing something that would help the ecology. Think green, smart. Remember, you don't have to do anything to the balloon tract. Doing nothing, that is a decision too.

Merry Coor
Talisman Beads

Letter 56: Merry Coor

56-1 The comment questions the demand for additional retail space in Humboldt County, as well as states that the proposed project would increase unemployment and cause business closures. Please see Master Response 1, specifically the “Potential Local Store Closures” and “Jobs / Wages Impacts” discussions.

56-2 The comment questions whether “doing nothing” is an option for the project site.

As stated in Chapter VI, Alternatives, 24 separate alternatives are screened for consideration, including a No Project Alternative, which would be closest to the comment’s suggestion of “doing nothing.” In addition, Horticultural Gardens, Wetland Restoration and Public Park, and No Fossil Fuel alternatives are screened for potential impacts, achievement of objectives, and feasibility. As stated on Draft EIR page VI-16, the No Project Alternative is selected for analysis, as required by CEQA.

The City of Eureka, the Lead Agency for the proposed project, is required to analyze the proposed project. The Project Applicant has submitted a development proposal. Pursuant to CEQA, the Lead Agency is required to analyze the development proposal for potential environmental effects.

Sidnie Olson

From: ken d [kfd50@sbcglobal.net]
Sent: Thursday, January 29, 2009 10:50 AM
To: DEIRcomments
Subject: Marina Center

I am all for the proposed Marina Center. I moved here in 1975 and have obviously observed the blight and discusting conditions that prevailed in that area since then, basically. The City of Eureka should go on record in full support of this project and do what ever they can to assist in getting it through the permit process. Anything and everything should be done to improve the appearance of the 101 corridor and obviously the Marina Center would go a long way towards that objective.
Thank you
Kenneth Daer

57-1

Letter 57: Kenneth Daer

- 57-1 The comment expressing support for the proposed project is noted. The proposed project's impacts to urban decay are discussed in Chapter IV.P of the Draft EIR and in Master Response 1.

Sidnie Olson

From: Jeff Davis [outsidethelens@hotmail.com]
Sent: Saturday, January 31, 2009 2:53 PM
To: Sidnie Olson
Subject: Marina Center Comments
Attachments: Marina Center Comments.doc

Please see attached

Windows Live™: E-mail. Chat. Share. Get more ways to connect. [See how it works.](#)

To: Sidnie L. Olson, AICP
Principal Planner
City of Eureka

From: Jeff Davis
Concerned Citizen
PO Box 6814
Eureka, Ca 95502

Re: Comments on the proposed Marina Center Project

Date: January 31, 2009

Hazards & Hazardous Materials

The Balloon Track is an abandoned waterfront rail yard that has been the victim of toxic pollution for over a century. Currently considered a brownfield site, this tidal marsh was filled and used by Northwestern Pacific Railroad to serve petroleum companies. For decades this land was abused, defiled and degraded; countless chemicals were dumped, leaked, spilled, drained, and seeped into the soil and groundwater. How was this century-long assault on our environment tolerated? Why is the city of Eureka not holding Union Pacific Railroads accountable for the pollution of these wetlands? Before any development is considered, this land should be treated and all hazardous materials should be removed. Regardless of what is build atop, it is essential that this site be adequately decontaminated.

58-1

58-2

Some of the toxic materials detected at this site include: arsenic, benzene, cadmium, chloroform, total chromium, copper, diesel fuel, bunker C oil, lead, methylenechloride, nickel, tetrachloroethylene, zinc, and numerous other hydrocarbons and petrochemicals. These are dangerous carcinogens, environmental hazards that we cannot afford to ignore. The EPA describes bunker C oil as, "...a heavyweight material that is difficult to pump and requires preheating for use. This fuel oil may be heavier than water, is not likely to dissolve, is difficult or impossible to disperse, and is likely to form tar balls, lumps, and emulsions. It has a low volatility and moderate flash point". The EPA continues to state that, "Crude oils and semi-refined products, such as diesel and bunkering oils, may contain cancer-causing polycyclic aromatic hydrocarbons and other toxic substances". Bunker C Oil degrades slowly in the environment and is only one example of the numerous petrochemicals that pollute the site of the proposed Marina Center. What other chemicals presently infect this site? The environmentally damaging chemicals that contaminate the groundwater, surface water and soil of the Balloon Track demand our attention, containment and comprehensive cleanup.

58-3

Arsenic is a potent poison, a known carcinogen whose exposure is potentially fatal. OSHA warns that, "Chronic exposure to arsenic can lead to dermatitis, mild pigmentation keratosis of the skin, vasospasticity, gross pigmentation with hyperkeratinization of exposed areas, wart formation, decreased nerve conduction velocity, and lung cancer. Acute exposures can cause lung distress and death". Benzene, another carcinogen present on the Balloon Track, has serious health effects including leukemia. According to OSHA,

5-495

Comment Letter 58

Comment Letter 58

“Long-term exposure may affect bone marrow and blood production. Short-term exposure to high levels of benzene can cause drowsiness, dizziness, unconsciousness, and death”.

Lead is a neurotoxin that accumulates in the soft tissues and bone over time. Similar to mercury, this heavy metal does not breakdown in the environment. Lead has serious impacts on wildlife ecology and nearly caused the extinction of the California condor. “OSHA has established the reduction of lead exposure to be a high strategic priority. It is a major public health risk. Lead poisoning is the leading environmentally induced illness in children. At greatest risk are children under the age of six because they are undergoing rapid neurological and physical development”. The EPA states “ Lead exposure can harm young children and babies even before they are born. Even children who seem healthy can have high levels of lead in their bodies”. What level of toxic waste should our children be exposed to? The terms “less-than-significant” and “should not pose an unacceptable health risk” are peppered throughout the DEIR. Who determines which health risks are acceptable? Who determines for our community the “significance” threshold? Considering that a non-profit children’s museum would be built on this land, it is essential that a thorough and comprehensive cleanup be performed.

Exposure to any one of these hazardous materials is cause for concern. What are the effects when these chemicals are mixed together? How do these deadly chemicals act, react and interact when exposed to one another? This Draft Environmental Impact Report lacks analysis of the toxins, the mitigations are vague and unacceptable, and the language and tone of much of the DIER and many reports (funded by Security National) seems bias. Who decided what to include and what to ignore? Why is the DEIR written using Security National’s language? Why were the studies funded by Humboldt BayKeeper not included in this DIER? These reports found high concentrations of contaminants on this site and dioxins in soils, sediments and wildlife. In order for this Draft Environmental Impact Report to be legitimate, re-examinations needs to take place and additional objective studies and samples are required.

Hydrology And Water Quality

“Two muted tidal remnants of the Clark Slough in the western portion of the property are connected to the bay by culverts under the railroad track. Tidal exchange within these slough remnants was verified by HBG based on field observations from 2005, 2006, and 2007 that indicate a daily rise and fall of water elevations” (Page 7, Appendix G, Biological Assessment Marina Center Project Balloon Track Property, Eureka, Huffman-Broadway Group, Inc, March 2008). It has been proven that these wetlands are tidally influenced. How far does this influence extend? The Clark Slough originally ran deep into Eureka, nearly reaching the Eureka Inn. There are reports that indicate this tidal exchange is occurring at sites much further inland. Why are these active and functioning systems merely being referred to as “remnants”? The hazardous wastes mentioned in the previous section are being transported and absorbed into Humboldt Bay through this continual tidal exchange. How does capping this polluted site mitigate the impact of long-term toxic seepage and perpetual tainting of our bay? Once again the DEIR lack through analysis and mitigation

measures are not adequate. Preserving the ecosystems of Humboldt Bay is in the best interest of our community.

Biological Resources

Nearly all of the 8.67 acres subject to jurisdiction as wetlands under the California Coastal Act would be permanently loss under this proposed project. Why is the term “restoring” being used to describe the process of completely destroying present wetlands and then digging a trench nearby? What are the benefits of destroying actual wetlands and creating artificial ones? Why accept a counterfeit? We would be permanently losing our wetlands in exchange for parking lots and anchor stores.

The investigation and documentation of the toxins that pollute the Balloon Track site are incomplete. It is important to gather and test soil, surface water, and groundwater samples throughout the entire cleanup effort. It is common for surprises to be encountered during the process of renovating a contaminated brownfield site. The full extent of the environmental damage and the long-term effects of the toxic materials that scar the Balloon Track are unknown. Restoring this site will require careful consideration and detailed planning due to the lands unique history. Proper cleanup of this site would include fully identifying, investigating and completely removing all present toxins.

Numerous techniques should be used to neutralize these threats. Bioremediations are natural techniques used to restore the environment. They use plants, bacteria, fungi and microorganisms to remove contaminates and help return the land to its original condition. The DEIR should further examine and recommend several additional bioremediation techniques. Soil extraction and treatment is necessary in certain hotspots and other heavily polluted areas. This soiled soil should not be incinerated onsite. Caution must be taken not to disperse these hazardous chemicals into the air and atmosphere during the removal process. Several groundwater and surface water decontamination treatments are necessary. After the toxins identified in the DEIR are removed, the area should be tested and rested until the hazardous substances are absent. The cleanup of this degraded site should not be rushed; we cannot afford to cut corners on this effort. Our community has a wonderful opportunity to repair, restore and revitalize this one-of-a-kind waterfront property.

“Among its legacies, Love Canal will likely long endure as a national symbol of a failure to exercise a sense of concern for future generations”(Verhovek). A surface clean and capping of this land will not be adequate as a cleanup technique. Burring toxic waste beneath the neighborhood did not work well for the people of Love Canal and should not be accepted by the people of Eureka. We should learn from the past and not repeat similar mistakes. The long-term impacts of this site have not been adequately analyzed or elevated. Before construction begins these toxic wastes should be removed, not enclosed and preserved. Failure to thoroughly and completely clean this site would have repercussions for generations. This challenge should be fully addressed and engaged. It is a problem that has waited for a century to be resolved, now is the time to act. The people of Eureka should not be satisfied with anything less than a complete and comprehensive cleanup.

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cont.

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Comment Letter 58

Comment Letter 58

Land Use & Planning/Public Services

Much of this site is currently zoned for public use and is meant to provide for the public. The proposal rezones this public land to industrial and mixed commercial/residential. This land was intended for public services such as hospitals, fire halls, treatment centers, and schools. Instead the applicant is attempting to create a large shopping complex with a big box anchor, while avoiding the adequate restoration of the site. Who is determining what is the highest and best use for this land? Who is ensuring that the Public Trust Responsibilities are being met? There are huge potentials and countless possibilities for this waterfront property. Whose criteria are being used to determine the "highest and best use" for this land?

58-16

Would a Home Depot store better serve our community than a public transit center, a renewable resources research center, a marine lab or aquarium, a maritime museum, an environmental quality monitoring center, a community swimming pool or a local seafood market? We should use this land in the best interest of our community and our community's future. Our local economy needs long-term solutions and increased tourism. I don't believe that a Home Depot, which is closing stores and laying off workers, is the solution nor will it attract tourists or sightseers. We should base our decisions on community benefits, not corporate interests. The Discovery Museum would make a great addition to our waterfront. This children's museum has received much attention, but only accounts for 2.5% of the total development area (not including the 1,590 parking spaces). This property is zoned for the use of the people, not the profit of corporate executives. How can wetlands zoned public be permanently destroyed and replaced by a shopping center?

Cultural Resources

This region has a rich history and the evidence is all around us. The Balloon Track site was a rail yard for nearly a century; it is very probable that there are railroad artifacts present. The railroad industry played a key role in our local development and history. The buildings may be gone but there potentially are historically significant findings yet to be discovered. What efforts are being made to locate and preserve these treasures from our past?

58-17

Eureka was settled in 1850, but native people had inhabited this area long before that time. "...The prehistoric Wiyot community of 'Djerochichichiwil' near or within the northeasterly portion of the project site, is considered by the Wiyot Tribe to be a significant and highly sensitive cultural resource associated with the Wiyot cultural history and identity"(IV. E-10). Another ancient village, 'Moprakw', is located in the vicinity of the proposed project site. The mitigation measures suggested are disrespectful, insulting, and unacceptable. There needs to be much more testing prior to construction. Unearthing a potentially sensitive site during construction could be disastrous. Why weren't any of the cultural resources reports and investigations included in the technical

58-18

appendices of the DEIR? I applaud the City of Eureka for returning a portion of Indian Island back to the Wiyot Tribe. Eureka should use tact and show respect when considering the sensitive cultural resources present at the Balloon Track site.

58-18 cont.

Air Quality /Transportation

The proposed Marina Center project would contribute substantially to an existing air quality violation. We must not lower our standards, but demand that the applicant raise their standards. We cannot afford to compromise the quality of the air that we breathe. This proposed project is estimated to emit thirty-eight tons of particulate matter every year that can be inhaled and cause adverse health effects. This is more than twice the "significance threshold". Even worse, four hundred forty-six tons of Carbon Monoxide would be emitted per year. This is nearly four and a half times the "significance threshold". This is simply unacceptable. How could this project proceed with these blatant violations?

58-19

This proposed project would create significant traffic congestion. We are in a critical point in time where we as a people should move away from our over-consumption of fossil fuels and the damages that they inflict. The Balloon Track is an ideal location for a train/light rail station. This region would be able to significantly reduce the number of cars on the road by investing in a sustainable transit system. This proposed project takes our community in the wrong direction. We must systematically reduce our dependency on oil, not increase our consumption habits.

58-20

Conclusion

The impact of not properly cleaning this site could be devastating. Due to the history and current state of the property, cleaning costs could be much higher than anticipated. Luckily there are numerous programs, grants and funds available for brownfield renovation. Does the Balloon Track qualify as a superfund site? Would other government agencies we will to step in and ensure that this site is adequately cleaned? Now is the time to plan smart and plan ahead. Our community can no longer afford to further contaminate our bay, marshes and sloughs. We owe it to our children and all future generations to remove and reverse the environmental damage caused by the dangerous toxins that pollute the Balloon Track. We have the opportunity and ability to correct these mistakes and guide our community towards a better, more sustainable future.

58-21

After researching I have found that it is crucial that the proposed site be thoroughly cleaned and all hazardous materials be removed prior to construction. We as a city cannot afford to overlook and ignore the long-term environmental impacts of this project by focusing on the short-term benefits. I recommend that the Balloon Track site be cleaned and restored, free of all toxins, prior to any development. Regardless of what is built atop, it is essential that this land be properly cleaned before construction. The decisions that we make today will ripple through time. This property can only attain its true highest and best use after being cleaned and restored. We should not allow these hazardous substances to continue to leach into and contaminate our bay.

58-22

Comment Letter 58

References

"Hazard Recognition." Arsenic. OSHA. 6 Nov. 2008

<<http://www.osha.gov/sltc/arsenic/recognition.html>>.

"Health and Safety Topics." Benzene. OSHA. 6 Nov. 2008

<<http://www.osha.gov/sltc/benzene/index.html>>.

"Health and Safety Topics." Lead. OSHA. 6 Nov. 2008

<<http://www.osha.gov/sltc/lead/index.html>>.

"Lead in Paint, Dust, and Soil." Basic Information. EPA. 6 Nov. 2008

<<http://www.epa.gov/lead/pubs/leadinfo.htm#facts>>.

"Types of Petroleum Oils." Types of Petroleum Oils. EPA. 6 Nov. 2008

<<http://www.epa.gov/emergencies/content/learning/oiltypes.htm>>.

"Types of Refined Petroleum Products." Types of Refined Petroleum Products. EPA. 6

Nov. 2008 <<http://www.epa.gov/emergencies/content/learning/refined.htm>>.

Verhovek, Sam H. "After 10 Years, the Trauma of Love Canal Continues". New York Times 5 Apr. 1998.

Letter 58: Jeff Davis

58-1 The comment regarding the history of contamination on the property is noted. The purpose of an EIR is not to determine legal liability with respect to past contamination. Please see Master Response 4 and Appendix S for further details on past testing and plans for site remediation.

58-2 The comment states that the contamination on the project site should be remediated before any development can move forward. The comment is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

58-3 The comment questions what other chemicals affect the project site.

Please see Master Response 4 and Appendix S for further details on the levels and locations of contaminants present on the project site.

58-4 The comment questions which agencies determine acceptable levels of contaminants. The comments also asks how levels of significance are determined.

The Regional Water Quality Control Board is the lead regulatory agency and will need to approve the final remediation action plan for the property. The City, as Lead Agency under CEQA, makes the final decisions regarding significance conclusions in an EIR.

58-5 The comment states that the effectiveness of site remediation will be important. The comment is noted.

58-6 The comment states that the Draft EIR lacks an analysis of toxins and mitigation measures identified are vague. The comment is noted.

For further discussion regarding the condition of the project site, investigations undertaken, and the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

58-7 The comment questions how the Draft EIR was prepared and whether the Project Applicant had information withheld from the document.

The Marina Center Mixed Use Development Project Environmental Impact Report was prepared by Environmental Science Associates, in consultation with other consultants and the City of Eureka. As stated in Chapter I, Introduction, the City of Eureka is the Lead Agency for the proposed project, and as required by CEQA, the completed document represents the judgment of city staff. The document is a tool prepared by city staff to inform the ultimate decision makers, the City Council, regarding the proposed project.

The City ultimately decides what studies and data are to be included in the Environmental Impact Report.

- 58-8 The comment asks why some studies of the project site are not included in the Draft EIR.

For further discussion regarding the dioxins and furans, please see response to comment 6-3, which states where dioxin samples were taken from the project site. Please also see Master Response 4 and Appendix S for a discussion of studies and investigations performed at the project site.

- 58-9 The comment discusses existing conditions at the project site and does not address the proposed project.

The contamination present at the project site is an existing condition that is not introduced by the proposed project. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 of this document.

- 58-10 The comment questions the efficacy of placement of clean cover material over the project site in preventing seepage of chemicals into the bay.

Placement of clean cover material over the project site is meant to remove exposure pathways. For further discussion regarding the Remedial Action Plan for the proposed project, including control of off-site drainage and chemical migration, please see Master Response 4 and Appendix S.

- 58-11 The comment states that nearly all 8.67 acres of wetlands would be permanently lost, and that the Draft EIR uses the term “restoring” wetlands to describe a process where all wetlands are destroyed and then a trench is dug nearby. The comment questions the benefits of creating artificial (counterfeit) wetlands. The comment expresses an undesirability of permanently losing wetlands to parking lots and anchor stores.

The wetlands at the project site totals 8.67 acres and includes 7.61 acres of palustrine emergent seasonal wetlands and 1.06 acres of estuarine emergent wetlands within a remnant of Clark Slough. It should be noted that the existing wetlands onsite are almost entirely man-made, and consist of depressions, ditches, and compacted low-lying areas created by industrial and railroad activities, providing limited functions and values commonly associated with natural wetlands. As stated in response to comment 1-2, the proposed project would result in permanent filling of approximately 6.15 acres of wetlands that are found at the project site. Mitigation includes establishment of a wetland restoration area of 11.89 acres containing 8.98 acres of estuarine wetlands (6.46 acres of these estuarine wetlands would be created as a result of the proposed project). Although there are some impacts that would be classified as permanent impacts, after implementation of the project and the creation of contiguous estuarine wetlands at the south end of the project site at an acreage exceeding the extent of the existing combined degraded seasonal and estuarine wetlands (permanent filling of 6.15 acres of wetland, creation of 6.46 new acres of wetland, resulting in a mitigation ratio of 1.05:1), it can be stated that the proposed

project would have a beneficial impact on wetlands and for wildlife in the area. This sort of wetland creation and restoration is commonly implemented by wetland specialists (including hydrogeologists and biologists) and has proven effective in creating or improving wetland habitats.

- 58-12 The comment states that hazardous materials investigations are not complete.

For further discussion regarding the Remedial Action Plan for the proposed project, including more information regarding the levels and locations of contamination on the property and the numerous investigations undertaken, please see Master Response 4 and Appendix S.

- 58-13 The comment states that proper cleanup of the project site requires detailed planning and full identification and removal of contaminants. The comment is noted

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S, which is the Supplemental Interim Remedial Action Plan (SIRAP) that has been conditionally concurred by the Regional Water Quality Control Board staff. Note that the SIRAP includes excavation and removal of soils at contaminated hotspots.

- 58-14 The comment recommends bioremediation techniques. The comment is noted. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4.

- 58-15 The comment regarding placement of clean fill material over the project site is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4.

- 58-16 The comment advocates for a public transit center, a research center, or other uses. The comment questions who is determining the highest and best use for the land.

The Draft EIR analyzes potential environmental impacts from the proposed project. “Highest and best use” is a term used in the real estate appraisal industry to describe the use that would generate the highest return on investment. The Draft EIR does not address “highest and best use.” Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI. As stated in Master Response 3, the land is not owned by the City of Eureka. The City of Eureka, as Lead Agency for environmental review, is required to analyze the potential environmental effects of the proposed project.

The comment also questions who is ensuring Public Trust Responsibilities. As stated on Draft EIR pages IV.E-4, the Public Trust Doctrine is a common law right and obligation held by governments to protect the public interests in navigable waterways, their beds, banks, and certain uses. Please see response to comment 8-1, which states that the extent

of public trust lands is still under investigation. Please also see Master Responses 3 and 5 regarding uses permitted by the Local Coastal Program and the Coastal Act.

- 58-17 The comment questions what efforts are being made to preserve the railroad history of the project site.

As described on Draft EIR page IV.E-17, due to the extensive ground disturbing activities which occurred in the area during the late eighteenth to mid-twentieth centuries, the potential for encountering significant historic-era subsurface deposits associated with the railroad yard and switching station is low. The technical analysis completed for the Draft EIR (Roscoe et al., 2006) indicated that the most likely location within the project area to contain historic-era artifacts would be within the same areas determined to be sensitive for prehistoric archaeological resources. Therefore, implementation of revised Mitigation Measures E2a-b would reduce potentially significant impacts to historic-era artifacts to a less-than-significant level. Please also see Master Response 9, which provides the text of the revised mitigation measures.

- 58-18 The comments stating that the mitigation measures identified in the Draft EIR (Measures E2a-b on Draft EIR page IV.E-17 – 18) are insufficient are noted. With regard to requests for additional subsurface testing, please see Master Response 9. The cultural resources technical report is not included as an appendix to the Draft EIR because it is considered confidential. However, City staff, the Project Applicant, and those with a direct need-to-know about the location of archaeological sites, have access to this report.

- 58-19 The comment states that the project should not be approved given the significant air quality impacts that would result. Comment noted.

- 58-20 The comment expresses an opinion about traffic impacts, and suggests that a better use of the project site would be a train / light rail station.

Section IV.O (Transportation) of the Draft EIR describes impacts of the proposed project, identifies measures to mitigate those impacts, and makes findings as to whether the impact after mitigation would be less than significant, or significant and unavoidable. Chapter VI of the Draft EIR identifies and describes alternatives to the proposed project, including an Intermodal Bus Terminal Alternative. That alternative, a public project, would be economically prohibitive, and is not carried forward for detailed analysis.

- 58-21 The comment asks what government agencies would ensure that the site is adequately cleaned up. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S, which address regulatory agencies that would oversee cleanup.

- 58-22 The comment regarding the removal of all contaminants prior to construction is noted. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4. The cleanup of the project site would occur as Phase 1 of the project, prior to any development.

Sidnie Olson

From: George Davis [c54fun1997@yahoo.com]
Sent: Wednesday, January 28, 2009 11:04 AM
To: DEIRcomments
Subject: Marina Center Draft EIR Comments

It appears that there is no accomodation for high density/low income housing within this development. Since the State and Federal governments seem to pushing communities to define housing for extremely low, low and moderate income levels, the Marina Center seems to be a perfect location (urban, close to services, transportation, etc.) for this type of housing accomodation. Why has this subject been ignored in the draft EIR?

59-1

My other concern is traffic in/around the Marina Center and the pollution caused by said traffic. Broadway and Waterfront Drive seem inadequate to handle the expected additional traffic.

59-2

Thank You,
George/Nancy Davis
439 Westgate Drive
Eureka, CA 95503

Letter 59: George Davis

- 59-1 The comment suggests that the project site is a good location for low income housing development and inquires why the Draft EIR does not evaluate the site's use for high density / low income housing. As discussed in the response to comment 48-5, the project is not required by any applicable state or city regulation to include any low income housing; and, development of market rate housing is necessary to meet the project's key objective to "develop an economically viable mixed use project."
- 59-2 The comment expresses concern about the transportation impacts of the proposed project and any associated impact on air quality. The comment is noted. The transportation impacts of the proposed project are detailed in Chapter IV.O of the Draft EIR.

(City of Eureka)

Thurs Jan 29th 09

To Whom it May Concern.

I Came to Eureka As a U.S. marine man 17th 1942 fell in Love With my Wife, And the City of Eureka, in that Order! And it has been my Home until, to this Day! Except, 2 1/2 years in the Pacific and San Diego!

I Bought this lot and helped build this Home Almost 56 years ago, my entire Working years. Were within the City limits of Eureka! including 5 years, managing a Business At 6th + Broadway - So, I Think I can Truly Say, my Love for Eureka Has been Well returned, - Having raised 4. Successful, ^{children} and a Wonderful marriage, to my late Wife of 65+ years.

My Point. - The Only thing Eureka Has going for it right now is Arkley Marine Center. I have never met Rob Arkley. But, I can see downtown Eureka Today Compare it to Ten years ago and Be thankful that he Came Back here to live, and believe when their Center Gets going the rest of our Waterfront, will follow up, and utilize the land they have options on. - and, Build something in front of these huge hoist on the waterfront!

Its time for Eureka to get behind the Arkleys and get something done, instead of trying to protect things that dont need protecting, and get that awful parcel of old infested property cleaned up.

William M. Davis
Eureka Citizen + Proud of it
Over 65 years
Lot 7, Block 2
Bill Addison

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60-1

Letter 60: William Davis

60-1 The comment in support of the proposed project is noted.

Sidnie Olson

From: L [trustyordesires@yahoo.com]
Sent: Tuesday, December 16, 2008 4:08 AM
To: DEIRcomments
Subject: Marina Center? Not in our town!

To whom it may concern,

Besides being a grotesque eyesore replete with entirely non-indigenous palm trees, the Marina Center would NOT generate well paying jobs: the money will leave our economically depressed area and feed the fat cats. I 61-1
I 61-2

Furthermore, the architectural and cultural integrity of Eureka will be compromised by such a distinctly So-Cal "shopping town." "Wildlife preservation area" my foot. "No significant impact" toward breathing quality? I already have asthma, thanks. I 61-3
I 61-4

Pardon the vitriol, but we as a proud and harworking, largely blue collar community cannot afford to buy into the lies of these smooth talking PR men, and armies of attorneys who speak for one very determined billionaire.

What's it going to take?

Respectfully,
L. Dickinson,
Eureka

"When I use my strength in the service of my vision,
it matters less and less if I am afraid."
-Audre Lorde

Letter 61: L. Dickinson

61-1 The opinion of the preliminary project renderings is noted. As stated in the outline on page III-18 of the Draft EIR, under *F. Project Entitlements and Approvals*, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

61-2 The comment states that the proposed project would not generate well paying jobs and that money would leave the community. The comment is noted.

Please see Master Response 1, under “National Stores vs. Local Stores” and “Jobs / Wages Impacts.”

61-3 The opinion of the preliminary project renderings is noted. As stated in the outline on page III-18 of the Draft EIR, under *F. Project Entitlements and Approvals*, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

61-4 The comment makes a reference to impacts to “breathing quality” and references the commenter’s asthma condition. For discussion of the project related impacts associated with air quality, please see to Draft EIR Chapter IV.C, Air Quality.

Sidnie Olson

From: Amber Dolph [amber.dolph@gmail.com]
Sent: Wednesday, December 17, 2008 12:21 PM
To: DEIRcomments
Subject: comment on balloon tract

My comment on the Marina Center is as follows:

I have great concern about the air quality decreasing because of such a development. I also am very concerned about the traffic issues on the 101 in Eureka that will occur due to the building and traffic from the new Marina Center(Traffic is terrible already during rush hour). I am concerned about the wetland preservation and the fact that there maybe Weott villages that exist on the balloon tract that will need to be explored before any building can be completed. These are all real important concerns that should be considered with great care.

62-1
62-2

I would also like to comment on what would be nice to see happen with the balloon tract. I would like to see a proper clean up of the area. The traditional dig and remove the soil clean up will not be the best way to tackle the problem. If there are old Native American villages there that need exploration than that will not work. People keep commenting on the cost of clean up. I think there are great and local alternatives. I heard about the Wounded Planet Foundation, which is a non-profit foundation that is interested in planetary cleanup. They may be able to help. Or perhaps there are some scientists that need a brown zone to turn into an urban green zone, to further prove of safer ways to clean up toxic sites without having to disturb the landscape so much. Maybe Eureka could become an example of these great and existing technological advances and how they can be used to reclaim urban brown zones. Going that route would be the best long term solution for Eureka and possibly the world. That would be a great thing to be known for. Instead of added just one more corporate park that can be the eye sore of the Eureka Victorian Waterfront. Oh, and we don't need another hardware store for a town of this size. We are already blessed with an abundance of local building materials. How many green zones do we have in the urban landscape? Could it be that we need to clean that area and others up to create more established parks for the city of Eureka, the locals, Humboldt bay, the oysters, the tourists, and future generations to enjoy. Are we not lucky to still have unclaimed views of the bay for wildlife. It is time to rethink what is best for people here. Thank you for reading my comment and I hope that you will make a resposible desition on the matter. Amber

62-3
62-4
62-5
62-6

Letter 62: Amber Dolph

- 62-1 The comment expresses concern about the potential traffic and air quality impacts of the proposed project. The comments are noted. Please see Draft EIR Chapters IV.O and IV.C, respectively, for a discussion of these potential impacts.
- 62-2 The comment expresses concern regarding potential archaeological resources at the project site. Implementation of a subsurface survey program would help determine whether significant archaeological sites exist in the project area. Please see Master Response 9, which details revised mitigation measures for subsurface investigations.
- 62-3 The comments expressing a desired process of site remediation and alternative uses for the project site are noted. Alternatives to the proposed project, including uses similar to those suggested, are discussed in Chapter VI. Please see Master Response 4 regarding site remediation, as well as Master Response 9 regarding historic Wiyot villages.
- 62-4 The comment proposes to turn the project site into an urban green zone instead of another corporate park that, in commenter's opinion, can be an eyesore on the Eureka Waterfront. The project is not proposing a corporate park, but is rather a mixed-use project that combines retail, office, industrial, and residential uses near the waterfront and a restored wetland and slough area. The project is meant to provide aesthetically pleasing views for residences and users of the recreational area. Indeed, the proposed project is anticipated to improve the visual character of the area:

Generally, the Marina Center project would improve the visual character of the site, as it would transform a vacant brownfield with low visual quality to a planned development containing a mix of land uses and building types that draw from the site's maritime and industrial heritage, as well as from the contemporary influences of the Eureka waterfront, Old Town, and Downtown areas. (Draft EIR, page IV.A-7.)

Thus, the Draft EIR rightly concludes that the project would have a less-than-significant impact on aesthetics. The Draft EIR also evaluates a reasonable range of alternatives – including a public open space alternative – and concluded in initial screening that a “public open space” or “urban green zone” would be infeasible and would fail to meet the basic project objectives. (Draft EIR, pages VI-12 and -14.) The comment provides no information that is inconsistent with the Draft EIR's assessment, and no further analysis or mitigation is identified. Please also see the Draft EIR, Chapters IV.A and VI, and the more detailed discussions concerning aesthetic impacts and project alternatives.

- 62-5 The comment states that the City of Eureka's hardware retail demands are already adequately met. Please see Master Response 1 for a discussion of retail demand.
- 62-6 The comment suggests alternative uses for the project site. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI of the Draft EIR.

Sidnie Olson

From: Jean Doran [jeandoran@sbcglobal.net]
Sent: Thursday, January 29, 2009 10:00 PM
To: DEIRcomments
Cc: DEIRcomments
Subject: HOME DEPOT???

There is another aspect besides the Environmental questions-- the sociological question raised by the dominance of Home Depot

in the MarinaCenter. Most Home Depots take up a space larger than a football field., withan. income to match. two " Category Killers" Home Depot

and Lowes had nearly half of all Hardware and Building supplies sales with \$73 billion going to Home Depot in 1904. since then about 5,000 independent

hardware stores have closed, How much of that \$73 billion has retuned to the communities occupied???

[63-1

Introducing the #2 Big Box to an area that supports local businesses is unnecessarry and disruptive, It can be avoided by community action.

Fighting and winning-- austin,Texas--Boulder, Colorado--Bellingham, Wshington. PR like Local Spoken Here-- aqnd Think Local First--

and Put Your Money Where Your House Is. What is for the Common Good?????

Letter 63: Jean Doran

- 63-1 The comment asks what the effect would be of a closure of the anchor tenant store. Please see Master Response 1, under “National Stores vs. Local Stores.” Also note that the CBRE urban decay analysis concluded that if the space were to be vacated by the planned anchor tenant, the space could be retenant.

Comment Letter 64

Comment Letter 64

To: City of Eureka
 From: Michelle Dulas --Westside Resident (Ward 1)
 PO Box 7001
 Eureka, CA 95502
 Re: Balloon Tract Draft EIR Comments

It is my pleasure to submit these comments regarding the Draft Environmental Impact Report for the big box mall proposed for the Balloon Tract on the Eureka Waterfront.

I am particularly concerned with the potential for massive Urban Decay in our town as a result of this project. I found the Urban Decay section of the document to be grossly inadequate on several fronts:

(1) The vacancy rate presented seems very low compared to actual circumstances and especially in light of recent developments. Specifically, the dismal state of the national economy overall and the closing locally of such major retail outlets as Mervyns & Gottschalks, along with Restoration Hardware and many others, seems to contradict the vacancy rate presented in the document. Please refer to the map I have submitted with my comments for a representation of a partial list of current vacancies as of January, 2009. This map is based on a list of vacancies attached to the end of my comments. It should be clear that there is a severe vacancy problem that is growing and causing urban decay already. Further economic dislocations as a result of the proposed big box mall will inevitably make things worse. A much better and comprehensive study of vacancy rates is absolutely mandatory for this document to be of any utility whatsoever.

(2) The October, 2008 "Update" fails to reflect current economic conditions let alone economic forecasts going forward as national & global situations stagnate. This leads to a gross overestimation of demand to such an extent that a significant excess supply would be created by this project, resulting in empty and deteriorating commercial space. All demand and market growth projections must be updated and reconsidered in light of new information about the economic crisis. This economic crisis is not to be dismissed as a simple market correction or downturn in normal business cycles and therefore warrants new economic work to provide an accurate analysis of the true impact on Eureka.

(3) This report made no study of, nor considered any correlation to, the directly applicable history of the catastrophic impacts on the Eureka Mall and the Old Town & Downtown business sections of Eureka, caused by the opening of the Bayshore Mall in the late 1980's. The physical deterioration caused by this major shopping center opening is a perfect example of an economic chain reaction leading to blight. The omission of any consideration of this history seems a willful blindness to cause & effect that violates both the old saying that those who fail to learn from history are doomed to repeat it, but also violates CEQA Guidelines—Section 15064 requiring the lead agency to consider such a chain reaction effect.

This document is inadequate both in the veracity of the data, the analytical methods used and the scope, depth & breadth of its study. The conclusions are canned and completely inadequate. My conclusion is that the whole thing is a useless waste of time and money.

THROW IT OUT AND DO THE DEIR AGAIN!

Thank you,



Michele Dulas

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5-513

64-1

64-2

64-3

64-4

Vacant Storefronts and office buildings in Eureka as of January 7th, 2009

01, 02, 03	(next to) 3360 Jacobs Avenue	former industrial supply
04	4 th St. North	former Spadoni's Mkt.
05	4 th St. North	former Udder Place coffee
06	427 V St.	former Mexican restaurant
07	2006 4 th St.	storefront
08, 09	1930 4 th St.	former cardroom
10	3 rd St.	former Goldrush Coffee
11	2212 2 nd St.	service/auto
12	321 X St.	auto sales
13	5 th & hwy 255	former Pizza Hut
14	435 5 th St.	former Arctic Circle
15	1515 5 th St.	The Rental Market
16	923 3 rd St.	office for lease
17, 18	835 3 rd St.	professional office
19	310 2 nd St.	dental office – ½ empty
20	124 2 nd St.	vacant building
21	2 nd & D Sts.	former 'Consider the Alternatives'
22	2 nd and D Sts.	former 'Jimmy Dunne's'
23	333 1 st St.	former Cop Bldg.
24	322 1 st St.	office building
25	1 st St	Eureka Ice & Cold Storage
26	91 1 st St.	former GoFish Café
27	2 nd St	Imperiale Place
28	foot of F St.	Bayfront 1 restaurant
29, 30, 31	between D & E on 2 nd St.	former Restoration Hardware

Comment Letter 64

Comment Letter 64

32	311 E St.	storefront
33	235 4 th St.	empty office
34, 35, 36	215 4 th	former Eureka Reporter
37	4 th & B St.	former Joe's Smoke Shop
38,39	400 Broadway	former East Bay Machine
40	300 Broadway	former All about the Dogs
41	122 W. 4 th St.	empty shop
42	REDWOOD ELECTRONICS	occupied
43	w. 6 th St.	former OH's Townhouse
44	105 W. 5 th St.	empty store
45	117 W. 5 th St.	empty store
46	F & 5 th Sts.	former Moon's toystore
47	520 5 th St.	empty store
48	524 5 th St.	empty store
49	532 5 th St.	empty store
50	423 F St.	empty store
51	4 th & F St.	former Bank of America
52	my jacket!	
53	511 H St.	empty store
54	F St. next to Eureka Theater	empty store
55, 56	6 th & b St.	empty car lot
57	7 th & A St.	former Rental Helpers
58, 59	120 7 th St.	former auto sales
60	133 7 th St.	former auto parts store
61	301 7 th St.	former VW auto sales
62, 63	7 th & F St.	Eureka Inn

<u>New disc</u>		
065	Broadway & Grant	former muffler shop
066	1630 Broadway	empty store
067	1626 Broadway	empty store
068,69		
	Wabash & Broadway	former Channel 6 TV
070	2029 Broadway	former Napa auto parts
071	2616 Broadway	former truck stop
072	2710 Broadway	former café
073	Boardwalk Mall, Broadway	former Wise Flooring
074	Boardwalk Mall, Broadway	empty office
075	#10 Victoria Place, Broadway	empty Beauty Supply store
076	#12 Victoria Place, Broadway	empty Women's Gym
077 - 106	3000 Broadway, Bayshore Mall	31 empty stores + 2 signs
107	3990 Broadway	former Nader auto
107 108	Elk River Tallow Works	vacant
0109	S. Broadway, east side	vacant lot
110	Eureka Mall, Henderson side	empty store
111	Eureka Mall, Henderson side	former 6 Rivers Bank
112	311 Harris	former pain clinic
113	Henderson between F & G	former Sun, Rain, Time
114	437 Henderson	former Thrift Store
	<u>No Photo</u>	
	2816 F St.	former Roberts gift store
115	2858 E St.	empty realty office
116	next to 2912 E St.	empty store

Comment Letter 64

117	2607 Harris	empty office suites
118	2761 Hubbard lane	former trailer rental lot
119	Myrtle Avenue	former Redwood Pharmacy
120	Myrtle & Park St.	former gas station
No Photo	2297 Harrison St.	Former Duck's Market
121	23 rd & Harrison Ave.	former Planned Parenthood
122	2456 Buhne	empty Med. Office building
123	Walnut & Hemlock	New bldg for lease
124	101 Wabash	empty gas station
125	Wabash & Union	empty shop bldg
126	Wabash & Union	empty church
127	3 rd and I	McMahans Furniture

5-515

Comment Letter 64

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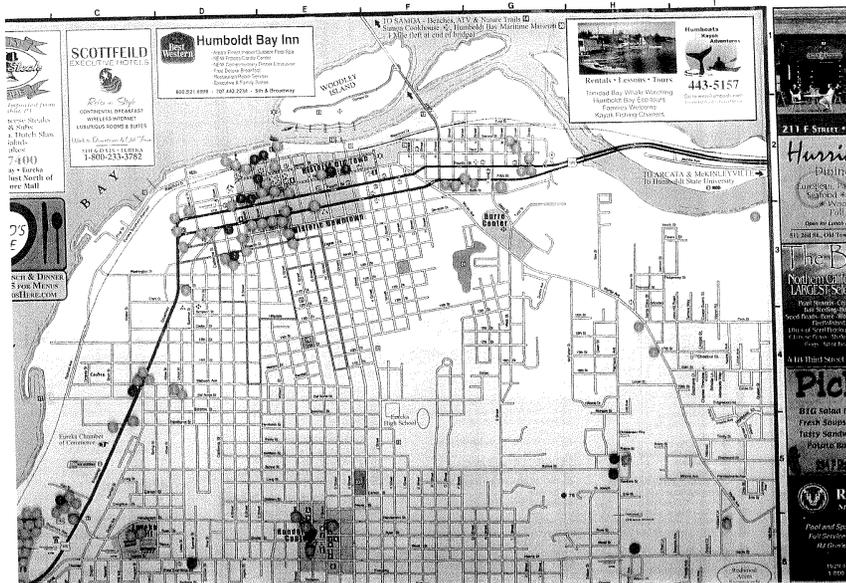
Legend

- Retail
- Office

January 30, 2009
 Submitted in support of
 comments by Michele Dukis
 on the Balcon Tract DEIR.
 Compiled from data collected by Tom Peters.

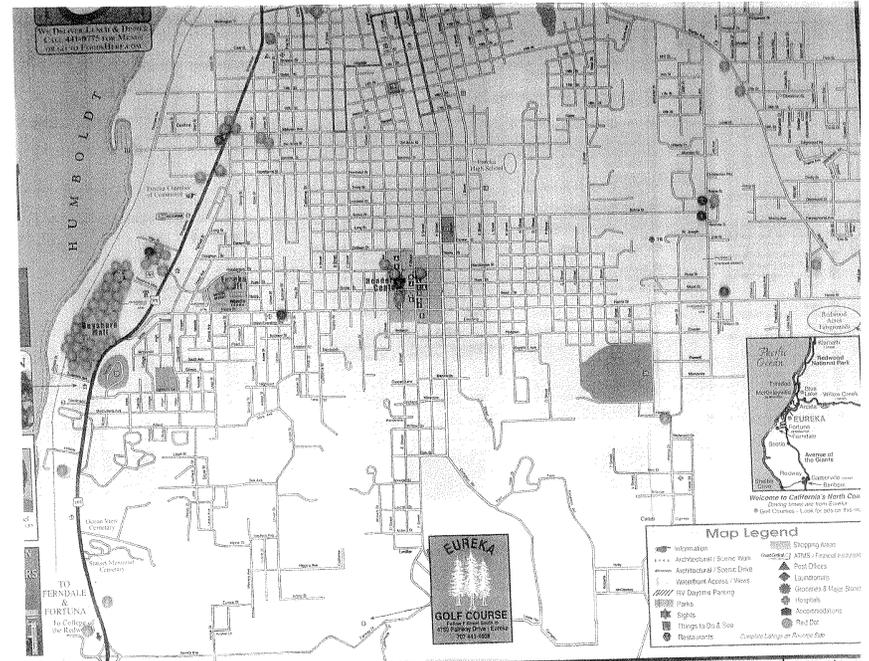
Comment Letter 64

A Partial Mapping of Vacant Storefronts & Office Buildings
Eureka, California January, 2009



5-516

Comment Letter 64



Letter 64: Michele Dulas

- 64-1 The comment disagrees with the vacancy rate included in the Urban Decay analysis. Please see Master Response 1, under “Vacancy in the City of Eureka.”
- 64-2 The comment expresses concern that the Urban Decay analysis failed to take into account the current economic climate. Please see Master Response 1, under “New Recessionary Conditions.”
- 64-3 The comment states that the Urban Decay analysis failed to include the effects of a previous mall opening. Please see Master Response 1, under “Vacancy in the City of Eureka,” as well as under “The Effect of the Bayshore Mall on Local Businesses.”
- 64-4 The comment expressing general dissatisfaction with the Draft EIR is noted. As stated in Chapter I, Introduction, the conclusions reached in the EIR reflect the determinations of the City of Eureka, pursuant to the CEQA Guidelines. The EIR is a factual informational document, prepared in conformance with CEQA, and written for the purpose of making the public and decision-makers aware of the potential environmental consequences of the Marina Center project.

The City of Eureka sent the Notice of Preparation (NOP) to 56 governmental agencies and organizations and persons interested in the project in April, 2006, and the City held two public scoping meetings in April 2006 to obtain public comments on the scope of the EIR. As detailed in the appendices, numerous consultant reports were prepared, analyzed, and summarized. The document underwent several rounds of intensive review by city staff and by the consultants. It represents two-and-a-half years of investigation and effort by these parties.

Sidnie Olson

From: Firewaterdurfee@aol.com
Sent: Saturday, January 31, 2009 9:53 AM
To: DEIRcomments
Subject: MARINA PROJECT LETTER.WPS
Attachments: Marina project letter.wps

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January 30, 2009

To: Sidnie L. Olson

From: Robert C. Durfee
2395 Lindstrom Ave.
Samoa, CA 95564

Subject: Marina Project

I would like to request that the benefits of a big box also be included in the impact study. My reasons are as follows.

1. When Costco opened their refueling station the gasoline price dropped .10 to .20 cents per gallon through-out our area. These very considerable dollars saved were spent within our area in most cases. Was someone making excessive profit before Costco opened up the competition? Probably. Do you see a lot of gas stations shut down and boarded up in this area? I don't.

65-1

2. When our water heater failed just before we were making a required trip to the Sacramento area I located the water heater I wanted and found it on sale locally. While in Sacramento I found the exact same model water heater, at regular pricing, that was \$50.00 less than in Eureka. That \$50 was spent in our area when we returned.

65-2

My preference is to buy locally, not only for the local jobs it helps create, but part of the sales taxes goes to the local government. We were looking to buy a new vehicle a few months ago. For the exact same vehicle there was a difference of over \$4000.00 cheaper from a dealer in the city than the local dealer. We did not buy a vehicle but when we do seller beware.

Respectfully submitted,

Robert C. Durfee

5-518

Letter 65: Robert Durfee

- 65-1 The comment stating that big box stores also have benefits is noted.
- 65-2 The comment suggests that the impact study should include benefits of big box retail due to regional price differences experienced with other goods and services. The comment is noted, however, the price of goods is not considered an environmental impact. Please also see Master Response 1.

Sidnie Olson

From: Brian Dykstra [Brian.Dykstra@humboldt.edu]
Sent: Saturday, January 31, 2009 4:59 PM
To: DEIRcomments
Subject: DEIR Comments

Comments on the DEIR for the proposed Marian Center Project on Eureka's Balloon Tract

From: Brian Dykstra
Address: POB 5166 Arcata, CA 95518
Email: bjd24@humboldt.edu

Zoning of the project area is changing to 'mixed use' which in this case does not include mention of 'public zoning'. I feel like publicly zoned areas are still important to include in planning. 66-1
Why does the Humboldt Baykeeper information on the proposed Marina Center project area describe it as the "Balloon Track".. a 39 acre property" while others have described it as 43 acres? How many acres in the proposed project? 66-2
The hazardous materials and other contaminants at the site needs remediation. Why is there no contemporary data in the DEIR concerning the present and known actual levels of dioxins, furans, copper, lead, hydrocarbons, arsenic and other substances? The source(s) of these pollutants have to be geographically located to ensure proper and successful remediation efforts. Why are the sources of some of these toxins still not completely known? Not all exposure pathways are identified in the DEIR. How can the project and lead agency ensure wetlands, ground water, and exposed soils will not be or become contaminated? These data gaps make site remediation less likely to actually mitigate effects on the environment. In Mitigation measures G-1a to G-1e employed mitigation measures are described as to be decided at a future date, and in such a way as to meet the RWQBC... The Regional Water Control Board can have their laws met by mitigation measures, however that does not ensure that other city, state and federal laws will be followed. The intent to follow these laws, and the means of doing so need to be in writing in the DEIR before It could be considered acceptable. 66-3
Why are solar panel installations omitted from air quality mitigation measures? How can air quality impacts be considered "unavoidable" when affordable mitigation measures exist? The City Council needs to consider their responsibility to all of Humboldt County in meeting PM-10 levels. 66-4
It seems the transportation element of the DEIR is lacking. A Federal Highway Safety Administration study shows Broadway in Eureka as a place where many pedestrians are hit by automobiles. Yet unsignalized intersections and incomplete pathways for bicycles are all additions of the project to the area. Waterfront Drive itself is described in the DEIR as 48 feet wide, when in reality in some places it is only 30 feet wide when bottlenecking. People living on Broadway will have a difficult time entering traffic from driveways due to increased traffic. The DEIR traffic studies were done during March and April, a low traffic time of year; and still show unacceptable levels of transportation impacts. What about tourist months of June and July? 66-5
A beautiful view of the coast should be protected under the Coastal Act. Why can this project destroy that? Tidal and estuarine wetlands, habitat for peregrine falcons and other wildlife needs preservation. Section 30233 of the Coastal Act provides protection for wetlands so protect the remaining estuarine wetlands in the project area please! What needs to be in the area is natural space and public access areas. Why not a park where the Farmer's Markets can be held. This would increase commerce. The plaza in Arcata is always hopping when Saturday mornings come around. Currently the Eureka Farmers Market is a blocked off street. No comparison! Urban decay can be prevented by wise use, not big projects with incomplete plans, inadequate Environmental Assessments , and un-thought out mitigations! The city needs to clean up the toxins of the area anyways. Why not do it and then provide for visitor and local serving recreational use? Remember that one-half a million square feet do not have any businesses lined up for them yet! 66-6
66-7
66-8
66-9

Letter 66: Brian Dykstra

- 66-1 The comment about the importance of public zoning is noted. The proposed new land use designations for the project site are discussed on pages IV.I-76 through IV.I-80. As stated on Draft EIR page IV.I-79, the Conservation Water District would provide for public recreational space and uses.
- 66-2 The project site is 43 acres. It is beyond the scope of this document to speculate why Humboldt Baykeeper's document(s) include different site acreages.

However, the Biological Assessment prepared in March 2008 (Appendix G) states that the project site is 38 acres, as does the Investigation of the Presence of Wetlands prepared in March 2008 (Appendix H). The Eureka Balloon Track Retail Development Economic Impact and Urban Decay Analysis prepared in November 2006 (Appendix K) states that the project site is 35 acres, the Water Supply Assessment prepared in 2007 (Appendix R) states that the project site is approximately 40 acres, and the Utility Impact Analysis prepared in 2006 (Appendix Q) states that the proposed project site is 32 acres.

These different sizes can result from a number of definitions of project site, some that may have extended the site all the way southeast to the intersection of Washington Street and Broadway, and others that may have not included the project site properties on the north side of Second Street, depending on the impact category under investigation.

A site and parcel map is in Figure III-5 on page III-13 of the Draft EIR.

- 66-3 The comment asks why the source of contaminants on the project site are not known. The sources of the contaminants are the historic uses of the project site, as detailed in the Draft EIR and in Master Response 4 and new Appendix S.

RWQCB regulations, as well as other regulations, are called out in Mitigation Measures to describe what actions are required by regulatory agencies, and how these actions could reduce impacts to less-than-significant levels. However, the proposed project would be required to adhere to all legal and regulatory requirements, both those directly stated in Mitigation Measures and those not mentioned. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 of this document.

- 66-4 The comment states that the Mitigation Measures G-1a through G1-e state that RWQCB regulations would be met by the proposed project, but that local, state, and federal regulations and laws must also be followed, and that this information must be included in the Draft EIR. As stated on Draft EIR page IV.G-20 under Mitigation Measure G-1a, "the Project Applicant shall prepare a site-specific remediation plan and health and safety plan that meets the requirements of the Regional Water Quality Control Board (RWQCB) *or other overseeing agency and shall comply with all federal and state regulations*"

(emphasis added). Similar language is used in other mitigation measures, including “the RWQCB or other applicable oversight agency” in Mitigation Measure G-1b, and “local environmental oversight agency (Humboldt County Department of Health) and/or the RWQCB” in Mitigation Measure G-1d. Therefore, the Draft EIR discloses the fact that oversight agencies at various government levels, beyond the RWQCB, would be consulted, and their regulations would be met.

Moreover, specific details about only certain agencies and their regulations are included in the Draft EIR to better illustrate mitigation measures. However, Project Applicants are assumed to follow all applicable laws and regulations, and the Draft EIR does not need to explicitly state each and every law that would be followed during planning, construction and operation of the proposed project.

66-5 The comment indicates that all feasible mitigation measures to reduce the significant PM10 impact to less than significant have not been identified in the EIR, such as requiring solar panels to be installed on the roofs of buildings. See response to comment 22-3 for a discussion of solar panels as a identified mitigation.

66-6 The comment states that Waterfront Drive is described as 48 feet in the Draft EIR, when it is only 30 feet in bottlenecking areas.

There are several cross sections along Waterfront Drive while only the cross section near the proposed Fourth Street Extension is provided in the Draft EIR. The EIR will be revised to provide more information regarding the cross section of Waterfront Drive. The roadway width on Waterfront Drive:

- Near the S curve between Washington Street and 14th Street narrows to about 44 feet curb to curb.
- At Commercial Street is about 48 feet.
- At Washington Street is about 48 feet
- At 14th Street is about 44 feet.

Waterfront Drive narrows to 28 feet curb to curb for approximately 700 feet just south of the proposed intersection of Fourth Street Extension. Parking is not allowed on either side of the street in this narrow section. The parking restrictions are implemented through red curbs, but the paint is faded and barely noticeable.

Railroad Avenue is about 44 feet wide to Del Norte Street.

Despite this additional information, the Draft EIR’s conclusions concerning traffic circulation and the viability of traffic mitigation remains unchanged. Again, except for the cumulative transportation-related impacts that are identified as significant and unavoidable, the project’s traffic-related impacts would remain less than significant.

The comment states that people living on Broadway would have a difficult time to exit their driveways and that pedestrian and bicyclists' safety is a concern.

Traffic volumes on U.S. 101 will increase with or without the proposed project, and the project would have little impact on drivers turning into or out of driveways confronted with higher volumes in the future. See also to response to comment 33-3 regarding pedestrian and bicycle circulation. It is expected that the identified mitigation measures would improve traffic safety.

- 66-7 The comment states that traffic studies were done during March and April, a low traffic time of year, and asks whether the tourist months of June and July should have their own traffic counts.

Per data available from Caltrans, the Average Daily Traffic (ADT) volumes on Broadway are collected annually in late February and early March. In August the volume appears to be the highest, approximately 10 percent higher than average. The lowest traffic volumes occur in early November and in January where volumes are about 10 percent lower than average. The traffic software used for this analysis, Synchro, considers percentiles of traffic. Therefore, variations of 10 percent and more are already accounted for in the LOS analysis. Another consideration is that while average daily traffic volumes are higher in August than in March, the increase is not necessarily in the p.m. peak hour. The volume of tourist traffic along U.S. 101 does not significantly contribute to the a.m. peak hour or to the p.m. peak hour. The actual p.m. peak hour increase in August is less than 10 percent over the volumes analyzed in the traffic impact study.

- 66-8 The comment states that tidal and estuarine wetlands, habitat for peregrine falcons and other wildlife needs preservation, and that the Coastal Act provides for protection of wetlands so the project should protect the remaining estuarine wetlands.

The project site is a contaminated brownfield dominated by invasive, non-native plant species, lacks suitable habitat for sensitive or special status species, and the majority of the wetlands at the project site are highly degraded and largely created from past industrial and railroad use of the project site. Remediation of the project site cannot proceed without affecting the onsite estuarine wetlands. But those wetlands are not natural; they were created through past industrial and other uses of the project site. The 8.67 acres of combined palustrine and estuarine wetlands at the project site would be temporarily impacted when subject to soil remediation activities. The proposed project would result in the permanent filling of 6.15 acres of wetlands, but mitigation includes establishment of a wetland restoration area of 11.89 acres containing 8.98 acres of estuarine wetlands (6.46 acres of these estuarine wetlands would be created as a result of the proposed project). These restored wetlands are anticipated to be of much higher quality and biological significance than those currently onsite. Please also see responses to comments 1-2 and 3-8, which further discusses the wetlands mitigation ratio.

Although peregrine falcon was observed on the project site by HBG field scientists, appropriate nest sites do not occur in the project area. American peregrine falcons are known to winter in the general vicinity of Humboldt Bay, and sporadic use of the undeveloped but disturbed project area as a winter foraging area would be expected. Significant foraging area for this species is present in the marshes, mudflats and open water habitats within the greater Humboldt Bay area. The project would not be considered as having a significant impact on peregrine falcons.

- 66-9 The comment refers to the Coastal Act and the views it protects. Please see Master Response 5 regarding the Coastal Act's regulation of the filling wetlands, as well as Master Response 3, which discusses uses in the coastal zone under the Local Coastal Program. Alternatives to the proposed project, some of which includes the uses suggested in the comment, are discussed in Chapter VI of the Draft EIR.

Comment Letter 67

January 27, 2009

City of Eureka
Community Development Dept.
Att: Sidnie Olson
531 K Street
Eureka. CA 95501

RECEIVED

JAN 30 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Re: Marina Center EIR

Dear Ms Olson:

Today I received a mailing from the developer titled Marina Center EIR findings. I would like to offer some feedback to this project. Mr. Arkley, the developer, has contributed many wonderful philanthropic things to the City of Eureka to enhance the quality of life here. I believe that the Marina Center Mr. Arkley has conceived would definitely be an improvement over the current Balloon Tract abandonment.

I do question the "new jobs estimate" (minimum wage jobs?) and the estimates of increased travel time sound like a joke,

67-1
67-2

With all the needs of this community, why can't we do better than Home Depot? This type of business doesn't belong at the marina. The marina is the last area to be developed and deserves something more beneficial to the community that would be a draw to our tourism sector. I work in a gallery in Ferndale and it is amazing how many travelers from the Bay Area pass through here and linger all year long, not just in the summer months.

I am a local artist and we need an increase in tourism to survive. Perhaps the Chamber of Commerce and Visitors Bureau could develop some creative ideas in conjunction with the developer about what would draw visitors to our marina such as the lovely aquarium located in Newport, Oregon.

67-3

WE ARE A COASTAL COMMUNITY, THIS IS OUR MARINA, LET'S SHOW PEOPLE HOW VALUABLE AND BEAUTIFUL WE ARE. WE WANT EUREKA TO STAY UNIQUE.

Please don't let Eureka be like every other rubber-stamped-big-box-mini-mall-on-every corner-two-bit-town.

Very truly yours,

Marj Early
MARJ EARLY
221 Ponderosa Court
Eureka, CA 95501

Letter 67: Marj Early

- 67-1 The comment questions the new jobs estimates in the Draft EIR. Please see Master Response 1, under “Jobs / Wages Impacts.”
- 67-2 The comment disagrees with the estimates of increased travel time. It is unclear as to what aspect of the traffic impact analysis the comment refers. The methodology of the transportation analysis, however, is detailed in page 2 of Appendix B of the Traffic Impact Study (which is in Appendix P of the Draft EIR).
- 67-3 The comment regarding preferred uses on the project site is noted. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI of the Draft EIR.

Sidnie Olson

From: Dan Ehresman [porcupine_d@yahoo.com]
Sent: Friday, January 30, 2009 4:54 PM
To: DEIRcomments@ci.eureka.gov
Cc: Sidnie Olson
Attachments: Marina Center DEIR comments.doc

Attached you will find my comments on the Marina Center DEIR.
Thank you.

1/26/09

Sidnie L. Olson
Community Development Department
531 K St
Eureka, CA 95501
solson@ci.eureka.ca.gov

Re: Marina Center Draft Environmental Impact Report

Dear Ms. Olson:

Subsequent to review of the Marina Center Draft Environmental Impact Report (DEIR) I provide the following questions and comments pertaining to the proposed project.

As a frequent visitor to Eureka's waterfront (and as a former homeowner and resident of Eureka) I wish to stress the significance of the Balloon Track as it currently exists and the importance of mindful development. Given the proximity to Humboldt Bay, the onsite occurrence of environmentally sensitive habitat (i.e. wetlands), and the fact that the site itself is within the coastal zone, it would be fitting that the project be designed ecologically. The DEIR is fundamentally lacking in this regard.

68-1

Aesthetics and Biological Resources

First off, I can attest to the beneficial impact of the Balloon Track site as an undeveloped property. I have spent many a day walking and biking along waterfront drive and have spent a good deal of time watching shorebirds, songbirds and raptors on the project site itself. The DEIR fails to provide meaningful analysis of biological resources. For example, the DEIR sites record of a peregrine falcon utilizing the project area but neglects any meaningful analysis of the similar habitat types in the area. Also, project proponents seem to rely on a single cursory investigation rather than detailed multi-season surveys by qualified professionals. The sole biological survey referenced occurred in the summer while the DEIR admits that wildlife use during the winter is more extensive. It casts some light as to why the avian and amphibian lists seem particularly lacking. (e.g. The site contains habitat suitable for the Northern Red-legged frog [a species of special concern], yet there is no evidence of any wet-season surveys)

68-2

The DEIR sidesteps concerns pertaining to aesthetic impacts. Plan proponents play down the significance of open space and grasslands and erroneously assert that parking lots, big-box stores and strip malls are a visual improvement. In fact, the loss of grassland habitat is not even discussed in the report and, therefore, no mitigation has been considered. The plan as proposed would indeed "Substantially degrade the existing visual character or quality of the site and its surroundings." The DEIR failed to consider alternatives such as living roofs (which would also minimize stormwater runoff) and planted swales and rainwater gardens in the parking areas (which would also not only minimize runoff, but allow for groundwater recharge while providing natural filtration of stormwater).

68-3

68-4

The DEIR seeks the incorporation of architecture that seems disjointed and contrary to the style of the closest public hubs of Old Town and downtown. The project relies on the cookie-cutter modernity of strip malls and big box stores and disregards the historic Victorian architecture unique to the area. Incorporating buildings reflecting our past with more of a focus on locally acquired materials would be visually appealing and serve as a link to Old Town and downtown

68-5

5-527

Comment Letter 68

Comment Letter 68

while benefiting Humboldt’s economy and minimizing the carbon footprint through utilization of locally available resources. ↑ 68-5
cont.

Transportation, Air Quality and Greenhouse Gases

As written, the proposed project would significantly contribute to particulate emissions. The DEIR makes no reasonable effort to minimize this clearly significant impact nor does it adequately address the cumulatively significant impact of Greenhouse Gas emissions. Further, the DEIR does not account for loss of Carbon storage in the removal of the majority of vegetation on the project site. | 68-6
| 68-7

The DEIR does not account for manufacture or transport of merchandise and building materials in relation to CO2 emissions. Building materials utilized in construction of the proposed project as well as goods sold at Home Depot, Best Buy and most other big-box stores do not focus on locally produced materials. The DEIR fails to consider the “true cost” of these materials. What are the resulting emissions due to how far they are being shipped? Do the manufacturers and transporters minimize their reliance on fossil fuels and utilize alternative sources of energy? How ecologically and socially responsible are the manufacturers? Were local alternatives considered? Pursuant to common sense and state law, we must move towards reducing CO2 emissions. The project fails in this regard. | 68-8

Project proponents state, “It is not possible to know at this time whether the project tenants would have longer or shorter commutes relative to their existing homes; whether they would walk, bike, and use public transportation more or less than under existing circumstances; and whether their overall driving habits would result in higher or lower tailpipe emissions.” (DEIR, pg. 130, paragraph 3) While this may be true, such speculation may be avoided by incorporating appropriate design that seeks to minimize automobile traffic and use (i.e. design pedestrian/bicycle/mass transit friendly rather than personal automobile focused) For example live/work facilities rather than big-box retail would significantly reduce vehicular traffic and emissions. The DEIR acknowledges this fact stating, “...if a person moves from one location where the land use pattern requires substantial vehicle use for day-to-day activities (commuting, shopping, etc.) to a new development that promotes shorter and fewer vehicle trips, more walking, and overall less energy usage, the new development might reduce, rather than increase global GHG emissions.” The DEIR fails to consider techniques to minimize automobile dependency and use and thus fails to meaningfully address the associated emissions and congestion issues. | 68-9

Hazards and Hazardous Materials

The DEIR fails to appropriately assess and disclose the extent and distribution of all contaminants that potentially occur onsite. This information should be available for public review and comment as it is a significant matter pertaining to environmental health. | 68-10

Cultural Resources

The record indicates the likely presence of Wiyot villages within the project area. The DEIR provides insufficient analysis of the site for such historically significant resources. Full disclosure of monitoring activities and subsequent findings should be provided prior to project approval to allow for meaningful public review and comment. | 68-11

Hydrology and Water Quality

The DEIR fails to fully address the issue of stormwater runoff. There was no consideration given of alternatives to the impermeable surfaces of roofs and parking lots. The project fails to assess rainwater gardens, permeable pavement, and roof rainwater harvest methodologies (such as trees, ecoroofs and roof gardens) as feasible solutions to minimize stormwater impacts and allow for groundwater recharge. | 68-12

The DEIR does not specify proposed stormwater treatment methodology for meaningful analysis of potential impacts due to increased levels of likely contaminants. Nor does it provide sufficient detail pertaining to grass swales (biofilters) such as location and size.

Contrary to the project proponents’ uncorroborated claims in the DEIR, the project appears likely to “...interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level” thus constituting a significant effect pursuant to CEQA, appendix G. The DEIR discloses that there is a perched zone aquifer that is not tidally influenced (DEIR pg. 214, para. 5) underlying the project site and that the majority of rainfall “generally ponds and slowly infiltrates into the subsurface” (DEIR pg. 217 para 3, see also pg. 246 para. 2). In reviewing aerial photographs of Eureka it is clear that the project area represents a substantial percentage of pervious surface area and, though there is no disclosure of the sources of recharge for the aquifer, it seems likely the Balloon track site represents a significant recharge zone. Increasing the amount of impermeable surface by 29 acres in an area where little, if any, permeable surfaces are located is a significant change and will likely result in drastically minimizing the amount of freshwater in the perched zone aquifer. | 68-13

The plan proposes converting the majority of the plan area into impervious surfaces (29 acres). What is the impact on groundwater recharge? During high flow events, how effective will stormwater treatment be, and how will the storm drain system be able to withstand such a significant volume of water? What would the impact be of having a significant discharge event during a high tide? | 68-14

Also, in this time of uncertain weather patterns, and given that even now we are seeing increased 10 year flood events at intervals shorter than historic events, what would be the effect on the project site and the surrounding areas during a 100 year flood event. What would be the effect on the site given the projected two foot rise of sea level? These concerns were unaddressed. | 68-15

Responsible Development?

The impact of big-box stores on surrounding businesses and resulting urban decay was inadequately addressed. The DEIR pays lip service to “smart growth”, “open space” and “walkable communities”. The Marina Center project as proposed would clearly serve to separate the site from the very walkable and enjoyable Old Town. “Smart Growth” considers ways to integrate various uses, the proposed project would act to segregate. It is contrary to build over one thousand parking spaces and claim it is to support a “walkable” landscape. It would be a meaningful step for such a large, visible development to step away from the status-quo of big-box chains to more diverse, locally owned and operated business, mixed-use residential, restored wetland and park. Construction utilizing passive solar design utilizing locally sourced materials would further the sustainability of the project. Waste recycling including utilization of greywater for irrigation uses would substantially reduce water use during the dry season. The list goes on for reasonable, cost effective methods to minimize the environmental impact of the project. | 68-16
| 68-17

Comment Letter 68

I hope that the above concerns prove helpful in furthering the process and I thank you for your time in reviewing these comments.

Sincerely,

Daniel J. Ehresman
PO Box 626
Eureka, CA 95502

Letter 68: Dan Ehresman

68-1 The comment expressing a desire for the project to be “designed ecologically” is noted. The potential environmental impacts of the proposed project are discussed throughout the Draft EIR.

68-2 The comment finds the biological survey effort unsubstantial. The Draft EIR meets CEQA Guideline 15151 (on the Standards for Adequacy of an EIR) in that it was prepared with a sufficient degree of analysis to provide decision-makers with information to make a decision which intelligently takes account the potential environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. The northern red-legged frog is evaluated in Appendix G.

A wildlife biologist from HBG reviewed conditions at the project site and kept a record of all wildlife observations during field studies conducted on December 29, 2005 and on July 9, 2006. The Draft EIR discussion on pages IV.D-3 to IV.D-4 therefore provides a list of observed wildlife representing both winter and summer conditions. Furthermore, the project site is degraded and highly disturbed and does not provide suitable habitat for almost all sensitive species or species of concern. The northern red-legged frog, for example, is not identified and is not expected to occur onsite. Generally, the palustrine emergent seasonal wetlands present within the area of disturbed soils are not inundated at depths or sufficient duration to satisfy the life cycle requirements for northern red-legged frog. The brackish water within the Clark Slough remnant would be too salty to support this species. As habitat conditions at the project site are not considered suitable, wet-season surveys were not warranted. Because there is little suitable habitat onsite, an inventory or description of potential habitats elsewhere in the region is not warranted.

68-3 The comment stating that the existing open space and grassland is an aesthetic resource is noted. As state on page IV.A- 16, although visual quality is subjective, and although the project would result in substantial change in visual character, it cannot be concluded that it would have a significant negative aesthetic effect. As outlined on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

Please also see response to comment 16-12. As stated there, it cannot be reasonably concluded that the proposed project would result in a negative aesthetic effect. While the proposed project would result in aesthetic changes on the project site, these changes would not necessarily be adverse. Furthermore, the project would be subject to the City’s design review process to assure project consistency with existing development and City policies related to visual quality. Based on the above evaluation of the project’s physical

character, massing, and height relationships to other surrounding buildings, the project would not substantially degrade the existing visual character of quality of its site or its surroundings.

- 68-4 The comment states that the Draft EIR fails to consider some stormwater quantity mitigation measures. On Draft EIR page IV.H-19, the potential impact of introducing pollutants in stormwater runoff is analyzed. The Draft EIR determined that with implementation of Mitigation Measures H-5a, -5b, and 5c which would incorporate a number of different treatment technologies including retention basins, bioswales and filtration, this impact would be reduced to less-than-significant levels.
- 68-5 The comment regarding the architectural style of the proposed project is noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 68-6 The comment states the importance for the project to minimize its carbon footprint through utilization of locally available resources. The comment goes on to indicate that no reasonable effort is made to mitigate the significant PM10 impact or the cumulatively significant impact of GHG emissions. Please see Draft EIR pages IV.C-14 and IV.C-15 for mitigation measures that would be identified to minimize PM10 and GHG emissions.
- 68-7 The comment states that the Draft EIR does not account for the loss of carbon storage due to the removal of existing vegetation on the project site.
- Vegetation would be removed, plowed, or otherwise disturbed during project construction. This vegetation would be replaced by new landscaping.
- The loss of carbon storage is not considered an environmental impact under CEQA. However, the removal of threatened or endangered plant life is considered a significant environmental effect. The proposed project's potential impacts to biological resources are discussed in Chapter IV.D.
- 68-8 The comment indicates that the Draft EIR should have included GHG emissions associated with manufacturing and transporting the merchandise and building materials that would be associated with the project. The GHG emissions presented in the Draft EIR do include the emissions that would be associated with transporting products to the project site; however, the emissions associated with manufacturing the products that would be sold at the project are not included in the emissions estimates because it would be extremely speculative to assume that the associated emissions would not occur if the proposed project were not implemented. The City believes that it has put forth a good faith effort to disclose the emissions that would be associated with the project.

- 68-9 The comment indicates that the project should include pedestrian, bicycle, and mass transit friendly designs to reduce traffic congestion and associated emissions. For mitigation measures that would require transportation management programs designed to reduce traffic congestion, and automobile use in the vicinity of the project, please see Mitigation Measure C-2a on Draft EIR page IV.C-14 and IV.C-15.

The traffic study analyzed the impacts of the proposed project on current and forecasted traffic conditions and operations. As explained in the response to comment 52-25, mitigation through diversion of trips to walking, bicycles and transit is not considered to be capable of offsetting the vehicle traffic impacts as defined in the traffic study. Appendix G in the traffic study did consider the “internal capture” of project trips, and these are identified in Table III, “Project Trip Generation” in the traffic study. An estimated 1,776 trips are estimated to take place entirely within the project that would otherwise use public streets. Most of these trips would be pedestrian and bicycle trips within the project site. The project is designed as a mixed-use project, including residential, retail, and office space in order to reduce vehicle trips and address associated vehicle emissions and traffic congestion that the comment mentions. Despite the fact that the EIR cannot, and indeed should not speculate as to the driving habits of particular tenants or visitors, the Marina Center as designed is more efficient than a project that would otherwise include a single use (e.g., all retail or all office).

- 68-10 The comment states that the Draft EIR fails to adequately disclose the extent and distribution of contaminants on the project site.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S, which provide detail regarding contaminants and locations of contaminants.

- 68-11 The comment states that the Draft EIR does not provide for adequate analysis of potential Wiyot villages at the project site.

Draft EIR page IV.E-16 notes that while two Wiyot sites may exist on or near the project area, the archaeological field survey revealed that neither of these potential sites is apparent on the ground surface. With regard to comments about monitoring, such disclosure would occur after project approval. With regard to comments requesting additional subsurface investigations, please also see Master Response 9.

- 68-12 The comment advocates specific stormwater runoff mitigation measures. Please see response to comment 68-4, which discusses these measures incorporated into mitigation.

- 68-13 The comment states that the proposed project would interfere with groundwater recharge. Please see response to comment 22-20, which discusses groundwater recharge, as well as Master Response 4.

- 68-14 The comment questions the impact to groundwater recharge and stormwater of increased impervious surfaces proposed in the project.

Please see responses to comments 3-13 and 16-45, which discuss groundwater recharge and how the project can meet stormwater quantity goals. In response to the question of a high tide event or a high flow event, the drainage facilities would include retention basins which are designed to control flows and limit discharges during storm events so as to avoid any flooding of receiving waters. Incorporation of design elements that meet or exceed the City's drainage plan requirements would be effective in controlling stormwater flows.

- 68-15 The comment questions the potential impacts from a 100-year flood and sea level rise. The potential impacts regarding flooding from a 100-year event are discussed on Draft EIR page IV.H-21. See response to comment 3-15, above, for further discussion of sea-level rise.

- 68-16 The comment states that the urban decay analysis is inadequate. The comment is noted. Please see Master Response 1.

In addition, the comment states that the proposed project does not represent smart growth principles nor provide adequate open space. The proposed project's impacts to recreational facilities are discussed in Chapter IV.N. Regarding smart growth, please see responses to comments 9-4 and 128-1, which explain that the proposed project exemplifies many aspects of smart growth.

- 68-17 The comments regarding potential sustainability measures are noted. As stated in Chapter IV.H, Hydrology and Water Quality, the proposed project would include stormwater mitigation measures, such as bioswales. However, the project has not entered the detailed design phase, so the level of energy and resource sustainability has not yet been determined. To ensure a conservative CEQA analysis, traditional materials and energy systems are assumed to be included in the operation and construction of the development, pursuant to existing regulations. Therefore the impacts are analyzed at a reasonable worst-case scenario. If the proposed project includes additional energy and resource conservation measures, impacts would be less significant than concluded in the Draft EIR.

Comment Letter 69

Comment Letter 69

Sidnie Olson

From: Janet Eidsness [jpeidsness@yahoo.com]
Sent: Thursday, January 22, 2009 10:39 AM
To: DEIRcomments
Cc: Janet Eidsness
Subject: DEIR Marine Center comments from Eidsness (cultural resources)

Attachments: Eidsness FNL comments DEIR Marina Center.doc



Please see attached comments dated January 20, 2009, from Janet P. Eidsness.

Confirm receipt requested. Thanks.

Janet P. Eidsness, M.A., Registered Professional Archaeologist Consultant in Heritage Resources Management

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5-534

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January 20, 2009

Sidnie L. Olson, AICP, Principal Planner
City of Eureka Community Development Department
531 K Street
Eureka, CA 95501-1165

Related via email to DEIRcomments@ci.eureka.ca.gov

Re: Comments on Draft EIR for Marina Center in Eureka (Cultural Resources)

Dear Ms. Olson:

I have reviewed the subject DEIR and offer the following comments focused on Chapter IV.E, Cultural Resources. Please note that I have met with my colleagues, Mr. Roscoe and Mr. Rohde, to review and discuss the technical cultural resources report prepared by Roscoe & Associates for CUE VI, LLC (May 2006), which is the basis for the environmental analysis presented in the DEIR.

- 1. Research conducted by Roscoe & Associates to-date, as described in the DEIR and their confidential technical report, is incomplete and fails to demonstrate the City, as the lead agency, has made a "good faith effort" to locate the presence (or absence) of "unique archaeological resources" or archaeological resources that meet the criteria as "historical resources" for purposes of CEQA (per §15064.5). Cultural resource findings reported to-date must be considered preliminary. Additional on-site, research design guided archaeological exploratory efforts need to be completed before Project impacts can be adequately assessed and appropriate mitigation measures advanced (see below). While I understand that Mr. Randy Gans of CUE IV, LLC, agreed verbally with Mr. Roscoe's undocumented recommendation for additional site testing, this has not been accomplished nor is it addressed in the DEIR.
2. The DEIR inappropriately defers identification of any archaeological resources that may qualify as "unique" or "historical resources," to the Project implementation stage, i.e., handling of "inadvertent discoveries" located during construction monitoring by an archaeologist and Wiyot representative in defined "archaeologically sensitive areas" (related comments below).
3. As instructed by Michele Messinger, CEQA expert with the California Office of Historic Preservation (OHP), at the 12/10/07 "CEQA and Historical Resources Workshop" presented at the Bayside Grange and, I believe, attended by City planning staff:

69-1

Marina Center Project DEIR, Comments by Janet Eidsness (Cultural Resources)

- 1 -

Comment Letter 69

Comment Letter 69

5-535

"Discovery of cultural resources during construction ... without the appropriate level of identification should be avoided" (emphases are Messinger's; see on-line record of workshop at http://www.ohp.parks.ca.gov/pages/1054/files/arcataceqa.pdf).

69-1 cont.

- 4. Further, Mitigation Measure E-2a is wholly inadequate, because as Messinger also pointed out at the 12/10/07 workshop: "Archaeological Monitoring as mitigation is typically not a preferred mitigation for archaeological resources; Why?; [because] It may put the resource at risk to project impacts before appropriate archaeological intervention can occur" (Ibid.) Most importantly, Messinger instructed that "If there is evidence in the record that an archaeological resource may be affected by a project, a mitigation measure applicable to accidental discovery is not appropriate" (Ibid). I believe these instructions hold true for the proposed Marina Project, given its scale and sensitivity.
- 5. The incompleteness of the archaeological identification efforts is supported by the DEIR description of the physical conditions and constraints at the project site at the time of Roscoe & Associates' archaeological surface survey, namely the "entire surface of the study area is paved over, filled and/or developed..." (DEIR IV.E-16).
- 6. Opportunities were apparently missed during the pre-DEIR information gathering phase for coordinating subsurface archaeological identification efforts with the "numerous site investigation activities" that were designed and conducted to identify and locate hazardous materials and contaminated soils, as described in DEIR IV.G. The DEIR states: "Extensive field programs including soil sampling, groundwater sampling, stormwater sampling, soil borings, trenching, field testing, site inspections, and laboratory analysis have been conducted" (DEIR IV.G-4). Coordinating the on-site hazardous materials assessment with archaeological explorations would have cost-effectively provided timely data (likely positive and negative) pertinent to locating and determining if the two ethnographically named Wiyot villages, and/or other potentially significant prehistoric and historic archaeological deposits, are present in subsurface contexts in the Project area.
- 7. The DEIR fails to report whether the contaminated soil sampling and trenching activities described in DEIR IV.G were monitored by an experienced archaeologist. I believe it is the City's responsibility to require due diligence when scheduling and permitting pre-DEIR subsurface exploratory field studies that, given the archaeologically sensitive nature of the Project setting (as reported by Roscoe & Associates), have the potential to inadvertently impact archaeological resources. It is possible that buried archaeological deposits were unknowingly disturbed at the Project site by these unmonitored ground disturbing investigations.
- 8. Archaeological identification efforts for the Project site may be supplemented and refined by careful review of the apparently extensive record of soil boring logs and data obtained to-date for soil contamination studies (cf. DEIR IV.G). Analysis of these available data and findings as they relate to identifying existing subsurface archaeological deposits, and/or refining the identified horizontal and vertical extents of "archaeologically sensitive areas" were not reported by Roscoe & Associates (2006). Analysis of depths of fill overlying native ground need to be considered relative to the anticipated depth of soil disturbances from Project construction.
- 9. Based on careful review of historic data and interpretations about the historic geography of the Project site and vicinity by Roscoe & Associates, I generally concur with their delineation of the two "archaeologically sensitive areas" mapped in their report (Confidential Appendix Map 4) and described as the "geographic areas..." to be

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archaeologically monitored in the DEIR – with the important note that DEIR IV.E-18 inadequately describes the boundaries of the 3rd sensitive area, by failing to identify "which" project alternative for the proposed garden area Anchor 1 is being referred to (is it the Preferred Project? Reduced Footprint Alternative?). These two mapped areas correspond to the possible locations of two named Wiyot villages identified by the NCIC records search and through review of various ethnographic and historic sources by Roscoe & Associates: Wiyot Village Site 1, CA-HUM-69 ("djerohichichiwil"); and Wiyot Village Site 2 ("Moprakw"). The technical report and DEIR make compelling arguments that these two Wiyot village sites may, in fact, be located in the Project area or its vicinity.

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10. Defining "archaeologically sensitive areas" for the Project area and vicinity must be considered a "work in progress," with the understanding that new data will contribute to refining vertical and horizontal boundaries based on interpretations of existing and new soils observations. As noted above, there are numerous opportunities for coordinating data acquisition with other fields of inquiry (see Comments 6-8 above).

69-6

11. It would be prudent for the City Planning, Public Works and Maintenance staff to "red-line" these areas and take caution when planning, permitting or conducting ground-disturbing activities in these initially defined sensitive areas. Until the sensitive areas are refined based on new information, the general locations mapped both inside and adjacent to the Project by Roscoe & Associates (2006) are tenuous, and any future ground-disturbing activities in the area need to be on alert.

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12. It is imperative that all critical efforts to refine the subject "archaeologically sensitive areas" are documented by a professional archaeologist and the reports filed with the City and the North Coastal Information Center (NCIC). The necessity of maintaining the record of refinements is paramount to building a solid record of "fact-related reasonable assumptions, predicated on facts" (not speculation or unsubstantiated opinion) for the current Project CEQA analysis.

13. The City should permit no further Project related subsurface testing for purposes of sampling and identifying hazardous materials and soils, or removing underground storage tanks, without requiring advance coordination with and monitoring by an experienced archaeologist and Wiyot representative. Such a measure is not considered with respect to Mitigation Measure IV.G-1b, addressing the possible need for further site characterization field excavations (DEIR IV.G-20).

69-8

14. The reported Native American consultation efforts assert that the two named villages are important to Wiyots today as "significant and highly sensitive cultural resource associated with Wiyot cultural history and identity" (DEIR IV.E-9 & 10). Furthermore, there is a high likelihood that if preserved in intact or disturbed contexts, these two village sites contain multiple Wiyot burials, as supported by the ethnographic literature, memories and oral histories of living descendants, and prior comparative archaeological research findings for the Wiyot ancestral area. The record of Native American Consultation to-date infers that if present, these two Wiyot village sites may qualify as Historical Resources under Criterion A of the California Register of Historical Resources, for their association with the broader patterns of Wiyot history and culture.

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15. In addition, if preserved with sufficient integrity of location, materials and workmanship (as defined by the National Register of Historic Places), the two Wiyot village archaeological sites may be eligible for listing on the California (and National) Register under Criterion D, for their potential to yield information important in prehistory. When

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evaluating whether an archaeological site is "unique" or a "historical resource" for the purposes of CEQA, it is necessary to formally characterize those elements and qualities that make the resources significant, i.e., "those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources" per CEQA. It is those as-yet undefined "physical characteristics ... that convey a property's historical significance" that form the basis for analyzing Project impacts and advancing appropriate mitigation measures. This has not been adequately addressed in the DEIR, principally because the resource identification efforts have been insufficient.

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cont.

16. Mitigation Measure E-2b, addressing inadvertent discovery of Native American skeletal remains during construction, cites measures that are inconsistent with current State law (CEQA Title 14; Chapter 3; Article 5; Section 15064.5; California Health & Safety Code §7050.5; Public Resources Code §5097.58; AB 2641 of 2006, amending PRC §5097.91 and §5097.98, relating to Native American burial grounds; etc.). See the applicable laws posted on the Native American Heritage Commission website at <http://www.nahc.ca.gov/has.html>.

69-11

17. I concur in general with Roscoe & Associates' observation that the mapped archaeologically sensitive areas may also contain buried historic period archaeological deposits of potential significance. Elevated ground above canoe accessible channels of the historic Clarks Slough, tidal salt marshes and bay waters are the preferred settings for human habitation in both prehistory and history. The proximity of the Project to the Old Town Eureka Historic District reinforces the possibility of finding significant historic archaeological deposits (e.g., trash deposits in backfilled privy pits, wells; early settlement foundations) associated with railroad history, and/or with possible early American settlement by poorer folks (e.g., people of color) that lived at the western fringe of the early townsite.

69-12

18. Before the EIR analysis for cultural resources can be completed and the EIR finalized, there is a compelling need to test and refine the delimited "archaeologically sensitive areas" and importantly, to determine if the Project site contains significant buried archaeological indicators of the two subject Wiyot villages. Recommended is a more comprehensive program of data analysis, coupled with subsurface georarchaeological field investigation. The Roscoe & Associates (2006) report provides important historic land use information for crafting the research design needed to guide this important fact-finding resource identification effort. Any archaeological site work must include consultation and coordination with, and invite the participation of, the interested Wiyot affiliated tribes (Wiyot Tribe, Blue Lake Rancheria, Rohnerville Rancheria). Such as program should expand upon the existing sensitivity analysis of Roscoe & Associates, by considering available soils sampling data (Comments #6-8 above), other records (e.g., NWP, Caltrans and other "as-built" historic records for on-site and adjoining developments) and undertaking systematic geomorphological investigations directed by a qualified georarchaeologist that has demonstrated success in such inquiries. (Presently, the preeminent georarchaeologists in California are Jack Meyer with Sonoma State University and Jeff Rosendall with Far Western Anthropological Research Group). The goals of the testing program should include: subsurface testing to locate, identify the horizontal and vertical extents, characterize the types of constituents, and evaluate the significance of extant buried archaeological deposits. By taking into account current conditions, while reconstructing the historic geography of the Project site (and

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inferentially, adjacent areas), certain landform locations may be identified and targeted as being most likely to contain buried evidence of prehistoric and early historic human land use. By testing and refining the archaeological sensitivity map crafted by Roscoe & Associates, this site identification program will provide a record of sound, "substantial evidence" needed to determine, through CEQA re-analysis, if the Project (including reasonable alternatives) has the potential to significantly impact "unique" or other significant "historical resources." If testing results confirm the presence of one or more significant archaeological deposits at the Project site, CEQA re-analysis of Project impacts may lead to presenting meaningful and appropriate, enforceable mitigation measures designed to avoid or minimize Project impacts on unique or historical resources to a less-than-significant-level. The DEIR fails to make a compelling argument that the proposed cultural resources mitigation measures will accomplish this objective.

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69-17

19. I wholeheartedly support the comments on the subject DEIR made by the Wiyot Tribe. Further, I want to recognize and echo the Eureka *Times-Standard* Editorial dated 12/17/08 that encourages the Project Applicants to work with the Wiyot Tribe (as well as other interested tribes having Wiyot descendent members) "... in clearly identifying where the sites are prior to construction, and then working to make sure they are treated with the proper respect when and if construction does proceed" (quoted from editorial titled "Proceed cautiously with Wiyot sites on the Balloon Tract.")

20. It is unreasonable to conclude that Mitigation Measures E-2a and E-2b will adequately reduce Project impacts on unique archaeological resources, archaeological resources that may qualify as historical resources under CEQA, or Native American burials, if such are identified during construction by an experienced archaeological monitor or Wiyot monitor, or by construction personnel that are unlikely to have adequate archaeological experience or training. As emphasized by Messinger in the CEQA-Historical Resources workshop (Comment #4 above), monitoring is not a reasonable measure for discovering, evaluating the significance and protecting or treating anticipated archaeological sites found during construction. DEIR Mitigation Measure E-2a asserts that if a significant discovery is made during construction, the unwritten "protection plans" will involve, at a minimum, one or some combination of: archaeological data recovery; project redesign to avoid and preserve in-place; site capping; and deeding the discovered site as a permanent conservation easement. Experience statewide with CEQA and inadvertent archaeological discoveries has demonstrated that data recovery as the mitigation option is usually preferred by the Applicant, because Project redesign (sometimes coupled with site capping) usually entails reducing the Project's size and objectives, and creates delays in permitting and reassessing the environmental consequences. When Native American burials are involved, the data recovery option (i.e., archaeologists digging up burials) is typically very culturally hurtful to and extremely sensitive for the affiliated tribes. While dedicated Conservation Easements are an important tool for protecting known historical resources and may now be held by Tribes (per Senate Bill 18), such easements require Owner cooperation and approval, and coupled with a post-review discovery scenario, dedicating one or more Conservation Easements (with their respective management plans) is also likely to entail some level of Project redesign, delay and additional costs (low incentives for Applicants).

21. Having deferred the identification of unique or qualifying historical resources to a post-review construction discovery scenario (Measures E-2a, E-2b), the DEIR has failed to meet the requirements of CEQA §15064.5(b)(5): "A lead agency shall identify

5-536

potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource. "The lead agency shall ensure that any adopted measures to mitigate or avoid significant adverse changes are fully enforceable through permit conditions, agreements, or other measures."

69-17
cont.

22. The DEIR Chapter IV.G, Hazards and Hazardous Materials, does not address the potential for adverse changes on significant cultural resources that may reasonably be expected from implementation of the as-yet undefined Site-Specific Remediation Plan that will require approval by the Regional Water Quality Control Board (RWQCB). As noted above, opportunities to combine objectives of archaeological identification and hazardous soil condition characterizations have been missed; unknown archaeological impacts may have already occurred. Coordination by the City and Applicant with the RWQCB before finalizing the EIR is strongly recommended. Conditions for avoiding impacts to significant archaeological resources from on-site hazardous materials remediation efforts need to be addressed in the final EIR.

69-18

23. As the lead agency for CEQA, the City's failure to convene a "pre-consultation meeting" with the local office of the US Army Corps of Engineers (USACOE), pursuant to the Project's required permitting under Section 404 of the Clean Water Act (CWA), is a glaring omission in the DEIR. CWA Section 404 permits administered by the USACOE constitute federal undertakings subject to compliance with Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800). Section 106 guidelines are recognized as the "best practices" in historic preservation project review. I dare say that the DEIR Cultural Resources chapter is wholly inadequate with respect to Section 106 guidelines, including the incomplete characterization of the cultural resources setting, inadequate efforts to identify buried or otherwise obscured cultural sites, failure to evaluate significance of extant sites per California and National Register of Historic Places criteria, failure to explicitly assess direct, indirect and cumulative impacts of the Project alternatives on significant cultural resources, and failure to advance mitigation measures that will reduce such impacts to a less-than-significant level. Notably, any Agreements conditioning approval of the CWA Section 404 permit from the USACOE will trump and supersede those presented in the DEIR, if found inadequate for purposes of Section 106 compliance. If and, more likely, when, the USACOE imposes new cultural resources management protection measures consistent with Section 106 on the Project's CWA 404 permit, amendment of the EIR will likely be required, imposing additional burden on the Applicants, the City as lead agency for CEQA, other consulting parties such as the Wiyots, and the interested public.

69-19

24. The recent EIR/EIS for the Wiyot Tribe's Tulawat (Indian Island) Restoration Project, which the City served as the lead agency for CEQA, offers a good example of the appropriate scheduling and Section 106 coordination needed before an EIR is drafted. Notably, the outcome of the Section 106 process is an enforceable Agreement document (Memorandum of Agreement or Programmatic Agreement) that clearly identifies signatory and concurring parties, and sets forth clear procedures for protecting significant cultural places, including site-specific Historic Property Treatment Plans (HPTPs), provisions for handling discoveries of Native American remains (e.g., a Burial Protection Plan agreed upon in advance of project implementation by the Most Likely Descendent identified by the Native American Heritage Commission), for handling "Post-Review Discoveries," confidentiality, reporting, curation, objections, termination procedures, duration, etc.

69-20

On this historic day honoring the Inauguration of our Forty-Fourth President, I believe your mission, as the lead agency, and my mission, as a member of the interested public, is to make informed decisions about the environmental consequences of the proposed Project based on substantial evidence and fair argument. I have shared with you my concerns and suggestions, which are drawn from my 30 years working as a professional in cultural resources management, mostly within this great state of California and in the North Coast Region.

Thank you for the opportunity to comment.

Sincerely,

Janet P. Eidsness, M.A.
Registered Professional Archaeologist

Cc: Humboldt Heritage Professionals Network (HHPN)

5-537

Letter 69: Janet Eidness

- 69-1 The Draft EIR page IV.E-16 notes that while two Wiyot sites may exist on or near the project area, the archaeological field survey completed by Roscoe & Associates revealed that neither of these sites is apparent on the ground surface. Recommendations by Roscoe & Associates called for archaeological and Native American monitoring during ground-disturbing activity (Roscoe et al., 2006). Project engineering plans and soil remediation plans have not yet been finalized for the proposed project; therefore it is not clear exactly where ground-disturbing activities would occur within the greater project area. Once these plans are finalized, a subsurface investigation would be completed in the discrete areas identified as culturally sensitive to help determine the presence or absence of cultural resources associated with the two Wiyot ethnographic village sites which may or may not exist on the project site. In the meantime, it would be impractical to require significant trenching, boring, and excavation now, in advance of project approval, and before the specific areas of disturbance are ascertained, particularly given the fact that the project site may not contain any significant archeological materials. Such extensive testing would itself require the sort of permits from regulatory agencies that the project is seeking to obtain (e.g., a wetland fill permit). CEQA does not require the Project Applicant or lead agency to conduct every field test, research study, or experiment before approving an EIR. (*Society for California Archeology v. County of Butte* (1977) 65 Cal.App.3d 832, 838.) Still, the sort of site investigation and treatment suggested by the commenter will be conducted and mitigation will be implemented, if necessary, before project construction. Please see Master Response 9.
- 69-2 As described in Mitigation Measure E-2a, if an archaeological artifact or other archaeological remains are discovered onsite during construction, all construction activities shall be halted and a qualified archaeologist shall be summoned within 24 hours to conduct an independent review of the site. If the find is determined to be significant, adequate time and funding shall be devoted to conduct data recovery excavation. Thus, the EIR does not rely solely on monitoring for mitigation as the commenter suggests. Please also see Master Response 9 and see Chapter 2, Errata, for clarifications and improvements to Mitigation Measure E-2.
- 69-3 Implementation of a subsurface survey program would help determine whether significant archaeological sites exist in the project area. Comments regarding missed opportunities for implementation of this program during other extensive soil sampling activities are noted. The field programs implemented to evaluate contamination levels at the project site were conducted as part of a cleanup program administered and required by the Regional Water Quality Control Board and the field reconnaissance protocols would have been different, particularly due to the depth of fill. Please see Master Response 9.
- 69-4 Comments regarding the lack of monitoring by a qualified archaeologist during ground disturbing activities implemented for contaminated soils studies are noted. Prior to

- implementation of a subsurface survey program, soil boring logs and data would be obtained and examined by a qualified geoaarcheologist. The depths of fill overlaying native ground, as well as the anticipated depth of soil disturbances from project construction have been considered and will be addressed when assessing the subsurface strategy for the pre-construction site investigation in the revised Mitigation Measure E-2. Please also see response to comment 69-3 and Master Response 9. For further discussion regarding the Remedial Action Plan for the proposed project, please refer to Master Response 4.
- 69-5 Comments regarding the adequacy of the archaeological setting analysis are noted. The comment notes a third sensitive area is inadequately described in the Draft EIR. The Draft EIR identifies two sensitive areas. The confidential archaeological survey report (Roscoe et al., 2006) would be used to guide focused subsurface survey and construction monitoring programs. Please also see Master Response 9.
- 69-6 New data obtained from implementation of the subsurface surveys called for in the revised Mitigation Measure E-2 would help to better define archaeologically sensitive areas, and will contribute to a better understanding of the horizontal and vertical boundaries of those areas. Still, the areas designated as highly sensitive already represent the most likely location of significant archeological materials if those materials exist at the project site. If no archeological materials are found within those designated areas, it is highly unlikely that significant archeological resources will be found within other locations at the project site. As the commenter notes, there are opportunities to coordinate data acquisition with other field inquiries. The Phase 1 site remediation, for example, would involve subsurface excavation and testing for both remediation and archeological resources. Please also see Master Response 9.
- 69-7 Results of a subsurface survey program would further define the archaeological sensitive areas. This investigation would occur prior to project implementation. Nonetheless, the areas currently designated as sensitive are sufficient for planning purposes and Mitigation Measure E-2 will ensure that appropriate monitoring would be conducted for future phases of the project. The investigations would be conducted by a qualified archaeologist and, if archeological materials are identified, the results would be submitted to the California Historical Resources Information System. Please also see response to comment 69-6 and Master Response 9.
- 69-8 Comments that the City should not permit any additional subsurface soil sampling without coordination with a qualified archaeologist and Native American representative are noted. Ongoing subsurface testing for purposes of sampling and identifying hazardous materials and soils is being conducted pursuant to a Cleanup and Abatement Order issued and administered by the Regional Water Quality Control Board, and not by the City, and is beyond the scope of this EIR. Any subsurface testing that is part of the proposed project will be conducted in accordance with Mitigation Measure E-2. It should be noted that all underground storage tanks have been removed. Please also see Master Response 9.

- 69-9 Please see Master Response 9. Comments regarding the potential legal significance of any cultural resources within the project area are noted. Moreover, if found, any archeological resource materials must be evaluated under CEQA's mandatory criteria for significance, which include Criterion A of the California Register. Please see Master Response 9.
- 69-10 Please see Master Response 9 and response to comment 69-9. If found, any archeological resources must be evaluated according to the criteria outlined by the commenter. Contrary to the comment, however, the EIR and accompanying Cultural Resources Investigation (Roscoe et al., 2006) detail the physical characteristics and potential historical significance of the site. It would be impractical to conduct a more intensive subsurface investigation at this point in the project-approval process, particularly when it is entirely unclear whether the village sites even exist within the project site and specific building foundations and other project characteristics have not yet been finalized. In any event, Mitigation Measure E-2 will ensure that archeological resources discovered in the investigation process are properly evaluated and treated.
- 69-11 Revisions have been made to Mitigation Measure E2-b to address current state law. Please also see Master Response 9.

The comments regarding the analysis for historic-era archaeological materials are noted. As the Draft EIR states on page IV.E-17, the recommended mitigation measure – Mitigation Measure E-2 – would address potential prehistoric, as well as historic-era archeological materials. Therefore, no further mitigation is necessary. Please also see Master Response 9.

- 69-12 Please see Master Response 9. Mitigation measures have been revised to incorporate a limited archaeological subsurface survey.
- 69-13 Continued archaeological investigations would include consultation with the appropriate Native American tribe(s). Please see Master Response 9.
- 69-14 Please see Master Response 9 for pertinent information on next steps in terms of geoarchaeological investigation. Mitigation Measure E-2 has been revised and strengthened to help locate, identify, and characterize archeological resources.
- 69-15 The results of a subsurface investigation would provide additional data to confirm the presence or absence of one or more archaeological sites. Mitigation Measure E-2a sets forth the measures that must be taken to adequately recover and protect archeological resources if those resources are found to be “historically significant” or “unique.” These sorts of mitigation measures have proven effective in protecting the historical significance and value of those resources to our understanding of pre-history. Therefore, re-evaluation under CEQA is not necessary. If after certification of the EIR there are changes to the project, changes in circumstances, or significant new information that reveal that the project will result in new or more severe environmental impacts than was

disclosed in this EIR, subsequent environmental review may be necessary. (Pub. Res. Code, Section 21166; CEQA Guidelines Section 15162(a).) Please also see Master Response 9.

- 69-16 Comments made by the Wiyot Tribe have been noted, and the tribe will continue to be consulted.
- 69-17 Please see Master Response 9 for revisions to Mitigation Measure E-2. Comments regarding conservation easements are noted. Subsurface investigation for cultural resources would occur after final engineering plans and soil remediation plans have been determined but prior to project construction. Specific details of the treatment plan cannot be worked out, however, until a significant archeological resource is discovered and characterized, and only after site plans have been provided showing those areas that may be subject to subsurface excavation or incursion during construction. While flexibility must be maintained in the precise measures to be adopted in the treatment plan, the plan itself must be developed by a qualified archeologist in consultation with the appropriate Native American group(s), and all following accepted protocols for recovery or preservation.
- 69-18 For further discussion regarding the Remedial Action Plan for the proposed project, please refer to Master Response 4 and Appendix S. The Supplemental Interim Remedial Action Plan has identified several discrete areas where ground excavation at or below the level of fill is required. These areas will be subject to Mitigation Measures E-2a and E-2b, and will involve the sort of investigations and coordination that the commenter suggests. The remainder of the site remediation will not involve soil excavations at or near historical natural ground levels, and therefore no adverse impacts to archeological resources are expected. Consequently, the EIR's analysis and mitigations already address the sort of site disturbance activities that would occur in Phase 1 and subsequent phases of the project.
- 69-19 The EIR has been prepared in compliance with CEQA and is not intended to fulfill NEPA or other federal regulatory requirements. The U.S. Army Corps of Engineers, in considering a permit application under Section 404 of the federal Clean Water Act, will be required to conduct its own NEPA review, including compliance with applicable Section 106 requirements of the National Historic Preservation Act (NHPA). While the EIR is prepared to satisfy CEQA requirements, technical information contained within it may nonetheless help to inform and serve to satisfy other regulatory processes, including Section 106 requirements. Please see response to comment 69-20 for additional clarification of the Section 106 process.
- 69-20 Comment noted regarding the Tulawat Restoration Project, which was evaluated in a joint CEQA/NEPA document. There is currently no federal lead agency for the Marina Center project, and the Section 106 process is not required for an EIR. Moreover, the analysis and mitigation prepared for the Tulawat Restoration Project may not be analogous, and may not be required under CEQA in any event. Section 106 of the federal

NHPA, for example, requires federal agencies to consult with the appropriate state historic preservation officer (SHPO) whenever a federal undertaking may adversely affect an historic or prehistoric site or object included in, or eligible for inclusion in, the National Register of Historic Places. If it is determined that the resource in question is an “historic resource,” and that the undertaking in question will have an adverse effect on that resource, the agency and SHPO may agree on how those effects will be resolved (e.g., through a treatment plan). That treatment plan and agreement is then included in a formal “Memorandum of Agreement” as outlined by the commenter. But that Agreement is a federal, and not a state process, and is not required as part of CEQA. Further, the adoption and imposition of a mitigation, monitoring, & reporting plan (MMRP) under CEQA is an analogous enforcement mechanism, and creates an enforceable mitigation plan under state law.

January 15, 2009

City of Eureka
Community Development Dept.
531 K Street
Eureka, Calif. 95501

RECEIVED
JAN 20 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Attention: Sidnie L. Olson
AICP, Principal Planner

I am submitting what I believe to be a very successful plan for the development of the "Bellion" tract.

We now have shopping centers in Garberville, Fortuna, Ferndale, Loleta, Eureka, Arcata, Blue Lake, McKinleyville, Willow Creek, Weaverville, etc. and also the mail order outlets. Do we need more??

The success of our local theaters, the Jazz Festival, Fairs, rodeos, etc., demonstrates the local support in this area.

With Del Norte, Mendocino, Shasta, Trinity, Mendocino, etc. Counties around Humboldt, the financial base is substantial. Why not tap into this source of revenue by having a facility to accommodate the performances of the rockers, etc. etc. and all of the services and accommodations needed?! The sky's the limit!

Sincerely,
Carolyn M. Eisner

70-1



Letter 70: Carolyn Eisner

70-1 The comment support the proposed project is noted. Alternatives to the proposed project are discussed in Chapter V of the Draft EIR.

Sidnie Olson

From: Loreen Eliason/Riverwood Inn [loreen@asis.com]
Sent: Saturday, January 31, 2009 2:51 PM
To: EDEIRcomment@ci.eureka.ca.gov
Subject: Marina Center

I own and operate the Riverwood Inn in Southern Humboldt as well as own a house in Eureka. I was born in Eureka and have lived here all my life. The Marina Center is a bad idea for our community. WE already have one building at the foot of F Street that can't even be rented out. The Marina Center project is going to be another dead end. We do not need Home Depot, although I did hear that now they want to anchor it with a Kohl's Department Store. That was supposed to go into Mervyn's but is now probably taking the place of Home Depot. This will cause a hardship on the existing local business in Old Town, just as Home Depot will cause hardship for Pall the hardware and home furnishing businesses in the Eureka area.

71-1
71-2

I say No to the huge scope of this project. Traffic, pollution, etc. And "low income housing"? What a joke.

71-3

Letter 71: Loreen Eliason

- 71-1 The comment regarding vacancy in the City of Eureka as related to the proposed project is noted. Please see Master Response 1.
- 71-2 The comment regarding the proposed project's potential impacts on existing businesses is noted. Please see Master Response 1, under "Potential Local Store Closures" and "National vs. Local Stores."
- 71-3 The comment against the scope, generated traffic, generated pollution, and housing component of the proposed project is noted. The traffic impacts of the proposed project are analyzed in Chapter IV.O, Transportation. It would be speculative to determine exactly what the comment refers to regarding "pollution" generated by the proposed project. However, the proposed projects impacts to aesthetics, air quality, biological resources, noise, hazardous materials, water quality, noise, and utilities and service systems are analyzed in various chapters of the EIR.

Comment Letter 72

RECEIVED

DEC 22 2008

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Balloon Tract EIR Concerns

My main concern about the Marina Project proposed for the "Balloon Tract" in Eureka is as follows:

It will add too much additional commercial space that either mimics or duplicates existing retail in the city and would only dilute the economic stability for existing businesses.

- It will create an additional glut of commercial and office vacancies in a city that is already experiencing decaying brown fields.
- Add very little to bring a new direction and revenue source, such as tourism or education to the city and existing businesses.
- It is a very poor use of an exceptionally sited property in regards to its location near the bay, marina, Warfinger complex, old town and a major thoroughfare used by tourists and visitors. The old economic model of Humboldt County, forestry and fishing are waning and the options to replace them are very few, among them are education and tourism which have the ability to bring new money and jobs into the areas.
- For the greatest public benefit and good I feel that a collaboration of Security National, the state, the city, county, public and private agencies could achieve a project that is well worthwhile and sustainable into the future.
- Humboldt State University wants to expand enrollment and has out grown their oceanographic facilities in Trinidad. I propose part of the proposed marina project be a joint effort of Security National, HSU, state department of fish and game and local wildlife rescue recovery agencies establish a marine studies and recovery facility.

A teaching oceanographic aquarium on this site would:

- Expand HSU's oceanographic curriculum's student population and could offer student housing in Eureka to relieve the Arcata shortage of student housing.
- Offer a greater marine studies program that dovetails with the mission of the University and offer opportunities to allow HSU aquarium and oceanographic studies and facilities to team with State / Volunteer wildlife rescue / recovery agencies.
- Present the ability to utilize existing neighboring facilities such as Warfinger, Adornie Center and Arkley center for seminars and conferences.
- Bring a new revenue source and pride into the community.

72-1

72-2

72-3

Comment Letter 72

I hardly think that tourists are going to pull off the 101 to stop and wonder around a home depot or similar type commercial venue. I do feel that they would pull off to walk through and visit a seaport village and "working aquarium" run by HSU and wildlife groups.

Once people pull off the road to visit a tourist / educational aquarium and discover other things such as the Children's Discovery Museum, an Imax theater, old town shops, boutiques, restaurants they will opt to stay longer and bring new "outside" dollars to area hotels, restaurants and shops, an opportunity not afforded by building a home depot type commercial development.

Currently there is very little for tourists (especially with children) to do in poor weather or after they've seen the big trees, expanding tourism and education would fill gaps in our economy and bring in new outside money.

72-3 cont.

Concerned Eureka Residents
W.R. "Bill" Engels
Ellen Engels
1537 R St., Eureka

5-547

Letter 72: W.R. Engels

- 72-1 The comment expresses concern that the proposed project would add retail space to an already saturated market. Please see Master Response 1, under “Vacancy in the City of Eureka,” as well as under “Potential Local Store Closures.”
- 72-2 The comment states that the project site should have alternatives uses other than the proposed project. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI of the Draft EIR.
- 72-3 The comments suggesting other uses for the project site are noted. Please see Chapter VI, Alternatives, in the Draft EIR, as well as responses to comments 16-239 and 16-242, which explain that the Draft EIR includes a reasonable range of alternatives. An alternative containing uses similar to the institutional and educational uses described could be the College of the Redwoods or Tourism Use Alternatives.

Sidnie Olson

From: richard evans [richardzenia@yahoo.com]
Sent: Thursday, January 29, 2009 1:10 PM
To: DEIRcomments
Subject: Comments

The area of Eureka, currently under consideration for development, is obviously the most important and largest parcel of undeveloped land in the city of Eureka; as such, its development will play a major role in the future economic health and social desirability of the city.

I urge the City Council and boards to exhaustively consider any and all proposals that address the issues of LAND USE and URBAN DECAY, emphatically and directly address the legal requirements of this DEIR, and facilitate ongoing input and comments by the public.

73-1

Let us learn from our mistakes and no longer tolerate short sighted, counterproductive development that fails to acknowledge the enormous changes, already upon us, to our economic systems and social needs. But let us know that good planning and listening will create a vibrant Eureka that we can work in and be proud of.

Thank You
Richard W. Evans
1117 A Street
Eureka, CA 95501

(707) 442-1208
cell (707) 616-1040
richardzenia@yahoo.com

Letter 73: Richard Evans

- 73-1 The comment urges the City Council and boards to consider any and all proposals that address land use and urban decay, to address the legal requirements of the Draft EIR, and to facilitate ongoing input and comments by the public. The comment is noted. No comment is made on the proposed project or the Draft EIR itself, so no further response is given.

Comment Letter 74

Comment Letter 74

January 24, 2009

To: City of Eureka
Community Development Dept.
Attn: Sidnie L. Olson, AICP, Principal Planner

From: Patrick and Elizabeth Eytchison
915 California Street
Eureka, California 95501

Subject: Comments on Marina Center Mixed Use Development Project Draft EIR;
Air Quality Section (pages IV.C-1 –IV.C-23)



5-551

The core weakness of this document is its failure to address in sufficient detail the possible impact of increased traffic generated by the Marina Center on the air quality of nearby residential neighborhoods, particularly the Clark District (identified in the document, in passing, on page IV.C-1). This is significant because the EIR's Traffic Section (IV.O) estimates an additional 15,665 daily vehicle trip on area roads as a result of the project, and a minimum 33% increase in traffic at study intersections by 2025. It is estimated that this additional traffic will generate nearly 19,000 metric tons of CO2 annually (EIR IV.C-20). One specific lack in the draft EIR is that a matched estimation of carbon monoxide emissions generated by Marina Center traffic is apparently missing from the document.

74-1
74-2

Automobile and truck traffic poses a well documented health risk to exposed humans. Auto emissions are a primary source of hazardous air pollution; diesel emissions are recognized as especially significant as a cancer risk factor—however non-diesel gas emissions may also pose a cancer risk. Other illnesses associated with traffic emissions are asthma, bronchitis, headache, fatigue, impaired mental functioning, damage to blood and heart functioning. Traffic also generates air-suspended road dust.

Adjacent to Highway 101, the Co-op, and the Marina Center, the residents of the Clark District will be particularly vulnerable to traffic-generated air pollution. This needs to be studied in detail—a lack in the draft EIR. In addition to auto

74-3

(1)

emissions, Clark District residents are exposed to emissions from the Fairhaven Power Plant, the local pulp mill, a convenience store with multiple gas pumps and at least one auto-body shop emitting paint fumes. Should plans for railroad and/or commercial harbor development bear fruit, further negative impacts on Clark District air quality can be anticipated. These multiple factors of cumulative impact are not considered in the Air Quality section, although the document's Traffic section specifically considers other anticipated future developments in estimating traffic growth.

74-3 cont.

The Air Quality section is deficient in failing to consider the effect of coastal temperature inversion: a well known Humboldt Bay weather phenomenon which has the effect of weakening vertical dispersion of pollutants (see page IV.C-1, Climate and Meteorology).

74-4

The (air quality) Health Risk Assessment (HRA) for the Marina Center project, paid for by Security National and carried out by Winzler & Kelly in 2006, considers only two hazard scenarios: air pollutants generated by construction, and diesel emissions emitted by idling delivery trucks after the Marina Center is completed. This HRA is not complete because it fails to consider the overall impact of all increased traffic and auto emissions generated by the Center.

74-5

REGULATED LIMITS

PM10 Attainment Plan: The North Coast Air Basin (which includes Humboldt County) has a nonattainment status with respect to PM10 air pollution. The Air Quality section acknowledges that even with its suggested Measures of Mitigation (C-2a and C-2b) the Marina Center will have a "significant and unavoidable" negative effect on the NCUAQMD's PM10 Attainment Plan. The draft EIR's Air Quality section in my opinion presents an obvious weakness in this area in that the proposed Measures of Mitigation do not include alternate development projects for the Balloon Tract property which would result in a significant reduction in traffic per se.

74-6

Greenhouse Gas Emissions: Although, due to the factor of scale, GHG emissions

74-7

(2)

Comment Letter 74

from Marina Center traffic are not significant, given the overall seriousness of the problem of global climate warming, and California's commitment to mitigation in this area, any project for commercial development should be planned to keep these GHG emissions within the lowest possible limits. Judged by this criteria, Mitigation Measures C-2a and C-2b (as in the case of PM10 Attainment) seem weak as they do not include alternate projects which would significantly reduce-rather than increase-future traffic.

↑
74-7
cont.

Summary : The Draft EIR's Air Quality section is lacking in the following specific areas:

- (1) The Climate and Meteorological component does not include an assessment of the effect temperature inversion phenomenon has on pollution dispersion.
- (2) The Section does not include an adequate (detailed) assessment of the impact of increased traffic emissions, and related traffic particulate matter, on Clark District residents (particularly in the context of other existing, of future planned and anticipatable, toxic emission sources).
- (3) The Health Risk Assessment appended to the Section fails to consider the impact of *overall* traffic emissions, beyond diesel emissions from idling delivery trucks only, particularly on the residents of the Clark District.
- (4) Although an estimation of increased CO2 emissions generated by Marina Center generated traffic is given, there is no matching estimate for CO emissions.
- (5) The Mitigation Measures offered (C-2a and C-2b) are less than adequate: no proposals for mitigation through *alternate projects* which would significantly *reduce* traffic trips are offered.

Letter 74: Patrick and Elizabeth Eytchison

74-1 The comment states that the Draft EIR does not address traffic impacts in sufficient detail.

Please see response to comment 15-7, which explains the methodology used in the traffic impact analysis. The project's effects associated with local traffic and the air quality of nearby residential neighborhoods is anticipated to be less than significant. Concerning the project's generation of vehicle trips, vehicle emissions of CO₂, and vehicle-related effects on regional air quality generally, the traffic analysis recognized that regional vehicle traffic is anticipated to grow by about 1.5 percent annually with or without the project. Consequently, the analysis provided in the Draft EIR already adequately addresses the transportation and air quality-related impacts of the project.

74-2 The comment indicates that the Draft EIR does not include an estimate of carbon monoxide emissions that would be associated with the additional traffic generated by the project. For the estimated emissions of carbon monoxide that would be generated by the project, please see Draft EIR Table IV.C-5 on page IV.C-14. Please also see Master Response 2 regarding the adequacy of the air quality assessment.

74-3 The comment states that residents would be vulnerable to project related traffic-generated air pollution and that non-traffic related cumulative emissions should be incorporated in the analysis. For discussion of air quality impacts related to diesel and automobile emissions, see Draft EIR Chapter IV.C. For a discussion of the cumulative impacts related to criteria air pollutants, please see Draft EIR pages IV.C-15 and IV.C-16.

74-4 The comment states that the Draft EIR failed to consider the effect of the coastal temperature inversion. For a response about temperature inversions and other meteorological influences as they are addressed in the Draft EIR, see response to comment 16-16.

74-5 The comment states that the HRA is not complete because it fails to consider the overall impact of increased auto traffic and emissions generated by the proposed project. The health risk assessment summarized in Appendix E evaluates the incremental health risk associated with projected construction equipment, diesel delivery truck emissions, parking lot traffic emissions, and emissions from traffic on U.S. 101 in the immediate vicinity of the project site. This analysis is included in the Draft EIR to specifically assess the impacts of diesel and automotive emissions at the project site. The report in Appendix E should be referenced as it does include emissions from increased traffic and autos from the proposed project. Please also see Master Response 2.

74-6 The comment expresses the opinion that the Draft EIR is weak because it does not include mitigation measures that require alternative development projects for the project site. Comment noted; however, pursuant to CEQA, the City cannot require the Project

Applicant to develop an entirely different project through mitigation requirements that do not meet the stated project objectives.

- 74-7 The comment reiterates the stance that alternative projects should be required to reduce significant impacts. See response to comment 74-6 regarding alternative projects as mitigation.

Comment Letter 75

Comment Letter 75

January 28, 2009

Sidnie L. Olson, Principal Planner
City of Eureka Community Development Department
531 K Street
Eureka CA 95501-1165

RECEIVED
FEB 02 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

I am writing regarding the Marina Center DEIR. First I want to say I have a great deal of admiration for the Arkleys and what they have done for our community. Also, I do not envy the position you are in at this time in this process. You will most likely be inundated with letters such as mine. The Marina Center has been designed, aesthetically, to be a showplace for Eureka but what are the costs? I don't mean monetary costs.

We have a situation in Eureka where traffic very often creeps slowly down the section of Broadway where the Center will be built. In order to cross Broadway a pedestrian must walk for blocks to find a signal or crosswalk to get from one side of the street to the other. I can't even imagine the impact to bicyclists trying to navigate Broadway. It is a nightmare right now. It will only be made worse by this project. Waterfront Drive is not a viable alternative for the traffic flow which will be created by the Marina Center. How do you think this will work? The impact to Harris Street and other cross streets on Broadway have not been adequately dealt with. How will the city address this almost certain bottleneck? Why has no public transit service been proposed within this project?

75-1
75-2
75-3
75-4

We are now faced with two of our largest "chain" stores, Mervyns and Gottshalks, closing their doors. If Home Depot is to be built within the Marina Center project, we can almost certainly predict the closing of long time local building supply businesses, already existing in Eureka. These locally owned businesses have been great supporters of the local community. How will the city deal with the impact of Home Depot on Shafers, Piersons, etc.? We have too many businesses that have closed their doors already in the downtown area, as the result of the malls that were built in Eureka. Small locally owned businesses have been replaced with large chain stores that are now feeling the effects of economic challenges. Putting governmental offices and social service agencies in place of these businesses is not the answer.

75-5

The Boardwalk, thanks to the Arkley family, is a wonderful addition to Old Town in Eureka but the restaurant that was to open there has not happened. The last time I looked all the condos built on the Boardwalk have not been sold. The Marina Center proposes building more residential housing, will they sit empty? Are you creating "Urban Blight?"

75-6
75-7

I feel that the Health Risk Assessment (HRA) for this project is totally out of date and needs to be done over to meet current standards for diesel emissions both during the building and for the future. Testing for Dioxins and Arsenic is imperative, especially if wetland remediation is to be done. Is there going to be a significant threat to the health of Eureka citizens during the transportation of hazardous materials in the building process, how will this be addressed? Currently these issues are not adequately explained?

75-8

The possibility that there could be a Wiyot Village under this property needs to be addressed before construction begins. What will be your requirements for site identification?

75-9

It appears to me that capping of the property, to contain possible contaminants in the soil, will only cause a slow seepage of unknown materials, under the capping. The seepage will lead right into Humboldt Bay. I would hope that there would be major cleanup of the Balloon Track before it is paved over. What will be your requirements?

75-10

There are many questions that need to be answered. The Project proposals have glossed over too many strategic subjects. What provisions have been made for the citizens of Eureka for recreational enjoyment of this precious piece of coastal property?

75-11

Marilyn Field
2868 D Street
Eureka, CA 95501

jmfield@pacbell.net

5-555

Letter 75: Marilyn Field

75-1 The comment expresses concern regarding the proposed project's impact on pedestrians.

There are existing cross-walks at the intersection of Broadway and Fifth Street, and at the signalized intersections of Broadway and Sixth Street, and Broadway and Washington Street. The future signalized intersection of Broadway and Fourth Street would have crosswalks as well. It is acknowledged there are difficulties in pedestrian circulation along and crossing Broadway. The problem is existing high traffic volumes. Raised medians, improved warnings, street narrowing measures, lighting, etc. have all been demonstrated to reduce pedestrian-related accidents. Recommendations for similar problems have been made in several recent publications including articles in ITE Journal (January 2004 and May 2007), and a handbook jointly published by FHWA, NHTSA and the Pedestrian and Bicycle Center in March 2009 entitled "How to Develop a Pedestrian Safety Action Plan." In these articles it has been noted that installation of unsignalized pedestrian crossings at multi-lane, high volume arterial urban streets should be avoided. This is because high traffic volumes offer no safe crossing gaps, even when considering one direction of traffic at a time along with the potential of the multiple threat exposure from having more than one lane in each direction. If median islands are constructed, they should probably be the Danish offset type so that pedestrians walk facing oncoming traffic in the median and they cross half the street at a time. This is the case with or without the proposed project. Traffic queues are, and would continue to be present during many signal cycles in the peak and off peak hours. Also, the total volume of traffic approaches 1,000 vehicles per lane per hour, or one vehicle every 3.6 seconds in each lane. This would make it difficult for pedestrians to find any safe crossing gaps. It should be noted that the distance between the existing crosswalks across Broadway from Washington Street to Sixth Street is approximately 575 feet, which is less than the 600-foot maximum walking distance between controlled pedestrian crossings that is generally accepted.

The comment also expresses concern regarding the proposed project's impact on bicyclists. Please see response to comment 33-3 for a discussion of bicycle circulation and safety.

75-2 The comment states that Waterfront Drive is not an acceptable traffic route. The comment is noted. Please see response to comment 40-2, which discusses Waterfront Drive.

75-3 The comment expresses concern regarding the potential traffic impacts to intersections on Broadway. Please see response to comment 38-4, which addresses Broadway intersections.

75-4 The comment asks why no public transit service is proposed with the project.

The proposed project is designed so that it could integrate with existing public transit systems, including bus service along Broadway/U.S. 101. As the project is developed, the existing public transit system grid could be expanded into the project site.

- 75-5 The comment expresses concern that the proposed project would negatively effect existing retail businesses. Please see Master Response 1, under “Potential Local Store Closures.”
- 75-6 The comment observes that a restaurant proposed along the Eureka Boardwalk has not as yet opened. The comment is noted.
- 75-7 The comment questions the demand for residential units at the proposed project site. The comment is noted. Residential market demand studies are outside the scope of CEQA.
- 75-8 The comment states that the Health Risk Assessments prepared in 1996 and 2000 are out of date and requests that new studies be prepared. The comment is noted. For further discussion regarding the Remedial Action Plan for the proposed project, as well as other investigations of the project site, please see Master Response 4 and new Appendix S.
- 75-9 The comment asks what would be the requirements for identification of Wiyot villages. Implementation of an archaeological subsurface survey program would help determine whether significant archaeological sites exist in the project area. Please also see Master Response 9 for revised mitigation measures including subsurface investigation.
- 75-10 The comment expresses concern about placement of clean cover material over the project site. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4.
- 75-11 The comment stating that the project proposals have glossed over too many issues is noted.

The comment also asks what provisions are made for recreation on the project site. As stated in the Project Description on page III-14, the project would include an 11.89-acre wetland reserve, a portion of which would be available for enjoyment as a public recreational space.

Sidnie Olson

From: David Fix & Jude Power [foglark@att.net]
Sent: Saturday, January 31, 2009 10:52 PM
To: DEIRcomments
Subject: Marina Center

Dear Sidnie Olson,

This is to register my opposition to the Marine Center as it is currently proposed. What Ozark spiral arm of which galaxy are these planners and promoters living in? What are they smoking?

Anyone who can tie an overhand knot in their shoelaces can foresee that, within eighteen months, a Home Depot hypermarket at that site will drain the blood from Pierson's--a respected store whose employees are topnotch. I can foresee callow Eureka kids working at a Home Depot who wouldn't begin to know a crescent wrench from a crescent roll, and who think there's a product called Duck Tape. 76-1

Second, as economic hard times become worse and stay bad--as we must recognize they almost surely will--this site will attract increasing ranks of the desperate homeless, meth addicts, smash-and-dash specialists, unsupervised juveniles, gang members, and prostitutes. The verges of the property, especially along the bayfront, will become a seedy, urine- and feces-stinking No Stroll Zone the day the place opens, with fencelines and bushes flagged with windblown white plastic bags--and it will remain that way, because EPD will have insufficient money and manpower to adequately police it or clean it up. 76-2

Third, the artist's portraiture of the site depicts a site that is architecturally vacant. We expect something better, not Santa Rosa Norte. 76-3

Fourth, there are ANY number of better uses for this site: a convention center, a managed interpretive wetland and riparian corridor, a greenbelt, a native tree arboretum, or simply precious open space. 76-4

If this project is given the go-ahead, I will be among the first to shriek with laughter when the civic "leaders" of Eureka and Humboldt County who supported it are voted out of office.

Eureka and Humboldt County can do a whole lot better than this. Let's go back to the drawing board, this time with living breathing human beings, not quarterly profits, foremost in mind.

Thank you for considering my opinion.

David Fix
Biologist, writer
Humboldt resident since 1992
822-3613

Letter 76: David Fix and Jude Power

- 76-1 The comment expresses concern of the impact of the proposed project on local businesses. Please see Master Response 1, under “Potential Local Store Closures.”
- 76-2 The comment expresses concern about site security after project buildout. See response to comment 16-178, which addresses police services and site security.
- 76-3 The opinion of the preliminary project renderings is noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 76-4 The comment suggests other uses for the project site. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI of the Draft EIR.

Letter of Observation

Kyle Fleck

Dear Times-Standard Newspaper and workers of the EIR,

I and 2 other student's at Eureka High School are quite concerned with the latest news about the Balloon Track Project and its productivity. We feel that the addition of the Home Depot as well the other complexes that are planned to be installed there are un-needed and is simply pointless. We aren't against the project itself, as the revenue estimates and job's available are very good to hear, its just that Eureka and cities surrounding it, already have all these facilities. And, to our understanding, there is already a Home Depot in Crescent City, so why have one here in Eureka? We suppose for the convenience, but we still feel strongly that the construction of the area seems that it will only enrage people, rather than sooth concerns.

77-1

Maybe we are talking to the wrong people to voice our thoughts on this on going project, but we are in the process of undergoing a local issue project, and the "Home Depot vs. Home Town" seemed to jump out at us when we saw the 1st edition of the EIR.

But, to conclude this message of awareness, we feel that regardless of our opinions expressed, the project will most likely go on. We simply wanted to say that this construction at the Balloon Track seems un-orthodox and just another fancy addition to the Eureka Community.

76-2

Thank Very Much for reading this letter, we hope you will write back with some comments!

Sincerely,

Kyle Fleck, and his two friends.

Letter 77: Kyle Fleck (and his two friends)

- 77-1 The comment suggests that the proposed commercial development for the project site is unnecessary. The comment is referred to the response to comment 38-1.
- 77-2 The comment stating that the proposed project is unorthodox is noted.

Sidnie Olson

From: ali [ali@mattole.org]
Sent: Friday, January 30, 2009 5:43 PM
To: DEIRcomments
Subject: my comments

Thank-you for addressing my concerns with the EIR,
Ali Freedlund
1304 Sunset Ave.
Arcata, CA 95521
ali@mattole.org

January 30, 2009

City of Eureka
Community Development Department
Attn: Sidnie L. Olson, AICP Principal Planner
531 K Street
Eureka, CA 95501
DEIRcomments@ci.eureka.ca.gov

RE: Marina Center Mixed Use Development Project

To Whom it May Concern,
The Draft EIR for the Marina project lacks reassuring reasons to move forward with this project at this time. For example:

Mitigation measures to be approved by Regional Board in the future?
Staff of the Regional Board have already begun a project with the CA Coastal Conservancy know as Humboldt Bay Ecosystem Management. I doubt that the Marina project as it stands would fit their goals for wetland recovery. The Marina project does include almost 12 acres of wetland restoration but says nothing of how it will remove the contaminants on site or how much the project will lead to further contamination.

78-1

Threat to already existing businesses
This project will bring in outside chain stores that threaten the already burdened business sector of Eureka. If the main thrust was to revitalize business why not resuscitate some of the closed businesses in downtown? I would hate for the downtown area to become even more ghostly. I am sure the business sector, also, will tell you as much. So many businesses were negatively affected with the opening of the Bayshore Mall, which according to the Journal, is also financially unstable at this time.

78-2

Traffic and Air Quality Impacts
According to Humboldt BayKeeper, this project will seriously increase traffic and air quality impacts while the EIR lacks sufficient mitigation measures. Please do not add to our already impacted quality of life!

78-3

Alternatives
There was a lack of alternatives addressed in the EIR. Because the site is right next to the lumber yard, why not have a value-added industry that actually manufactures furniture instead of bringing in some outside products. What about an alternative energy industry? What about small homes manufacturing industry? What about short sail shipping? There are plenty of more appropriate types of light industry than the proposed shopping area. We simply do not need another shopping area, especially at this time.

78-4

5-562

Letter 78: Ali Freedland

- 78-1 The comment expresses doubts that the project as proposed would meet wetland recovery goals of the Humboldt Bay Ecosystem Management project. The comment questions how contaminants would be removed from the project site and asks whether the project would lead to further contamination.

The conceptual wetland restoration plan for estuarine emergent wetlands at the project site assumes that the entirety of the site would be subject to soil remediation as part of the mandatory site cleanup to be accomplished before site development. The proposed project would result in the permanent filling of 6.15 acres of wetland as well as the temporary filling of 1.45 acres of wetland. These areas would also be subject to soil remediation as part of the site cleanup. The project would not lead to further contamination; in fact the implementation of the project along with the wetland restoration plan would ensure not only the elimination of a potential pathway of contaminants to biologically sensitive receptors but also promote better quality of onsite waters and those waters flowing to downstream areas through Clark Slough, including Humboldt Bay. Please also see Master Response 4, regarding Phase 1 of the project, which includes site remediation and wetland restoration.

- 78-2 The comment states that retail demand does not exist for “outside chain stores,” that the Bayshore Mall negatively affected Downtown businesses, and suggests a Downtown revitalization effort. Please see Master Response 1, specifically National Stores vs. Local Stores and The Effect of the Bayshore Mall on Local Businesses. A Downtown businesses revitalization effort is outside the scope of the proposed project.
- 78-3 The comment refers to the opinions of Humboldt Baykeeper and states that the project would add to the already impacted quality of life. The comment is noted.
- 78-4 The comment states that there is a lack of alternatives discussed in the Draft EIR. The comment is noted. Please see Chapter VI, Alternatives, of the Draft EIR, as well as responses to comments 16-239 through 16-242, which explain that the Draft EIR includes a reasonable range of alternatives.

Sidnie Olson

From: edge@humboldt1.com
Sent: Tuesday, December 30, 2008 9:48 PM
To: DEIRcomments
Subject: Comment

Hi. I'd like to add my 2 cents. This project doesn't fit. It's too big and the architecture doesn't match the beauty of Eureka, especially the old town buildings. Businesses are closing regularly now, how would our population be able to support such a development when we can't keep our current businesses from folding? I'd much prefer to see some improvements to our existing town then this "anywhere USA" type of extravagant development. And I'd especially hate to see a Home Depot go into that location! Edge Gerring, Loleta

I 79-1
I 79-2

Letter 79: Edge Gerring

- 79-1 The opinion of the preliminary project renderings is noted. As stated in the outline on page III-18 of the Draft EIR, under *F. Project Entitlements and Approvals*, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 79-2 The comment states that retail demand does not exist for the proposed project and suggests a improvements to the “existing town” as an alternative. The comment is noted. Please also see Master Response 1 regarding the proposed project’s effects on existing retail businesses.

Comment Letter 80

Comment Letter 80

FORSTER-GILL, INC.
P.O. Box 14459
San Luis Obispo, CA 93406
(805) 541-6387

January 30, 2009

VIA E-MAIL

City of Eureka
Department of Community Development
531 K Street Eureka, CA 95501-1146

RE: Marina Center EIR Comments

City of Eureka Department of Community Development:

Thank you for the opportunity to review the City of Eureka's Marina Center EIR.

Forster-Gill, Inc. has no position with respect to merits of the project itself. However, its impact on sewer capacity is of concern to Forster-Gill, as it has the Ridgewood Village project in process with the County of Humboldt and as the City previously issued a will-serve letter to Forster-Gill indicating it had capacity in the "Greater Eureka Area, Elk River Waste Water Treatment Plant Plant ("Elk River WWTP" or "WWTP") sufficient to serve the Ridgewood Village project. As information in the Marina Center Draft EIR casts doubt on the City's commitment and assurances, Forster-Gill, Inc. respectfully submit the following comments.

I. COMMENT/OVERVIEW

The City's changing NPDES Application

The City has amended its NPDES permit for average dry weather flow to the Elk River WWTP such that the EIR analyzes project and cumulative project impacts on wastewater flow based on incorrect assumptions.

September 23, 2008 - The City of Eureka applied to California Regional Water Quality Control Board (RWQCB) for a NPDES permit for the Elk River WWTP for average dry weather flow (ADWF) of 6.0 million gallons per day (mgd).

December 1, 2008 - The City of Eureka released the draft Marina Center EIR. The EIR stated the following at IV.Q-1 -

City of Eureka, January 30, 2009, Page 2

"The Elk River WWTP has a total average dry weather capacity of 6 mgd (however, the current permitted capacity is 5.24 mgd) ..."

"The 5.24-mgd-capacity is anticipated to be updated to 6 mgd or more in the NPDES permit renewal process in 2008/2009 (Gierlich, 2008)"

December 4, 2008 - The City of Eureka modified its application to RWQCB for the NPDES permit for the Elk River WWTP for ADWF back to 5.24 mgd.

The City's flip-flop in its application for wastewater treatment facility flow raises serious concern for the City's ability to service the Marina project and other City and regional projects. A City of Eureka letter dated August 31, 2007 written to Humboldt Community Services District ("HCSD") (see attached) shows that in some years the City of Eureka is over its contracted-for capacity at the WWTP. By using an average of the 6 years it shows that the City of Eureka is at 3.61 mgd and HCSD is at 1.11 mgd. According to the 1982 agreement between the City of Eureka and HCSD the City is entitled to 69.5% of ADWF (as measured at the WWTP in August of each year). HCSD's portion of ADWF is 30.5%. Using the permitted and currently requested capacity of 5.24 mgd the City of Eureka has an allowed flow of 3.64 mgd and HCSD has an allowed flow of 1.60 mgd.

Based on the foregoing, the City of Eureka has only .03 mgd capacity at the Elk River WWTP, based on the average of the 6 years discussed in the above mentioned letter and under its latest application for the NPDES permit. In fact, the City exceeds its allocation under its agreement with HDSD in some years.

The City's new calculations

In a January 27, 2009, letter to Steve Davidson, General Manager of HCSD, the City modified its evaluation of total flow to the plant and, hence, its capacity, by extrapolating a 10% misread from a meter at the Plant. The City is requested to include this letter in the record by this reference. By reducing the City's flow by 10% in this manner, the City claims to be within its contractual allotment under the 1982 HCSD/City Agreement. The City apparently plans to measure flow at the plant for a few months to see if its extrapolation is accurate. This analysis, however, raises at least four serious concerns:

First, the City relies on August of 2007 and 2008 only in its new calculations. These years both had well below historical average rainfall totals for August. Higher rainfall gives a higher allocation at the WWTP to the City, due to I & I concerns with the City's older collection system. We note that previous City calculations, evidenced in its letter of August 31, 2007 (attached hereto) rely on up to six years to determine flow averages.

Second, the City leaves out the Pound lift station from its calculations. This lift station collects wastewater from HCSD and City collection systems not measured by other lift stations, nor accounted for in un-metered pump stations listed in the City's analysis. The flow to this lift station omitted from the City's calculations is estimated at over 100,000

5-566

80-1

80-2

80-3

80-4

Comment Letter 80

Comment Letter 80

City of Eureka, January 30, 2009, Page 3

gallons per day. Accordingly, the extrapolation of excess capacity at the Plant appears to be overstated. It is our view that the meters being relied upon need to be calibrated and the Pound lift station flow numbers included.

80-4 cont.

Third, the City fails to include a complete list of reasonably foreseeable future projects in determining WWTP capacity. The January 27, 2009 letter considers future flows from Marina Center, Bayshore Inn expansion and Lundbar Hills, Unit 6. Omitted from consideration are the other future projects listed in the Marina EIR, at Table V-1. Also omitted from consideration is flow from the Ridgewood Village project, for which the City issued a Conditional Will-Serve, by letter from Assistant City Manager Mike Knight, dated August 6, 2007.

80-5

Fourth, the City fails to analyze wet weather flow, even though the Marina EIR lists the WWTP at 100% wet weather capacity. City staff apparently believes that wet weather flow is not affected by additional projects as the plant capacity is determined by how much material can flow through the pipes, not by the amounts flowing from projects or "I and I". If this is the case, it should be explained in the EIR.

80-6

City failure to abide by State and Federal grant assurances

In accepting the federal and State grants for design and construction of the "Greater Eureka Area Wastewater Project", the City of Eureka made several assurances to provide for regional growth, one of which was that the City of Eureka would have the plant operating at 5.96 mgd by the year 2001. See 1980 Facilities Plan, incorporated into the federal and State applications for construction of the plant, at page II-5, attached hereto. The City has failed to achieve this goal and now appears unwilling to do so, despite having a report from Brown and Caldwell listing the actions necessary to reach 6 mgd.

80-7

The funding is available to implement these assurances. There are several million dollars in the City's Sewer Enterprise Fund or loaned out by that fund to the City's Redevelopment Agency or other City entities/funds. The "final revenue program" submitted by the City in 1982 along with "enacted rate ordinances" led to the securing of these millions of dollars, as part of a "plan" to reach 6.03 mgd ADWF. See attached letter to City Manager Donald Dodge, dated January 15, 1982.

Wet Weather Flow/Mitigation

The draft EIR states that the WWTP operates at 100% of capacity for peak wet weather flow. This is in large measure due to "I and I" problems in the City. The City has a plan developed for correction of "I and I". We understand that it may be due to be implemented on a yearly basis beginning soon. This mitigation appears technically and financially workable. It needs to be analyzed in the EIR and incorporated into the project as a feasible mitigation measure.

80-8

5-567

City of Eureka, January 30, 2009, Page 4

Summary of Observations

The timing and effect of the City's reversal of its applied for capacity at Elk River Regional WWTP should be examined in the EIR, if not by the Grand Jury. The City's permit application at 6.0 mgd was cited in the Marina Center EIR to reach a finding of adequate WWTP capacity and no environmental impacts relating to wastewater capacity. Three days after public release of the Draft EIR, the City submitted a modification of the NPDES application back to 5.24 mgd. The City's maintenance of its NPDES permit at 5.24 mgd will perpetuate and exacerbate an infringement of HCSD's rights under the 1982 contract, which infringement could have other environmental ramifications. This City action, as well as the last minute finding of capacity owing to a hypothecated error in a WWTP metering device, may be part of other City efforts to thwart the Ridgewood Village project, including the adoption of a reserve strip across Lundblade Drive to block access to Lundblade Drive from Forster-Gill's property. Forster-Gill hopes that this pattern of backdoor attacks on the Ridgewood Village project does not continue and that all parties can work together in the future for the benefit of the region.

80-9

Concluding Comments

In light of the foregoing comments, which should be addressed in a final EIR, the EIR should, at a minimum, specially address the following comments:

1. The impacts of the Marina Center project and other reasonably foreseeable future projects on the capacity for dry weather sewer flows to the ERWWTP has not been evaluated in the context of the 1982 HCSD - City Agreement and a permit capacity of 5.4 mgpd average dry weather sewer flow.

80-10

2. The upgrade to 6.0 mgd dry weather wastewater flow appears to be a feasible mitigation to the impacts of the Marina Center project and other pending projects in light of recent Brown & Caldwell reports and the availability of several million dollars in or owed to the City Sewer Enterprise Fund. Moreover, the NPDES application itself shows a plant design of 6.0 mgd average dryweather flow (1981 Hydraulic Profile, Drawing Number G6). The 1980 Facilities Plan attached to the applications for regional plant State and Federal funding referred to a plant design of 5.96 by 2001. Pages II-4 and II-5. Finally, the City's 1982 "final revenue program" for the WWTP (attached) calculated taxation of the population based on average dry weather flow of 6.03 mgd. It therefore appears feasible and, in fact, funded, to expand the WWTP to 6.03 mgd.

80-11

3. The recent extrapolated reduction in wastewater flow should be re-examined in light of the absence of estimated flow to the Pound lift station, as well as use of more years than 2007 and 2008 to calculate average dry weather flow capacity at the regional WWTP.

80-12

4. The DEIR reports that wet weather wastewater flow capacity is at 100% of permitted capacity during wet weather events. The Marina Project should be

80-13

Comment Letter 80

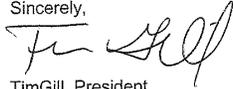
City of Eureka, January 30, 2009, Page 5

evaluated for cumulative impacts from reasonably foreseeable future projects appear to be a significant contributor to adverse environmental impacts. The City has studied inflow and infiltration ("I and I") throughout its collections system, but has undertaken only limited corrective action, despite having millions of dollars of funds in its Sewer Enterprise Fund. It appears there is a feasible mitigation, which is for the City to expend Sewer Enterprise Funds on reducing "I and I", consistent with its recent Brown & Caldwell plan, so as to reduce wet weather wastewater flow.

80-13
cont.

The City of Eureka needs to review its contracts, promises and sewer flows to make sure that it has the capacity to serve its community and the region, consistent with its federal grant applications, its will serve letters and its agreement with HCSD.

Sincerely,



TimGill, President

- cc: Kirk Girard, Community Development Director, County of Eureka
- Bonnie Neeley, Board of Supervisors, County of Eureka

5-568

Letter 80: Tim Gill

Attachments to Letter 80 are presented in Appendix Y.

- 80-1 The comment refers to wastewater treatment facility flow and capacity issues and questions the timing of the City's NPDES permit and the Draft EIR for the Marina Center. Please see response to comment 9-34, which addresses wastewater treatment facility flows and capacity issues. Despite the coincidence in timing, the City's decision to modify its NPDES permit application to the California Regional Water Quality Control Board (RWQCB) is entirely apart from the City's preparation and consideration of this EIR.

During the 2008/09 NPDES permit renewal process for the Elk River Waste Water Treatment Plant (WWTP) the analyses completed as part of the Wastewater Facilities Plan update revealed that the current permitted capacity would adequately serve the greater Eureka area's wastewater needs for the next five year period. The Wastewater Facilities Plan also recommended that the City make several improvements to the WWTP prior to applying for additional capacity. See also response to comment 80-9 (Brown and Caldwell, 2009).

All municipal dischargers operating under the NPDES permit program must periodically reapply for authorization to discharge under the program (typically every five years). Renewals are routinely provided by the RWQCB. Thus, the City expects to reapply in 2013 and, if necessary at that time, request and obtain authorization from the RWQCB for an increase in the WWTP's permitted discharge capacity to 6.0 mgd or greater.

It is important to note that the WWTP was designed and constructed to provide a 6.0 mgd dry-weather treatment capacity; the City merely needs the regulatory approval to reach that capacity. In the meantime, however, the WWTP has capacity to meet the needs of the proposed project and other anticipated projects within its current permitting cycle (2009 – 2013).

- 80-2 The comment relates to capacity at the wastewater treatment plant, as well as the City's allocation to that capacity according to its agreement with the Humboldt Community Services District (HCSD).

Please see responses to comments 9-34 and 80-1 regarding wastewater treatment plant capacity. The comment also references the contract between the City and HCSD which allows those two agencies to share capacity at the WWTP and to convey wastewater through several points of interconnection between HCSD's and the City's collection systems. This is a contractual matter that does not involve the WWTP's capacity or physical infrastructure, and thus does not raise any environmental issues under CEQA. Indeed, the City believes that it has both the legal right and the available capacity to serve the proposed project as evidenced by the Eureka Public Works Department's unconditional will-serve letter issued for the project on December 4, 2006.

- 80-3 The comment asks the City to include a January 27, 2009 letter from the City to the General Manager of HCSD in the record. The comment also states that a recent recalculation of meter readings by the City raises several concerns, including one about the periods of rainfall used for the recalculation (2007 to 2008) versus the previous periods used (approximately 2001 to 2006).

The January 27, 2009 letter explains the City's rationale for re-evaluating the wastewater generation expected for the proposed project, and is part of the public record.

Regarding the concern that an earlier flow period (2001 to 2006) should have been used to assess the WWTP's available contractual flow capacity, the City's January 27, 2009 letter concludes that flows in 2007 and 2008 ranged between 81.2 and 83.6 percent, respectively. This is actually within both the five-year (2004 to 2008) and ten-year (1998 to 2008) average dry-weather flows calculated by the City, which were 79 and 85 percent of capacity, respectively. Consequently, the conclusion that the WWTP maintains sufficient capacity to serve the Marina Center project and other cumulative projects remains valid, regardless of which base flow period is applied in the analysis.

- 80-4 The comment claims that the City leaves out the Pound (Road) Lift Station from its calculations, and urges that the City recalibrate the meters and include the Pound (Road) Lift Station flow numbers.

The Pound Road Lift Station is a small Lift Station with an average dry weather flow of only 0.02 mgd (about 20,000 gallons per day), which translates to about 82 EDU's. This fractionally small flow, and all other unmetered flows, were included in the revised flow summary tabulation compiled by City WWTP staff dated February, 2009 when it was discovered that the parshall flume flow meter at the WWTP had been damaged at some point in the past and was out of calibration. The flow volumes into the WWTP were re-tabulated using an aggregate of the metered and unmetered flows into the wastewater system, including the Pound Road Lift Station.

According to staff-initiated changes to the Draft EIR, the Washington Pump Station and sewer main to the Washington Pump Station would serve the proposed project, independent of the Pound Road Lift Station, which would not serve the proposed project. The sewer line associated with the Washington Street Pump Station is operating well below its maximum capacity. The Washington Street Pump Station itself is operating at about 75 to 78 percent of its peak wet weather capacity, and has enough capacity to serve at least 2,000 additional EDUs. Consequently, the pump station and sewer line have more than sufficient capacity to serve the project and other future projects. In fact, because the Washington Street Pump Station sewer basin is substantially built-out, it has the capacity to serve new development for years to come. Please also see response to comment 80-3.

- 80-5 The comment states that the Draft EIR does not include a complete list of reasonably foreseeable future projects in determining WWTP capacity.

Please see responses to comments 9-34 and 22-25, as well as staff-initiated changes to the Draft EIR in Chapter 2 of the Final EIR. According to the Draft EIR, the project would have a significant impact on wastewater services if it would:

- Cause the RWQCB's wastewater treatment requirements to be exceeded;
- Result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; or
- Result in a determination by the City that it does not have adequate capacity to serve the project's projected demand in addition to the City's existing commitments.

The Draft EIR's cumulative effects analysis for wastewater generation is based on a growth scenario that evaluates existing generation, as well as wastewater generation from the proposed project and identified foreseeable projects in the context of the Eureka General Plan and master plans or studies prepared by or for the Eureka Public Works Department. Foreseeable projects are shown for reference purposes on Table V-1 on page V-5 of the Draft EIR, though general estimates of growth were relied upon as well. Moreover, the cumulative effects analysis also considered the master plans prepared by service providers, including the April 2009 Phase 2A Wastewater Facilities Plan prepared for the Eureka Public Works Department (Brown and Caldwell, 2009). So regardless of whether the January 27, 2009 letter from the City to HCSO lists only the Marina Center, Bayshore Inn, and Lunbar Hills, the Draft EIR does include and did consider a complete list of reasonably foreseeable future projects in determining WWTP capacity. To be certain, the WWTP will need to increase its permitted capacity to 6.0 mgd to serve all of its demand within the next 20 years. That increase would occur as part of the City's periodic NPDES renewal process.⁸

Regarding the Ridgewood Village project (also referred to as the Dunn-Robinson-Forster-Gill subdivision), the City understands that the project is proposed to ultimately include roughly 1,442 residential units and 327,000 square feet of commercial development on about 386 acres bordering the north side of Ridgewood Drive in Cullen, a community in unincorporated Humboldt County. Ridgewood Village is in the early planning stages, and is contemplated to progress in multiple phases from 15 to 30 years depending on market conditions. The first phase of Ridgewood Village would only include about 249 housing units, comprising approximately 176 single family residences and a planned unit development. That first phase has only just begun the environmental review process. Consequently, it is not clear, and indeed speculative, as to the amount of

⁸ As development proceeds within the greater Eureka area, expansion of the WWTP will be evaluated as wastewater flows or loadings approach the plant's design capacity. The WWTP, however, was designed with provisions for future expansion to effectively double its current treatment capability. This expansion would involve improvements contemplated within the original design, and thus would not require expansion beyond the WWTP's existing footprint. Thus, further environmental effects from that expansion would be minimal. In any event, such expansion is not needed as part of this proposed project or other cumulative projects within the current planning horizon.

that development expected to occur within the foreseeable planning horizon. Consequently, it cannot, in its entirety, be considered a reasonably foreseeable probable future project warranting a full cumulative effects analysis. Nonetheless, the Eureka Public Works Department on August 6, 2007 issued a conditional will-serve letter for the Ridgewood Village project which stated that HCSD – the service provider for Ridgewood Village project – has adequate reserve capacity rights at the Elk River WWTP to accommodate the projected flows of the entire Ridgewood Village project, and not just the first phase. And while the letter acknowledged that the Ridgewood Village subdivision project has a number of infrastructure and other hurdles to cross before the City could issue a final will-serve letter, the conditional will-serve letter is additional evidence that the WWTP has sufficient capacity to provide wastewater service to the Marina Center development, as well as past, present, and reasonably foreseeable probable future projects in its service area.

- 80-6 The comment states that the Draft EIR fails to analyze wet weather flow to the wastewater treatment plant even though the document states the plant is at 100 percent wet weather capacity.

As stated on Draft EIR page IV.Q-1, the WWTP can operate at 100 percent peak capacity during peak wet weather events, for which the plant has a permitted capacity of 32 mgd. This is not an atypical operational scenario, as many wastewater treatment facilities operate at 100 percent capacity during wet weather events. The Elk River WWTP was designed, and continues to operate, in this way. During periods of high influent flows at the WWTP (e.g., during peak storm events), the overflow is directed from the effluent holding pond to a temporary holding marsh. When flows subside, water is pumped from the marsh back into the holding pond. Recently, the City conducted a study and hydraulic analysis that considered the WWTP's Peak Wet Weather Flow (PWWF) values anticipated from population growth within the City and HCSD service areas for the upcoming 20-year planning cycle. The analysis determined that, within the next five-year NPDES permit cycle, the projected PWWF values would continue to fall below the WWTP's current 32-mgd permitted capacity, with or without the proposed project. Therefore, despite the fact that the WWTP is operating at 100 percent of its wet weather capacity, the analysis recommended no changes to the wet weather components of the WWTP in the next five years. The RWQCB agreed with this analysis and issued the City its renewed NPDES permit on June 4, 2009. Therefore, as stated on page IV.Q-5 of the Draft EIR, given that the capacity exists to serve the proposed project's anticipated wastewater demands, implementation of the proposed project would not result in a significant impact on wastewater treatment facilities.

- 80-7 The comment states that the City made a previous commitment to achieve a dry weather flow capacity of 5.96 mgd at the WWTP by 2001.

The WWTP was designed for an ultimate average dry weather flow (ADWF) capacity of 6.0 mgd. The underlying reports prepared in 1981 for the design and permitting of the

WWTP listed 2001 as the date the WWTP was anticipated to reach its ultimate design capacity. That estimate, it turns out, was overly conservative. The most recent estimates do not anticipate the WWTP to reach 6.0 mgd until sometime after 2029, well beyond the current planning horizon. Because the most recent analysis determined that projected flows would continue to remain below the current permitted capacity of 5.24 mgd over the next five-year NPDES permitting cycle, the City saw no reason to seek to operate above that level. The RWQCB agreed with this analysis and issued the renewed NPDES permit on June 4, 2009.

- 80-8 The comment states that the WWTP operates at 100 percent of its capacity for peak wet weather events due to inflow and infiltration (I/I). The comment states that the EIR should analyze measures being developed to address these I/I issues and incorporate them into the proposed project as mitigation measures.

Inflow and infiltration are terms used to describe the ways that groundwater and stormwater enter into dedicated wastewater or sanitary sewer systems and can overload the capacity of the system and cause other problems. As wastewater collection systems generally do as they age, portions of both HCSD's and Eureka's collection systems experience significant inflow and infiltration and are near or at capacity in certain locations throughout the system during significant rain events. Although extreme wet weather flows approach the design capacity of the WWTP, the plant is designed to treat all flows that the collection system conveys in its current configuration and with the current peaking factors.

Wastewater user fees pay for programs to correct inflow and infiltration problems, pipeline repairs and replacements, and other operation and maintenance work and capital projects associated with those issues. The City's inflow/infiltration program is part of the long term Wastewater Capital Improvement Program, which is being developed as part of the City's ongoing Wastewater System Facilities Plan. In general, individual developments are already contributing to these programs through the City's capital connection and user fees, and new developments are not expected to mitigate for inflow/infiltration problems individually. Therefore, since the I/I problem is a pre-existing condition and is not directly associated with the Marina Center project, the Draft EIR need not address the inflow/infiltration measures and project-specific mitigation in the EIR. Please also see response to comment 80-4, concerning the capacity of the sewer line and pump station infrastructure available for this proposed project.

- 80-9 The comment states that the revision in the City's application for permitted dry weather capacity at the Elk River Wastewater Treatment plant should be analyzed in the EIR, and constitutes a "back door" attack on the Ridgewood Village project.

Please see responses to comments 80-1, 80-2, 80-3, 80-6, and 80-7, above. In June 2008, the Marina Center engineers requested information from the City regarding capacity of utilities to serve that project. At the time, City staff anticipated applying for increased capacity of the WWTP in its NPDES permit application. The City was just beginning its

next phase of the City of Eureka Wastewater System Facilities Plan, which analyzed the capacities of the WWTP. Once the analyses were completed, it was recommended by the City's consultants that several capital improvement projects should be constructed before applying for the ultimate treatment capacity. The analyses also determined that the additional capacity was not yet needed to serve this and other projects for the current five-year NPDES permit period. Consequently, on December 4, 2008, the City submitted a revised application that omitted the request for additional permitted capacity. The comment alleging that the City's actions constitute "backdoor attacks on the Ridgewood Village project" is unfounded.

80-10 The comment refers to the HCSD agreement regarding wastewater capacity. Please see response to comment 80-5, above.

80-11 The comment states that increasing the permitted dry wet weather flow capacity of the WWTP to 6.0 mgd appears to be a feasible mitigation measure for the proposed project.

The City's most recent analysis has shown that the projected average dry weather flow values would continue to fall below the WWTP's current 5.24 mgd permitted capacity within the new five-year NPDES permit period, and therefore that extra capacity is not necessary to meet the demands of this and other projects anticipated to be constructed within that timeframe. Thus, this project would have no significant effect associated with the City's wastewater treatment system, and no wastewater mitigation is necessary. Please also see responses to comments 80-1 and 80-5.

80-12 The comment states that wastewater flow should be re-examined in light of the absence of estimated flow to the Pound Road Lift station, as well as historic rainfall amounts. Please see responses to comments 9-34, 22-23, 22-25, and 80-4, which conclude that the wastewater treatment plant has adequate treatment and conveyance capacity.

80-13 The comment relates to peak wet weather flow capacity and cumulative impact analyses. Please see responses to comments 80-5, 80-6, 22-23, and 22-25, which conclude that the WWTP and associated infrastructure has adequate dry and wet weather flow capacity to serve the proposed project and reasonably foreseeable probable future projects. Please see response to comment 80-8 on inflow/outflow mitigation.

Sidnie Olson

From: Sallie Grover [sallieg15@hotmail.com]
Sent: Saturday, January 31, 2009 4:12 PM
To: DEIRcomments
Subject: Marina Center Development

To whom it may concern,

A Home Depot in the Marina Center would put local businesses out of bussiness. We need to cultivate our local economic base with local small businesses.

81-1

The tract of land should be developed primarily as a park that gives people access to the bay. Educational facilities, environmental tourist facilities and small business incubators could be integrated into the park setting. City parks help maintain the quality of life for residents and are a draw for new businesses, tourism and cultural events.

81-2

Thank you for considering these suggestions for development of the ballon tract. The property is located in a spot that is incredibly beautiful and serene. Development that builds on these attributes could make Eureka into a beautiful city. At the same time we can support and encourage local businesses.

Sincerely,

Sallie Grover

Windows Live™ Hotmail@:...more than just e-mail. [Check it out.](#)

Letter 81: Sallie Grover

- 81-1 The comment states that the proposed project would put local businesses out of business. Please see Master Response 1, under “Potential Local Store Closures.”
- 81-2 The comment suggesting other uses for the project site is noted. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI of the Draft EIR.

Sidnie Olson

From: Rebekah Hache [rebekah@thehachehomepage.com]

Sent: Friday, January 30, 2009 12:03 PM

To: DEIRcomments

I am writing to voice my support for the proposed Marina Center. I was born and raised in Humboldt County and visit it frequently because all of my family still lives in Eureka. I am happy to see this area being cleaned up and making way for new jobs and residential living spaces. I am in support of Home Depot coming to Eureka. Frankly, there are far more benefits to this proposal than there are concerns.

82-1

Thank you,
Rebekah Haché

www.TheHacheHomepage.com

No virus found in this outgoing message.

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Version: 7.5.552 / Virus Database: 270.10.15/1923 - Release Date: 1/29/2009 7:13 AM

Letter 82: Rebekah Hache

82-1 The comment expressing support for the proposed project is noted.

Sidnie Olson

From: BH [somewhereoverca@yahoo.com]
Sent: Thursday, January 29, 2009 7:12 AM
To: DEIRcomments
Subject: Marina Center DEIR

I oppose the proposal by Security National to change the zoning designation for the proposed Marina Center. Current state law specifies coastal-dependent development has priority over other developments. The only part of the Marina Center project that could go forward as planned without changing the zoning is the restoration of Clark Slough and development of recreational paths. There is also the consideration of what this type of development would do to local businesses. Many retail spaces are already vacant and there is the entire Boardwalk yet to be developed. While I don't think a Home Depot would be good for local businesses in kind, I especially would not want to see zoning changed to locate it on the water front for the benefit of a special interest.

Bruce Hales
2231 E St
Eureka, CA 95501

83-1
83-2

Letter 83: Bruce Hales

- 83-1 The comment expresses opposition to the proposed rezoning of the project site in light of its located near the waterfront. The comment is noted.

As stated in Chapter III, Project Description, the proposed project would require rezoning and other approvals. The Draft EIR therefore acknowledges that land use designation changes would be required. Please see Master Responses 3 and 5 regarding land use policy issues in the coastal zone.

- 83-2 The comment expresses concern that the proposed project would affect local businesses. Please see Master Response 1, specifically “Potential Local Store Closures.”

5-581

Comments: DEIR for the Proposed Marina Project on Eureka's Balloon Tract
NAME: Sara Hallin-Lundstrom
Address: 499 Gatliff Avenue Eureka CA 95503
e-mail jslundstrom@sbcglobal.net

TRANSPORTATION

The additional traffic projected for on site traffic flow and parking, Broadway, Waterfront Dr., 4th and 5th Streets, 6th and 7th Streets will create an unacceptable further commitment to the automobile, which in this day and age needs to be discouraged. Not only will traffic become slower than it is now but it will become less safe for pedestrians and bicycles, and will increase truck traffic with its unhealthy diesel fumes. Traffic will likely be diverted into neighborhoods east and south of the Marina project further degrading air quality and noise levels.

84-1
84-2
84-3

Signed: Sara Hallin-Lundstrom

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Sara Hallin-Lundstrom
Address: 499 Gatliff Avenue Eureka CA 95503
E-mail: jslundstrom@sbcglobal.net
Urban Decay

The EIR says there will be no impact. There are real problems unaddressed within the EIR, which leave Eureka wide open to being exploited by corporations based somewhere a long ways away, who will absorb and suck away profits from this local area. Someone may argue that the city could benefit from additional business taxes, but the spent cash will go elsewhere leaving Eureka high and dry. Witness J.C. Penney's, Macys, Mervyns, Gottschalk's, Borders, Sears, Target, Costco, Rite-Aid, Longs and Winco are all national chain stores who have in their turns sucked the life right out of Henderson Center, down town and Old Town. Our locals are struggling and must not be made to compete unfairly with Big Box stores. We've poured a lot of money into Old Town to create a beautiful tourist destination. The newly created Boardwalk sits undeveloped. Recently Henderson Center has awakened to begin creating interest in the arts and farmer markets. Don't pull the rug out from under our own residents.

84-4

Signed: Sara Hallin-Lundstrom
Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

5-582

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Sara Hallin-Lundstrom
Address: 499 Gatliff Avenue Eureka CA 95503
E-mail: jslundstrom@isbcglobal.net

Hazardous Materials

People have said there are extremely toxic pollutants in the soil over and above the several identified in the EIR. These not identified or addressed in the EIR, which are present in site soils, sediments and fishes are dioxins and furans. Also the levels of pollutants are not reported using up-to-date toxicity studies. It makes no sense to go ahead and pave over or otherwise disregard toxins which need to be cleaned up, leaving the contamination for future generations to deal with.

84-5
84-6

Signed: Sara Hallin-Lundstrom
Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Sara Hallin-Lundstrom
Address: 499 Gatliff Avenue Eureka CA 95503
E-mail: jslundstrom@isbcglobal.net

LAND USE

The land proposed for the creation of the Marina Center is not appreciated for the beauty of its bay views. Nothing is said about the prime value of this property. The proposed use for this property has nothing to do with the Highest Priority of allowable uses by the Public Resources Code 30222, 30255, which is State law. The wetlands have been inadequately addressed by this developer. A creation of a public park consisting of a cleaned up wetlands and restored slough would be a far more desirable use for this land than paving over for auto and truck parking lots and high-rise garages. Such a park would take advantage of views of the bay, marinas and sea bird, fish and wildlife of this area.

84-7

Signed: Sara Hallin-Lundstrom
Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Sidnie Olson

From: jslundstrom@sbcglobal.net
Sent: Thursday, January 29, 2009 12:13 PM
To: DEIRcomments
Subject: RE: CEQA Overview and Cumulative impacts

NAME: Sara Hallin-Lundstrom
ADDRESS: 499 Gatliff Avenue, Eureka CA 95503
E-mail: jslundstrom@sbcglobal.net

OVERVIEW and CUMULATIVE IMPACTS

I am in favor of REJECTING the Marina Center project because:

- 1 Increased diesel and auto emissions will deteriorate air quality.
- 2 Commitment to increased automobile use and parking will further an antiquated mode of transportation and land use.
- 3 One more shopping mall in Eureka will result in more local merchants closing, leaving Old Town undeveloped, Bayshore Mall half-empty, Henderson Center declining even further and Eureka Mall completely dominated by national chain stores.
- 4 Indian villages and artifacts will be lost forever.
- 5 The beauty of the Bay and its wildlife will not be enhanced by General Industrial, General Commercial and private residential buildings.

84-8
84-9
84-10
84-11
84-12

I am in favor of a public park, museum and gift shop, Indian archeological demonstration, public hiking and biking pathways, picnic areas, and even some nice restaurants. This kind of land use would enhance our beautiful Bay and help develop the Boardwalk.

84-13

/s/ Sara Hallin-Lundstrom

Sidnie Olson

From: jslundstrom@sbcglobal.net
Sent: Thursday, January 29, 2009 12:18 PM
To: DEIRcomments
Subject: Cultural Resources

NAME: Sara Hallin-Lundstrom
ADDRESS: 499 Gatliff Avenue, Eureka CA 95503
E-MAIL: jslundstrom@sbcglobal.net

CULTURAL RESOURCE

There is evidence of one or two Wiyot villages at the proposed project site. Archeological digs in this area would be good for the whole Humboldt Bay region. Preserving Wiyot historical sites and native history is important and could easily become a tourist attraction.

84-14

Monitoring during construction is not adequate for respectful identification of important artifacts or village layout.

84-15

/s/ Sara Hallin-Lundstrom

5-583

Letter 84: Sarah Hallin-Lundstrom

- 84-1 The comment expresses concerns that further traffic delays on nearby streets would be unacceptable. The proposed project's potential traffic impacts to Broadway and Waterfront Drive are discussed in Chapter IV.O, Transportation. The proposed project's potential impacts to air quality are discussed in Chapter IV.C, Air Quality. Please also see Master Response 6.
- 84-2 The comment states that the project would result in an increase in truck traffic and unhealthy diesel fumes. For discussion of the potential health impacts associated with project induced vehicle emissions, see Master Response 2 and Draft EIR pages IV.C-16 through IV.C-19.
- 84-3 The comment states that the project would result in traffic being diverted to residential neighborhoods degrading air quality and increasing noise levels. For air quality and noise impact discussions pertaining to project-related traffic congestion, see Draft EIR Chapters IV.C and IV.K, respectively.
- 84-4 The comment states that national chains will take away profits from local businesses. Please see Master Response 1, under "National Stores vs. Local Stores."
- 84-5 The comment states that extremely toxic pollutants are in the soil at the project site.
- For further discussion regarding the Remedial Action Plan for the proposed project, including additional information on the levels and locations of contaminants on the property, please see Master Response 4.
- 84-6 The comment states that the levels of contamination are not disclosed. The comment is noted. Please see Chapter IV.G regarding hazardous materials. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4.
- 84-7 The comment regarding Humboldt Bay views from the project site is noted. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI. Please see Master Responses 3 and 5 regarding land use policy issues pertinent to the coastal zone.
- 84-8 The comment states that increased diesel and auto emissions would degrade air quality. For discussion of air quality impacts related to diesel and automobile emissions, see Draft EIR Chapter IV.C.
- 84-9 The comment states that automobile land use is antiquated. The comment is noted. The proposed project assumes that users of the site would travel via various modes of transportation, and the project includes the construction of bicycle and pedestrian facilities. An analysis by the City determined that the project would include enough

parking spaces to meet its generated demand during most of the year, but the project would not provide excess parking capacity beyond what is necessary.

84-10 The comment expresses concern that the proposed project would cause local businesses to close. Please see Master Response 1, under “Potential Local Store Closures.”

84-11 The comment states that Indian villages and artifacts would be lost forever.

Implementation of a subsurface archaeological survey program would help determine whether significant archaeological sites exist in the project area. While avoidance is always the preferred method of protecting archaeological resources, a comprehensive archaeological data recovery plan that would address important themes and questions regarding the prehistory of the Wiyot people is an adequate mitigation measure. This plan would be completed in consultation with the Wiyot Tribe. Please also see Master Response 9.

84-12 The comment states that the beauty of the bay would not be enhanced by the mix of uses included in the proposed project. The comment is noted. Please see response to comment 16-12, which discusses the subjective nature of aesthetic resources.

84-13 Comments in favor of other uses for the project site are noted. Please see Chapter VI, Alternatives, as well as responses to comments 16-239 and 16-242, which explain that the Draft EIR includes a reasonable range of alternatives. Alternative containing uses similar to those described could be the College of the Redwoods Alternative, the Tourism Use Alternative, the Horticultural Gardens Alternative, or the Wetland Restoration and Public Park Alternative.

84-14 Comments regarding the economic and recreational benefits of archaeological excavations are noted.

84-15 The comment states that archaeological monitoring during construction is not an adequate mitigation measure. Implementation of a subsurface archaeological survey program would help determine whether significant archaeological sites exist in the project area. Archaeological and Native American monitoring would occur in areas predetermined to be culturally sensitive. Please also see Master Response 9 for revised mitigation measures related to archaeology.

Comment Letter 85

January 28, 2009

City of Eureka
Community Development Department
Sidnie L. Olson, Principal Planner
531 K Street
Eureka, CA 95501

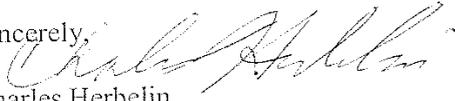
RECEIVED
JAN 24 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Dear Ms. Olson:

These are some of my concerns as a local citizen after a brief review of the long DEIR document.

- 1. I am concerned about traffic flow, congestion and subsequent increased pollution due to the proposed project. It is already very difficult to get through this area on Broadway and I'm sure that it will turn Waterfront Drive into an alternate racetrack. Where will bicycles safely ride? It's time the City got together with the State to come up with better flow patterns on Broadway, a project that will require some reduction in left turns, increase in lanes and possibly removal of a few feet of some business buildings around 5th-8th streets. 85-1
- 2. The addition of 1,500 parking spaces will cause a great deal of vehicle polluted water to flow into the bay. At a minimum there must be the use of permeable pavement properly installed to provide filtration of the water. It is far better to leave the land uncovered and able to breathe and absorb clean rainwater. 85-2
- 3. Land Use: I strongly support the restoration of the sloughs and wetlands by making this a public park. We have lots of empty commercial buildings. Why build more? We have so little downtown parks to enjoy. Let's enhance this area by leaving it natural. 85-3
- 4. I am 100% opposed to making any part of this land into a big box. Big boxes are so detrimental to the community through loss of truly local run businesses, jobs and the overall quality of life of our citizens. I have read extensively on this subject and wonder if you have any idea of the damage big boxes do. It appalls me that the City of Eureka government staff has sold out to Mr. Arkley in his desires to make profits for himself at the detriment of local citizens. 85-4
- 5. Finally, I spend a great deal of my time on and around the bay-walking, sailing, paddling, and, at times, in the bay windsurfing. I don't agree that the analysis of hazardous materials was complete. I've seen the slough coming out of the balloon track running with heavy grey-black muck. I am also concerned for the presence of dioxins and furans on this site. 85-5

I hope you will take these concerns seriously and move in a different direction that will more appropriately serve the people of this community.

Sincerely,

Charles Herbelin
2619 Ridgeway Lane
Eureka, CA 95501

Letter 85: Charles Herbelin

- 85-1 The comment states general concerns about increased traffic, pollution, and bicycle safety. The comment is noted. Impacts to transportation networks and bicycle safety are discussed in Chapter IV.O, Transportation. Impacts related to air quality, noise, hazardous materials, biological resources, and water quality are discussed in Chapters IV.C, IV.K, IV.G, IV.D, and IV.H of the Draft EIR, respectively.
- 85-2 The comment suggest that the traffic consultant consult with the state regarding flow patterns on Broadway. TJKM consulted with the City of Eureka and Caltrans District 1 in developing the list of intersections and road segments to be studied in detail. All the proposed mitigations have been designed as a result of ongoing communications with Caltrans representatives yet still would require final approval by both the City and Caltrans (on U.S. 101). Different alternatives had been studied prior to proposing the mitigation measures in the Draft EIR. The resulting traffic operations, with mitigation, would operate as well or better than 2025 conditions without the project and listed improvements. The operations analysis conducted for the Draft EIR indicates that 2025 conditions with the project would remain acceptable at LOS D or better.
- Please also see responses to comments 40-2 and 33-3, which discuss pedestrian and bicycle safety and circulation.
- 85-3 The comment states that the new parking spaces would increase pollution of the bay. As required by the drainage plan and requirements that the City must adhere to regarding its NPDES permit, the final drainage plan would include appropriate stormwater control facilities such as retention basins with treatment controls and biofilters to minimize pollutants in stormwater runoff from the parking spaces.
- 85-4 Comments suggestion alternative uses for the project site are noted. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI of the Draft EIR.
- 85-5 The comment expresses opposition to big box retail. Please see Master Response 1, under “National Stores vs. Local Stores” and “Potential Local Store Closures.”
- 85-6 The comment states that the hazardous materials analysis is not complete. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4.

Sidnie Olson

From: a.b.hilf@att.net
Sent: Sunday, January 11, 2009 2:02 PM
To: DEIRcomments
Subject: Marina Center

City of Eureka
Community Development Department
Attn: Sidnie L. Olson, AICP, Principal Planner

Hi Ms. Olson,

I have lived in Humboldt County for over 60 years. My husbands Grandfather started a business in Eureka in 1902 and it is still operated by the 4th generation. My Husband, his Father, Children and Grandchildren have all been born in Humboldt County. Humboldt County in my life time has lost fishing and lumber industries, so what is left? My hope would be tourism. We have a beautiful bay that could be developed with shops and restaurants such as the Debini/Pearson building along with the proposed Vellutini Eureka Pier and Security National's Marina Center, along with others. I come to Eureka for about 8 days a month from Grapevine, Tx.(population 47,000). Grapevine Convention & Visitors Bureau has a annual budget of 15 million. We have 165 restaurants in the city. Why? TOURISM I understand Eureka can't be that because we are not near an international airport, however, we could certainly inprove what we have. What was is gone. What is past is past. It's time to move on. Let Eureka finally grow.
Anita Hilfiker

86-1

Letter 86: Anita Hilfiker

- 86-1 Comments suggesting other uses for the project site are noted. As stated in Chapter VI of the Draft EIR, a tourism oriented alternative to the proposed project is considered but is screened from further analysis because it failed to meet most of the project objectives and would have similar environmental impacts to the proposed project.

Sidnie Olson

From: Harriet [harriet@humboldt1.com]
Sent: Saturday, January 31, 2009 4:01 PM
To: DEIRcomments
Subject: Marina Center Draft EIR comments
Attachments: marina center deir comments 09.doc

Please see attached comment letter.

Harriet Hill

January 31, 2009

Harriet Hill
1444 McFarlan Street
Eureka, CA 95501

City of Eureka Community Development Department
Sidnie L. Olson, Principal Planner
531 K Street
Eureka, CA 95501

Re: Marina Center Draft EIR Comments

Dear Ms. Olson:

I have the following comments on this document:

Chapter IV D. Biological Resources

Table IV.D-2 (page 23) sets out wetland functions and values expected to result from implementing the wetlands restoration/mitigation plan. This simplistic table simply asserts that every listed wetland "function" (but one) and every listed "value" will be designed into the restored wetlands. There are no details whatsoever as to how this will be accomplished; thus, the reader must take it on faith that the proposed replacement ratio of 1:1 "would adequately mitigate the environmental impact of the filled or disturbed wetlands." A detailed mitigation plan is to be prepared "prior to site grading" in accordance with the U.S. Army Corps of Engineers and California Coastal Commission guidelines.

87-1

The California Coastal Act specifies that the biological productivity and the quality of coastal...wetlands...shall be maintained and, where feasible, restored (PRC Section 30231). The Coastal Act also specifies that wetlands may be dredged or filled only for certain specified uses and circumstances (PRC Section 30233 (a) (1) – (7)), none of those which include those of the project.

87-2

The Final EIR should provide detailed information on how each of the listed functions and values would be restored on this site, and it should also discuss how the projected loss of wetlands for these non-specified uses can be approved under the Coastal Act.

87-3

Chapter IV H. Hydrology and Water Quality

The chapter states that "nearly 29 acres of the approximately 43-acre site" would be converted into impervious surfaces (including 1580 parking spaces) and thus is expected to increase nonpoint source (NPS) pollution discharges from the project site into the

5-590

Comment Letter 87

Comment Letter 87

drainage network and ultimately, Humboldt Bay. This is to be minimized by treating stormwater at "drop inlets" that will capture the runoff at various locations. A second mitigation measure would be to "incorporate grassed swales...to the extent feasible." However, no details about the drop inlet "treatment" are provided in the Draft EIR nor can we determine whether there will be sufficient or any biofiltration provided by the swale mitigation measure. **The Final EIR should describe exactly how the stormwater would be treated in the drop inlets, and discuss the type, location and quantity of biofilter area/paved area that would be provided in the high NPS pollution production areas such as the roads and parking lot. The expected effectiveness of pollutant removal by these mitigation measures should be assessed.**

87-4

The cumulative hydrologic impacts of the project are also given a very cursory examination (page IV.H-24). Some past and reasonably foreseeable future projects could, in conjunction with the preferred alternative, result in significant cumulative impacts to Humboldt Bay water quality. The recent Target and Eureka Boardwalk developments, along with proposed projects such as the Marine Terminal, the North Coast railroad reopening, the Eco-hostel near the Adorni Center and the hotel development near the Wharfinger Building are a few of the existing or potential waterfront projects that come to mind. **The Final EIR should consider the cumulative impacts of all these projects in combination with those of the proposed project on Humboldt Bay water quality.**

87-5

Chapter IV I. Land Use and Planning

The Draft EIR includes a detailed description of "Smart Growth" principles in this chapter and states that "The proposed Marina Center project embodies most of the major principles of smart growth." However, some of the important principles that would not be met by the proposed project include "building compactly", "bolstering local economies" and being "transit and pedestrian-oriented."

87-6

The presence of an immense single occupant one-story retail facility of 132,000 square feet, five times the size of the next largest planned retail facility, does not satisfy the compact- building criterion. Nor is this anchor store likely to bolster our local economy. "Big-box" stores are notorious for accomplishing just the opposite in that, typically, local businesses are forced to downsize or close, with the resulting job losses equaling or exceeding the number of new jobs created by the big-box store. This was recently shown in a large-scale study conducted by researchers at the Public Policy Institute of California (David Neumark, Junfu Zhang, and Stephen Ciccarella, "The Effects of Wal-Mart on Local Labor Markets," working paper, Public Policy Institute of California, April 2006).

87-7

Finally, the inclusion of a bike/pedestrian path as part of the development is laudable, but the offsite effects of the proposed project on bicyclists, pedestrians and nearby neighborhoods due to the generation of almost 16,000 new vehicle trips per weekday will be significant. In general, the mobility of bicycles and pedestrians on the site and over the greater Broadway region will worsen since the mitigations proposed in the Draft EIR focus on increasing capacity for vehicular traffic (Chapter IV. 0, page 34), rather than

87-8

measures to reduce traffic volume, improve accessibility for bicycles/pedestrians, or comprehensively improve public transit service to the site.

87-8 cont.

Chapter VI Alternatives

There is no alternative examined in detail that includes the proposed mix of uses for the preferred alternative on the subject site (retail, office, residential, industrial) without a massive "big box" commercial space. The Reduced Footprint alternative includes a 142,000 square-foot single occupant retail space, and the Limited Industrial Zoning Alternative eliminates all residential development, small retail establishments and museums. I believe that all of the development alternatives that received detailed analysis represent an unbalanced approach: the project either is dominated by one retail tenant with no rationale as to how the other planned uses would meet the needs of the small onsite residential community, or it would be limited to several large commercial/office spaces with no other uses. **The Final EIR should analyze a balanced mixed use development alternative that does not include a "big box" tenant and actually meets the majority of Smart Growth principles espoused in the Draft EIR (see above comments under Land Use and Planning). In addition, this or another alternative should analyze the feasibility of devoting a larger portion of the site to wetlands restoration, part of which could serve as a wetlands "mitigation bank" that would function by selling shares to developers who need to provide offsite wetlands mitigation.**

87-9

Chapter IV P. Urban Decay

The Draft EIR provides only 5 pages on this crucial topic. After a superficial analysis it concludes "Because the proposed project and its associated infrastructure improvements would not create or maintain urban decay and would instead eliminate the conditions for urban decay, the project would result in a less-than-significant impact." Even the cumulative impact of the proposed project coupled with a very large, directly competitive proposed home improvement/general merchandise development in Fortuna is not called out as significant since "Humboldt County has a very low vacancy rate for commercial space."

However, there is much evidence that the construction of the Bayshore Mall some 20 years ago had a severe impact on local businesses – indeed, 18 businesses closed within 10 years of the mall being built, mostly downtown and at the nearby Eureka Mall. We also have witnessed numerous closures of large retail stores over the last year in Humboldt County, including more than 100,000 square feet of closures at the Bayshore Mall (as mentioned in the Draft EIR), as well as the closure of the home improvement and furnishings store in a prime old town location, Restoration Hardware, less than 2 weeks ago. Clearly these closures are the result of a severe and ongoing worldwide downward economic spiral that Eureka is not immune to. **The Final EIR should include a thorough economic analysis to evaluate the positive and negative effects of the proposed Anchor 1 store on existing businesses, jobs, wages, vacancy rates, the**

87-10

5-591

Comment Letter 87

cost of municipal services, and the volume of sales revenue that would be retained and reinvested in the community. ↑87-10
↓ cont.

Thank you for the opportunity to comment on this document. I look forward to a Final EIR for a project that reflects the constraints of a rapidly changing global economy, the growing interest and need for smart, sustainable development, and the desire of many residents to support our local businesses and keep retail profits in Humboldt County.

Sincerely,

Harriet Hill

5-592

Letter 87: Harriet Hill

- 87-1 The comment states that there are no details on how the wetland restoration project would be accomplished; readers must take on faith that 1:1 replacement ratio “would adequately mitigate the environmental impact of the filled or disturbed wetlands.”

The Marina Center project includes the creation of contiguous estuarine wetlands at the south end of the project site at an acreage exceeding the extent of the existing combined scattered, degraded seasonal and estuarine wetlands (mitigation ratio of 1.05:1). These restored wetlands would be of much higher quality than those currently onsite. Mitigation Measures D-3a, -3b, and -3d require that the wetland restoration satisfy strict performance criteria: any restored or replacement wetlands must provide functions and values “equal to or greater than the affected wetlands.” The restoration plan also includes an extensive monitoring and adaptive management component that requires that a qualified biologist verify the success of the restoration project after five years and, if necessary to address management issues, recommend and implement contingency measures to satisfy the no-net-loss performance criteria. Consequently, the Draft EIR does not take this success “on faith,” but rather on strict performance criteria and other measures to ensure that the wetland mitigation would be effective over the long term.

- 87-2 The comments related to the Coastal Act are noted. Please see Master Response 5, which addresses the Coastal Act.
- 87-3 The comment regarding wetlands functions and values is noted. A detailed wetlands restoration plan cannot be prepared prior to completion of the Final EIR. In fact, the Final EIR must first be certified before any wetlands restoration plan could be formulated in consultation with regulatory agencies. Please see Master Responses 3 and 5 regarding uses approved under the Coastal Act.
- 87-4 The comment states that the Final EIR should state exactly how stormwater runoff would be treated. The comment is noted. Please see responses to comments 7-8 and 16-47, which address stormwater runoff.
- 87-5 The comment states that the Final EIR should consider the cumulative impacts of all projects on the Humboldt Bay in combination with the proposed project.

The City of Eureka is now regulated under the NPDES program as an MS4 (see response to comment 22-19). The associated permit requires the City to implement a Storm Water Management Plan (SWMP) to reduce the discharge of stormwater pollutants to the maximum extent practicable for all existing and future development. Adherence to this plan, which considers water quality objectives, plans, policies and criteria of the Basin Plan for the region, would effectively reduce the cumulative impact to less-than-significant levels. For further discussion of project-specific stormwater mitigation measures, please see responses to comments 23-16 and 7-6.

- 87-6 The comment relates to smart growth and states that the proposed project does not embody smart growth.

Please see responses to comments 16-7, 52-37, and 75-4, which further explain that the proposed project exemplifies several smart growth principles. The EIR preparers respectfully disagree. The project does encompass smart growth principles, including building density, local economic development, and transit and pedestrian-oriented designs. The project includes a well-balanced mix of uses that provide employment (retail and office) alongside residential units. All of this is within walking distance to the Downtown/Old Town areas of the City. The project also proposes to expand the existing transit grid into the development footprint and would accommodate bike and pedestrian routes into and through the project site. Economic activity generated from the site would help with the local economy and the jobs-housing balance. Thus, the project should satisfy the smart-growth principles identified by the comment.

- 87-7 The comments express negative opinions of big box retail stores. The comments are noted. Please see Master Response 1, under “Jobs / Wages Impacts” and “Potential Local Store Closures.”

- 87-8 The comment relates to increased traffic on Broadway and its potential effects on pedestrian and bicycle circulation. Please see responses to comments 75-1 and 53-2, which discuss these issues.

In regards to reducing traffic, other planned commercial and retail developments in the U.S. 101 corridor are expected to result in an approximate 33 percent increase in traffic volumes. In other words, much of the traffic increases anticipated in the traffic impact study are to occur regardless, albeit from different locations along U.S. 101 in Eureka. Traffic since 1980 has increased, on average, about 1.5 percent per year, and will continue to do so with or without the proposed project. With the proposed project it is likely that nearby intersections would experience more growth than otherwise, such as on Broadway between Wabash Avenue and Fourth Street, and on the Fourth/Fifth Street couplet to I Street. However, mitigations are proposed to accommodate this growth at study intersections with the development of the proposed project. While traffic is expected to increase due to a multitude of other development projects in the vicinity of the project, it is not certain that needed traffic improvements would be made if the project were not approved. The operation of each signalized intersection is evaluated in detail, and adequate time for pedestrian crossings is provided for. All bicycle plans by the City of Eureka and others avoid Broadway north of Wabash Avenue because of the reduced cross section. The project does not significantly affect these plans and may enhance them due to the proposed construction of a Class 1 bike and pedestrian path through the project along Waterfront Drive.

- 87-9 The comment requesting additional alternatives analysis is noted. Please see Chapter VI, Alternatives, as well as responses to comments 16-239 through 16-242, which explain that the Draft EIR includes a reasonable range of alternatives. As stated in Chapter VI,

Alternatives, alternatives selected for evaluation should meet the basic project objectives, which include the creation of a destination retail center. As detailed in the chapter, of the 24 alternatives screened for detailed analysis, 18 of them met most of the basic objectives of the project. However, only the Reduced Footprint Alternative, Limited Industrial Zoning Alternative, and the Shoreline Property Alternative are also determined to be feasible and to either avoid or substantially lessen at least one significant impact. Please also see response to comment 16-9, which discusses a requested “No Large Retail” alternative.

- 87-10 The comment states that the Final EIR should include a thorough economic analysis. Please see Master Response 1, which includes an analysis of several economic issues raised by the comments.”

Sidnie Olson

From: Lisa Hoover [ldiane@humboldt1.com]
Sent: Friday, January 30, 2009 2:51 PM
To: DEIRcomments
Cc: Pete Nichols
Subject: Comments to Marina Center DEIR
Attachments: Comments to Marina Center DEIR.doc

Please see attached.

Thank you.

Lisa D. Hoover

Marina Center Mixed Use Development Project DEIR
November 2008

Comments to :
City of Eureka
Community Development Department
Attn: Sidnie L. Olson, AICP, Principal Planner
DEIRcomments@ci.eureka.ca.gov

From:
Lisa D. Hoover
January 30, 2009
ldiane@humboldt1.com

Thank you for the opportunity to comment on the Marina Center Mixed Use Development Project (hereafter referred to as "the project") DEIR. My comments will focus on three elements:

- a) Bases for Finding of Significance
- b) Cumulative Effects Analysis
- c) Land Use and Array of Alternatives- emphasis on Coastal Zone uses

A. Bases for Finding of Significance

"Significance" is defined in your document (IV-5) as "*an impact that exceeds the defined threshold(s) of significant and cannot be eliminated or reduced to a less-than significant level through the implementation of feasible mitigation measures. Pre-mitigation impacts that exceed the defined thresholds of significance are referred to as a significant.*"

Issue: The document contains much information on the regulatory and compliance requirements at various level, identifies issues, and identifies mitigations, however, what is missing is the analysis that links the issue to the resource affected, to the mitigation and ultimately to the level of significance. What is the current condition (baseline), how will project activities affect the current condition, how will mitigations reduce these effects to make the case for "less-than-significant", which is often the finding in the document. Without this link, significance cannot be adequately determined.

88-1

A related dimension to this issue is considerable reliance on management plans, programs and permits (e.g. Storm Water Pollution Prevention Plan, National Pollution Discharge Elimination System, drainage plan) as mitigations yet to be developed. While I understand that certain details may not be available at this juncture, simply mentioning the plans without providing any likely content for how elements of the plan would mitigate effects, does not adequately disclose to the public the logic for reducing an effect from significant to less-than-significant.

88-2

5-596

Example: Hydrology and Water Quality

Impact H-5. *Would the Marina Center create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?*

In the response, it states that “pollutants from the proposed project would be consistent with commercial areas, light industrial areas and parking lots. Increases in the levels of oil and grease, petroleum hydrocarbons, metals and possibly nutrients in site runoff are likely”. So is “consistency” with surrounding commercial areas... a positive or negative effect? Consistency and a statement that runoff is “likely”, is not an analysis of the effects of additional sources of polluted runoff on water quality and aquatic environments-- direct, indirect or cumulative.

88-3

Without the aforementioned analysis, the mitigation measures H-5a through H-5c pertaining to preparation of a “permanent maintenance program” (NOTE: one of many examples of deference to some future plan or program to minimize effects without providing content of how), installation of biofilters, and using USEPA approved herbicides and pesticides, lacks a line of reasoning. Without this logic thread, the finding of “less-than-significant” relies on the mitigations has little to no basis.

88-4

Example: Seismicity and Liquefaction

Impact F-1. *Would the project expose people or structure to potential adverse effects, be located on a geologic unit that is unstable....?*

Impact F-3. *Would the project be located on a geologic unit or soil that is unstable...and potentially result in on- or off-site liquefaction or collapse?*

As identified in the document, the answer to F-1 and F-3 is, yes. The document states that the “project is located in a dynamic tectonic region where moderate to large magnitude earthquakes are common and the potential for seismicity increases the risk of liquefaction”. Indeed the document states (pg. IV-F-15) that the project site is vulnerable to liquefaction.

Furthermore, tsunamis can be generated by both local and remote seismic events and certain types of subaqueous landsliding events may result. There is mounting evidence that tsunamis from Cascadia earthquake events pass over the south spit and at least the southern part of the north spit, in turn potentially stimulating these underwater landslides. This component is included because the significance of the project site, its vulnerability, has been understated in the document.

88-5

Issue: In regards to F-1, the mitigation simply identifies compliance with the California Building Code which includes completion of a site-specific design level geotechnical report that examines the potential for seismic hazards and measures to address these hazards. An example of deference to future plans without providing content of how measures might address hazards. Issue F-3 refers to mitigation F-1 as a remedy and

5-597

states “some structural damage is not avoidable...however building codes and foundation standards have been established to protect against adverse effects of ground failure such as liquefaction.” What are those codes and standards? How would they protect against adverse effects?

88-5 cont.

Without how the mitigations will indeed mitigate, the conclusion of “less-than-significant” has no basis.

B. Cumulative Effects

A definition of cumulative impacts is provided on page IV-6: *Cumulative impacts refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The cumulative impact from several project is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future impacts. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.*

Issue: The spatial and temporal context for cumulative effects analysis has not been established in the document. One could argue from a hydrological perspective that cumulative effects should consider the Eureka Plain Hydrological Unit geographic scale. Reasonable or not would be the question to deliberate.

Barring the Eureka Plain Hydrological Unit, some factors from the document that could have been considered in defining the spatial context for hydrology, particularly the connection of the project to Humboldt Bay through surface and groundwater:

Stormwater- a) Clark Slough drains to Humboldt Bay, b) the City of Eureka’s storm drain outfalls are found along the City’s waterfront, c) the slough collects water from commercial/industrial facilities to the south of the project area and d) 29 acres of 67% of the proposed project acres are to be impervious surfaces. All of these are statements demonstrate potentially connected and cumulative impacts.

88-6

Groundwater-a) the B-zone of the aquifer is tidally influence by Humboldt Bay and groundwater levels in the B-zone flow in the direction of Humboldt Bay, b) recharge areas for the groundwater are from direct precipitation and seepage from Freshwater Creek, Elk River and Eel River, c) agriculture is the primary extractor of groundwater at 4800 acreft—what is the geographic scope that provided these data?). All of these are statements demonstrate potentially connected and cumulative impacts.

In sum, the argument for a given scale by resource area has not been provided, therefore, findings of significance relative to cumulative effects lack substantiation.

Example a.

Relative to the above point the project contribution to pollutant runoff; “pollutants from the proposed project would be consistent with commercial areas, light industrial areas

Comment Letter 88

Comment Letter 88

and parking lots". This begs the question—what is the expected magnitude of that run-off currently (baseline resulting from past impacts), what are the reasonably foreseeable future impacts in what geographic area, and how might/to what degree would the proposed project contribute cumulatively to polluted runoff? 88-6 cont.

Example b. Impact H-11: Would the Marina Center project, together with other developments in the immediate vicinity, contribute to potential adverse cumulative impacts on hydrology and water quality?

Implementation of the propose project, combined with other foreseeablewould not result in adverse cumulative effects....

The reason provided for why the project would not result in adverse cumulative effects and thus a finding of "less-than-significant" relies on the present and future projects (across what geographic area??) utilizing Best Management Practices (BMPs), erosion control permits. While these measures apparently have merit, simply stating BMPs would be implemented is not an adequate test of cumulative effects analysis. 88-7 88-8

Example c. Impact D-34: Would the Marina Center project, together with other developments in the immediate vicinity contribute to potential cumulative impacts on biological resources....?

The reason provided for why the project would not result in adverse cumulative effects on biological resources and thus a finding of "less-than-significant" relies on the present and future projects (across what geographic area??) employing "applicable federal, state and local requirements. Provided (emphasis added) all future projects comply with the permit requirements and mitigation measures...the cumulative impacts associated with the proposedproject, together with other existing and reasonably foreseeable future development in the surrounding (emphasis added—what is "surrounding") area. ...would be less than significant." 88-9

While federal, state and local permits apparently have merit, simply stating that they would be sought by the project proponent, be implemented is not an adequate test of cumulative effects analysis. 88-10

Example d. Appendix J, p.g 25 pertaining to hazards under cumulative effects states that the project would not contribute to significant cumulative hazards impacts in the project area therefore, a finding of less-than-significant. The rationale provided is that "hazards impacts associated with a proposed project usually occur on a project-by-project basis, rather than in a cumulative manner. Because there are site specific mitigation measures, any potential cumulative impact associated with the project would also be decreased.

Therefore cumulative impacts from hazards associated with the proposed project are considered less than significant."

The project-by-project basis argument is not accurate. Hazards pertaining potential of petroleum by-products for example, generate an indirect and cumulative effect. These effects have not been analyzed in these section. 88-11

C. Land Use Array of Alternatives- emphasis on Coastal Zone Uses

The project proponent's (Security National) objectives include: complement the existing downtown and old town uses, develop an economically viable mixed use project, provide a greater variety of goods and services in Humboldt County, and increasing jobs and revenue. To do that, the project proposes to notable change current zoning and land uses from light industrial to 558,000 sq.ft primarily of commercial retail (56% of the project area). The link between this extent and scale of commercial development proposed and "complementing the old town uses or developing an economically viable mixed use project" is lost on me as the sheer scale and types of commercial retail (relatively large anchor stores comprise about 61% of the retail) would neither complement downtown, old town or provide the bulk of jobs above minimum wage. 88-12

In addition, and particularly relevant to the particular project site in question is the issue of the Coastal Zone in which the project lies. Beyond the no action alternative, there is no alternative that incorporates the fact that the site is within the Coastal Zone and this zoning prioritizes certain uses; thus, the EIR has not considered and analyzed a reasonably array of alternatives. 88-13

Priority allowable uses in the Coastal Zone are those that are coastal-dependent and includes coastal dependent development and visitor serving commercial recreation. Lower priority uses include general commercial and private residential. The proposed project weighs in heavily with lower priority uses with only perhaps the museum (if it includes marine discovery) falling into the priority uses. 88-14

Within the Coastal Zone, "applicants must obtain a certification that activities proposed within the coastal zone are consistent with State Coastal Zone Management Programs." Those programs include but are not limited to the following uses a. coastal dependent industrial facilities e.g. commercial fishing facilities, b. restoration purposes, and c) nature study, aquaculture or similare resources dependent activities.

Given that the coastal zone designation is place-based, meaning another site can not accommodate coastal uses, this zoning should be considered an over-riding factor in the City of Eureka's evaluation of what is the best use of a site in the Coastal Zone, what does the City need, and would the project that follows benefit Eureka and other publics that frequent Eureka. 88-15

5-598

Comment Letter 88

I appreciate your consideration of my comments.

Lisa D. Hoover

Letter 88: Lisa Hoover

- 88-1 The comment states that the Draft EIR does not identify the baseline condition and does not link issues to resources affected. The comment also states that the Draft EIR does not address how project activities would affect the current conditions and how mitigation measures would reduce those effects to a less-than-significant level.

As stated on Draft EIR page I-11, Chapter IV of the EIR contains a discussion of existing (baseline) conditions, the environmental impacts that could result from the project, and mitigation measures that would reduce or eliminate the identified adverse impacts. The criteria used to assess the significance of adverse environmental effects are identified in each section.

For example, on page IV.K-11, Impact K-3 states, “Would the Marina Center project result in a substantial permanent increase in ambient noise levels of 5 dBA or more in the vicinity of sensitive receptors above levels existing without the project?” This statement establishes a threshold with which to measure the level of significance of the proposed project’s impact to ambient noise. As stated on Draft EIR page IV.K-13 in Mitigation Measure K-13, “All outdoor loudspeaker paging systems shall not exceed 60 dBA Leq at the property line.” This mitigation measure includes a specific performance standard that would reduce the potential impact to a less-than-significant level (a permanent increase in ambient noise levels of less than 5 dBA).

- 88-2 The comment states the more information is needed in to-be-developed action plans to know whether these plans would reduce impacts to less-than-significant levels. The comment is noted.

For further discussion regarding remediation plans for the proposed project, please see Master Response 4. The Remedial Action Plan is discussed in this Master Response. The plans, programs and permits referred to in the Draft EIR include the Remedial Action Plan, the final drainage plan, and Storm Water Pollution Prevention Plan. All of these require regulatory oversight from agencies responsible for mitigating potential impacts. Projects that adhere to these requirements according to the performance standards included in the mitigation measures would be effective in reducing potential impacts to less-than-significant levels.

- 88-3 The comment states that the analysis of stormwater runoff that would be generated by the parking uses at the project site is note adequate.

The discussion on Draft EIR page IV.H-20 also states that quantification of anticipated pollutant loading from the proposed project is not possible. However, with implementation of the mitigation measures and performance criteria associated with this impact, the potential impact would be less than significant. The installation of stormwater treatment controls as identified by these mitigation measures have shown to be effective

with other sites that are similar or consistent with the proposed project and therefore would be effective in reducing the potential impact to less-than-significant levels.

- 88-4 The comment states that Mitigation Measures H-5a and H-5b lack a “line of reasoning” and “logic thread” to explain their effectiveness.

The ability of the stormwater treatment controls identified as part of the Mitigation Measures H-5a and H-5b to effectively reduce the potential for stormwater pollutants to be discharged offsite in part depends on their maintenance and upkeep. Maintenance of these features is generally considered relatively basic and standard for the industry. Including a responsibility for the maintenance program ensures that the long term potential for pollutant loading is reduced to less-than-significant levels. See also response to comment 88-3, above.

- 88-5 The comment states that tsunamis can be generated by both local and remote seismic events and that submarine landslides could occur. According to the comment, there is mounting evidence that tsunamis from Cascadia earthquakes pass over the south spit and at least the southern end of the north spit, and potentially stimulate underwater landslides, and that this comment is included because the significance of the project site, and its vulnerability, are understated. Finally, the comment suggests that the EIR’s reliance on the California building code and foundation standards does not support the conclusion that the risk of earthquake hazards is less than significant.

The comment is technically incorrect concerning the relationship between tsunamis and submarine landslides. Tsunamis are generated by land-level changes on the sea floor. These land-level changes may result from direct submarine fault rupture, but these modest sea floor displacements are often too small to explain the relatively large resultant tsunami. Evidence suggests that the larger-than-anticipated tsunami waves are a result of seismically-induced submarine landslides. The EIR preparers are not aware of any documentation of tsunamis “potentially stimulating these underwater landslides” as suggested in this comment. In any case, the modeling and other estimates concerning tsunami hazards originating from a Cascadia earthquake event have already taken into account the possible enhancement of tsunami intensity due to submarine landslides. Thus, the EIR already reflects this additional factor. Likewise, the EIR already includes evidence concerning the risks that tsunamis from Cascadia earthquake events may overtop the south and north spits. Again, that information is reflected in the EIR, and the comment does not provide any additional evidence.

The remainder of the comment seems to pull language from Impacts F-1, F-2, and F-3, and claims that there is insufficient information in the EIR to conclude that the risks associated with earthquake hazards would be less than significant. Preliminary geotechnical evaluation of the project site was completed in 2006 (SHN, 2006). That investigation defines general geotechnical conditions at the project site, and discusses potential mitigations. The current level of geotechnical investigation is consistent with the conceptual development plan. The “site-specific design-level” geotechnical

investigation described in the EIR refers to the additional characterization and recommendations that would be necessary for specific buildings and other structures once project design is finalized. This is a normal progression of geotechnical investigation since it is impractical, if not impossible, to define geotechnical parameters until the buildings are finally designed.

Nonetheless, the existing, preliminary geotechnical investigation adequately defines site conditions to evaluate potential environmental impacts, and presents a variety of acceptable, industry-standard mitigations. From a geotechnical standpoint, the primary hazards at the project site are related to the presence of uncontrolled fill, as well as soft, compressible soils, and granular materials that may liquefy during a strong earthquake. These hazards are routinely mitigated with a variety of standard foundation designs; the preliminary geotechnical report discusses the potential need for deep foundation elements (piles or piers to 25 to 30 feet east of Clark Slough and 35 to 40 feet west of Clark Slough) and/or stiffened, structurally reinforced floor slabs. As with all foundation design, it must be consistent with the guidelines and criteria outlined in the most recent version of the California Building Code (a standard which is mandated in the City of Eureka Municipal Code). The applicable codes and standards are referenced in the Draft EIR at page IV.F-13. Mitigation Measure F-1a requires the Project Applicant to satisfy and exceed these code requirements and standards and to implement the final recommendations in the site-specific design-level geotechnical report. Again, this sort of design-level detail can only be provided once the building designs are prepared. Thus, the risks associated with earthquake hazards would be less than significant. For further discussion regarding tsunami hazards, please see response to comment 3-14.

- 88-6 The comment states that the context for cumulative effects is not established for the Draft EIR, especially in relation to hydrological effects. A list of cumulative projects is included in Draft EIR Chapter V.

In addition, the cumulative analysis for hydrology and water quality is found on Draft EIR page IV.H-24. In the analysis, the Draft EIR discusses the City of Eureka for context of potential cumulative effects. The reasoning behind this is that the City of Eureka is the most densely populated area of the region surrounding the proposed project site and the most likely to have similar potential impacts regarding stormwater runoff and groundwater recharge.

- 88-7 Please see response to comment 88-6 regarding cumulative hydrological effects issues raised by the comment.

- 88-8 The comment states that simply stating that best management practices would be implemented is not an adequate test of cumulative effects analysis. Please see response to comment 87-5 regarding cumulative water quality effects.

- 88-9,10 The comment states that relying on federal, state, and local permits to mitigate biological impacts is not adequate. The comment is noted.

Please see response to comment 13-4, which addresses biological resources. Given that all impacts on biological resources can be mitigated to a less than significant level, and there is a net gain in wetland size and function, the project, cumulatively considered together with other projects causing related impacts, would not make a contribution significant enough to conclude there is a significant cumulative impact on biological resources.

- 88-11 The comment states that a project-by-project basis for hazardous materials assessment is not accurate. It also states that indirect and cumulative effects from hazardous materials can be generated and should be analyzed in the EIR.

The proposed project would not emit or discharge, as part of project operations, any significant hazardous materials. The existing subsurface contamination at the project site would be remediated according to the requirements of the RWQCB. Remediation efforts as more fully described in Master Response 4 of this document may result in residual contamination levels at the project site that are below risk levels for human health and the environment. However, any residual contamination at the project site when combined with any potential contamination at other sites does not increase the potential risk from exposure to hazardous materials. Similarly the potential for accidental upset conditions is not increased to cumulatively significant levels with other sites that are handling or storing commercially contained hazardous materials. Therefore, the rationale contained in the Draft EIR is valid.

- 88-12 The comment disagrees that the Project Applicant's objectives are met by the proposed project. The comment is noted.

Please see Master Response 1 regarding the economic viability of the project and the anticipated jobs created. The proposed project, which would be a mixed-use development containing recreation, housing, retail, office, industrial, and restaurant space, would complement Downtown Eureka rather than compete with it.

- 88-13 The comment questions the adequacy of the Alternatives Chapter, stating that it did not include an alternative considering coastal zone priority uses.

The Alternatives Chapter of the Draft EIR screens 24 separate alternatives, including the Coastal Dependent Industrial Zoning Alternative, the Limited Industrial Zoning Alternative, and the Wetland Restoration and Park Alternative. These Alternatives would include uses prioritized in the coastal zone.

- 88-14 The comment regarding priority uses in the coastal zone is noted. Please see Master Responses 3 and 5, both of which address uses in the coastal zone.

- 88-15 The comment that zoning should be considered the overriding factor in the City's evaluation of the proposed project is noted. Decision makers must weigh several criteria when weighing entitlements for proposed development projects, including environmental, economic, social, and cultural. The existing and proposed future land use designations of the project site are included in these considerations, and they are detailed in Chapter IV.I, Land Use and Planning.

Sidnie Olson

From: chaslewis [chaslewis905@yahoo.com]
Sent: Friday, January 30, 2009 6:53 AM
To: DEIRcomments
Subject: Comments on proposed Marina Project

I'm a longtime property owner and resident of Eureka, with serious concerns about the proposed Marina Project. I am not generally anti-big box, but given the current economic climate, have serious misgivings about the part of the proposal that reads "anchored by a Home Depot."

I do not wish to see some of the last open space adjacent to Humboldt Bay committed to a national chain, even in a mixed-use project as proposed.] 89-1

After reading the DEIR several times, I have concerns that even with the inclusion of the wetlands project as described, that potential environmental issues have been understated.] 89-2

Charles Horn
3432 N Street
Eureka

Letter 89: Charles Horn

- 89-1 The comment states opposition to the last open space adjacent to Humboldt Bay committed to a national chain, even if it is a mixed-use project.

The comment appears to be expressing a policy preference for a particular use (open space) or project alternative (the No Project Alternative), but does not raise any issues pertaining to the sufficiency of the EIR as an informational document. It should be clarified, however, that the project site is not the last open space adjacent to Humboldt Bay. There are a number of other sites that are currently vacant and could be devoted to open-space uses. Indeed, hundreds of acres still remain in open space along the boundary of the Bay. (See, e.g., Draft EIR, page VI-30, Figure 6-5, showing other open-space locations adjacent to Humboldt Bay and the shoreline.) Moreover, this site in particular is surrounded almost entirely by industrial or other uses, is close to the heart of Downtown Eureka, and is an ideal infill location given its proximity to Old Town and Downtown, public transit, and other compatible land uses. Finally, leaving the project site in its blighted and contaminated state does not constitute the sort of open-space uses that should be preserved near the waterfront. The project would actually help to restore the Clark Slough remnant and provide long-term wetlands habitat.

- 89-2 The comment states that, even with the inclusion of a wetland reserve in the proposed project, the Draft EIR understates the potential environmental issues. The comment does not provide any specifics to which to respond. The proposed project's potential impacts to wetlands are discussed, however, in Chapter IV.D, Biology, of the Draft EIR.

Sidnie Olson

From: Steve Horner [s_horner@suddenlinkmail.com]
Sent: Wednesday, January 28, 2009 3:12 PM
To: DEIRcomments
Subject: I SUPPORT MARINA CENTER & COMMENTS FOR RECORD

Dear Ms. Olson,

I support development of the Marina Center. I want there to be a modern developed area for shopping, to attract tourists and house public service groups.

The presence of a big-box style retail space is very important for Humboldt County. Personally, I and my family travel outside of the County to shop at big box stores because they provide the items I need at a good price. Most of the items and selection locally cannot compare, at any price. I believe having such retail opportunities in Humboldt County will lessen the amount of significant travel by my family and that of thousands of other Humboldt residents. Certainly this will result in a reduction of fossil fuel use and all of the concomitant benefits. 90-1

I travel approximately every other month to Home Depot in Crescent City or Ukiah. When I arrive, I ALWAYS have encountered at least two different people I know who are doing the same thing, because the selection is not available in Humboldt County. By having a local Home Depot it will reduce significantly the number of trips Humboldt County residents are making out of the county. This is not a minor environmental benefit, but a great one! 90-2

Much of Eureka is in a blighted condition. Through re-development of the Marina Center, the City will move significantly forward on improving the aesthetics of the City and improve its image. This will attract more activity to the city and generate much needed municipal revenues. Especially because the people who will stop and use a beautified Eureka are already passing through on 101, there won't be additional traffic added to the City or Marina Center vicinity as a result of the development of Marina Center. 90-3
90-4

The environment will be much improved by the careful development described in the EIR. That site is a wasteland now, and the proposed project is a vast improvement to the natural environment and improves human enjoyment. 90-5

Please adopt the Marina Center EIR and get the project going as soon as possible.

Steve Horner
Arcata, CA
707-498-7150

Letter 90: Steve Horner

- 90-1 The comment that big box retail is important for Humboldt County is noted. The EIR includes an analysis of the proposed project's potential impacts to traffic and air quality in Chapter IV.O, Transportation and Chapter IV.C, Air Quality. Although the number of current automobile trips to areas outside of Eureka could be reduced by the proposed project, the traffic and air quality analyses do not assume any reduction in these trips. By assuming that all trips generated by the project would be an increase over existing conditions, the EIR assures a conservative analysis of potential impacts in conformance with the CEQA Guidelines.
- 90-2 The comment's support of the proposed development is noted.
- 90-3 The comment states that aesthetics would be improved and that municipal revenues would be generated by the proposed project. Please see Chapter IV.A of the Draft EIR for a discussion of the proposed project's aesthetic impacts. Also see Master Response 1, under "Fiscal Impacts to the City of Eureka and Other Jurisdictions," for a discussion of municipal revenues.
- 90-4 The stated support of the proposed development is noted.
- 90-5 The comment stating that the environment would be improved by the proposed project is noted.

Sidnie Olson

From: Donnie Hubbard [dhubbard@omindustries.com]
Sent: Saturday, January 31, 2009 11:22 AM
To: DEIRcomments
Subject: marina center eir

City of Eureka Community development dept
Att Sidnie Olson
531 K st Eureka Ca 95501

Re Marina Center draft EIR

I have reviewed the draft EIR on the marina center project. I have found the document to be complete. I support the EIR and the project wholeheartedly..] 91-1

*Don Hubbard
Project Manager
O&M Industries
Ph. (707) 822-8800
fax (707) 822-8995
dhubbard@omindustries.com*

Letter 91: Donnie Hubbard

91-1 The comment supporting the Draft EIR and the proposed project is noted.

Sidnie Olson

From: Nancy Ihara [nancyihara@yahoo.com]
Sent: Friday, January 30, 2009 2:28 PM
To: DEIRcomments
Cc: nancy ihara
Subject: Urban Decay

To: Sidnie L. Olson, Principal Planner, City of Eureka

What "urban decay" means in a setting like Eureka is difficult to discern. For me, and I suspect many others (as evidenced by photos of urban decay on Wikipedia), urban decay congers up images of blocks and blocks of abandoned, run down buildings, deserted apartments and closed stores. In the last 50 years Old Town before redevelopment probably came closest to this picture. Even at its most rundown, however, Old Town contained viable businesses - a fabric store, several restaurants, a small grocery store, and more. Urban decay for Eureka, then, I believe is something smaller scaled than normally envisioned. Downtown Eureka after the opening of the Bayshore mall is, I believe, another example of an Eureka -sized urban decay phenomenon. Many of us experienced that phenomenon: dozen of store closings, vacant buildings, streets that were virtually empty except for 101.

The construction of the Marina Center will have, I believe, a similar deleterious effect on the downtown and on other Eureka "centers", such as possibly Henderson Center and the Bayshore Mall. For this reason I do not support the Marina Center development as it is presently proposed. It makes no sense to allow this large scaled development which will assuredly have a harmful and unhealthy effect on other Eureka "center" locations.

92-1

Additionally, I would like to comment on the assertion that the balloon track itself represents an example of urban decay. The track is unsightly but does not represent the deterioration of an urban center. It is a deserted railroad facility. The claim that present day Old Town is impacted given the distance between the two is not believable.

92-2

Nancy R. Ihara
231 Dean St.
Manila, CA 95521
nancyihara@yahoo.com

Letter 92: Nancy Ihara

- 92-1 The comment expresses concern regarding the potential effects of the proposed project on existing retail businesses. Please see Master Response 1, under “Potential Local Store Closures.”
- 92-2 The comment states that the project site is vacant but not blighted. The comment is noted. The condition of the project site, however, meets the definition of urban blight (see, e.g., Cal. Health & Safety Code, Section 33031(b)). It is a brownfield site with environmental contamination, primarily vacant buildings, and debris piles. The comment also states that the vacant condition of the site does not affect Old Town. That comment is also noted.

Sidnie Olson

From: jak3488@gmail.com
Sent: Tuesday, December 16, 2008 11:13 AM
To: DEIRcomments
Subject: Marina Center Comments

City of Eureka, I want to offer my wholehearted support for the Marina Center. The area where this project will be located is in need of a comprehensive diversified project such as this. It will increase the tax base for Eureka substantially with a rather small footprint. If instead of fighting this project some of your councilmembers would get behind this. In a short period of time during an economic downturn (Which will add jobs) this project could be completed and returning much needed tax dollars. It would also provide alternatives for shopping when I come to Eureka to spend money. The present site is a complete eyesore for all the Eureka BayFront and the alternatives will not provide the kind of tax base increase the city needs. I can't understand the motives some of the councilmembers have concerning this project unless they are "getting something" from the areas old guard. Make the right choice and back this plan to completion. Sincerely, Jeff Jacobsen P.O. Box 489 Hydesville, California 95547

93-1
93-2

Letter 93: Jeff Jacobson

- 93-1 The comment supporting the proposed project is noted.
- 93-2 The comment states that the proposed project would add jobs and revenue for the city. The comment is noted. Please see Master Response 1, specifically under “Fiscal Impacts to the City of Eureka and Other Jurisdictions” and “Jobs / Wages Impacts.”

Sidnie Olson

From: Alec Johnson [hedgerowteacher@gmail.com]
Sent: Thursday, January 29, 2009 7:11 PM
To: DEIRcomments
Subject: Leakonomics

To Whom It May Concern:

I am responding to the DEIR under consideration for the balloon tract area. I understand the centerpiece will be a Home Depot or something similar. I feel the DEIR gravely overlooks the effect this project will have augmenting Urban Decay in the Eureka area. It turns out that where we spend our money has a big effect on our local economies and, by extension, ourselves. We do ourselves a much bigger favor, for example, by renting DVDs from local vendors than from a national chain. The money spent locally circulates three to four times more, stimulating economic development all along the way. Not paying attention to business ownership is to fail to notice economic leaks. "Leakonomics" is another term used for this kind of bad policy.

94-1

Make no mistake, Home Depot (HD) isn't coming to Eureka to create jobs. It's coming here to destroy some and shift the others to lower paying ones. While we might be able to purchase hardware products for less, our family and friends will be earning less. And every penny we spend "saving" money flies right out of our economy instantly, poof, leaving little economic stimulus in its wake.

94-2

Let me also draw your attention to the recent news regarding HD as it underscores our communities vulnerability, should we allow that corporation in our town. HD announced this week that it is laying off 7,000 people! If HD comes to Eureka it's an honest question to ask "will they stay?" It's easy to imagine them coming in, wiping out their competitors, then shutting their doors the next time the Global economy goes belly up. Then we'd have to drive to Arcata or Fortuna if we wanted a hammer. Assuming we could still afford the trip, or the hammer, after losing our job at Home Depot.

94-3

I also wish to object to the notion of capping the site as a reasonable solution to the toxic waste present. It doesn't take a rocket scientist to notice that the proposed area is adjacent to the bay and therefore actively leaching toxins into the bay. A thorough solution that disposes of the toxic waste completely must be a fundamental element of the final plan.

94-4

These are but a few of the many reasons I feel that all pertinent authorities should refuse to grant permission for this development, as specified, to proceed.

Most sincerely,
Alec Johnson
P.O. Box 5840
Eureka, CA 95502

Letter 94: Alec Johnson

- 94-1 The comment states that national chain stores have deleterious effects on communities. The comment is noted. Please see Master Response 1, under “National Stores vs. Local Stores.”
- 94-2 The comment states that jobs would be lost and economic damage would result from the proposed project. The comment is noted. Please see Master Response 1, under “Jobs / Wages Impacts” and “National Stores vs. Local Stores.”
- 94-3 The comment asks whether an anchor tenant would stay in the proposed project. No tenant can be forced to remain open in a leased space beyond the terms of the lease. Please see response to comment 40-4, which states that the large anchor tenant retail space could be released after vacation.
- 94-4 The comment states that placement of clean cover material over the project site the project site is not a reasonable method of remediation. The comment is noted. For further discussion regarding the Remedial Action Plan for the proposed project, including site placement of clean cover material over the project site, please see Master Response 4. Note that the soil at contaminated hot spots at the project site would be excavated and removed prior to placement of clean cover material over the site.

Sidnie Olson

From: Jeanette Jungers [sparrowmomma@hotmail.com]
Sent: Saturday, January 31, 2009 5:44 PM
To: DEIRcomments
Subject: MARINA CENTER

1-3-09
From: Jeanette Jungers
771 Azalea Lane,
Eureka, CA 95503
707-443-3420

To: City of Eureka Community Development Department
Sidnie Olson, Principal

I would like to address my concerns regarding the DEIR for the Marina Center. The city and residents of Eureka have a desire to see our Bay and our community develop in a wise manner and I have a number of concerns related to the DEIR and this proposed project.

Pollution: Health Risk assessment data is out of date.
Toxicity values have been updated by the EPA for a number of chemicals of concern at this site.
Dioxins and furans were not evaluated.
HRA based on exposure pathways for a vacant lot.
No assessment made for the proposed uses, including residential.
No analysis of ecological risk (to wildlife).
The DEIR dose not include information on the levels of any contaminants found onsite.

95-1
95-2
95-3
95-4
95-5
95-6
95-7

Transportation:
Diesel pollution from additional deisel truck traffic during construction phase and by deliveries to the businesses on site.
Traffic impacts to residents of Eureka.
Congestion on Broadway.
Dangers to bicylists/pedestrians with the additional vehicular traffic.
No Public transit within the project area.
Diversion of traffic into neighborhoods east and south of the project have not been addressed.

95-8
95-9
95-10
95-11
95-12
95-13

Land Use.
Land use and zoning designations should be consistent with Eureka's General Plan, this project does not meet this designation.
LCP ammendments require approval of the California Coastal Commission.
Coastal dependent developments should have priority over other developments.
Visitor serving commercial recreational facilities shall have priority over private residential, general industrial or general commercial development.
This piece of property could be a county gem and clean up should not be dependent on the development of this parcel.

95-14
95-15
95-16
95-17
95-18

Urban Decay:
As we have seen recently the nation is in the grip of a deepening recession. If we allow Big Box development on this site we will see our local businesses suffer, closure of stores at the Mall, Piersons, Myrtle Ave Lumber, Schafers etc. What this will do to Old Town revitalization and to our downtown core will be devastating. Big Box stores may provide cheap goods, but they don't provide for their workers and the bulk of their profits will go out of town to corporate coffers.

95-19

Leaving us with a dead and dying down town.

Cultural Resources:
This proposed project will negatively impact the cultural resources that are no doubt within the boundries of this project.
The Wiyot tribe had villages around the Bay, and although evidence is not evident on the surface there are no doubt historical artifacts which need to be identified and protected.

95-20

The citizens of Eureka and Humboldt County have a desire to see our Bay restored. Other projects could be developed which would have a positive outcome for our city. No tourist has ever come to Humboldt County with the desire to go to a Big Box store. Some alternate uses could be: A Boardwalk with small craft stores selling and demonstrating their craft, potters, blacksmiths, jewelers, local artists, local food store, bakery, seafood restaurant, a Conference center, an Aquarium an ocean research center. I could probably list a dozen other uses which would be more appropriate to our area, but I'm sure you get the idea.

95-21

I hope that the city denies this applicant and instead looks to developing our bay in a way which would be consistent with our desire for a clean, healthy bay.

I hope you will give some consideration to my suggestions. Yours Sincerely Jeanette Jungers

Hotmail@ goes where you go. On a PC, on the Web, on your phone. See how.

5616

Letter 95: Jeanette Jungers

- 95-1 The comment states that the Health Risk Assessments of 1996 and 2000 are out of date. For further discussion regarding the site investigations, please see Master Response 4.
- 95-2 The comment states that the toxicity values for chemicals have been updated by the EPA since the Health Risk Assessments. For further discussion regarding the site investigations, please see Master Response 4.
- 95-3 The comment incorrectly states that dioxins and furans are not evaluated.

For further discussion regarding the health risk assessment for the proposed project, and more detailed information about contamination on the property, please see Master Response 4.
- 95-4 The comment states that the previous Health Risk Assessments were prepared for a vacant lot and not the proposed project. For further discussion regarding the investigation of contaminants at the project site, please see Master Response 4.
- 95-5 The comment states, “No assessment was made of the proposed uses.” Although the Draft EIR includes Chapter IV.I, Land Use and Planning, which discusses the proposed uses and related policies, this comment is included among others related to hazardous materials onsite. Impacts related to hazardous materials, including impacts related to proposed uses on the site, are discussed under Impacts G-1 and G-2, on pages IV.G-19 through IV.G-23 of the Draft EIR. See also Master Response 2 regarding the adequacy of the air quality assessment.
- 95-6 The comment states that the Draft EIR does not include an assessment of risk to wildlife. Please see response to comment 52-33, which addresses risks to wildlife. Please note that the Draft EIR includes Section IV.D, which discusses potential biological impact. In addition, note that the contamination on the project site is an existing condition, and the proposed project would remediate contamination at the project site.
- 95-7 The comment incorrectly states that the Draft EIR does not include the levels of contaminants at the project site. Please see Chapter IV.G. For further discussion regarding the Remedial Action Plan for the proposed project, and more detailed information about the levels and locations of contaminant on the property, please see Master Response 4 and Appendix S.
- 95-8 The comment states that diesel pollution from traffic during construction and deliveries would exist. The health risk assessment summarized in Appendix E evaluates the incremental health risk associated with construction equipment, diesel delivery truck emissions, parking lot traffic emissions, and emissions from traffic on U.S. 101 in the immediate vicinity of the project site. Please also see Master Response 2.

- 95-9 The comment simply states “traffic impacts to the residents of Eureka.” Please see the responses to comments 31-1, 32-9, 38-4, 40-2, and 41-1 regarding traffic impacts. Response to comment 31-1 reiterates that cumulative growth in traffic on Broadway would be 33 percent with or without the proposed project. The other comments discuss potential impacts to other city corridors or alternate routes.
- 95-10 The comment simply states “Congestion on Broadway.” Please see responses to comments 31-1 and 49-1, as well as Master Response 6, which address congestion on Broadway.
- 95-11 The comment states that there would be danger to bicyclists and pedestrians. Please see the responses to comments 33-3 and 75-1 regarding bicyclist and pedestrian safety.
- 95-12 The comment states, “No public transit in the project area.” The existing public transit system would be expected expanded to serve the project as needed as demand expands.
- 95-13 The comment expresses concern regarding diversion of traffic into other neighborhoods. Please see the responses to comments 32-9 and 38-4, as well as Master Response 7, which address trip distribution and traffic on alternate routes.
- 95-14 The comment states that the land use and zoning designations should be consistent with the General Plan.

As stated in Chapter III, Project Description, the proposed project would require rezoning and other approvals. The Draft EIR therefore acknowledges that land use designation changes would be required.

- 95-15 The comment states that LCP amendments require Coastal Commission approval. As stated in Chapter III, Project Description, the proposed project would require rezoning and other approvals. The Local Coastal Program Amendment would require certification from the California Coastal Commission.
- 95-16 The comment regarding coastal-dependent uses is noted. Please see Master Responses 3 and 5 regarding land use issues and priorities in the coastal zone. As stated in Master Response 3, it is questionable whether any coastal-dependent uses could be developed on the project site, given that it does not abut the Bay.
- 95-17 The comment regarding priority uses is noted. Please see Master Responses 3 and 5 regarding land use issues and priorities in the coastal zone.
- 95-18 The comment states that the property should be cleaned up independent of the proposed project.

The Draft EIR does not state that remediation of contamination is dependent on the proposed project. In June 2009, after the City circulated the Draft EIR for public review, Environmental Resources Management (ERM) prepared a Supplemental Interim

Remedial Action Plan (SIRAP), which is added to the Marina Center EIR as Appendix S (please also see Master Response 4). The SIRAP is intended to address existing site contamination concerns of the Project Applicant and the California Regional Water Quality Control Board, and it is designed to be implemented with or without the build-out of the buildings and related improvements and infrastructure proposed in the project. The Project Applicant has proposed to implement the SIRAP in conjunction with onsite wetland restoration as Phase 1 of the proposed project and incorporating pertinent mitigation measures in the EIR, which are already described in the Chapters III and IV.G of the Draft EIR. Therefore, while this EIR addresses both this initial phase of the project as well as subsequent phases, the SIRAP has independent utility and can proceed on its own in advance of the City's approval of any entitlements necessary for the proposed project itself. Regulatory agencies cannot approve the Final Remedial Action Plan without first knowing the intensity of and types of uses that are planned to take place at the project site.

- 95-19 The comment states that economic conditions are not favorable and that the proposed project would exacerbate them. Please see Master Response 1, under "National Stores vs. Local Stores," "New Recessionary Conditions," and "Potential Local Store Closures."
- 95-20 The comment relates to archaeological investigations. Implementation of a subsurface archaeological survey program would help determine whether significant archaeological sites exist in the project area. Please see Master Response 9.
- 95-21 The comments regarding tourism and other uses for the project site are noted. Please see responses to comments 16-9, 16-239, and 16-242, which explain that the Draft EIR includes a reasonable range of alternatives. An alternative containing uses similar to those described could be the Tourism Use Alternative, which is considered in Chapter V of the Draft EIR.

Sidnie Olson

From: melaniek@humboldt1.com
Sent: Thursday, January 29, 2009 7:30 PM
To: DEIRcomments
Subject: Marina Center

Comment: Here are my thoughts about the Marina Center proposal:
Can this community really support MORE retail stores and restaurants?

96-1

There are so many businesses leaving the Mall - doesn't anyone notice these things? What I anticipate will happen is that restaurants and businesses currently in Old Town might relocate and Old Town will become the new or should I say re-new blighted area. So much energy and money has been spent on making Old Town the wonderful place it is now, it would be a shame to see all that deteriorate because of an unwise choice of development of the balloon track.

We have a thriving oyster culture business here in Humboldt. Why not expand that, or go with more of the innovative suggestions that have been made related to developing ecotourism in Eureka rather than retail stores.

96-2

Also, I think the traffic issue will be significant. Big box stores, if they are built should be located in an easy access right off a freeway - like in Fortuna at the old mill site, rather than in the center of an already too congested downtown city area.

96-3

Name: Melanie Kasek

Address: 2615 Copenhagen Rd.

City: Loleta

Zip: 95551

E-mail: melaniek@humboldt1.com

Letter 96: Malanie Kasek

- 96-1 The comment expresses concern that the local retail and restaurant market is saturated. Please see Master Response 1, under “Potential Local Store Closures.”
- 96-2 The comment suggesting another use for the project site is noted. Please see responses to comments 16-239, and 16-242, which explain that the Draft EIR contains a reasonable range of alternatives. Alternatives containing uses similar to those described could be the College of the Redwoods Alternative, the Tourism Use Alternative, the Horticultural Gardens Alternative, or the Wetland Restoration and Public Park Alternative.
- 96-3 The comment states that traffic would be significant. As stated in response to comment 31-1, there would be a 33 percent increase in cumulative traffic on Broadway with or without the proposed project by the year 2025. Implementation of identified mitigation measures would reduce almost all impacts to less-than-significant levels.

Sidnie Olson

From: Tim keefe [t_keefe@yahoo.com]
Sent: Thursday, January 22, 2009 3:02 PM
To: DEIRcomments
Subject: Marina Center DEIR Comments

I have had an opportunity to review the DEIR for the proposed Marina Center and here are my initial comments. As a professional archaeologist who works on both State and Federally funded projects I am appalled at the level of cultural resource identification efforts that have occurred as well as the proposed mitigation efforts. The DEIR notes that there are potentially two significant ethnographic villages within the area of direct project impacts and it also states that there could be buried historic and prehistoric sites present but it clearly is shown that no effort has been made to adequately identify or characterize what these may be.

97-1

"Given the known and recorded sites in the area and its waterfront location, the project site is highly sensitive for prehistoric occupation, and there remains a possibility that previously unknown significant deposits may be encountered during development especially at depths below approximately 5 to 8 feet. Such unrecorded resources could be damaged or destroyed during project construction, including any subsurface, ground-disturbing activities."

The DEIR also notes that since there is Federal involvement on this project, the 106 process must be followed. Although recognized, this apparently hasn't been done. When and where has the State Historic Preservation Officer (SHPO) been involved as required under Section 106? I don't see any and if I did I imagine that a Finding of Effect for the project has been determined, produced and concurred with by the SHPO (which would lead to a the development of a Memorandum of Agreement and Treatment Plan - ph III data recovery or some other fitting mitigation, and likely in this case also a Late Discovery Treatment Plan). Sems like there is more work to be accomplished here.

97-2

It appears to me that no effects statement can as of yet be made since identification efforts have not been completed (if you don't know what will turn up when the earth is turned then identification hasn't been completed). I also want to add that in regards to the present "Plan" for dealing with potentially significant sites in construction, this is flawed logic at its worse. Just exposing a buried site would be considered an adverse effect to a site if you haven't determined how your actions would impact the located site. On this same issue, the idea that a project would be redesigned in the middle of construction based on a late discovery is ludicrous at best. As an example of the potential problems and risks I point to a recent project conducted in Port Angeles, WA (<http://www.achp.gov/casearchive/caseswin05WA.html>).

97-3

The lack of adequate identification efforts resulted in the loss of millions of dollars, the desecration of a truly significant archaeological site, and the demise of a project. I think Eureka would be wise to heed past precedents before accepting such a flawed plan.

Please complete the cultural resource/archaeological identification efforts for this project! Clumsily digging around during construction and hoping nothing pops out of the ground is not acceptable at such a sensitive location.

Timothy Keefe
4310 Walnut Drive
Eureka, CA 95503
(707) 441-2022
(FAX (707) 441-5775

Letter 97: Tim Keefe

- 97-1 The comment relates to archaeological investigations. A subsurface archaeological investigation described in revised Mitigation Measure E-2a would help determine the presence of cultural resources in the project area. Please see Master Response 9 and responses to comments 69-1, 69-6, 69-7, and 69-10. This investigation would commence when engineering plans and soil remediation plans are finalized but prior to project construction.
- 97-2 The comment that Section 106 consultation between the City of Eureka, the U.S. Army Corps of Engineers, and the State Historic Preservation Officer has not yet begun are noted. The results of the subsurface investigation would help guide the Section 106 consultation process. Please also see responses to comments 69-19 and 69-20.
- 97-3 The comment states that archaeological investigations must proceed prior to construction. The comment is noted. Please see Master Response 9 for revised Mitigation Measures E-2a and E-2b, as well as responses to comments 97-1 and 97-2, and the responses referenced therein.

The comment also references the challenges faced by the Hood Canal Bridge Replacement project in Washington State. This project, led by Washington State Department of Transportation (WSDOT), included the construction of graving dock facilities at Port Angeles, WA (Wilma 2005). The archaeological survey prepared for the Port Angeles site determined that Tse-whit-zen, a large Klallam village, had been located near the site, and that the village cemetery was in the general vicinity. Soon after beginning excavation in August 2003, construction workers found human remains and other artifacts. WSDOT suspended construction and required further archaeological studies. By December 2004, 355 complete skeletons had been located and removed. Lower Elwha Klallam leaders, who at first wanted all burials removed so they would not be left underneath the graving dock, began urging the state to reconsider the project location altogether. In December, the tribe officially asked WSDOT to cancel plans for the graving yard. The State agreed, and eventually found a new site for the graving dock.

The proposed Marina Center project includes mitigation measures that would reduce impacts to archaeological resources. Please see Mitigation Measure E-2c, which states that if human remains are found on the project site, and if the human remains are determined to be of Native American origin, a qualified archaeologist shall be summoned within 48 hours to conduct an independent review to evaluate whether the remains belong to a single individual or multiple individuals. If the latter, and if there are six or more Native American burials on the site, the site shall be identified as a Native American cemetery and all work on the site within 100 feet of any burial site must cease until recovery or reburial arrangements are made with the descendants of the deceased or, if there are no descendants of the deceased, with the NAHC.

As stated in Master Response 9, monitoring is not the sole mitigation strategy for the proposed project. Mitigation Measure E-2a, dictates a number of steps that the Project Applicant must follow if archaeological materials are found, including ceasing construction activities, conducting an independent review of the find by a qualified archaeologist, and then implementing one or a combination measures (e.g., “removing the object or feature, planning the construction around the object or feature, capping the object or feature with a layer of soil sufficient to protect the integrity of the feature or object, and/or deeding the site as a permanent conservation easement.”). (Draft EIR, pages IV.E-17 and -18.) Given the possibility that no archaeologically significant materials will be found during project construction or monitoring, as well as the fact that any materials found would be protected through the treatment measures required under Mitigation Measures E-2a and E-2b, no further mitigation is required and the project is expected to have a less-than-significant impact on archaeological resources.

RECEIVED
JAN 26 2009
JAN 27 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Re: Proposed Marina Center:

I am completely against the Arkly/ Security National Marina Center plan. It's sickening to see big money buying its way through Humboldt County. This is a bad location and usage. We need to envision the area open to the public and visitors. An RV park would place visitors in the heart of Eureka. How about a water park-located

98-1

The marina center plan is too big for Eureka and out of scale. We can't keep businesses in Eureka open even now. Having a big Home Depot would cheapen the area. They basically sell cheap merchandise when must be replaced more frequently and the money doesn't stay here.

98-2

98-3

Restoring wetlands should be paramount in this area. It has been proven wetlands help protect existing areas from flooding and adds to the beauty of the area. Katrina showed the damage done when wetlands had been bulldozed over and developments built. We already have the mall built over wetlands. In this time of worry over global warming havoc, wetlands may help protect this area.

98-4

Sincerely
Lina Kent



Ms Lina Kent
1815 Caroline Ave
McKinleyville, CA 95519

Letter 98: Lina Kent

- 98-1 The comment states that this is a bad use and location for the proposed project, and suggests alternative uses. The comment is noted. The potential environmental impacts of the proposed project are discussed throughout the Draft EIR. Alternatives to the proposed project are discussed in Chapter VI.
- 98-2 The comment's opinion of the preliminary project renderings are noted. As stated in the outline on page III-18 of the Draft EIR, under *F. Project Entitlements and Approvals*, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 98-3 The comment states that money paid to national chain stores does not stay in the community. Please see Master Response 1, under "National Stores vs. Local Stores."
- 98-4 The comment states that wetland restoration of project site should be paramount, especially considering worry over global warming. The Marina Center project includes the creation of contiguous estuarine wetlands at the south end of the project site at an acreage exceeding the extent of the existing combined scattered, degraded seasonal and estuarine wetlands (mitigation ratio of 1.05:1). These restored wetlands are anticipated to be of much higher quality and biological value than those currently onsite. Please also see response to comment 8-6 regarding global warming and sea-level rise.

Starr Kilian

From: Starr Kilian [starrkilian@suddenlink.net]
Sent: Saturday, December 06, 2008 1:01 PM
To: 'DEIRcomment@ci.eureka.ca.gov' &
Subject: Draft EIR comment

*Please note
address given in the
Times Standard was
"undeliverable".*

To Whom It May Concern:

After reading the article in the Times Standard on Saturday, December 06, 2008, regarding the Marina Center, I felt compelled to comment on three items:

- 1. The artist's renderings were absolutely ugly. They remind me of old malls which have been and are being torn down all over the country. The Humboldt County Library, Wharfinger Building, and HSU's Aquatic Center are all attractive. Why would you want to lower the standard with this proposed architecture? 99-1

- 2. The statement regarding mall vacancy rate, stability "and the ability to re-tenant smaller vacancies as they occur " appears to be glaringly outdated in light of current local, national and international economic events. I believe this aspect must be reevaluated. 99-2

- 3. In regards to the article's reference about "big box stores", competition is good but a Home depot will certainly affect the many smaller lumber yards and hardware stores. Stores like Almquist Lumber may survive just because they offer some higher quality products, not available elsewhere in the county. 99-3

I am happy to see clean up of the balloon tract and commend all those involved in their efforts to rid the area of "urban blight" and improve the local economy, but I do feel the areas mentioned above need to be reevaluated.

Respectfully,
Esther Kilian
Fieldbrook

RECEIVED
DEC 09 2008
DEPARTMENT OF
COMMUNITY DEVELOPMENT

12/6/2008

Letter 99: Esther Kilian

- 99-1 The comment's opinion of the preliminary project renderings are noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 99-2 The comment states that the vacancy study appears outdated. Please see Master Response 1, under "Vacancy in the City of Eureka."
- 99-3 The comment states that the proposed project would cause local stores to close. Please see Master Response 1, under "Potential Local Store Closures."

Comment Letter 100

Comment Letter 100

Sidnie Olson

From: jhking [samonely@quik.com]
Sent: Saturday, January 31, 2009 10:04 PM
To: DEIRcomments
Subject: Marina Center Draft EIR Comments
Attachments: Marina comment JK 1-09.doc

Sincerely yours,

Joyce H. King
685 School Road
McKinleyville, CA 95519

City of Eureka Community Development Department
Sidnie L. Olson, Principal Planner
531 K Street
Eureka, CA 95501

Re: Marina Center Draft EIR Comments

Dear Ms. Olson:

Does the EIR evaluate the short and long term cumulative impacts to the environment, infrastructure, and economy of this project in combination with all past, present, and foreseeable future projects, especially with regard to the following:

- 1. potential increases in greenhouse gas emissions from the preparations, building, transportation, and use of this project? [100-1]
2. impacts on waste treatment and storm water capacity and compliance with Water Quality Control Board requirements? [100-2]
3. impact on costs and operation of roads, and other county infrastructure? [100-3]
4. impact on costs and operation of police, fire, public health, environmental health, natural resource agencies, and other governmental services for protection, monitoring and enforcement? [100-4]
5. increases in point source and non-point source pollution to air, water, soil? [100-5]
6. impacts on existing or recovering native aquatic and terrestrial ecosystems? [100-6]
7. impacts on natural drainage, storage and other hydrologic functioning? [100-7]
8. impact of Big Box stores on local businesses, wages, and quantity and quality of jobs? [100-8]
Does the EIR require mitigation methods that have been thoroughly tested and shown to be successful for at least 10 years? [100-9]
Will all mitigations be funded, monitored, and maintained for at least 10 years at a level which ensures their success?

Thank you for the opportunity to comment on this important matter. I look forward to your answers to these questions.

5-629

Letter 100: Joyce King

- 100-1 The comment asks if the Draft EIR discloses cumulative impacts associated with greenhouse gases (GHGs). Please see Draft EIR pages IV.C-19 through IV.C-22 for a discussion of the cumulative impacts related to GHGs associated with the project. Please also see response to comment 9-9, which discusses thresholds for cumulative impacts and the merits of infill development in reducing GHG emissions. Please also see response to comment 9-10, which states that the proposed project would reduce emissions associated with travel to Crescent City. Finally, please see responses to comments 16-22 and 22-4, which explain that the Draft EIR does include an analysis of GHG emissions associated with the proposed project, including emissions associated with energy use and deliveries.
- 100-2 The comment asks if waste treatment and stormwater capacity would be in compliance with WQCB requirements. Cumulative waste water impacts are discussed on Draft EIR page IV.Q-10 under Impact Q-8.
- 100-3 The comment states that the proposed project could have impacts on the costs and operations of roads. The comment is noted. According to the Caltrans *Highway Design Manual*, pavements are engineered to carry the truck traffic loads expected during the pavement design life. Truck traffic, which includes buses, trucks and truck-trailers, is the primary factor affecting pavement design life and its serviceability. Passenger cars and pickups are considered to have negligible effect when determining traffic loads. The proposed project would predominantly generate trips in passenger cars and pickups, and therefore would not have an impact on the long-term wear and tear of City streets.
- 100-4 The comment expresses concern about the costs of public services to support the proposed project. The proposed project would contribute taxes and fees toward local, state, and national government funds. These funds are allocated to specific agencies at the discretion of the Eureka City Council, the California State legislature, and the federal Congress through annual budget reviews.
- 100-5 The comment asks if the Draft EIR discloses cumulative impacts associated with point source and non-point source air pollution. Please see Draft EIR pages IV.C-15 and IV.C-16 for a discussion of the cumulative impacts related to criteria air pollutants.
- 100-6 The comment asks whether there would be impacts to recovering aquatic and terrestrial ecosystems. Please see responses to comments 13-4, 88-9, and 88-10, which discuss potential impacts to wildlife.
- 100-7 The comment questions the effects of the project on hydrologic functioning and natural drainage. For further discussion regarding the cumulative effects on drainage, please see responses to comments 87-5 and 88-6.

100-8 The comment expresses concern regarding the proposed project's impacts on existing retail businesses and jobs and wages. Please see Master Response 1, under "Jobs / Wages Impacts" and "Potential Local Store Closures."

100-9 The comment questions whether the Draft EIR requires mitigation measures to be in place for 10 years.

The Draft EIR does not make any requirements regarding mitigation measures. Pursuant to CEQA, the EIR is required to identify mitigation measures for the proposed project. The City Council would require the implementation of mitigation measures and a monitoring program for a period of time that it determines appropriate.

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Jennifer Knight

Address: P.O. Box 283

E-mail: instructorknight@yahoo.com

I am opposed to the Marina Center Project on Eureka's Balloon Tract.

I often have to drive through Eureka and the increased traffic will affect the quality of life here. When I ride my bike into town, its a challenge already. The increased traffic this project will generate will overwhelm our infrastructure.

101-1

This project will put local businesses in peril and cause many to close. Additionally, Mervyn's, Gottshocks and Restoration Hardware have all folded. Home Depot is closing stores nationwide. It's not economically viable to open a Home Depot as the Project's "Anchor" business.

101-2

I miss Roberts and many other ^{local} businesses that have closed!

Finally, the area is zoned as light industrial. Let's promote local industry to keep the money in our communities and not see it flow out to corporate headquarters elsewhere.

101-3

Signed: Jennifer Knight

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Clean up the site first!

Then we will have a better idea how to utilize the site.

101-4

Please don't "CAP" the

Letter 101: Jennifer Knight

101-1 The comment expresses concern that increased traffic would affect quality of life.

The proposed project's potential impacts to traffic circulation and bicycle safety are discussed in Chapter IV.O, Transportation. As stated on Draft EIR page IV.O-42 under Impact O-1, with the exception of one intersection, the identified mitigation measures would reduce the potential impacts of the Marina Center project's increase in traffic to less-than-significant-levels. As stated on Draft EIR page IV.O-48 under Impact O-7, with the implementation of the proposed measures, the potential for the proposed project to conflict with adopted policies, plans, or programs supporting alternative transportation is less than significant.

101-2 The comment expresses concern that the proposed project would put existing businesses out of business. Please see Master Response 1, under "Vacancy in the City of Eureka" and "Potential Local Store Closures."

101-3 The comment supporting local industrial development is noted. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI of the Draft EIR.

101-4 The comment states that the project site should be cleaned up prior to construction. The comment is noted. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

Comment Letter 102

Sidnie Olson

From: Melanie Kuhnel [melanie@kuhnel.com]
Sent: Saturday, January 31, 2009 4:43 PM
To: DEIRcomments
Subject: Marina Center Comments

Attachments: Marina Center.doc



Marina Center.doc (45 KB)

Attached are my comments on the Marina Center EIR.

Thank you for the opportunity to comment.

Melanie

5-634

Comment Letter 102

February 2, 2009

To: Sidnie Olson
From: Melanie Kuhnel
Subject: Marina Center Environmental Impact Report

While I understand that the owner of the Balloon Tract has spent considerable amount of money in its purchase and in the work done there so far, and needs to recoup expenses in the development of the property, the size and placement of this piece of land are important to all the citizens of Eureka and it is important that the development is the best fit for both the owner and the citizens of Eureka, a not so easy task. It is within the context of believing this project should represent the overall public interest and not improperly impact regular citizens I submit these comments.

A. Aesthetics

My comment below is in reference to A-1.

This project is on the bay, an extremely important resource for Eureka as it develops as a tourist attraction in the coming years. I am concerned that the size of the parking lot and the buildings placed so close to the bay do affect the aesthetic values and thus the financial value of Eureka. The parking structure actually can be an attractive structure. Is it? However, a parking lot three times the size of the parking lot at Target will be an eyesore. How do you propose to mitigate this? I disagree with the conclusion reached in A-1: Have a substantial adverse effect on a scenic vista. Although some views of the bay from Highway 101 would be lost as a result of the project, the Marina Center project would, overall, augment public coastal viewing. This project does nothing to improve coastal viewing and the large parking lot will actual degrade views. I believe the only mitigation for this is to reduce the scale of the parking lot.

102-1

E. Cultural Resources

My comments below are applicable to E-2, E-4, and E-5.

Our Native American heritage should be important to all Americans. Two sites on the property have been identified as important Wiyot Villages. Because of the uses of the site after the Native Americans were removed, they cannot be precisely located. The owner plans to have an archaeologist on site while bulldozing is occurring. This will not allow for the careful identification of artifacts and probable burial sites. The sites should be located and a strategy to deal with the findings developed before construction begins. Why is this important job not being done? I strongly recommend examination of the site take place to further accomplish these identifications before any work is allowed to begin.

102-2

Comment Letter 102

Comment Letter 102

G. Hazards and Hazardous Materials

My comments relate to Items G-1 and G-2.

The restoration of the wetlands will be a wonderful improvement to the area. However, for the health of the bay and future health of the wildlife: birds, fish and animals, the toxics should be removed completely from the site, not just the ones mentioned in the report but all the toxics that exist. This is being done in other sites in California. These toxics are leaking into the bay and will until they are cleaned up. They make the site undesirable for some uses and will continue to do so. Why is this not being done here? I believe that simply allowing the RWQCB to determine what constitutes adequate clean-up is not sufficient. A 100% removal of all toxic materials on the site is what should be required. Anything else is simply not in the public interest.

102-3

M. Public Services

M-6: When combined with other foreseeable development in the vicinity, result in adverse cumulative impacts to the provision of public services. *The development of the project and other projects in the vicinity would be incremental and would not trigger the need for the expansion of public services facilities or directly and adversely affect response times for police, fire and emergency medical services. Furthermore, all projects would be required to comply with all fire code standards, incorporate police department recommendations after project review, contribute a fair-share payment for student impact fees, and provide publicly accessible open spaces.*

102-4

Mitigation: None Recommended Less-than-Significant

My comment below relates to M-6, above.

Malls across the country need city services commensurate with the type of businesses that are there and the size of the mall. Some of these services are water, sewers, police and fire protection. While it appears Eureka has adequate water and sewer systems for expansion, we currently need additional fire and police protection. The additional needs for the Marina Center for these services was not addressed in the EIR. The costs should be identified or the degradation of already stretched services to the city residents should be listed and mitigation described.

O. Transportation

Comments below are in reference to O-1 and O-2.

Traffic has been increasing in Eureka in the last few years. 15,000 additional trips a day would place an incredible burden on our already crowded streets. These numbers would cause non-stop bumper-to-bumper traffic in one lane on Broadway during peak hours. These cars will stack up behind lights and cause monumental traffic jams. To alleviate this, there will be more traffic in the residential areas and make neighborhoods less

102-5

hospitable and lower property values. How will you mitigate this? Should the railroad achieve its potential of 100 trips a day, the exit on Waterfront drive will be effectively closed much of the time. How will you mitigate this? It is very different to simply provide for a right-of-way for a railroad, as opposed to addressing the actual impact of running trains in this corridor, which this study does not do. It is difficult to comment on specific items in this section because the consultant report on which it is based is so inadequate. But the failure to adequately address the impact of this project on local streets and to address the cumulative impacts of traffic makes this section nearly worthless, and I strongly believe this entire section should be redone, and the public allowed an opportunity to comment on this revised study. Finally, even with this being an inadequate study, all evidence points to the impact on both Highway 101 (4th and 5th, and Broadway), and impact on the city streets being unacceptable. Therefore the only practical mitigation is to revise the project so dramatically fewer trips are generated. This probably means changing the mix of retail and other uses, and reducing the number of parking spaces by a substantial amount.

102-5 cont.

102-6

102-7

P. Urban Decay

My comments below relate to the following two items.

P-1: Result in urban decay in the Retail Trade area. *The proposed project and its associated infrastructure improvements would eliminate the conditions for urban decay.*

Mitigation: None Recommended Less-than-Significant

P-2: In conjunction with other development, result in urban decay in the area. *While a competing general merchandise and home improvement store in Fortuna would divert sales from Eureka, there does not appear to be any cumulative impact from the project and other proposed or approved projects that would result in physical deterioration considered prevalent and substantial in the community.*

Mitigation: None Recommended Less-than-Significant

I strongly dispute both these conclusions. There is no doubt that there will be cheaper goods and services at the chain stores that are proposed for the Marina Center. And some shoppers do not mind the inferior quality that often comes with these products. However, the effect on our current local stores will be disastrous. When the Bayshore Mall opened, eighteen stores closed in the Business District. Currently there are over 100 empty stores in Eureka and 25 in the Bayshore Mall. An earlier study done for the city when WalMart was considering building a store on this same site stated in part that a store that targeted one shopping area such as home improvement would create more disastrous cuts than other types of businesses. How will you mitigate the lost jobs, the empty store fronts and parking lots, the broken windows, graffiti, etc. that will come to our Old Town, Business District, Malls, and Henderson Center from additional closed businesses?

102-8

Both the conclusions reached are therefore faulty. The project will result in urban decay (P1), and there is a cumulative impact from the project and other proposed or approved

5-635

Comment Letter 102

projects such as Forster-Gill and the McKay tract projects proposed in the county that will result in “physical deterioration considered prevalent and substantial in the community”, which is the opposite of what is asserted in P-2.

↑ 102-8
cont.

Alternatives

Chapter V of this EIR purports to analyze a range of reasonable alternatives to the proposed project. It states after considering many possible alternatives, four alternatives to the project were analyzed in detail in this Draft EIR. These were: a No Project, Marina Center Reduced Foot Print, Light Industrial Zoning, and Off-Site Shoreline Property.

This is not an acceptable range of alternatives. For example, in the Marina Center Reduced Foot Print the housing and museum are removed, in Off-Site Shoreline Property the site is changed. One acceptable alternative for a Marina Center Reduced Foot Print should include downsizing retail. This would help reduce this possible impact of many of the problems I identified above – excessive traffic, ugly parking lots, and urban decay. Why has such an alternative not been identified?

102-9

Thank you for your consideration of my comments.

Letter 102: Melanie Kuhnel

102-1 The comment's opinion of the preliminary project renderings, specifically related to the proposed parking structure, is noted. As discussed on page IV.A-16 of the Draft EIR, the proposed project would augment coastal views, by providing trails along the edges of the restored Clark Slough, which would provide opportunities for viewing Humboldt Bay. Additionally, amenities along the trail would include benches and other street furniture. Furthermore, the proposed project would create pedestrian activity on the site, which in of itself would increase opportunities for waterfront viewing. View corridors through the project site from the Fourth Street extension, between the proposed buildings along Waterfront Drive, and from the proposed multi-use trail along Waterfront Drive would all augment coastal views. Finally, as stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

102-2 The comment expresses concern about the potential for Wiyot villages to be beneath the project site. Implementation of a subsurface archaeological survey program would help determine whether significant archaeological sites exist in the project area. Please also see Master Response 9, which discusses the changes to the mitigation measures to enhance archaeological investigation.

102-3 The comment states all contaminants should be completely removed from the project site. The comment is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, as well as its relationship to wetlands restoration on the property, please see Master Response 4 and new Appendix S, which discuss excavation and removal of soil where there are hot spots of contaminants.

102-4 The comment states that the City of Eureka needs increased fire and police protection. As stated on Draft EIR pages IV.M-5 through IV.M-12, the proposed project would result in less-than-significant impacts to police and fire services. Please also see response to comment 16-178 and Master Response 1 regarding the funding of police and fire protection services.

102-5 The comment relates to increased traffic. Please see the responses to comments 31-1 and 32-9, which discuss that traffic would increase with or without the proposed project, that projected future levels of service that would be acceptable, and the methodology that selected study intersections.

Please also see response to comment 52-18. There are no current plans to increase rail service to 100 trains per day. This level of rail service is therefore not considered a

cumulative project under CEQA, and the EIR need not evaluate such a hypothetical and speculative project.

- 102-6 The comment states that the traffic report fails to adequately address the proposed project's impact on local streets.

Please see response to comment 52-23, which discusses why some local streets are not studied in detail, as well as 32-9, which describes how intersections are chosen for detailed analysis.

- 102-7 The comment states that the only acceptable mitigation measure to reduce traffic-related impacts is to reduce the project size so fewer trips would be generated.

The Draft EIR's analysis shows that after implementation of the identified mitigation measures, all intersections on U.S. 101 in the project area would operate acceptably (i.e., without adverse congestion). All other intersections in the study area would similarly operate acceptably, except the intersection of Koster Street and Wabash Avenue. The relative impacts of a Reduced Project Alternative are discussed in Chapter VI, Alternatives.

- 102-8 The comment states disagreement with Impact P-1 and Impact P-2, which determined that the proposed project would result in a less-than-significant impact to urban decay. The comment states that impacts to local stores would be disastrous.

Please see Master Response 1, under "Vacancy in the City of Eureka," "The Effect of the Bayshore Mall on Local Businesses," "Potential Local Store Closures," and "New Recessionary Conditions," as well as under "The 1999 Bay Area Economics (BAE) Report" regarding a proposed Wal-Mart Store in Eureka. The conclusions reached in the Draft EIR regarding urban decay, and responses to numerous comments questioning the urban decay analyses, are further detailed in these sections.

- 102-9 The comment regarding the range of alternatives is noted.

Please see Chapter VI, Alternatives, as well as responses to comments 16-239 and 16-242, which discuss what range of alternatives is considered reasonable and why not every iteration of uses at the project site must be explored.

As stated in Chapter VI, Alternatives, alternatives selected for evaluation should meet the basic project objectives, which include the creation of a destination retail center. As detailed in Chapter VI, of the 24 alternatives screened for detailed analysis, 18 of them met most of the basic objectives of the project. However, only the Reduced Footprint Alternative, Limited Industrial Zoning Alternative, and the Shoreline Property Alternative are also determined to be feasible and would either avoid or substantially lessen at least one significant impact. Please also see to response to comment 16-9 regarding a No Large Retail Alternative.

Comment Letter 103

Sidnie Olson

From: Ron Kuhnel [ron@kuhnel.com]
Sent: Saturday, January 31, 2009 5:05 PM
To: DEIRcomments
Subject: Comments on the Draft EIR for the Marina Center

Attachments: Transportation Element of the Marina Center EIR.doc



Transportation Element of the ...

Attached are my signed comments on the Draft EIR for the Marina Center. While prepared as a member of the Transportation Safety Commission, these comments are my own.

Best regards,

Ron Kuhnel
Member
Transportation Safety Commission

5-639

Comment Letter 103

January 31, 2009

Sidnie L. Olson, AICP
Principal Planner
City of Eureka
Community Development Department
531 K Street
Eureka, CA 95501-1165

I am writing as a Transportation Safety Commissioner to comment on the Transportation Element of the Marina Center EIR, Section O.

Comments 1-4 below are in reference to O-1

O-1: Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections). Project-generated traffic, absent mitigation, would degrade level of service at six intersections: Broadway at Wabash/Fairfield, Koster at Wabash, Fourth Street at C Street, 5th Street at C Street, Broadway at Hawthorne, and Broadway at Henderson. Under 2010 conditions, the Koster/Wabash intersection is expected to operate at LOS during the p.m. peak hour, and the project trips are anticipated to result in more than 5 seconds of additional delay. In addition, average speeds on Broadway would be reduced with the addition of project traffic.

Comment 1: There is a serious question regarding the adequacy of the baseline traffic on which projections are made. The 2007 data was taken at a time of minimum expected traffic flow, and field observations made by driving this route today suggest a very different level of congestion than what is presented in the EIR. 103-1

Comment 2: The "improvements" suggested for Broadway to improve traffic flow are inadequate, and will result in a seriously degraded level of service, and divert traffic on to residential streets such as Washington without consideration of that impact on the neighborhood. 103-2

Comment 3: There is inadequate consideration for pedestrian safety on Broadway and expected pedestrian conflicts at the redesigned intersections at Wabash, Henderson, and Harris. 103-3

Comment 4: The impact of the project on bicycle traffic on Broadway, and Sixth and Seventh streets is inadequately considered. 103-4

Comments 5 - 6 are related to O-2.

O-2: Exceed, either individually or cumulatively, a level of service standard established

Comment Letter 103

Comment Letter 103

by the county congestion management agency for designated roads or highways.
Humboldt County has not established a county congestion management agency. Therefore, there are no levels of service standards established by such an agency. None Recommended. Less-than-Significant

Comment 5. I disagree that the lack of a *county congestion management agency* relieves the project applicant of the responsibility of addressing both cumulative impact and local impact. The cumulate impact of traffic congestion should be addressed, including such proposed activities as Forster-Gill and the McKay Tract in the County, and the proposed Super Safeway on Harris. 103-5

Comment 6. The expected diversion of traffic onto City arterials and connectors has also not been addressed. This is a very serious deficiency as traffic congestion on Broadway can be expected to substantially alter traffic patterns on such streets as Harris, Wabash, E, F, G, H, I, and Harrison. This increased traffic could result in significant degradation of neighborhood qualities, pedestrian safety, bicycle safety, and negatively impact proposed traffic calming measures in the City of Eureka currently under consideration by the Transportation Safety Commission. Modeling tools currently available for simulating these impacts have not been deployed in this study. 103-6

Comment 7 addresses O-4.

O-4: Substantially increase hazards due to design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). *While the higher traffic volumes generated by the proposed project would increase the potential for safety conflicts, it is not expected that project traffic would increase the accident rate itself. After implementation of identified mitigation measures, all but one of the study intersections would operate at acceptable levels of service and would be expected to reduce accidents by about 15 percent.*

See Mitigation Measures O-1a through O-1k. Less-than-Significant

Comment 7: It is somewhat disingenuous to suggest that traffic congestion is expected to reduce the number of accidents. There is no credible data in the supporting documentation to support this contention. It seems equally likely that accidents will increase, by more rear end collisions caused by stop-and-go traffic at "rush hour" and collisions with vehicles entering or attempting to cross from un-signalized intersections or driveways. 103-7

Overall Comment:

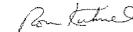
In general I find the transportation study done for this project by the consultant to be incomplete in regards to impact on pedestrians, bicycles, and impact on local neighborhoods. No simulation has been done on the impact on local arterials, connectors, and streets. I feel quite strongly this portion of the EIR should be re-done to correct these deficiencies. 103-8

Even if you were to accept the general conclusion reached by this incompletely done study, it seems abundantly clear only one possible mitigation measures exists to reduce the environmental impact to an acceptable level. That is to modify the project itself to reduce the traffic generated. This will require developing a revised alternative that substantially reduces the number of motor vehicle trips. Whether these trips are directly related to the number of parking spaces is not something I can comment on, but it is clear a different mix of uses would be the best way to accomplish this. With a reduced number of trips, and a better and more comprehensive study, to show a less onerous impact on pedestrians, bicycles, and local neighborhoods we might have a basis for concluding the environmental impact is acceptably mitigated. Until then we have a proposed project that is clearly unacceptable in both study methodology and environmental impact. 103-9

I would therefore ask that as a very minimum that additional studies dealing with 1) cumulative impact and 2) impact on pedestrians, bicycles, and local neighborhoods be done using a simulation that shows the impact on local arterials, connectors, and streets be accomplished and this be re-circulated.. Anything else is inadequate to allow sufficient analysis.

Thank you for the opportunity to comment on the EIR.

Sincerely,



Ron Kuhnel
Member
Transportation Safety Commission
City of Eureka
1604 G ST
Eureka, CA 95501

5-640

Letter 103: Ron Kuhnel

103-1 The comment questions the adequacy of baseline traffic data. Please see response to comment 66-7, which explains the methodology used to determine baseline traffic conditions.

103-2 The comment states that mitigation measures identified for Broadway would be inadequate and result in degraded levels of service, as well as divert traffic onto residential streets

Please see responses to comments 31-1, 32-9, 38-4, 40-2, and 49-1.

- Response to comment 31-1 addresses traffic conditions on Broadway, which would become more congested with or without the proposed project.
- Response to comment 32-9 addresses traffic impacts on two nearby streets, Sixth Street and Seventh Street.
- Response to comment 38-4 addresses traffic impacts to other nearby streets, Henderson and Harris Street.
- Response to comment 40-2 addresses traffic impacts to Waterfront Drive and Railroad Avenue.
- Response to comment 49-1 addresses levels of service at intersections on Broadway.

103-3 The comment states that there is an inadequate concern for pedestrian safety in the Draft EIR. Please see response to comment 33-3, which addresses how pedestrian improvements in the proposed project and mitigation measures would increase pedestrian safety over existing conditions.

103-4 The comment states that the bike traffic on Sixth Street, Seventh Street, and Broadway is inadequately considered. Please see response to comment 33-3, which iterates that there would be no significant impact to bike routes on these streets.

103-5 The comment appears to state that the Draft EIR claims that the lack of a county congestion management agency relieves the Lead Agency of analysis of cumulative impacts.

The traffic impact analysis includes cumulative growth. As stated in Draft EIR Chapter IV.O, project mitigations identified in the Draft EIR would enable continued operation of Broadway at LOS D or better through 2025, assuming both the Marina Center project and future traffic growth resulting from other expected developments in the County.

103-6 The comment states that the diversion of traffic onto city arterials and connectors has not been addressed.

Please see response to comment 32-9, which discusses diversion of traffic. Please also see Master Response 7, which describes the trip distribution for the proposed project.

- 103-7 The comment states that it is disingenuous of the Draft EIR to claim that increased congestion would reduce accidents.

The expected smaller number of accidents would not be the result of lower speed as the comment seems to suggest. Instead, it would result from the proposed mitigation measures, such as signal coordination and improvements to the design and operation of existing signals. (Draft EIR, page IV.O-18.) There is no statement in the Draft EIR that lower speeds would contribute to a reduction in the number of accidents.

- 103-8 The comment reiterates previous comments about the traffic impact study. The comment states that no simulation has been done on the impact to local arterials, connectors, and streets, and states that there is incomplete analysis in regards to pedestrians, bicycles, and the impact on local neighborhoods.

Please see responses to comments 33-3 and 32-9. Response to comment 33-3 explains bicycle and pedestrian improvements and the benefits of implementing mitigation measures. Response to comment 32-9 discusses diversion of traffic.

- 103-9 The comment reiterates an earlier comment that the only way to mitigate traffic impacts to less-than-significant levels is to reduce the size of the proposed project. The comment states that the entire traffic study is unacceptable.

Please see responses to comments 31-1, 32-9, 33-3, 38-4, 40-2, 49-1, 49-2, and 66-7.

- Response to comment 31-1 addresses traffic conditions on Broadway, which would become more congested with or without the proposed project.
- Response to comment 32-9 addresses traffic impacts on two nearby streets, Sixth Street and Seventh Street.
- Response to comment 33-3 addresses pedestrian and bicycle circulation.
- Response to comment 38-4 addresses traffic impacts to other nearby streets, Henderson and Harris Street.
- Response to comment 40-2 addresses traffic impacts to Waterfront Drive and Railroad Avenue.
- Response to comment 49-1 addresses levels of service at intersections on Broadway.
- Response to comment 49-2 addresses accident reduction, and
- Response to comment 66-7 addresses data collection and baseline determination methodologies.

5-643

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): JAMES LAMPORT

Address: 867 B REDWOOD DR. / GARBERVILLE, CA 95542

E-mail: _____

HAZARDOUS MATERIALS SECTION:

- INADEQUATE CHARACTERIZATION & QUANTIFICATION OF CONTAMINANTS

104-1

- INADEQUATE CONSIDERATION OF ALTERNATIVES, e.g. REMEDIATION PLANNED FOR NEARBY FORMER SIMPSON PLYWOOD MILL SITE.

104-2

AIR QUALITY SECTION:

- NO CONSIDERATION OF ENHANCED PUBLIC TRANSIT, TO REDUCE NUMBER OF VEHICLE TRIPS

104-3

Signed: *James Lamport*

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): JAMES LAMPORT

Address: 867 B REDWOOD DR. / GARBERVILLE, CA 95542

E-mail: _____

CULTURAL RESOURCES:

WIIYOT VILLAGE SITES & OTHER RESOURCES MUST BE ACCURATELY IDENTIFIED BEFORE ANY CONSTRUCTION IS DONE.

104-4

Signed: *James Lamport*

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Letter 104: James Lamport

104-1 The comment states that the Draft EIR has an inadequate characterization and quantification of contaminants. The characterization and quantification of contaminants are discussed in Chapter IV.G. For further discussion regarding the remedial action plans for the proposed project and levels of contaminants, please see Master Response 4 and new Appendix S.

104-2 The comment states that the alternatives analysis is inadequate because it did not consider remediation of the nearby former Simpson Plywood site. The contamination of the former Simpson Plywood site is an existing condition and is not part of the proposed project, and therefore the Draft EIR does not evaluate remediation at that site.

For further discussion regarding the remedial action plans for the proposed project, please see Master Response 4 of this document. Alternatives to the proposed project, including uses similar to those suggested, are discussed in Chapter VI. Ten off-site alternative locations are analyzed. Although these 10 locations do not include the former Simpson Plywood Mill site, a reasonable range of off-site locations are screened for analysis in the Draft EIR.

104-3 The comment indicates that the Draft EIR gave no consideration to enhanced forms of public transit to reduce traffic trips and associated emissions. For mitigation measures that would require transportation management programs designed to reduce traffic congestion, and automobile use in the vicinity of the project, please see Mitigation Measure C-2a on Draft EIR page IV.C-14 and IV.C-15.

104-4 The comment states that the potential Wiyot villages beneath the project site must be accurately identified prior to any construction. Please see responses to comment 69-1, 69-6, and 69-10, as well as Master Response 9 for revised Mitigation Measures E-2a and E-2b, which address Wiyot village identification.

Sidnie Olson

From: Neal Latt [neallatt@hotmail.com]
Sent: Saturday, January 31, 2009 9:40 PM
To: DEIRcomments
Subject: Marina Center project/comments by Neal Latt

Dear Ms. Olson,

While I count myself among the majority of Eurekans who would like to see the Balloon Track parcel cleaned up and put to its highest best use, I cannot support the Marina Center project in its current incarnation as presented in the Draft Environmental Impact Report. Here's why:

1) The traffic study is flawed insofar as it does not take into specific consideration the impact to residential Eureka neighborhoods from traffic that will inevitably divert itself from the Broadway/4th/5th corridor to an alternative route through Eureka. Specifically, I am referring to: 1) northbound, traffic from the 101 that would take Harris Street north to I or S/West/V Streets, bypassing the Marina Center Broadway bottleneck, and 2) southbound, traffic from the 101 that takes V/West/S, H or E Streets to Henderson, seeking to bypass said bottleneck. Please understand that this will be the inevitable result of building a large retail-centric project like the Marina Center on a "hot" corner of town that already is already overwhelmed by traffic. It will have a profound negative effect on our residential neighborhoods that lie in proximity to these potential bypass routes, bringing additional traffic to currently sleeper sections of town in which our children often play in the streets; and in this way, lowering our overall quality of life. I am not willing to trade our current residential peace and quiet in exchange for the development of the Balloon Track.

105-1

2) The Urban Decay section bases its analysis on flawed numbers that appear erroneous and out-of-date, and without attribution: a 4% commercial vacancy rate? That number is easily refuted just driving around Eureka for an hour - one can count 150 commercial vacancies or so currently within city limits. What is the source, and where is the data, for the 4% statistic? Does this 4% statistic take into account the time periods that immediately followed the completion of similar projects (i.e. the Bayshore Mall, the Eureka Mall, etc.) that from the standpoint of comparable analysis, stand to shed the most light on the impact of this type of project (that is, creating a whole new significant retail area in Eureka)?

105-2

3) The urban decay section also omits salient data from the study commissioned by the City of Eureka in 1999 for the proposed Wal-Mart on the site by the firm Bay Area Economics. This report, using comparative studies of retail behavior (including "leakage"), showed that a large-scale home improvement center, like the Home Depot being proposed, stood to inflict the most damage on existing businesses, employment and sales tax revenue, if sited on that location (the Balloon Track). Here is the complete report: http://www.saveeurekawaterfront.org/files/BAE.pdf

105-3

The urban decay chapter, if it is to have any degree of accuracy or credibility, must be re-worked to reflect the fact that Humboldt County is already "over-retailed" for a county of its population (approx. 130,000) and growth (less than 2%, behind state averages). The figures that the Marina Center DEIR uses for job and sales tax "creation" to support its project are highly speculative and in direct contradiction to the BAE findings from less than ten years ago, during which time Humboldt County showed comparable growth, income, population and retail spending data.

105-4

4) The No Project Alternative used extremely speculative and unconvincing data from a Water Quality Regional Board staffer to project that No Project on the site would result in filled wetlands as a part of the site cleanup. I find this contention unlikely, as it contradicts California state law

105-5

5-645

that prohibits net loss of existing wetland habitat in the course of cleanup or development, particularly in the coastal zone.

105-5 cont.

5) Finally, the current NCRA plan to reconstitute the railroad (running up to 1000 rail cars a day across Waterfront Drive in at least two locations) was not taken into specific account in the existing Marina Center DEIR traffic study, thereby significantly impacting its accuracy. How will the projected running of the railroad (and the volume of rail cars it would require to achieve profitability), impact the exiting of all Marina Center traffic (average 15,000+ car trips/day, as per the DEIR) onto Waterfront Drive, and its relation to all other traffic flows?

105-6

Thank you for considering these comments.

Neal Latt
2839 D Street
Eureka, CA 95501
445-1942

Hotmail@ goes where you go. On a PC, on the Web, on your phone. See how.

Letter 105: Neal Latt

105-1 The comment states that the traffic study is flawed because it does not take into account the impact to Eureka neighborhoods from diverted traffic. Please see responses to comments 32-9, 38-4, and 40-2.

- Response to comment 32-9 addresses traffic impacts on two nearby streets, Sixth Street and Seventh Street.
- Response to comment 38-4 addresses traffic impacts to other nearby streets, Henderson and Harris Street.
- Response to comment 40-2 addresses traffic impacts to Waterfront Drive and Railroad Avenue.

Please also see Master Response 7, which discussed the trip distribution for the proposed project.

105-2 The comment disputes the vacancy rate cited in the Draft EIR and questions whether the periods immediately after the opening of regional malls are taken into account.

Please see Master Response 1, under “Vacancy in the City of Eureka,” as well as under “The Effect of the Bayshore Mall on Local Businesses.” Even after re-evaluating the proposed project and its economic effects in light of the current economic downturn, while the vacancy rates might be slightly higher now than they were when the City published the Draft EIR, the conclusions about the project’s possible economic effects remain true, and the project is not anticipated to result in any urban blight.

105-3 The comment states that the Draft EIR urban decay analysis omits the findings of a previous report prepared for a different project.

Please see Master Response 1, under “New Recessionary Conditions,” as well as under “The 1999 Bay Area Economics (BAE) Report” regarding a proposed Wal-Mart Store in Eureka. Note that the previous report is almost 10 years old. It was for a different proposed project (big box only) at a different time in the retail market.

105-4 The comment suggests that Humboldt County is oversaturated with retail services and that the urban decay analysis should reflect that. The comment also questions the tax and job creation numbers found in the urban decay analysis.

Please see Master Response 1, under “Jobs / Wages Impacts” and “Potential Local Store Closures.” The Draft EIR’s analysis and conclusions about urban decay remain accurate.

105-5 The comment disagrees with the characterization of the No Project Alternative as inclusive of site cleanup.

To be thorough, the discussion of the No Project Alternative on pages VI-19 and VI-19 includes two scenarios. First, it states that even if the Regional Water Quality Control Board (RWQCB) issues a revised Clean Up & Abatement Order and the Project Applicant is required to remediate the site pursuant to the revised Order, it is possible that the wetlands onsite would be filled whether or not the City approves the proposed project. The Draft EIR, page VI-19, also conservatively includes and evaluates a second scenario—that if the RWQCB does not issue a revised Order, the filling of wetlands would not occur and the contamination would remain in situ. By evaluating both scenarios, the Draft EIR provides an accurate and adequate analysis of the No Project Alternative and how the No Project Alternative compares with the proposed project. It should be noted that since publication of the Draft EIR, the RWQCB has conditionally approved a Supplemental Interim Remedial Action Plan (SIRAP) under the existing Order, which is Phase 1 of the proposed project but could be implemented independent of the Marina Center development. The remediation activities contained in the SIRAP would necessitate the filling and disturbance of wetlands on the project site.

- 105-6 The comment questions how the proposed project would relate to reactivation of the railroad right-of-way.

The Draft EIR (Impact O-7, page IV.O-45, and Mitigation Measures O-7a, O-7b and O-7c, page IV.O-47) identifies and mitigates the potential safety and access concerns that would exist if a freight or passenger line were to operate along the western property boundary under project development.

5-648

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): DVANE B. LEAL

Address: 1538 HARRISON AVE EUREKA, CA. 95501

E-mail: _____

A large convention center on the Balloon track would improve the area and bring jobs. The convention center can receive buses and light rail electric service such as San Diego says. It can also serve as a transit center. A Big Box store would be a ruination of the entire area. It would cause Grid Lock.

106-1

106-2

Signed: *Dvane B. Leal*

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): DVANE B. LEAL

Address: 1538 HARRISON AVE EUREKA, CA. 95501

E-mail: _____

this land in the future can be used to store light rail electric cars to alleviate traffic in Humboldt County. This would help the environment by reducing air pollution and traffic. Restoration of the Railroad yard would ensure Eureka as a economic a financial Hub in Humboldt County creating much needed infrastructure

106-3

Signed: *Dvane B. Leal*

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Letter 106: Duane Leal

- 106-1 The comment recommending alternative uses at the project site is noted. Please see responses to comments 16-9, 16-239, and 16-242, which discuss that the Draft EIR includes a reasonable range of alternatives. An alternative containing uses similar to those described could be the Convention Center Alternative.
- 106-2 The comment recommending alternative uses at the project site is noted. Please see responses to comments 16-9, 16-239, and 16-242, which discuss that the Draft EIR includes a reasonable range of alternatives. An alternative containing uses similar to those described could be the Intermodal Bus Terminal Alternative.
- 106-3 The comment recommending alternative uses at the project site is noted. Please see responses to comments 16-9, 16-239, and 16-242, which discuss that the Draft EIR includes a reasonable range of alternatives. An alternative containing uses similar to those described could be the Intermodal Bus Terminal Alternative or the Limited Industrial Zoning Alternative, both of which are considered in the Alternatives Chapter of the Draft EIR.

Sidnie Olson

From: Brett Lee [brett.lee.d@gmail.com]
Sent: Friday, January 30, 2009 4:07 PM
To: DEIRcomments
Subject: Marina Center DEIR comments

Prior uses of the "balloon tract" dates back to the late 1800's when there were no environmental regulations. This is cause for much concern because this area was used for chemical storage like diesel fuel, Bunker C oil, solvents, gasoline and probably many other automotive related chemicals. The DEIR identifies two sites from old pictures that were believed to be oil disposal pits. There are only four monitoring wells currently used to test the groundwater over this very large area. I believe there should be more detection than that to protect the workers who will have initial contact with the ground and chemicals believed to be contained within it. My question is why are there only four groundwater monitoring wells on such a large area believed to have held toxic materials? Also, old pictures are not exact science and can be misleading so was there any other information used to decide where to test groundwater?

107-1

107-2

The DEIR mentions that hydrocarbons, copper, lead and arsenic were found and are the primary concern with this project. It also mentions other chemicals found in the area but not a list of what the soil and water was tested for. Recently Humboldt Baykeeper did onsite sampling of soils, sediments and fish. They found dioxins and furans in all of the samples and no one seems to know where they originated from. The DEIR mentions past tests that found these but does not say how much or what will be done to find the source. So, I would like to know if you specifically did any tests to confirm what the Humboldt Baykeeper found and what the concentrations were? Chemical tests should be done for more than just the chemicals believed to be there based on information of past businesses and operations on the site. Also, old pictures are not a good indicator of where chemicals may have been spilled nor what they were.

107-3

107-4

107-5

Also the tests that were done and used in the DEIR did not specify levels, but rather, just that

107-6

they are at safe levels or not. I believe that the public should have access to the actual data so we can look it over for accuracy and information purposes. Our right to information is very important if we are going to uphold CEQA and aid in helping others make responsible decisions. So, I would like to know why the data was not contained within the DEIR and where it could be found?

107-6
cont.

Sincerely,

Brett Lee

5-650

Letter 107: Brett Lee

- 107-1 The comment states that there should be more site investigations performed at the project site. The comment is noted.

Please see Master Response 4 and new Appendix S for more information on site contamination history and remediation planning. The Regional Water Quality Control Board is the Lead Agency for reviewing and approving site monitoring assessment, and cleanup.

- 107-2 The comment questions what information, aside from photographs, was used to decide where to test for groundwater.

In addition to historic photographs, any other information available (e.g., written reports) is also typically consulted.

- 107-3 The comment questions for what chemicals the soil and groundwater were tested aside from those listed in the Draft EIR.

For further discussion regarding contamination, please see Master Response 4 and Appendix S, which detail the other chemicals tested for and results of site investigations to date.

- 107-4 The comment asks whether any tests were conducted by the Project Applicant to verify the Humboldt Baykeeper's findings.

For further discussion regarding site contamination history and the Remedial Action Plan for the proposed project, please see Master Response 4.

- 107-5 The comment stating that old pictures of the project site are not a good indicator of where what has been spilled where is noted.

- 107-6 The comment states that the Draft EIR does not provide information regarding the specific levels of contaminants, but instead only states whether the levels are safe.

For further information regarding site contamination issues, please see Master Response 4, which addresses the levels of contaminants at the project site.

Sidnie Olson

From: Matt L'Herogan [lherogan@att.net]
Sent: Saturday, January 31, 2009 8:33 PM
To: DEIRcomments
Subject: Marina Center DEIR

Please accept the following comments.

The City of Eureka Community Development Zoning Map posted at http://www.eurekaweb.com/cityhall/commdev/docs/zoning_map_24x36.pdf clearly shows the lack of publicly zoned land available for development of outdoor recreation activities for the families of the northwest or Clark Street area of Eureka.

As is clear from Figure ES.2. of the Humboldt County General Plan Health Impact Assessment (HCPPHIA), the residents of that area of Eureka encompassing the western end of Old Town, and the waterfront and Clark Street neighborhoods south to at least Wabash Street reside in an area with large numbers of youth living in poverty who are more than 500 meters from a park. The HCPPHIA also states that:

People without access to cars (low income residents, seniors, children) need to be able to access parks by walking or biking.

In addition, the California Outdoor Recreation Planning Program report published in 2005 details the health and social benefits of outdoor recreation which include reductions in obesity and the risks of heart disease, diabetes, cancer and osteoporosis and reduced levels of depression and stress, as well as reducing crime and uniting families.

The planning map available on the City of Eureka website shows that the only land within reasonable walking distance to the residents of the previously mentioned under-served area that is both large enough to include an outdoor recreational facility, and is zoned public, is the area under consideration for the Marina Center project.

Given these factors, a significant indirect and long-term effect of the proposed Marina Center project is the loss of the only feasible location for an outdoor recreation facility for an already disadvantaged and under-served population in the city. I respectfully submit the following questions:

1. How can the recreation section of the draft EIR be considered comprehensive or complete when the people of the neighborhood completely lack nearby outdoor recreational opportunities and that is never mentioned in the draft EIR?

2. How can findings of less than significant impact be made in the area of recreation when the project would mean the loss of the last available publicly zoned land that is large enough for group sports and other outdoor activities for northwest Eureka?

3. What is the likelihood of future outdoor recreational development for this area if the only appropriate land is given over to retail development?

Thank you.

Matt L'Herogan
3004 N Street
Eureka, CA 95501

108-1

108-2

108-3

108-4

Letter 108: Matt L'Herogen

- 108-1 The comment states that an effect of the proposed project is a loss of land zoned for public use that could be a recreational facility. The comment is noted.

As stated on Draft EIR page IV.N-1, there are approximately 148 acres of neighborhood and community parks in the City of Eureka, as well as other recreational facilities. Given the historical industrial land uses on the eastern waterfront, public parks and playgrounds were not developed in the area.

Neighborhood parks are intended to serve residents living within one-half to three-quarters of a mile away. The nearest neighborhood park to the project site is Hammond Park and Playground, which is 0.7 miles away via W Washington Street, C Street, Grant Street, and E Street. Hammond Park is 1.4 acres and includes a playground, basketball courts, a t-ball practice backstop, and open space and turf areas. In addition to these facilities, the proposed project would include an 11.89-acre wetland reserve, which would provide passive recreational opportunities for area residents.

As stated on Draft EIR pages IV.N-2 through IV.N-4, the proposed project would have a less-than-significant impact on recreational facilities. It would not affect the existing ratio of park space per 1,000 residents, it would expand recreational opportunities through the construction of the pedestrian and bicycle path and wetland, and is located in an area adequately served by existing regional, community, and neighborhood parks.

In addition, please see Master Response 3, which lists the permitted uses that could be developed at the project site pursuant to existing zoning. Almost all of the uses are not recreational uses. Therefore, it is speculative to assume that maintenance of the existing zoning would have resulted in public open space.

- 108-2 The comment questions how the Draft EIR can be considered complete if people of the neighborhood lack nearby outdoor recreational opportunities and this fact is not presented in the Draft EIR.

As stated on Draft EIR page IV.N-1, there are approximately 148 acres of neighborhood and community parks in the City of Eureka, as well as other recreational facilities. Given the historical industrial land uses on the eastern waterfront, public parks and playgrounds were not developed in the area.

Neighborhood parks are intended to serve residents living within one-half to three-quarters of a mile away. The nearest neighborhood park to the project site is Hammond Park and Playground, which is 0.7 miles away via W Washington Street, C Street, Grant Street, and E Street. Hammond Park is 1.4 acres and includes a playground, basketball courts, a t-ball practice backstop, and open space and turf areas.

Community parks generally serve the needs of residents within three-quarters to 2 miles away. The nearest community park is the Eureka Marina, directly across Waterfront Drive from the project site. The Marina includes a waterfront walkway for passive recreation and enjoyment of the waterfront.

The nearest public plaza to the project site is the Clark Plaza, at Third Street and E Street, 0.4 miles of the project site. It includes benches and a landscaped area.

- 108-3 The comment asks how a determination of a less-than-significant impact to recreational resources can be made when the proposed project would result in a loss of land zoned for public use.

Please see response to comment 108-1, which addresses nearby recreational facilities and the uses permitted under public zoning.

- 108-4 The comment asks what the likelihood is of future outdoor recreational development at the project site if the land is given over to retail development.

Recreational uses are permitted under both existing and proposed zoning designations. Please see Master Response 3 for further discussion of permitted uses. The proposed passive recreation and resource restoration and enhancement area would be conditionally permitted used in the area of the project site proposed for a Conservation Water District (WC) land use. Park recreational space would not be permitted in others areas of the project site, and would therefore only be permitted pursuant to another Local Coastal Program land use designation amendment and a rezoning.

Sidnie Olson

From: Paul Lohse [auroracalidris@hotmail.com]
Sent: Tuesday, January 27, 2009 10:40 PM
To: DEIRcomments

Simulated views of a future strip mall sure do look ugly in comparison to a field of weeds and weedy grasses. How is a bunch of buildings going to maintain or enhance views as stated in the eir. What if the project alternative enhanced the existing wetlands, created and refuge for wildlife, including people, and kept some sort of nautical industry that the city of Eureka could be proud of. We don't need another strip mall importing goods from China, creating more neo-liberalism and exacerbating more climate change. We need to change our ways not keep more of the same ever-increasing-until-one-day-finally-it-must-collapse economy. Over a hundred vacant retail spaces already exist within a couple miles of the proposed development yet the city which once was fairly self-sufficient continues to promote policies which destroy its local businesses, environment, local culture and innovation. The eir pretends that there is only a 5% vacancy in retail space. What a lie? Mistake? Looking only at what you want to look at??

Another alternative would be to declare eminent domain and give the land back to the Wiyot as mitigation for the harm and destruction of their culture. The eir wants only to have a surveyor of cultural resources on hand at the time of construction---this is unacceptable. For the eir to be approved testing should be done now---before any work begins---to see if there are any cultural resources in the area. Only till that testing is done and the Wiyot Tribe is satisfied and we all know what is there should any proposal on what to do with the land be looked at.

The transportation part of the eir is also disturbing. Many people walk to town from the Clark district. I included. It is already dangerous and especially for cyclist. More traffic in an area which is already bottlenecked is going to mean more accidents. Its going to cost the people of Eureka a lot of money in time lost to driving and gas spent idling at lights. I think the numbers in the eir are bogus. Its going to only take twenty seconds longer one way and a little over a minute longer the other way during peak times, Are you kidding? Is Caltrans going to expand fourth and fifth to four lanes? Or will that make the bypass developers have always wanted inevitable? Don't turn the Humboldt Bay area into another Santa Rosa.

Something not at all addressed in the eir and lied about is the Clark district "known for late 19th century and early 20th century homes, interspersed with newer apartment buildings". I happen to reside in the Clark district and although there are some older homes of historic value, I know it more for its empty lots, abandoned motels, vacant closed schools and buildings, burned down houses; and although the apartments buildings are not turn of the century, no one would call them newer, if they weren't deceiving or trying to give people the wrong idea. The Clark district is inhabited mostly by the poor. Many people without cars. Many people with disability. Many people who walk to get food or to go to old town to the thrift stores or get services. The needs of these people go without address in the eir. When does gentrification of the neighborhood begin? Why doesn't the city put money into rebuilding this neighborhood, letting the poor people stay and giving them something to live for other than harrassment and treating people as unwanted?

Developments such as the Marina Center are made to look good and profitable for the people. In general everything about them is a facade. Just look at the pictures of the wild grasses, nothing fake about them at all. Next to the ugly side of a new strip mall, even the Rays billboard looks picturesque, ahh Humboldt.

Sincerely,

Paul Lohse

329 Clark

Eureka

5-655

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Paul Lohse

Address: 329 Clark

E-mail: _____

The draft EIR contains many inadequacies. Diokins not address. Air quality is a joke, the govt has let the people down in the past. We don't need any more pollutants entering our air give us a break. The EIR transportation numbers are lies. This is going to cause the beginning of traffic nightmares AS other development occurs. Go back to SANTA ROSA!!! This land should be saved for industrial use. We need to stop ~~importing~~ ^{re-creating} selling imported from China in big box and start making things our own & big box store.

Signed: Paul Lohse

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

109-1
109-2
109-3
109-4

109-5
109-6
109-7
109-8
109-9
109-10
109-11
109-12
109-13

Letter 109: Paul Lohse

109-1 The comment states that the Draft EIR contains inadequacies and that dioxins and air quality are not addressed.

For further discussion regarding the existing site contamination and the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S. Air Quality is analyzed in Chapter IV.C.

109-2 The comment states that the transportation analysis is full of lies. The comment is noted. The methodologies for each analysis are described in each chapter. The transportation analysis methodologies are also reviewed by Caltrans.

109-3 The comment directs the Project Applicant to go back to Santa Rosa and suggests alternative uses for the project site. The Project Applicant is a member of the Eureka community, not the Santa Rosa community. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI.

109-4 The comment states that the view of the bay would be ruined by a big box store. Comment is noted. As stated in Chapter IV.A, the proposed project would have a less-than-significant impact on views of the bay.

109-5 The comment states that the project renderings are ugly. The comment is noted.

As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

109-6 The comment suggests alternative uses for the project site. Chapter VI, Alternatives, details each alternative considered for analysis. The Coastal Dependent Industrial Zoning and Wetlands Restoration and Public Park alternatives are screened out from further analysis because they either do not lessen at least one significant impact, do not meet the project objectives, or are not feasible.

109-7 The comment states that the Draft EIR “pretends” there is only a five percent vacancy rate in the City. The Draft EIR is based on facts available at the time of its preparation. Please see also Master Response 1, which includes an updated discussion of the vacancy rate.

109-8 The comment suggests an alternative involving eminent domain and transfer of the property to the Wiyot Tribe. The comment is noted, although CEQA requires an analysis of the proposed project and a reasonable range of alternatives. The course of action

described does not fall within the reasonable range of alternatives because (1) the Lead Agency does not own the project site and (2) the actions would not meet the basic objectives of the project.

109-9 The comment states that archaeological testing should be done prior to any construction activity. The comment is noted. Please see Master Response 9, which details updated mitigation measures related to archaeological resources.

109-10 The comment states that the transportation analysis numbers are lies and that the project would result in traffic safety problems. The comment is noted but respectfully disagreed with.

109-11 The comment states that the Draft EIR fails to discuss the historic value of older homes along Clark Street.

While a number of older homes along Clark Street were constructed in the late nineteenth and twentieth centuries, this area is not in a designated historic district, and is located some distance (approximately 0.5 mile east) from the project site. Due to the distance between the project site and the homes on Clark Street, as well as the amount of intervening development, it is not anticipated that the proposed project would have a significant impacts on historic resources, were any identified along Clark Street.

109-12 The comment states that the needs of the people are not addressed in the EIR and suggests that the City put money into rebuilding the neighborhood. The comments are noted. The Draft EIR addresses impact categories defined by CEQA Guidelines. Funding of neighborhood revitalization beyond the project site is outside the scope of the EIR.

109-13 The comment about the renderings of the proposed project are noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

Comment Letter 110
Page 1 of 2

Comment Letter 110
Page 2 of 2

Sidnie Olson

From: Trisha Lee [trishale@sonic.net]
Sent: Thursday, January 29, 2009 3:36 PM
To: DEIRcomments
Cc: Trisha Lee
Subject: 1-29-09 Address DEIR Marina Center

Dear Sidnie L. Olson,
Please send me receipt that you received these comments regarding the Marina Center.
Thank you,
Trisha Shade Lotus
trishale@sonic.net

From:
Patricia Shade Lotus
2425 C Street
Eureka, CA 95501
707-476-0173
trishale@sonic.net

RE: Marina Center and Home Depot project
January 29, 2009

To:
City of Eureka
Community Development Department
Attn: Sidnie L. Olson, AICP, Principal Planner
531 K St
Eureka, CA 95501
707-441-4265

Questions to address the DEIR of Marina Center

- 1. Would the project expose the public to toxic materials through the open water ditch for storm water that empties into the bay? [110-1]
- 2. Would the project conflict with the Eureka General Plan or any LCP or ordinance protecting wet lands? [110-2]
- 3. Would the project comply with Gen, Plan P6. A6-6A7 and 6.A8? [110-3]
- 4. Would the project comply with State and Federal laws to have a full clean up of the site from toxics? [110-4]
- 5. Would the project impact the 150 foot Rail Right of Way and how would that be solved if the Rail Road will not sell the property? [110-5]
- 6. Will the project be allowed to be rezoned before the environmental clean up is completed? [110-6]

- 7. Would the project interfere with the public Trust titles on the NCRA rail road properties in the balloon track [110-7]
- 8. What is the criteria for determining the safe environmental clean up levels versus technically clean standards? [110-8]
- 9. What effect does tidal action have on the seepage of toxic materials from the project site to the bay? [110-9]
- 10. What are the likely and potential effects of liquefaction due to seismic activity on the movement of toxics laterally and vertically in the ground from this project? [110-10]
- 11. Would the project allow NCRA to retain the full right of way through the project to operate the Rail Road [110-11]
- 12. Would the project expose the city to a long and protracted legal challenge for the taking of NCRA Property resulting in future loss of business. [110-12]
- 13. Would the project cause an economic impact to the community by having a Big Box Retail business on this project? [110-13]
- 14. Will the project do a study to address the job base effect on the existing business with in a 20 mile radius of this project. [110-14]
- 15 Will the project develop a Economic Impact Assessment for new and old retail business in the city as a result of this project.? [110-15]
- 16. Will the project first do a study for the Native American people since artifacts have been found on site, in order to identify findings, and will you allow for Native American people to state their desired wishes and have your cooperation for exploring these findings with a cultural study and whatever they deem necessary. [110-16]

5-658

Letter 110: Tricia Shade Lotus

- 110-1 The comment asks whether the proposed project would expose the public to toxic materials.

There would be no exposure to the public of any toxic contamination. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and to Appendix S.

- 110-2 The comment questions whether the proposed project would be consistent with the Eureka General Plan or the Local Coastal Program. The proposed project's consistency with applicable policies is discussed under Impact I-2, beginning on page IV.I-13.

- 110-3 The comment asks whether the proposed project would be consistent with General Plan policies 6.A.6, 6.A.7, and 6.A.8. The proposed project's consistency with General Plan policies 6.A.6, 6.A.7, and 6.A.8 is discussed in pages IV.I-54 and IV.I-55 in Table IV.I-2.

- 110-4 The comment questions whether the proposed project would comply with state and federal law regarding the cleanup of toxics.

Yes, the project would do so. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

- 110-5 The comment asks if the project would impact the 150' railroad right of way and, if so, how would that be resolved if the railroad will not sell the property.

Other than the railroad crossing, which is addressed in Chapter IV.O of the Draft EIR, the project is not expected to adversely impact the railroad right of way. Therefore, no further mitigation or right-of-way acquisition is required for the project.

- 110-6 The comment asks whether the project could be rezoned prior to environmental cleanup. Yes, properties are permitted to be rezoned prior to hazardous materials remediation. However, construction and occupancy of properties first requires that hazardous materials are remediated to appropriate levels.

- 110-7 The comment asks whether the project would interfere with the public trust titles on the NCRA railroad properties within the project site.

The comment is unclear as to what it refers to with regards to "public trust titles on the NCRA railroad properties" within the project site. The North Coast Railroad Authority (NCRA), a state agency, owns a non-exclusive easement along the western edge of the project site. The easement area varies in width, but is generally 150 feet wide and 1,000 feet long. Fee title to the underlying property is held by the Project Applicant, CUE VI. There are remnant tracks still within the easement area, but it is not in use and

has not been for years. The easement and the availability of the area for future railway uses would be preserved with the proposed project.

Whatever occurs with the easement, and as explained in response to comment 8-1, the State also claims title to or a public trust easement over a portion of the project site, though the extent of that claim is unclear. The Project Applicant, City, and State Lands Commission are continuing to resolve the extent of the State's claim through a negotiated title settlement. Even if the area within NCRA's easement is impressed with a public trust easement, however, the remediation and restoration would be consistent with that easement and the area should remain unaffected by the proposed development. But while the public trust may be a title question, it is not a CEQA issue, as there are a host of public trust uses – such as maritime industrial uses – that would have adverse environmental consequences far and above the proposed project. To the extent there are other public trust resource values at issue, Chapter IV of the Draft EIR (e.g., Biological Resources and Hydrology & Water Quality) already address the project's environmental effects.

- 110-8 The comment asks what the criteria are for safe environmental cleanup levels versus technically clean standards.

The comment makes a distinction where none exists. Regulatory agencies would require cleanup to meet technical standards for cleanup, and those standards are considered safe by the regulatory agencies.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

- 110-9 The comment asks what effect tidal action has on seepage of toxic materials into the Bay.

For further discussion regarding contaminant levels and their relationship to groundwater and tidal influence, please see Master Response 4, which addresses subsurface chemical migration.

- 110-10 The comment questions what the impacts would be on toxic contamination due to liquefaction during a seismic event.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 of this document.

Please also see response to comment 16-35 for discussion of liquefaction hazards at the project site. Also note that the contamination present at the project site is an existing condition and was not or would not be caused by the proposed project.

- 110-11 The comment asks whether the project would allow NCRA to retain the full right of way along the project to operate the railroad.

NCRA owns a non-exclusive easement along the western boundary of the project site. Should NCRA wish to renew operations within that easement, NCRA would have sufficient easement to do so. It should be noted, however, that the easement is currently not in use, and there are no concrete plans to use it in the foreseeable future.

- 110-12 The comment repeats the question made earlier in the comment letter regarding the railroad right-of-way. Please see response to comment 110-5.
- 110-13 The comment asks whether the proposed project would have an “economic impact” to the community. It is unclear what is meant by “economic impact” in relation to CEQA. However, an urban decay analysis is provided in Chapter IV.P. Please also see Master Response 1, which answers specific comments made on the Draft EIR in relation to the urban decay analysis.
- 110-14 The comment asks whether the proposed project would do a study to address the “job base effect” on existing businesses within a 20-mile radius of the proposed project. Please see Master Response 1, under “Jobs / Wages Impacts.”
- 110-15 The comment asks whether the project would develop a Economic Impact Assessment for new and old retail businesses in the city as a result of the project. It is unclear what is meant by an Economic Impact Assessment in relation to CEQA. However, an urban decay analysis is provided in Chapter IV.P. Please also see Master Response 1.
- 110-16 The comment asks whether the project would first do a study for Native American people of the project site.

As noted in the Draft EIR page IV.E-16, no archaeological materials associated with the Wiyot ethnographic village sites were found during the surface survey conducted by Roscoe et al. (2006). However, ethnographic evidence indicates that two village sites may be located within the project area. Implementation of a subsurface survey program would help determine whether archaeological materials are located within the predetermined culturally-sensitive areas. Please also see Master Response 9, which includes updated mitigation measures for archaeological investigation.

Sidnie Olson

From: Jeffrey Lytle [jlcdesignbuilders@sbcglobal.net]
Sent: Saturday, January 31, 2009 5:07 PM
To: Sidnie Olson
Subject: DEIR Marina Center comments due by end of Saturday - 01/31/09

Hello Miss Olson,

just a few comments,

#1. Make sure the mitigated signage is enforced. Allowing more signage and advertising "after the fact" is blightful, as well as, often encroaching within landscaped areas and sidewalks. I drive often enough in the County's multiple jurisdictions and have increasingly noticed businesses putting out "saw horse" style signs on and within the sidewalk zones which is a violation of many standards which affect pedestrian ingress and egress. Further, site visibilities are obstructed when considering tight turns and corners and how they tie into the type and category of the public roadways dedicated to the City through mitigated Public Works standards. The obstructions also include utility pedestals and trees/large plants and bushes between 0 and 6 feet in height.

111-1

#2. The parking lot tiers need to have landscaping, concrete or other barriers at ALL parking lot separations to eliminate the "cutting through" and "speeding" of motorists/shoppers/residents/guests/ etc... through multiple zones trying to get from "point A to point B" as quickly as possible rather than driving through the defined routes and internal access roadways.. The current parking lot design induces and encourages speeding and road course racing.

111-2

#3. A clearly worded agreement for garbage collection, garbage pick-up, cart and basket pick-up, etc... needs to be drafted by the city and enforced to eliminate public and private nuisances within and outside the project area due to the impacts of stranded and run-away carts and baskets.

111-3

#4. These businesses' employees who wander off of the actual business location to stand in the middle of the sidewalk, or other areas off the business location/address, needs to be nipped in the bud. It is a violation of the business certificate among many things as the only place to do business for a particular business is that specific business address. This is another nuisance issue.

111-4

#5. It is not very logical to be mixing in residential with commercial and industrial uses, as basic California Real-Estate laws covering "planning and zoning" clearly define that such intermixing is not recommended as it causes both public and private nuisances.

111-5

#6. I have observed many other comments that seem to be fair. I know your job can be confounding; however, the "after the fact" impacts must be controlled through a disclaimer agreement with the developer and individual business in perpetuity (meaning that all businesses, whether now or at a later date) demanding that they follow the rules; and, that if new problems come up, that they, as a business and land owner, will be subject to updated regulations regardless of this development process' current mitigated conditions. All too often, the circumventions and usurpation of mitigated conditions occur again, after the fact, which creates nuisances.

111-6

In ending, you have noticed that what has been stated is really connected to the "after the fact" impacts; and, not so much the design (except for parking lots/substructure accessories). It is true that garbage and

111-7

blight are the two main problems that can make your work seem devalued because the development looks "run down" after the "initial opening" and "first site usages" by the general public.

↑ 111-7
cont.

Also, Thank You for spending the time with me over the phone a few years ago after Target opened up and the garbage collection was terrible - as much garbage was stuck by wind to the chain link fence abutting S/B Hwy 101 at the slough entering Eureka. Good Luck the rest of the way.

Jeffrey Lytle
McKinleyville - 5th District

5-662

Letter 111: Jeffrey Lytle

- 111-1 The comment urges the City to ensure that mitigated signage is enforced and that site street furniture is held to Public Works standards.

The City Council would require the implementation of mitigation measures as a condition of project approval. Also, as stated on Draft EIR page IV.O-19, Caltrans must be involved in and approve the planning and design of all improvements involving state highway facilities.

- 111-2 The comment states that the parking lot tiers must have landscaping and barriers to eliminate cutting through and speeding by motorists.

As described on page III-13 of the Draft EIR, the proposed project would include approximately 1,590 parking spaces, 462 of which would be housed in the proposed four-story parking structure. A visual simulation of the proposed parking garage is depicted in Figure IV.A-4b. The parking garage would be designed to accommodate adequate circulation and be subject to approval by the City.

- 111-3 The comment is concerned about enforceable agreements to address stranded and run-away carts and baskets.

It is unclear whether the comment is raising an issue about existing carts and baskets from nearby businesses, or whether the comment is concerned about long-term maintenance of the project site once tenants are in place. This appears to be an existing condition or a code enforcement issue for the City, and not necessarily an adverse environmental effect of the project. Thus, no further response is necessary.

- 111-4 The comment complains that business employees who wander off the actual business location to stand in the middle of the sidewalk should be nipped in the bud, is a violation of the business certificate, and is a nuisance.

It is unclear from the comment whether the comment is complaining about existing business employees or individuals who are expected to be employed by retailers within the project once it is constructed. This appears to be an existing condition or a code enforcement issue for the City, and not necessarily an adverse environmental effect of the project. In any event, it would be infeasible for the project or project EIR to control the individual behavior of future business employees. Thus, no further response is necessary.

- 111-5 The comment regarding the mix of uses in the proposed project is noted. Mixed-use developments require more coordination and planning to minimize or avoid nuisances, which can be achieved through performance standards on industrial uses, appropriate traffic circulation plans, and adherence to the California Building Code.

- 111-6 The comment appears to be concerned with after the fact impacts associated with businesses and landowners not following the rules and creating nuisances.

It is unclear from the comment what rules may be at issue. Business and land owners are required to follow the law and remain consistent with City codes where applicable. To the extent that a future business owner or land owner does not follow the law, particularly where it results in creating a public nuisance, the proper redress is through code enforcement either as a citizen or through the City's code enforcement process.

- 111-7 The comment regarding the appearance of the project site during operation is noted. The Project Applicant is committed to maintaining a clean and orderly development, with appropriate maintenance.

Sidnie Olson

From: Lena or Al [foggybeach@gmail.com]
Sent: Wednesday, December 03, 2008 9:29 AM
To: DEIRcomments
Subject: Don't Add to Traffic Congestion and Overpopulation

This comment concerns the proposed development of the "Balloon Track" area of Eureka.

Ten years ago we moved here from the Bay Area to avoid traffic congestion, parking problems, long lines and stressed residents. Here we found a total absence of traffic jams, easy parking, no lines at banks and stores, and friendly relaxed people. During the ten short years we've been here, we've seen a slow progression towards the overcrowding of the place we left. That is, we now see more traffic jams, parking can sometimes be a bit hard to find, and we see more stressed-out people (for example, more tailgaters and aggressive drivers).

Granted, the distinction between the quality of life here and that of the Bay Area is still dramatic. However, based on the trend we've seen, Eureka is headed down a road that ends in the typical overcrowded urban pressure cooker existence common in so many cities. Spend some time in a semi-urban area, and think about whether that's what you want for Eureka. It may take 20 years for this area to resemble Oakland, but if that isn't the vision you have for the future of our area, the time to act is now.

If you make improvements to the area, you'll just be inviting more disaffected people from overpopulated areas to move here.

112-1

My recommendations: Clean up the site. If that's too expensive, just leave it alone. These are the changes that will result in the best quality of life for this area's residents.

112-2

Thank you,

Al Macy

Letter 112: Al Macy

112-1 The comment suggests that the project would attract new residents to the area. Chapter IV.L of the Draft EIR estimated the project would generate net population impact growth of 122 new residents at the project site. The analysis also considered the other foreseeable future development and development trends for the area. The analysis concluded in Impact L-4 that the project-related population growth would have a less-than-significant impact on local population and housing conditions.

112-2 The comment suggests that the project site be cleaned up. The comment is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and to Appendix S.

Comment Letter 113

Comment Letter 113

Sidnie Olson

E-mail: tgmacc@gmail.com

From: Sidnie Olson
Sent: Friday, January 30, 2009 4:30 PM
To: DEIRComments
Subject: FW: Citizen Comment Form

From: Pam Powell
Sent: Friday, January 30, 2009 4:20 PM
To: Sidnie Olson
Subject: FW: Citizen Comment Form

Pam Powell
Assistant to the City Manager
-----Original Message-----
From: tgmacc@gmail.com [mailto:tgmacc@gmail.com]
Sent: Friday, January 30, 2009 3:56 PM
To: Pam Powell
Subject: Citizen Comment Form

This was recieved from the Citizen Comment Form

Comment: RE: Marina Center Draft EIR

Dear City of Eureka and Honorable Council Members:

5-667

I am not a city resident, but have worked in Eureka since 1975. I believe strongly that the Marina Center would be an inappropriate use of this property. It conflicts with the current zoning, and we do not need any more big box stores and the increased resulting traffic. The traffic on Broadway during several times of day is already congested, and a Home Depot and residences there would exacerbate the problem.

113-1
113-2

One reason that the current recession has not had as big a negative impact on our county's workforce may be because we have smaller, local stores here. It's my opinion that if the Marina Center goes forward, more locally-owned stores will be unable to compete with the lower prices and they will go bankrupt.

113-3

Two additional issues are that the toxic waste and cultural artifacts on this property have not been thoroughly explored.

113-4

Please consider a more appropriate use of this property, such as an RV park, skating rink, and other tourist-related places.

113-5

Thank you for considering my opinion.

Name: Teresa MacClelland

Address: 2723 Skyline Drive

City: Eureka

Zip: 95503

Phone: 445-3391

Letter 113: Teresa MacClelland

- 113-1 The comment states that the proposed project would conflict with current zoning and be an inappropriate use for the property. The comment is noted.

As stated in Chapter III, Project Description, the proposed project would require rezoning and other approvals. The Draft EIR therefore acknowledges that land use designations changes would be required. Please see Master Responses 3 and 5 regarding uses in the coastal zone.

- 113-2 The comment states that traffic on Broadway is already congested several times per day and that the proposed project would exacerbate the problem. The comment is noted.

The Draft EIR's analysis shows that after implementation of the identified mitigation measures, all intersections on U.S. 101 in the project area would operate acceptably (i.e., without adverse congestion).

- 113-3 The comment states that the proposed project would cause local stores to go bankrupt. Please see Master Response 1, under "Potential Local Store Closures."

- 113-4 The comment states that toxic waste and cultural resources on the property have not been thoroughly explored.

Please see Master Response 4 and new Appendix S regarding site investigations and the remediation action plan. Please also see Master Response 9 for revised Mitigation Measures E2a and E2b, which address archaeological resource surveys.

- 113-5 The comment suggesting other uses for the property is noted.

Please see responses to comments 16-9, 16-239, and 16-242, which explain that the Draft EIR includes a reasonable range of alternatives. Alternatives containing uses similar to those described could be the Tourism Use Alternative and the Covered Swimming Pool Alternative considered in Chapter V of the Draft EIR.

Sidnie Olson

From: Pam Powell
Sent: Monday, January 26, 2009 9:39 AM
To: Sidnie Olson
Subject: FW: Citizen Comment Form

For the EIR

Pam Powell
Assistant to the City Manager

-----Original Message-----

From: tagsecond@yahoo.com [mailto:tagsecond@yahoo.com]
Sent: Sunday, January 25, 2009 2:49 PM
To: Pam Powell
Subject: Citizen Comment Form

This was recieved from the Citizen Comment Form

Comment: I reside in McKinleyville and work in Eureka. I shop in Eureka. I would like to offer my support for the new Arkley development. The opposition to this development insists that we should keep it local but I believe the lack of competition forces all of us to accept lesser service and higher prices. There are no listings on Restaurant.com for any Eureka businesses. When I shop Old Town for clothing, while I like some of what I find, I wonder who could afford to buy more than an item or two a year there. We need choices. Thank you for your attention.

114-1
114-2

Name: Gloria Masterson

Address: 1900 Pickett

City: McKinleyville

Zip: 95519

E-mail: tagsecond@yahoo.com

Letter 114: Gloria Masterson

114-1 The comment in support of the proposed project is noted.

114-2 The comment states that greater and more affordable retail choices are needed in Downtown Eureka. The comment is noted.

Sidnie Olson

From: Gary [g.mather@yahoo.com]
Sent: Thursday, January 29, 2009 10:51 AM
To: DEIRcomments
Subject: Marina Center development

Hello, I would like to give my opinion in regards to the Marina Center development, I think it is a bad idea for the city of Eureka, County of Humboldt and the residents.

First, I believe this would close the doors for a lot of local merchants who spend their money and raise their families here, and in these trying times are just managing to stay open.

115-1

Secondly, This proposed area could be a beautiful place with businesses and park like walks that would attract people to this area for the beauty of the main town "EUREKA!" as the saying goes "we found it!" .

115-2

Tourists are a large income for our area, and would it not be wise to make our city more pleasing to them? after all when they return home photos are shared and what do we have here if not a beautiful area?

Third, In this area we have many older Victorian homes, and a more diverse culture than most other areas in California, we all know that Home Depot only stocks what it sells many of! If it drives out our other established hardware stores where do we go to get those unusual parts and pieces for upkeep of our Victorian and craftsman homes? What when Home Depot finally goes out of business! we are then left with a huge ugly building next to our beautiful bay and many of our local businesses have closed their doors!

115-3

Please stop this project from ruining our waterfront and the quality of life in our area.
G Mather (Humboldt co. resident since 1980)

Letter 115: Gary Mather

- 115-1 The comment states that the proposed project would put local merchants out of business. Please see Master Response 1, under “Potential Local Store Closures.”
- 115-2 The comment proposing alternative uses for the project site is noted. Alternatives to the proposed project, some of which include the uses suggested, are discussed in Chapter VI.
- 115-3 The comment asks what would happen if local hardware stores are put out of business in relation to the unique products needed for restoration / maintenance of Victorian homes. Please see Master Response 1, specifically “Potential Local Store Closures.” It is beyond the scope of CEQA to analyze whether the proposed project would meet all of the specific retail needs of Victorian building restoration and maintenance.

The comment also asks what would happen with the project site if the anchor tenant goes out of business and implies that the community would then not be served by retail. The proposed project includes a large anchor tenant that, like all large anchor tenants, is a business. It is beyond the scope of CEQA or the capability of the Lead Agency to determine if and when such a business would close.

Related to both points above, however, the economic rules of supply and demand generally show that if a known demand exists for a good or service, a business or entrepreneur would seek to fill that need to make a profit. Therefore, it is unlikely that the City of Eureka’s retail demands would remain unfulfilled.

The argument implies, however, that new retail establishments should not be constructed because those businesses would someday cease and they would permanently leave behind vacant buildings. This comment ignores the ongoing reality of retrofitting buildings’ fixtures and layouts for new retail tenants or other allowed uses to move in—a process that has occurred continually over many years.

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Janine Melzer

Address: P.O. Box 676 Bayside 373 Indianola Rd Bayside 95521

E-mail: jmelzer2012@aol.com

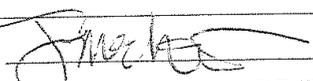
RECEIVED
FEB 02 2009
DEPT. OF
COMMUNITY DEVELOPMENT

Please include in the traffic study for the proposed Marina Center on Eureka's Balloon Tract all the neighborhoods nearby. The impact of the proposed site's daily traffic has not been adequately addressed in the DEIR.

116-1

Please also address the significant amount of additional pollution (air and run-off from rain) that would result from the proposed development - this needs closer scrutiny, a more detailed approach. Thank you.

116-2

Signed: 

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Letter 116: Janine Melzer

116-1 The comment requests that the traffic study include all the neighborhoods nearby and that the impact of traffic has not been adequately addressed in the Draft EIR. The comment is noted.

Please see response to comment 31-1, which states that the 33 percent increase in traffic on U.S. 101 will occur with or without the project, but that mitigation measures would reduce most impacts to less-than-significant levels. Please also see response to comment 32-9, which addresses traffic impacts on two nearby streets.

116-2 The comment requesting more detailed air and water quality analyses is noted.

Potential impacts to air quality are discussed in Chapter IV.C of the Draft EIR. Potential impacts to water quality are discussed in Chapter IV.H. In addition, potential impacts related to hazardous materials are discussed in Chapter IV.G. Please also see Master Response 4. The comment does not specifically address what methodologies or level of detail would better address impacts related to additional pollution. However, the question of whether analyses are considered thorough is ultimately determined by the Lead Agency.

1-5

2-5

TO: EUREKA CITY COUNCIL
FROM: PAMELA MILLER
DATE: JANUARY 30, 2009
RE: MARINA CENTER PROJECT DEIR

RECEIVED
JAN 30 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Please accept the following for the public comment section of the MARINA CENTER DEIR:

1. Legacy toxic contamination must be removed not "capped" from identified parcels before accepting any proposals for the site(s). 117-1

2. Previous violations of the Clean Water Act and Resources Conservation and Recovery Act must be prosecuted in the public trust. 117-2

3. Make no zoning/land use changes especially Public (P) designated parcels until brownfield leaching has ceased. 117-3

4. The City can partner with several public agencies and 117-4

non-profits to clean and restore areas of need. 117-4 cont.

5. Once contaminated areas have been restored the City can properly guide applicant(s) toward proposals more consistent with Eureka's General Plan and the Local Coastal Program. 117-5

6. Over the years Eureka has spent considerable time and money to "redevelop" the waterfront. The library is fabulous, Ingomar sits stately, the Adorni and aquatics building grace the shore. Crab pots and small docks blend in. The Old Town area is revitalized. The boardwalk and fisherman's terminal are slowly taking shape and should maintain 1st priority.

7. The five-story building, 4-level parking structure, 1000+ surface parking proposed in the DEIR is not a good for the sites. 117-6

5-675

3-5

4-5

8. An "upscale" gated community/mall complex does nothing to enhance public opportunity for coastal recreation required by California law. 117-7

9. There are meager visitor-serving commercial recreation facilities proposed over the entire 11 parcels of land and no analysis of coastal/preferred uses in the DEIR 117-8

10. The identity of 4 "anchor" stores and several retail options and the impact to local established businesses is lacking. 117-9

11. The Urban Decay element does not look at impacts to Bayshore Mall stores/jobs that might trade places or not survive. Then what do we do with with a defunct Bayshore Mall sitting on another piece of prime bay front. The City should revisit zoning/land use there so we 117-10
117-11

don't have to deal with another LNG proposal 117-11 cont.

12. An Alternatives Analysis is needed so the city can identify the environmentally superior alternative. An expanded museum concept (ie Museum of Modern Art art gallery, art studios), an aquarium, green surfboard manufacture, culinary school, community swimming pool, expanded wetland/tsunami absorption could be structured 117-12

13. To deem "less than significant potential environmental effect" the possible W. yot villages and burials beneath the project area is offensive and not acceptable 117-13

14. The Biological Resources, Cultural Resources, Hazardous Materials Urban Decay and Water Quality components need much more analysis 117-14

5-676

Comment Letter 117

5-5

15. The projects should be scaled back | 117-15

16. The City needs to look closely at 6 of the 11 parcels' zoning/land use proposed changes from limited industrial/light industrial to office & residential/professional office. | 117-16

17. There is no disaster mitigation plan | 117-17

5-677

380 Essey Lane
Arcata 95521

Letter 117: Pamela Miller

- 117-1 The comment stating that contamination must be removed from the project site and not capped is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S. Note that soil at contaminated hot spots at the project site would be excavated and removed prior to placement of clean cover material over the project site.

- 117-2 The comment states that previous violations of the Clean Air Act and the Resource Recovery Act must be prosecuted in the public trust. The comment is noted. The comment does not relate to the proposed project, so further response is not provided. Regarding public trust issues, please see response to comment 8-1.

- 117-3 The comment requesting that no zoning changes be made prior to the ceasing of brownfield leaching is noted.

Hazardous materials in the soils on the project site are discussed in Chapter IV.G-1 of the Draft EIR. Please also see Master Response 4 and new Appendix S, which discuss subsurface chemical migration.

- 117-4 The comment states that the City could partner with not-for-profit groups and other agencies to clean and restore the project site.

The EIR evaluates the potential environmental impacts of the proposed project. The course of action described, in which the City partners with other agencies and not-for-profit groups to clean up the project site, could be similar to the Wetland Restoration and Public Park alternative described in Chapter VI, Alternatives. This alternative is screened out of detailed analysis because it would not meet the basic objectives and is not feasible. The City Council is required to evaluate the project proposed by the Project Applicant in making decisions to grant the approvals and entitlements detailed on page III-17. As stated in Master Response 3, the City of Eureka does not own the project site.

- 117-5 The comment stating that the project site could be restored and then subject to proposals consistent with the General Plan and Local Coastal Program is noted.

It is beyond the scope and capability of this EIR and CEQA to analyze the environmental impacts of projects and plans not yet developed. The Lead Agency is required by CEQA to analyze the proposed project. Alternatives to the proposed project, some of which include the uses suggested, are discussed in Chapter VI.

- 117-6 The opinion of the preliminary project renderings of the parking garage is noted. As described on page III-13 of the Draft EIR, the proposed project would include approximately 1,590 parking spaces, 462 of which would be housed in the proposed four-

story parking structure. A visual simulation of the proposed parking garage is depicted in Figure IV.A-4b. The parking garage would be designed to accommodate adequate circulation and be subject to approval by the City.

- 117-7 The comment incorrectly states that the project is an upscale, gated community mall complex and that it does not enhance public opportunities for coastal recreation required by California law.

As stated on Draft EIR page III-14, the proposed project would include an 11.89-acre wetland reserve with a trail, which would provide passive recreational opportunities.

The proposed project does not propose any gates that would unfairly restrict access. To the contrary, development of the project would open up the site to the public.

- 117-8 The comment states that there would not be enough visitor-serving retail facilities over the 11-acre project site and that the Draft EIR does not include an analysis of coastal-preferred uses.

The proposed project includes a proposed wetland and associated passive seating areas and recreational trails. The EIR was prepared pursuant to CEQA guidelines, which require analysis of the proposed project and potential project alternatives. As stated on Table VI-2 on page VI-12, the Tourism Use Alternative is screened out of environmental analysis because it would not be economically viable. Please see Master Responses 3 and 5 for a discussion of land uses permitted under the Local Coastal Program and the California Coastal Commission.

- 117-9 The comment regarding the lack of identification of anchor stores is noted. CEQA does not in most cases require identification of specific tenants to assure an adequate environmental analysis.

- 117-10 The comment states that the urban decay analysis does not look at the potential impact to Bayshore Mall from the proposed project.

Please see Master Response 1, under “Potential Local Store Closures.”

- 117-11 The comment states that the City should revisit zoning and land use related to a previous development proposal, and the comment is within a discussion of Bayshore Mall. Please see Master Response 1 for a discussion of Bayshore Mall. The proposed project’s potential impacts related to Land Use and Planning are discussed in Chapter IV.I of the Draft EIR.

- 117-12 The comment requesting an alternatives analysis with specific museum uses is noted. An analysis of alternatives to the proposed project is provided in Chapter VI of the Draft EIR. Please see responses to comments 16-9, 16-239, and 16-242, which discuss that the Draft EIR provides a reasonable range of alternatives. Alternatives containing uses

similar to those described could be the Tourism Use Alternative, the Covered Swimming Pool Alternative, Convention Center Alternative, Wetlands Restoration and Public Park Alternative.

As stated on Draft EIR page VI-34, “the environmentally superior alternative is the No Project Alternative. When the No Project Alternative is the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives (CEQA Guidelines Section 15126.6[e][2]). The environmentally superior alternative among the other alternatives is the Marina Center Reduced Footprint Alternative.”

- 117-13 The comment states that the significance determinations in the Cultural Resources chapter are unacceptable in relation to Wiyot villages.

Impacts to Native American resources would be considered less than significant with implementation of revised Mitigation Measures E-2a and E-2b, include in Master Response 9. Additional investigations would be completed in consultation with the Wiyot tribe.

- 117-14 The comment states that various sections of the Draft EIR need much more analysis. The comment is noted. No specific points are made as to exactly which areas need further analysis, nor what each analysis is lacking, so the response cannot address particular perceived inadequacies.

- 117-15 The comment’s opinion of the project size is noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

- 117-16 The comment urging the City to look closely at the proposed rezoning is noted. The project entitlements and approvals are listed on pages III-17 and III-18 of the Draft EIR.

- 117-17 The comment states that there is no disaster mitigation plan.

The potential impacts of the project interfering with evacuation or emergency plans is discussed on page IV.G-25, Chapter 4. In addition, the potential for a tsunami hazard to impact the proposed project is discussed on page IV.H-22, Chapter 4. Mitigation Measure H-10a requires preparation of a tsunami Evacuation and Response Plan and Mitigation Measure H-10b also has requirements that minimize potential hazards of a tsunami event.

Comment Letter 118

Martin Mitchell
2105 14th Street
Eureka, California 95501

RECEIVED

JAN 30 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

January 30, 2009

Sidnie L. Olsen, Principal Planner
City of Eureka Community Development Department
531 K Street
Eureka, CA 95501

RE: Draft EIR for the Marina Center Project

Dear Ms. Olsen:

Regarding the subject project, I believe that it should not contain a "big box" store such as Home Depot, as this will put similar locally owned stores at risk or even out of business altogether. Also, most revenues from this national chain store are likely to leave the area.

118-1

Instead, I recommend the encouragement of local light industrial and retail developments involving the production of components for sustainable energy systems such as solar, wind, wave and biofuel production systems. Electric vehicles and the associated new lithium batteries could perhaps be produced here also. I strongly believe that a project objective should be to promote the city as a center for green industry, consistent with recent policy statements on creating sustainable development by our new president.

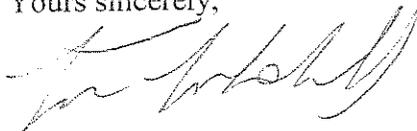
118-2

The project also should contain a large wetland and recreational park component, both to attract tourists and accommodate residents who wish to experience the unique environment of the Humboldt Bay area. Bicycle lanes and public transportation routes should be developed to serve the site, and reduce the proposed massive parking lot footprint.

118-3

Thank you for the opportunity to comment on this document.

Yours sincerely,



Martin Mitchell

Letter 118: Martin Mitchell

- 118-1 The comment stating that the proposed project should include no big box retail stores is noted.

Please see Master Response 1, under “National Stores vs. Local Stores” and “Potential Local Store Closures.”

- 118-2 The comment suggesting alternative uses for the project site is noted. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI of the Draft EIR.

- 118-3 The comment states that the proposed project should include a wetland and a recreational park component.

The proposed project would provide a wetland recreation area, as well as bike and pedestrian paths, to attract residents and tourists. As stated on Draft EIR pages III-13 and III-14, the proposed project would include pedestrian and bicycle paths, bike lanes, and an 11.89-acre wetland reserve. Also, as stated on Draft EIR page IV.O-5 and shown in Figure IV.O-2 on page IV.O-6, the proposed project is within walking distance of the Humboldt County Transit Authority Red, Gold, and Purple routes, as well as the Redwood Transit System routes. As stated in Mitigation Measure O-7d, the Project Applicant shall work with the Eureka Transit Authority to reinstate the bus stop at Koster and Washington Streets and improve the bus stop at Seventh and California Streets, including paying their fair share to enhance the amenities of the stop.

The proposed parking lots, which would contain 1,585 spaces, are estimated to meet the parking demand generated by the proposed project except during the month of December. The potential effects of a fewer parking spaces is explored as part of the Marina Reduced Footprint Alternative in Chapter VI, Alternatives. The Marina Reduced Footprint Alternative would include 1,351 parking spaces.

Comment Letter 119

Comment Letter 119

Sidnie Olson

From: JanePeep@aol.com
Sent: Saturday, January 31, 2009 4:44 PM
To: DEIRcomments
Subject: Fwd: Marina Center
Attachments: Marina Center

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

Sidnie Olson

From: JanePeep@aol.com
Sent: Saturday, January 31, 2009 4:40 PM
To: DEIRcomments@ci.eureka.gov
Subject: Marina Center

The artists renderings of the proposed marina center are hideous. If your going to build something at the marina in old town Eureka the architecture should be made to look like the charming Victorian sea port village that it is and not to look like an ugly strip mall from Los Angles.

119-1

I think the Marina center development on the balloon tract property is a big mistake! Why not utilize all the abandoned commercial spaces in our town for retail and or to house the homeless.

119-2

Jane Morgan
Eureka

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

5-683

Letter 119: Janet Morgan

- 119-1 The comment's opinion of the preliminary project renderings are noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 119-2 The comment states that the project is a mistake and suggests new uses for vacant spaces Downtown. The comment is noted. New uses Downtown are beyond the scope of the proposed project and this environmental review.

Sidnie Olson

From: John McBeth [jmcbeth@omindustries.com]
Sent: Saturday, January 31, 2009 11:43 AM
To: DEIRcomments
Subject: EIR

City of Eureka Community development dept
Att Sidnie Olson
531 K st Eureka Ca 95501

Re Marina Center draft EIR

I have reviewed the EIR on the marina center project. I have found the document to be comprehensive and complete. I support the EIR and the project wholeheartedly and urge its adoption.] 120-1

Sincerely John McBeth

John McBeth
phone: 707-822-8800
fax: 707-822-8995
jmcbeth@omindustries.com

Letter 120: John McBeth

120-1 The comment supporting the Draft EIR and the proposed project is noted.

Sidnie Olson

From: Rob McBeth [rmcbeth@omindustries.com]
Sent: Saturday, January 31, 2009 11:14 AM
To: DEIRcomments
Subject: marina center Draft EIR

City of Eureka Community development dept
Att Sidnie Olson
531 K st Eureka Ca 95501

Re Marina Center draft EIR

I have reviewed the draft EIR on the marina center project. I have found the document to be comprehensive and complete. I support the EIR and the project wholeheartedly and urge you to act swiftly on its adoption.

121-1

Sincerely Rob McBeth

Rob McBeth
O&M Industries
5901 Ericson Way
Arcata Ca 95521
PH 707-822-8800
fax 707-822-8995

Letter 121: Robert McBeth

121-1 The comment stating support for the Draft EIR and the proposed project is noted.

Comment Letter 122

Comment Letter 122

Sidnie Olson

From: Melvin McKinney [mmckinney@humboldt1.com]
Sent: Sunday, January 25, 2009 6:10 PM
To: DEIRcomments
Subject: Marina Center EIR.

- 1. Would the project expose the public to toxic materials through the open water ditch for storm water that empties into the bay? 122-1
2. Would the project conflict with the Eureka General Plan or any LCP or ordinance protecting wet lands? 122-2
3. Would the project comply with Gen. Plan P6. A6-6A7 and 6.A8? 122-3
4. Would the project comply with State and Federal laws to have a full clean up of the site from toxics? 122-4
5. Would the project impact the 150 foot Rail Right of Way and how would that be solved if the Rail Road will not sell the property? 122-5
6. Will the project be allowed to be rezoned before the environmental clean up is completed? 122-6
7. Would the project interfere with the public Trust titles on the NCRA rail road properties in the balloon track? 122-7
8. What is the criteria for determining the safe environmental clean up levels versus technically clean standards? 122-8
9. What effect does tidal action have on the seepage of toxic materials from the project site to the bay? 122-9
10. What are the likely and potential effects of liquefaction due to seismic activity on the movement of toxics laterally and vertically in the ground from this project? 122-10
11. Would the project allow NCRA to retain the full right of way through the project to operate the Rail Road? 122-11
12. Would the project expose the city to a long and protracted legal challenge for the taking of NCRA Property resulting in future loss of business? 122-12
13. Would the project cause an economic impact to the community by having a Big Box Retail business on this project? 122-13
14. Will the project do a study to address the job base effect on the existing business with in a 20 mile radius of this project? 122-14
15. Will the project develop a Economic Impact Aecessment for new and old retail business in the city as a result of this project.? 122-15
16. Would the project develop a study on Brown Field Clean up using EPA services? 122-16

- 17. Would the project install pollution separators an filters on the storm water drains that drain to the bay . 122-17
18. Would the project create a hazard to the public or environment through routine transportation storage or disposal of hazardous wastes traveling thru the project? 122-18
19. Would this project pay for and provide for Water and Sewer for public safety and health because the city does not have existing facilities to serve this project? 122-19
20. Would the project preserve open space and put to a vote of the City any proposed Big Box Project? 122-20
21. Would This project develop a Convention Center as an alternative to a big box project for this Marina center ? 122-21
22. Would this project identify and survey all wetlands and comply with the Coastal Act Standards in their respective zones? 122-22
23. Would this project cause a safety hazard to the traffic flow pattern on hy way 101 as result of entering and leaving this project? 122-23
24. Would traffic flow comulative impacts effect other roads? If so how would you correct them? 122-24
25. What is the time line for completion of this project? 122-25

5-689

Letter 122: Melvin McKinney

- 122-1 The comment asks whether the proposed project would expose the public to toxic materials.

There would be no exposure to the public of any toxic contamination. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and to Appendix S.

- 122-2 The comment questions whether the proposed project would be consistent with the Eureka General Plan or the Local Coastal Program. The proposed project's consistency with applicable policies is discussed under Impact I-2, beginning on page IV.I-13.

- 122-3 The comment asks whether the proposed project would be consistent with General Plan policies 6.A.6, 6.A.7, and 6.A.8. The proposed project's consistency with General Plan policies 6.A.6, 6.A.7, and 6.A.8 is discussed in pages IV.I-54 and IV.I-55 in Table IV.I-2.

- 122-4 The comment questions whether the proposed project would comply with state and federal law regarding the cleanup of toxics.

Yes, the project would do so. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

- 122-5 The comment asks if the project would impact the 150 foot railroad right of way and, if so, how would that be resolved if the railroad will not sell the property. It should be noted that the NCRA does not own the property in fee, but rather holds an easement along the western edge of the project site. Please see response to comment 110-7.

Other than the railroad crossing which are addressed in the Transportation Chapter IV.O of the Draft EIR, the project is not expected to adversely impact the railroad easement. Therefore, no further mitigation or extinguishment of the easement is identified for the project.

- 122-6 The comment asks whether the project could be rezoned prior to environmental cleanup. Yes, properties are permitted to be rezoned prior to hazardous materials remediation. However, construction and occupancy of properties first requires that hazardous materials are remediated to appropriate levels.

- 122-7 The comment asks whether the project would interfere with the public trust titles on the NCRA railroad properties within the project site.

The comment is unclear as to what it refers to with regards to "public trust titles on the NCRA railroad properties" within the project site. The North Coast Railroad Authority (NCRA), a state agency, owns a non-exclusive easement along the western edge of the project site. The easement is approximately 150' wide and 1,000' long. Fee title to the

underlying property is held by the Project Applicant, CUE VI. There are remnant tracks still within the easement area, but it is not in use and has not been for years. The easement and the availability the area for future uses – included railway uses – would be preserved with the proposed project. Thus, the project does not propose to interfere with the NCRA easement. Whatever occurs with the easement, and as explained in response to comment 8-1, the State also claims title to or a public trust easement over a portion of the project site, though the extent of that claim is unclear. The Project Applicant, City, and State Lands Commission are continuing to resolve the extent of the State’s claim through a negotiated title settlement. Even if the area within NCRA’s easement is impressed with a public trust easement, however, the remediation and restoration would be consistent with that easement and the area should remain unaffected by the proposed development. But while the public trust may be a title question, it is not a CEQA issue, as there are a host of public trust uses – such as maritime industrial uses – that would have adverse environmental consequences far and above the proposed project. To the extent there are other public trust resource values at issue, the substantive chapters of the Draft EIR (e.g., Biological Resources and Hydrology & Water Quality) already address the project’s environmental effects.

- 122-8 The comment asks what the criteria are for safe environmental cleanup levels versus technically clean standards.

The comment make a distinction where none exists. Regulatory agencies would require remediation to meet technical standards for cleanup, and those standards are considered safe by the regulatory agencies.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

- 122-9 The comment asks what effect tidal action has on seepage of toxic materials into the Bay.

For further discussion regarding contaminant levels and their relationship to groundwater and tidal influence, please see Master Response 4, which addresses subsurface chemical migration.

- 122-10 The comment questions what the impacts would be on toxic contamination due to liquefaction during a seismic event.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 of this document.

Please also see response to comment 16-35 for discussion of liquefaction hazards at the project site. Also note that the contamination present at the project site is an existing condition and was not or would not be caused by the proposed project.

122-11 The comment asks whether the project would allow NCRA to retain the full right of way along the project to operate the rail road.

NCRA owns a non-exclusive easement along the western boundary of the project site. Should NCRA wish to renew operations within that easement, NCRA would have sufficient easement to do so. It should be noted, however, that the easement is currently not in use, and there are no concrete plans to do so in the foreseeable future.

122-12 The comment repeats the question made earlier in the comment letter regarding the railroad right-of-way. Please see response to comments 110-7 and 122-5, which addresses the railroad right of way.

122-13 The comment asks whether the proposed project would have an “economic impact” to the community. It is unclear what is meant by “economic impact” in relation to CEQA. However, an urban decay analysis is provided in Chapter IV.P. Please also see Master Response 1, which answers specific comments made on the Draft EIR in relation to the urban decay analysis.

122-14 The comment asks whether the proposed project would do a study to address the “job base effect” on existing businesses within a 20-mile radius of the proposed project. Please see Master Response 1, under “Jobs / Wages Impacts.”

122-15 The comment asks whether the project would develop an Economic Impact Assessment for new and old retail businesses in the city as a result of the project. It is unclear what is meant by an Economic Impact Assessment in relation to CEQA. However, an urban decay analysis is provided in Chapter IV.P. Please also see Master Response 1.

122-16 The comment requests detail regarding the hazardous materials remediation. Please see Master Response 4 and new Appendix S.

122-17 The comment asks whether the proposed project would install pollution separators. The proposed project would include bioswales and other stormwater quality control mitigation measures, which may or may not include pollution separators and filters on the stormwater drains. As stated in Chapter IV.H, Hydrology and Water Quality, the proposed project would have a less-than-significant impact on water quality, and the project would avoid any violations of water quality standards or waste discharge requirements.

122-18 The comment questions whether there would be impacts related to transportation, storage, or disposal of hazardous materials. Please see Chapter IV.G for a discussion of hazardous materials. Impact G-1, beginning on page IV.G-19, discusses transportation, use, and disposal of hazardous materials. Please also see Master Response 4.

122-19 The comment asks whether the proposed project would pay for and provide water and sewer services. As stated on Draft EIR page IV.Q-2, there is no water or sewer infrastructure currently on the project site. The proposed project would include

construction of this infrastructure onsite. As stated in Chapter IV.Q, Utilities and Services Systems, the City has adequate water and wastewater service capacity to serve the proposed project.

- 122-20 The project asks whether the proposed project would preserve open space. The proposed project includes the restoration of an 11.89-acre wetland reserve, with associated bike and pedestrian trails.

The EIR does not analyze the potential environmental effects of any big box retailer anywhere in the city. As stated in Chapter I, Introduction, the EIR is a factual document, prepared in conformance with CEQA, and written for the purpose of making the public and decision-makers aware of the environmental consequences of the Marina Center project at the Marina Center site.

- 122-21 The comment asks whether a convention center would be developed as an alternative to a big box retail store. Please see responses to comments 16-239 and 16-243, which discuss the requirement that the Draft EIR include a reasonable range of alternatives. An alternative containing uses similar to those described could be the Convention Center Alternative.

- 122-22 The comment asks whether the project would identify and delineate all wetlands on the project site.

Wetland delineations prepared for the project site are discussed in Chapter IV.D, Biology. The proposed project's consistency with the California Coastal Act is discussed in Chapter IV.I, Land Use and Planning, as well as in Master Responses 3 and 5.

- 122-23 The comment asks whether the proposed project would result in a safety hazard due to traffic flow on U.S. 101.

The Draft EIR evaluated potential traffic safety impacts associated with the proposed project (see pages IV.O-43 and IV.O-44), and determined that with implementation of identified mitigation measures, the project would have a less-than-significant impact on traffic safety.

- 122-24 The comment asks whether traffic flow impacts would occur on other roads. Please see responses to comments 31-1 and 32-9, which address cumulative traffic growth and traffic impacts on nearby streets.

- 122-25 The comment questions the timeline for completion of the proposed project.

The timeline for completion of the project or particular phases thereof cannot be accurately estimated as it is driven by market demand. With that said, the first phase of the project – remediation and wetlands restoration – is expected to be completed within one year from project approval. (Draft EIR, page III-15.) Future phasing has not been

determined yet, but the approximate timeline for each phase is outlined in the Draft EIR at page III-15. For purposes of evaluating the worst-case scenario for project impacts, particularly traffic, the Draft EIR assumes full-build out of all project phases by 2010. Once a precise phasing has been determined, the City would need to evaluate that phasing to ensure that feasible mitigation is likewise phased to address the potentially significant impacts of each phase and to evaluate whether any subsequent environmental review may be required. (Draft EIR, pages III-14 and -15.)

Sidnie Olson

From: TJ McMurray [tjmacr@pacbell.net]
Sent: Friday, January 30, 2009 7:34 PM
To: Sidnie Olson
Cc: Kevin Hamblin
Subject: Re: Fw: Marina Center. Draft EIR Notice of Availability

Sidnie: You mentioned in our phone call today that a new flood gate would be constructed at the juncture of Humboldt Bay and Clark Slough that would serve the Marina Center Project and other areas of the City. The City is aware, through our prior correspondence, of the flooding of Washington Street and adjacent properties. This occurs due to a combination of high tides and large surface run-off from the western portion of the City. The flood gates at the Bay close due to the high tides, the surface water backs up and is then stored on adjacent properties and Washington Street until the tide gates reopen and the water begins to recede. Without reviewing the EIR in detail, I would hope that this issue is addressed and solved through a detailed study and an engineered solution. Please acknowledge receipt of this email. Respectfully, Thomas J. McMurray Jr.

123-1

--- On Fri, 1/30/09, TJ McMurray <tjmacr@pacbell.net> wrote:

From: TJ McMurray <tjmacr@pacbell.net>
Subject: Fw: Marina Center. Draft EIR Notice of Availability
To: "Tom McMurray" <tjmacr@pacbell.net>
Date: Friday, January 30, 2009, 4:55 PM

--- On Fri, 11/21/08, Sidnie Olson <SOLSON@ci.eureka.ca.gov> wrote:

From: Sidnie Olson <SOLSON@ci.eureka.ca.gov>
Subject: Marina Center. Draft EIR Notice of Availability
To:
Date: Friday, November 21, 2008, 2:23 PM

Please find attached a copy of the Notice of Availability for the Marina Center Draft Environmental Impact Report. We are providing you with this notice in advance of the actual review dates. The Draft EIR will be available for public review from December 1, 2008 to January 31, 2009. As indicated in the attached Notice, beginning December 1, 2008, the Draft EIR will be available at all local libraries, the County Planning Department, City Hall, and the City of Eureka's website www.ci.eureka.ca.gov

Please feel free to forward this information to whomever you feel would be interested.

Regards,
Sidnie L. Olson

Sidnie L. Olson, AICP
Principal Planner
City of Eureka
Community Development Department
531 "K" Street
Eureka, CA 95501
(707) 441-4265
solson@ci.eureka.ca.gov

5-695

Letter 123: TJ McMurray

123-1 The comment questions the adequacy of stormwater drainage facilities for the proposed project.

For further discussion regarding the adequacy of the proposed drainage facilities to accommodate high flows, please see response to comment 3-13, which discusses the flow rate standards of the City of Eureka as applied to the proposed project.

Dec. 20, 2008

Eureka Community Development Dept.

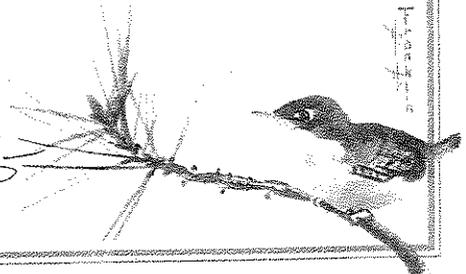
Dear Friends - Esp. Sidnieh Olson

Please consider the future
cost of restoring or abandoning
a "Marina Center" or any new
coastline project - a cost
that will be caused by the
high water level in our
WARMED PLANET.

The loss of structures from
high water levels needs
to be prepared - for, in
establishing a Marina Center
plan and budget.

Sincerely,

Eunice Noack
2141 Tydd St. #315
Eureka, CA 95504



124-1

Letter 124: Eunice Nopek

124-1 The comment asks the City to consider the costs associated with sea level rise affecting the proposed project.

For further discussion regarding sea-level rise, please see response to comment 3-15. As stated there, the direction on sea level rise to coastal permit Project Applicants is in flux. Taking historic trends is no longer sufficient, and an upper planning limit has not been established.

5-699

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): David F Ogden

Address: 2337 B Street Eureka, CA 95501
E-mail: goldfinch@humboldt1.com

Page V-5 (bottom, under "1. Extension of urban...etc")
Statement is made that project will not "require
ANY MAJOR EXPANSIONS of the [city's] infrastructure.

1) What about "MINOR" expansions?

2) Who decides what is "major" and what is "minor"?

3) What criteria are applied to distinguish between
"major" and "minor"?

4) Who will be financially responsible for ANY changes
or expansion of ANY infrastructure?

Signed: David F Ogden

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

125-1

125-2

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): David F Ogden

Address: 2337 B Street Eureka, CA 95501
E-mail: goldfinch@humboldt1.com

Appendix K (Technical Appendix), page 44 (under
"re-tenanting potential"): the claim is made in the
first paragraph of this section that "the existing pri-
mary market area shopping centers have low vacancy
rates which is an indication of the...area's... ability to
retenant smaller vacancies as they occur." This is NOT
true as evidenced by scores of vacancies throughout
the City and especially the 20 plus vacancies (large
and small) in the Bayshore Mall. Very out-dated information.

Signed: David F Ogden

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

RECEIVED
JAN 20 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

125-3

Comment Letter 125

Comment Letter 125

5-700

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): David F Ogden

Address: 2337 B Street, Eureka, CA 95501
E-mail: goldfinch@humboldt1.com

RECEIVED
JAN 20 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Appendix K (in Vol II, Technical Appendices), on the map labeled "Exhibit 18a, Representative, etc": A TYPICAL piece of erroneous misinformation prevalent in the CBRE report appears as itemized store #8 "Strictly for the Birds" which is categorized as "Nursery/Flowers." I am the former co-owner of that business and I can attest to the fact that it is NOT a store of that type and does not "compete" with any store proposed for the project.

125-4

Signed: David F Ogden
Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

How many other errors of this sort lurk in the appendix and main text???

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): David F Ogden

Address: 2337 B Street Eureka CA 95501
E-mail: EUREKA, CA Goldfinch@humboldt1.com

RECEIVED
JAN 20 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Table IV.0-9 lists only those developments (mostly commercial) on or within a block or two of the Hwy 101 corridor. What about other large planned developments (largely residential) in other parts of the greater Eureka area (p.e.g. McKay Tract and the Forster-Gill project)? These large-scale developments will contribute significantly to cumulative effects of traffic both on 101 and on Eureka's city streets!

125-5

Signed: David F Ogden
Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

5-701

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): David F Ogden

JAN 20 2009

Address: 2337 B Street Eureka, CA 95501

DEPARTMENT OF
COMMUNITY DEVELOPMENT

E-mail: goldfinch@humboldt1.com

Mitigation measure IV.0-1j calls for additional turn lanes on Waterfront Drive at the west access driveway into the project area. Waterfront Drive narrows to less than 30 feet just to the south of the proposed access driveway. How can additional turn lanes be provided at that point?

125-6

Signed: David F Ogden

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

RECEIVED

Name (print): David F Ogden

JAN 20 2009

Address: 2337 B Street Eureka, CA 95501

DEPARTMENT OF
COMMUNITY DEVELOPMENT

E-mail: goldfinch@humboldt1.com

Appendix M in Vol II (Technical Appendices) Exhibit 1 of CBRE Letter "Response to Economic...etc": This list and the resulting calculation of a slightly under 2% vacancy rate is an enormous error of OMISSION and is so out of date that it is totally useless and irrelevant to the discussion. Yet another glaring example of the overall inadequacy of the CBRE report.

125-7

Signed: David F Ogden

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

5-702

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): David F Ogden
Address: 2337 B Street Eureka, CA 95501
E-mail: goldfinch@humboldt1.com

Name (print): David F Ogden
Address: 2337 B St, Eureka, CA 95501
E-mail: goldfinch@humboldt1.com

Page IV.0-54 (bottom, under "Finding of significance...")

Page IV.0-4 (top, under "Waterfront Drive")

"... the project applicant is only required to pay its fair share, and there is no program in place or funding otherwise identified to insure completion of the mitigation measures within the time period necessary to avoid the impacts."

"Waterfront Drive is a 48-foot wide two lane street..." This is incorrect. Waterfront Drive starts out (at the Commercial St end) at about 48 feet but **NARROWS** to **LESS THAN THIRTY FEET** just south of the boat ramp entrance and remains that narrow all the way past Marina Drive and the Wharfinger. This constriction will cause serious problems at the 4th Street exit from the project.

Is the City of Eureka expected to open its wallet and subsidize this project to the tune of who knows how many hundreds or thousands of dollars?

Signed: David F Ogden
Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Signed: David F Ogden
Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

125-8

125-9

125-10

Comment Letter 125

Comment Letter 125

DAVID F. OGDEN
2337 B Street
Eureka, CA 95501

RECEIVED

JAN 30 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

January 30, 2009

Sidnie L. Olson, Principal Planner
Community Development Dept.
CITY OF EUREKA
531 K Street
Eureka, CA 95501

Dear Ms. Olson:

Upon reviewing Part IV.O of the Marina Center DEIR, I find numerous references to the idea of "diverting" vehicular traffic away from the US Hwy 101 corridor onto various city streets. The mitigation measures described in IV.O (pages 39ff) numbered O-1 specify the following streets:

- Hawthorne Street (Mitigation Measure O-1c)
- Waterfront Drive, Second and Third Streets (O-1f)
- Harris Street, with particular mention of STAA trucks (O-1g)
- Fairfield Street (O-1g)
- Washington and Summer Streets (O-1h)

In addition to those streets specified in the report, there is a considerable likelihood that numerous other City owned rights of way will be implicated in this attempt to keep traffic off the 101 corridor.

My concern in this regard lies in the increased amount of wear and tear which will be occasioned by adding considerable burden to these rights-of-way for which the City is responsible for maintenance and periodic repaving. (The US 101 corridor is Caltrans' responsibility so it does not enter into this discussion). As the chairman of the City's Finance Advisory Committee and a long time student of the City's budgetary process, I am painfully aware of the implications which this will have on future budgets and the City's ability to meet the cost of additional road maintenance and repaving operations. Although some funds for this purpose are supposed to come from the State, given the State's terrible financial condition now and for the foreseeable future, I would not depend on that source. Which will put an ever increasing burden of financial responsibility on the City. If all this increased volume of traffic on our streets (as opposed to those which are Caltrans' responsibility) results in having to step up

intervals for resurfacing and other major repairs from their current levels, then the City will be hard pressed to finance all of these needs as they arise. ↑ 125-11
cont.

Furthermore, I do not believe the "urban myth" promulgated by the CBRE report contained in Vol. 2 of the report: these type of developments DO NOT generate the huge amounts of additional tax revenue as claimed by the report. They never have in the past, and there is no reason to believe that they ever will in the future. All of CBRE's mathematical hocus-pocus notwithstanding, the fact of the matter is there is only a finite number of dollars to be spent in retail trade and all that another retail development does is move those dollars from one part of town to another. 125-12

I submit that we be provided with a FACTUAL analysis of the projected costs to the City for the additional costs that will be incurred as a result of this diversion of traffic off of the US 101 corridor and onto City streets. This will enable both my committee and the City Council to evaluate the potential fiscal impact which this project will have on the City's financial resources.

Sincerely yours,

David F. Ogden, Chairman
Finance Advisory Committee

5-703

125-11

Letter 125: David Ogden

125-1 The comment questions the definition of “major” expansions of infrastructure.

Major expansions of infrastructure generally involve new roads, utilities, or treatment plants to accommodate substantial new development on the urban fringe. The proposed project includes 558,000 square feet of development on a project site that is in an already developed area of the city. The utility service connections for the proposed project are already available immediately adjacent to the project site. Therefore, the project does not require major new expansions of infrastructure.

Given that site plan for the project has yet to be finalized, the project could require minor expansions of utility infrastructure in the bed of the Second Street or Fourth Street extensions to provide service to buildings farther east. These extensions would both be less than one-quarter of a mile, and they could only be used to serve the project site. Therefore, they would be considered minor expansions.

125-2 The comment asks who would be financially responsible for expansions.

The proposed project would be required to pay its fair share toward those extensions.

125-3 The comment questions the vacancy rates stated in the urban decay analysis in Appendix K of the Draft EIR. Please see Master Response 1, under “Vacancy in the City of Eureka.”

125-4 The comment states that the classification of the former store “Strictly for the Birds” as “Nursery / Flowers” in the CBRE report is a mistake. The comment further states that this business would not compete with any store in the proposed project.

The comment is noted. Of the classifications used in the analysis, “Nursery / Flowers” is the most similar to the uses of the “Strictly for the Birds” store, which is a specialty store selling bird houses, feeders, seed, accessories, books and CDs. The business would be considered a competitor of the proposed project’s anchor tenant because the anchor tenant would also sell bird houses, feeders, seed, and accessories.

125-5 The comment states that Table IV.O-9 lists only those developments on or within a block or two of the U.S. 101 Corridor. The comment states that projects such as McKay tract and Ridgewood Village project should be considered in the cumulative analysis.

For the cumulative study of the project, the County’s Greater Eureka Area Traffic Model (GEATM) was used. GEATM runs through future year of 2025 and includes the Marina Center project and future traffic growth, including expected developments in the County. Utilizing the GEATM, project trips were traced through Eureka and surroundings. The volume and location of trips are portrayed in Appendix H. As can be seen in Traffic Impact Study Appendix H, project trips are shown throughout the City, although the vast

majority of project trips are on U.S. 101 east and south of the project. Project traffic on Sixth and Seventh Streets is relatively small. Project traffic dissipates beyond the study intersections to a level of less than significant, and therefore no additional analysis is warranted.

- 125-6 The comment states that Mitigation measure IV.O-1j calls for additional turn lanes on Waterfront Drive at the west access drive. The comment states that Waterfront Drive narrows to less than 30 feet just to the south of the proposed access driveway and asks how a turning lane can be provided at that point.

The report will be revised to provide more information regarding the cross section of Waterfront Drive. The roadway width on Waterfront Drive:

- Near the S curve between Washington Street and 14th Street narrows to about 44 feet curb to curb.
- At Commercial Street is about 48 feet.
- At Washington Street is about 48 feet.
- At 14th Street is about 44 feet.

Waterfront Drive narrows to 28-30 feet curb to curb for approximately 700 feet just south of the proposed intersection of Fourth Street Extension. Parking should not be allowed on one or both sides of the street in this section. See response to comment 16-205.

This information clarifies the information already provided in the Draft EIR, but it does not identify or result in any impacts of the project that have not already been evaluated and mitigated in the Draft EIR. Therefore, no further analysis or text in the EIR is necessary.

- 125-7 The comment expresses disagreement with the vacancy rate included in Appendix M of the Draft EIR. Please see Master Response 1, under “Vacancy in the City of Eureka.”
- 125-8 The comment asks whether the City of Eureka would be required to pay for traffic mitigation measures.

Please see Master Response 6 regarding traffic impacts and identified mitigation measures.

The proposed project would include construction of this infrastructure onsite, the fair share of which would be paid for by the Project Applicant. The owner of the property would also pay monthly rates, depending on usage, for utilities, as well as taxes to local, state, and federal agencies. The City of Eureka would not subsidize infrastructure for the proposed project.

- 125-9 The comment questions the Draft EIR’s characterization of the width of Waterfront Drive as 40 feet.

There are several cross sections along Waterfront Drive while only the cross section near the proposed Fourth Street Extension is provided in the Draft EIR. The report will be revised to provide more information regarding the cross section of Waterfront Drive as such:

- The roadway width near the S curve between Washington Street and 14th Street narrows to about 44 feet curb to curb.
- The roadway width on Waterfront Drive at Commercial Street is measured to be about 48 feet.
- The roadway width on Waterfront Drive at Washington Street is measured to be about 48 feet.
- The roadway width on Waterfront Drive at 14th Street is measured to be about 44 feet.
- Railroad Avenue is measured to be about 44 feet wide to Del Norte Street.
- Waterfront Drive narrows to 28 to 30 feet curb to curb for approximately 700 feet just south of the location for the proposed intersection of the Fourth Street Extension and Waterfront Drive. Parking should not be allowed in this section, at least on one or the other side of the street. No parking restrictions are noted in recent field checks, nor were any parked vehicles sighted.

Previous plans at the City show that the right of way is 60 feet wide with a sidewalk area that varies from six feet to eight feet on both sides. The right of way is 50 feet wide where the roadway narrows near the Marina. The existing roadway width on Waterfront Drive is adequate for travel lanes and widening is not needed.

125-10 The comment states that the narrowing of Waterfront Drive would cause a restriction at the Fourth Street exit from the project site. Please see response to comment 125-6 regarding the narrowing of Waterfront Drive at that location.

125-11 The comment state that the increase in traffic volume would add to the cost of maintenance of the City's roadways (other than Broadway, which is Caltrans responsibility).

Utilizing the County's Greater Eureka Area Traffic Model, project trips were traced through Eureka and surroundings. Project trips were distributed onto all streets in the greater Eureka Area. By far the majority of project trips are assigned to U.S. 101 and a few other arterial routes into Downtown. Project traffic on other streets is relatively small as can be seen in Appendix H, where project trips for both a.m. and p.m. peak hours are shown in plots from the model. Generally, wear and tear on public streets is a function of truck traffic, not passenger cars, pickups and light trucks. No significant increase in truck traffic on City streets is anticipated as a result of the proposed project, and maintenance costs are not expected to increase in any significant amount.

125-12 The comment states that the proposed project would not generate substantial tax revenue for the City of Eureka. Please see Master Response 1, under "Fiscal Impacts to the City of Eureka and Other Jurisdictions."

Comment Letter 126

Comment Letter 126

City of Eureka
 Community Development Department
 Attn: Sidnie L. Olson, AICP, Principal Planner
 531 K Street
 Eureka, CA 95501

RECEIVED
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 DEPARTMENT OF
 COMMUNITY DEVELOPMENT

29 January 2009

We reviewed Volume I section IV of the Marina Center EIS and the Appendix G Table 2 Animal Species Observed on the Project Site or Expected to Utilize the Project Site.

We find the CNDDDB list not useful due to the scale of the query, which includes all of Humboldt County. The CNDDDB lists are typically viewed as evidence of absence of particular species in a project area. Rather, the government agency, CNPS, and other lists of species of concern should be utilized as a starting point, with input from various knowledgeable people and the literature, to determine which species should be considered. Inclusion of superfluous species lists is interesting but is not helpful.

We view these lists as not only species that could be negatively impacted by the project, but those that could potentially benefit from the project as well. We did not review plant species because this is outside our area of expertise.

On the List/Proposed Threatened and Endangered Species for the Eureka Quad, we would delete all species except the following list, since these are the only ones that would potentially be affected by the Marina Center project:

- Tidewater goby
- Coho salmon
- Steelhead
- Chinook salmon
- Western snowy plover
- Yellow-billed cuckoo
- Bald eagle (although this species is no longer listed under the Endangered Species Act)
- Brown pelican.

The CNDDDB query did not produce records of sandy beach tiger beetle, Indian Island rookery, and California clapper rail, but these are worthy of consideration and would have been identified if a good literature review of the area were done. Species covered by the Migratory Bird Species Act also must be considered.

California Species of Special Concern (SSC) lists need to be consulted. I am not aware of any California SCC mammals that should be included. The following list of birds from the 2008 Bird SSC list should be considered:

- Brant
- Redhead
- Northern harrier
- Yellow warbler
- Bryant's savannah sparrow

From the 1994 Amphibian and reptile SSC list northern red-legged frog should be included.

126-1
 126-2
 126-3
 126-4

From the 1995 Fish SSC coastal cutthroat trout should be considered.

The EIS cites the following herptofauna species as seen during a survey on page IV, D-1. "Despite looking under boards and other objects, the only amphibian or reptile observed was the Pacific treefrog during the July 9, 2006, summer survey. Other reptiles that could potentially use the site include Western fence lizard, common garter snake, and gopher snake." In surveys of similar rural areas immediately adjacent to Humboldt Bay in March 2003 I found rough-skinned newts and northwestern salamanders. Southern and northern alligator lizards are much more common in local coastal areas than western fence lizards. I have wandering salamanders and California slender salamanders in my flowerbeds and under planters at my properties, two of which are within 1/2 mile of Humboldt Bay.

In review of plants to be included in plantings on the proposed wetland and mitigation area of the project area we would encourage native shrubs and trees adapted to the local area which have wildlife values such as coyote bush, silk tassel, willows, alders, spruce, and grand fir. Other plants will seed in naturally or be introduced by birds. Unfortunately we have a problem with human transients and homeless who may desire to inhabit densely vegetated areas. By providing judiciously placed trails the project may encourage diversity of plant species but discourage human habitation.

I find the DEIR section on Environmental Assessment, where a Health Risk Assessment is cited, to be lacking in information on current toxicity values as stated by the EPA. The Assessment that is cited is not current. It appears to only apply to health effects to transients and individuals to be working on construction of the retail establishments. Little to no mention is made of potential effects to people frequenting retail establishments at the site over time, residents of the site, people and wildlife in any park or wetland area on the site. This is a serious oversight and should be addressed through an updated and expanded Health Risk Assessment before the FEIR. No ecological risks to wildlife are mentioned, particularly those from exposed soils and groundwater intrusion.

Due to the information lacking on human and ecological impacts it is not possible for CEQA's purpose of ensuring fully informed decision-making with regard to significant effects on the environment. It is not possible for any Regional Board to make an informed decision on whether site remediation is an adequate mitigation measure either as the list of toxic contaminants reported from the site is extremely limited. Recent sampling by Humboldt Baykeeper found dioxins and furans in site soils, sediment and fish; no source for these toxics is identified in the DEIR. Additionally, the DEIR does not include information on the levels of any contaminants found onsite (IV.G-1-IV.G-11).

Air Quality Impacts C-1 to C-3 are stated as "Significant and Unavoidable" levels of Significance. The project is estimated to produce 38 tons per year of fine particulate matter, which is in exceedance of the North Coast Unified Air Quality Management District threshold of 16 tons per year. This would make a retail center the single largest producer of PM10 in the County, this is unacceptable. Mitigation is required under the Federal Clean Air Act and State Law. The DEIR states that mitigation that is inadequate to reduce the problem is allowed because none of the described mitigations are technically or economically feasible. Not considered forms of mitigation are installation of solar panels and wind turbines and other such offsets that would reduce the carbon footprint of the project. Mitigations do not reflect State requirements to upgrade pollution output by diesel trucks or to ban idling of such trucks on the site.

126-4 cont.
 126-5
 126-6
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 126-9

5-707

Comment Letter 126

Comment Letter 126

Mitigation that is offered as examples in C-2a include placement of some electrical outlets for cars, synchronized traffic signals, and bicycle and pedestrian travel zones. However, no information is provided on the number or placement of the electrical outlets or on the use of solar panels to power them. California Department of Transportation is in charge of synchronizing the signals nearest the project site, the Marina Center proponents cannot take responsibility for work that CALTRANS already performs. Bicycle and pedestrian travel zones are not adequate. Options offered are too limited, unsafe for crossing Broadway for travel northward, including requiring travel on a sidewalk against the flow of traffic which is not legal. The DEIR does not include substantial specific information or concrete evidence of potential additional costs or low profitability that would be sufficiently severe enough to warrant a finding of "unavoidable" impacts.

126-10

The Health Risk Assessment for Diesel Emissions Associated with Wetlands Construction and Delivery Operations data sets are inadequate as they omit analysis of air quality impacts associated with the excavation and removal of contaminated soil. It omits an analysis of toxic levels of pollutants concentrated in the project parking area. The DEIR analysis ignores the high ranking of Humboldt County for cancer incidence in California. Further, cumulative impacts are inadequately described and analyzed. It omits listing current PM10 contributors such as Evergreen Pulp and Fairhaven Co-Generation Plant. It omits known adverse effects of PG&E's repowering plant which uses Air District models to allow for just below 10 in one million cancer risk. It omits transportation corridor effects outside the immediate vicinity of the project area. Two of my homes are located on Washington Avenue, just outside the project area. Impacts of increased pollution due to increased traffic are not analyzed for the neighborhood due east of the project area, which is the primary area that will be impacted by blown pollutants produced on the project site.

126-11

The Transportation Section Chapter IV-O anticipates over 15,000 new vehicle (one-way) trips to the project site per day. These numbers are based on a traffic study performed in non-tourist times of year. Traffic during tourist months is much higher, the analysis should reflect the full range of traffic levels throughout the year. At times 4th and 5th streets are virtually impassable without a traffic light now, with the projected increase of 300% in peak traffic in the afternoon if is unlikely that most streets located in the city core and adjacent neighborhoods would be permeable to cross traffic. Levels of pedestrian accidents are already higher than many larger cities in California and the DEIR does not propose mitigations to avoid increasing the incidence of these accidents. Level of Service calculations assumed that much of the exiting traffic would use Waterfront Drive to Hawthorne or to 2nd and 3rd streets into old town. This ignores the likelihood of vehicles exiting into the adjacent west side neighborhoods up Washington and spreading out from there. Waterfront drive takes people far out of their normal paths of travel and is unrealistic. A new analysis should be performed that contains more realistic paths of travel. Broadway congestion values appear extremely understated.

126-12

I would like to address Urban Decay. Negative impacts of the Bayshore Mall are still being felt in the Old Town and Henderson Center Shopping areas. With the current economic downturns, the number of vacant shopfronts has spiraled ever higher. The DEIR does not adequately identify the number of such vacancies and look at the length of time that many have been in existence. New retail spaces would further compete for shops to use them. The current pool varies widely in size and configuration and yet this project proposes to add still more. Many currently proposed sites for infrastructure development remain undeveloped, such as the waterfront. Investment in building up these areas would better serve the people of Eureka.

126-13

I would like to end with a brief comment on Cultural Resources. The Wiyot people have lived in the area around Humboldt Bay for much longer than this area has been settled by Europeans. Two villages are anticipated to be located on the project site. This was not arrived at by supposition, historical evidence has been presented to indicate the veracity of the Wiyot claims. I find it highly inappropriate to mitigate by looking for cultural resources while constructing. The villages should be located and properly planned around prior to ground-breaking activity. It is the only proper method to ensure protection of those resources. It should be done with the assistance and oversight of Wiyot cultural analysts with backgrounds in protection of cultural resources and archeologists. A contractor cannot be trained adequately to perform the work of experienced archeologists and cultural resource recovery and protection experts with decades of experience.

126-14

Respectfully,

Lisa Ollivier
Resident of the Eureka West-side
824 B Street
Eureka, CA 95501



Letter 126: Lisa Ollivier

126-1 The comment indicates that the broad search area for the CNDDDB lists is not helpful and suggests that these lists are often used to provide evidence of the absence of particular species from a project area. The comment further states that government agencies and CNPS lists, etc., should be used as a starting point and used in conjunction with knowledge of species experts and the literature to determine which species should be considered.

Appendix D of the Draft EIR includes the referenced list of all listed or proposed threatened and endangered species in Humboldt County. In addition, the work conducted for the Biological Assessment included a search of the CNDDDB to include as many as six USGS quadrangle map areas specifically to encompass a wide area in an effort to include all special status species occurring in the area of the project in the special status species evaluation. This literature review pertaining to special status species intentionally encompassed a wide area to allow an evaluation of whether the habitat requirements of species could be satisfied by habitat conditions existing on the project site for the greatest number of potential species. The Draft EIR and Biological Assessment were prepared to err on the side of inclusion.

126-2 The comment suggests deleting all species from the evaluation with the exception of tidewater goby, coho salmon, steelhead, chinook salmon, western snowy plover, yellow-billed cuckoo, bald eagle and brown pelican.

Comment noted. Information on each of the species mentioned by the comment is provided below. Other species were evaluated as deemed relevant by the Lead Agency and EIR authors.

- Tidewater goby is discussed on page IV.D-6 and IV.D-19 of the Draft EIR. The tidewater goby is not known to occur near the project site and the nearest designated critical habitat for the species is located in Southern California. A survey for tidewater goby within Clark Slough conducted by H.T. Harvey and Associates for Baykeeper found no individuals of this species in the slough. No impacts to tidewater goby would result from the project.
- Coho salmon, steelhead and chinook salmon are addressed in the Biological Assessment for the proposed project under the discussion of Special Status Salmonid Species beginning on page 11. This section discusses the fall chinook salmon from the California Coast ESU, spring coho salmon from the Southern Oregon and Northern California Coast ESU, and steelhead from the Northern California ESU, all species that could be expected to migrate through Humboldt during certain times of the year. Restrictions on the timing of pile driving as recommended in Draft EIR Mitigation Measure D-1b, along with the implementation of a SWPPP, the Stormwater Management Plan and Best Management Practices would ensure that impacts to these species do not occur.

- Western snowy plover is addressed on pages IV.D-7, IV.D-8 and IV.D-18 of the Draft EIR. Western snowy plovers have not been known to historically occur in the vicinity of the project site, and the habitat at the project site is not suitable to support the species. No impacts to western snowy plover would result from the project.
- In California, the western yellow-billed cuckoo inhabits dense riparian habitats of the Central Valley and southern deserts. Although vagrants may occasionally be found in riparian habitats along the coast, this species is not reported in the CNDDDB for the project area, and would not be expected to occur in the degraded riparian habitats found at the site. No impacts to western yellow-billed cuckoo would result from the project.
- Bald eagles in California nest and winter at inland lakes, and would occur along the Humboldt County coast only as a rare migrant. This species is not reported in the CNDDDB for the project area. No impacts to bald eagle would result from the project.
- Brown pelican is found in estuarine, marine, subtidal, and marine pelagic waters along the California coast. Although considered common within Humboldt Bay at certain times of year, nesting or foraging habitats for this species are not found at the project site. No impacts to brown pelican would result from the project.

126-3 The comment states that additional species worthy of consideration include sandy beach tiger beetle, Indian Island rookery and California clapper rail. Also need to consider species covered by the Migratory Bird Species Act.

Species covered under the Migratory Bird Species Act (MBTA), which include a multitude of common bird species found throughout North America, are considered in evaluating the potential adverse affects of the project on biological resources. Mitigation Measure D-8a beginning on page IV.D-33 of the Draft EIR is included to ensure compliance with the Migratory Bird Treaty Act. The sandy beach tiger beetle, Indian Island rookery and California clapper rail are addressed below:

- The sandy beach tiger beetle is discussed on page IV.D-6 of the Draft EIR. This species is thought to be extirpated from the portion of Humboldt County near the project area; therefore, no impacts to this species would result from the project.
- The Indian Island heron and egret rookery is discussed on pages IV.D-6, IV.D-7 and IV.D-19 of the Draft EIR. The construction of the project would not result in significant adverse impacts to species nesting at the rookery, and after construction of wetland restoration the quality and quantity of foraging habitats for these species could improve.
- California clapper rail is discussed on page IV.D-7 of the Draft EIR. The last reported nesting by California clapper rail anywhere near the project site was at Indian Island in 1932. No salt marsh habitat suitable to support this species occurs at the project site, and thus no impacts to California clapper rail would result from the project.

- 126-4 The comment states that the EIR should consider the following state species of special concern: brant, redhead, northern harrier, yellow warbler, Bryant's savannah sparrow, northern red legged frog, and coast cutthroat trout. A consideration of these species is requested in comment 26-3. See response to comment 26-3 for analysis of these species.
- 126-5 The Draft EIR indicates that Pacific treefrog was observed at the project site and that western fence lizard, common garter snake and gopher snake could potentially occur. The comment suggests that rough-skinned, northwestern salamander, wandering salamander and California slender salamander could also occur and that southern and northern alligator lizards would be more common at the project site than western fence lizards. This same comment is made in comment 26-4. See response to comment 26-4 for a discussion of the mentioned species.
- 126-6 The comment states that plantings within the proposed wetland and mitigation area should include native shrubs and trees adapted to the local area which have wildlife values. With plantings, judiciously placed trails could encourage a diversity of native plant species and discourage habitation by homeless and human transients who might try to inhabit densely vegetated areas.

Mitigation Measure D-3b requires use of native species in the wetland mitigation/restoration area and Mitigation Measure D-3f requires implementation of a program to control non-native species at the project site. The combination of planting natives and controlling non-natives would result in a wetland mitigation/restoration area with a diversity of native plant species of value to wildlife species. Use of the project site by transients is considered a social rather than biological concern, and is not considered an adverse affect of the project. This is particularly true since the project aspires to clean up and redevelop the project site and to reduce the propensity of vagrants and others using the property for illicit purposes.

- 126-7 The comment questions the ecological risks of the proposed project.

Regarding ecological risks, please see response to comment 52-33. As stated there, Impacts G-1 through G-9 (pages IV.G-19 through IV.G-26) discussed potential impacts related to hazards and hazardous materials. In addition, potential impacts to wetlands and associated habitats are discussed under Impacts D-1 through D-8 on pages IV.D-18 through IV.D-34. Note that the contamination on the project site is an existing condition, and that the proposed project would excavate and remove contaminated hot spots, as well as remove exposure pathways. For more details, please see Master Response 4 and new Appendix S.

- 126-8 The comment states that the hazardous materials analysis is note adequate because it does not address ecological risks and does not include the levels of contaminants at the project site.

Regarding ecological risks, please see response to comment 126-7, directly above. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S, which discuss levels of contamination. The draft Supplemental Interim Remedial Action Plan included in Appendix S has received concurrence from the Regional Water Quality Control Board.

- 126-9 The comment criticizes the Draft EIR for not considering additional mitigation measures, such as solar panels and wind turbines and offsets to reduce the carbon footprint of the project.

Please See response to comment 3-7, which discusses the possibility of carbon offsets. Please see also response to comment 22-3, which states that most emissions from the proposed project would be mobile-source emissions associated with vehicles so solar panels would have minimal effect

The comment also suggests that the mitigation measures should reflect State requirements to upgrade pollution output by diesel trucks or to ban idling of such trucks on the project site. However, there is no need to require mitigation measures for restrictions that are already required by State law. Please also see response to comment 12-8.

- 126-10 The comment requests specific details about the number of electrical outlets and synchronization of traffic signals.

The number of outlets and their location has not yet been determined. Please see response to comment 33-3 regarding the synchronization of traffic signals.

- 126-11 The comment states that the HRA data sets are inadequate because they omit analysis of air quality impacts associated with various activities at the project site and nearby. Please see Master Response 2, which discusses the adequacy of air quality data used in the analysis.

- 126-12 The comment makes charges against the traffic impact study's adequacy.

With respect to traffic crossing Fourth and Fifth Streets, additional signals are proposed at C Street and Commercial on both Fourth and Fifth Streets because of this need. Currently, signals are not warranted at these intersections. Please also see the response to comment 66-7, which discusses the date and time of traffic data collection in relation to traffic impact assessment methodology.

Regarding the comment concerning impacts to pedestrians, please see responses to comments 33-3 and 49-2, which conclude that the proposed project would have a beneficial effect on pedestrian circulation and safety.

Regarding impacts on neighborhoods west of the project site, please see the response to comment 40-2, which states that in the EIR analysis, the project traffic was distributed

onto all streets within the Greater Eureka Area Traffic Model, and the volume and location of those trips are portrayed in Appendix H. As can be seen in Appendix H, project trips are shown throughout the City, although the vast majority of project trips are on U.S. 101 east and south of the project site. These volumes are all within the existing capacity of the City streets.

The comment states that Broadway congestion values are understated. Please see response to comment 31-1, which states that the 33 percent increase in traffic on U.S. 101 will occur with or without the project, and implementation of the proposed project would result in impacts that could, for the most part, be mitigated. Please also see response to comment 38-4 regarding impacts to Henderson Street and Harris Street. Finally, please see response to comment 49-1, which states that the proposed project provides the means to accommodate the higher future traffic volumes on Broadway, while no plan is currently in place to accommodate future traffic without the proposed project.

126-13 The comment states that the Bayshore Mall caused vacancies in the City of Eureka and questions the vacancy rate found at the time of the urban decay analysis. Please see Master Response 1, under “Vacancy in the City of Eureka,” “The Effect of the Bayshore Mall on Local Businesses,” and “Potential Local Store Closures.”

126-14 Comments regarding the historical evidence that two Wiyot village sites may be located within the project area are noted. Please see Master Response 9 and revised Mitigation Measure E-2, as well as responses to comments 11-1, 69-1, 69-2, 69-10, 69-13, and 69-17. This investigation would commence when engineering and soil remediation plans are finalized, and prior to project construction.

Comment Letter 127

Comment Letter 127

Sidnie Olson

From: jamie orr [no.unsolicited.commercial.email@gmail.com]
Sent: Friday, January 30, 2009 6:27 PM
To: Sidnie Olson
Subject: Marina Center Cultural Resources

110 Dandy Bills Ave
Loleta, CA 95551
30 January 2009

Ms. Sidnie L. Olson, AICP, Principal Planner Community Development Department City of Eureka,
531 K Street
Eureka, CA 95501-1165
Email: solson@ci.eureka.ca.gov

Anent: Cultural Resources

While in general I believe there is a lot of good information collected in the DEIR, as far as the cultural resources portion there seem major reasons for concern--it is too weak.

My friend the late Irving James (1900-2000) use to frequently talk about going into "Chur-Ru-Chic-Chi" (as I recall) [djerochichiwil which has multiple spellings] referring to Eureka. He and his family were long (and are) a source of information about this area. I'd never knew where exactly this was as I supposed there were likely a lot of Wiyot settlements (over their 2000? years) in the Eureka area. Earlier this month I found that this significant settlement was likely on Marina Center site.

5-714 Sadly the Wiyots have suffered badly from White Americans. Likely they were decimated by the massacres, internments, relocations, and disease. Too often expediency and self-interest (by enlarge short-term) seem a foundation of our actions.

The proposed plan to protect the archeology of the area seems incredibly naive. Our normal patterns have minimal (if any interest) in archeology. Business is business and doesn't like distractions. Jobs in Humboldt have long been a challenge for workers. Now especially in our current economic straights where jobs are being so cut back, it is highly questionable if a worker would want to thwart the project by raising problems--and risk losing their income. 127-1

1. Archaeologists should be on site in addition to training of the workers. Considering the size of the project (with the need to not be in the way excessively), multiple trained Wiyot observers should be at each construction site while activity is going on. 127-2

2. Preliminary assessment should be done with remote sensing (ground penetration radar if applicable), trenching, and careful excavation. 127-3

3. Piledriving, undergrounding of utilities and other subsurface activity should be included in this protect. 127-4

4. In as much as the finished project will bar future access to unknown pre-1850 archaeological materials, an evaluation needs to be done before further activity on the site. 127-5

Sincerely,

"Jamie" Orr

Sidnie Olson

From: jamieorr2@juno.com
Sent: Saturday, January 31, 2009 11:59 PM
To: Sidnie Olson
Subject: Marina Center DEIR comments

RFD 1 Box 66
Loleta, CA 95551
31 January 2009

Ms. Sidnie L. Olson, AICP, Principal Planner Community Development Department City of Eureka,
531 K Street
Eureka, CA 95501-1165
Fax: (707) 441-4202

Anent: Marina Center DEIR

There has been a lot of effort done on this DEIR; making something constructive with a brownfield, public nuisance is laudable.

However the Urban Decay portion which claimed less-than significant impact seems tainted. One only has to drive along downtown 101 to see troubling vacant spaces, and there are more elsewhere. Considering the change in our current and national economic situation, a realistic reappraisal needs to be made--i.e., more than hints of the second Great Depression. Home Depot is closing stores and has laid off 7000 people. An economic downturn may curtail interest in all this development. Certainly national chain big boxes do nothing for Eureka's individual uniqueness, and the tract needs to support our exceptional environment. 127-6

CalTran's 101 ByPass through Eureka was vetoed by Eureka in the 1970's. Eureka's traffic has suffered. Now at one of our worst bottlenecks, commerce (albeit a different branch) plans to exacerbate the problem. Their plans for remediation are inadequate or deliberately blithe. 127-7

The number of new traffic lights is going to slow the flow of traffic. The number of stoppages and bumper-to-bumper crawling incidents will increase. Waterfront Dr. can certainly be part of a resolution, but more planning (& consideration) is required. That would make more sense than causing problems on Koster (Koster & Wabash were cited). The railroad there in the future could worsen congestion, but could do more for the area than a big box. Eureka and the Project need to be more creative with mitigation. Previously there have been discussion of improving Waterfront Drive to an improved traffic artery, shouldn't that be an alternative for exploration? 127-8

Eureka is not the world, but it is extremely disingenuous to dismiss negative consequences as less-than-significance regarding Green House Gases. What happens here contributes to problems beyond the local. Our being mindful of our local responsibility has prudence beyond just our local area. How much will gridlocked traffic support the California Global Warming Act? How much fuel economy/efficiency results with increased traffic signals? Vehicles impact our having reached Peak Oil. Eureka is not isolate; we are part of the world, consideration the part we play is required (beyond expediency and short-term self-interest). 127-9

Putting residential housing into a Tsunami area seem short sighted. Considering Peak Oil and the many more countries aspiring to increase use of petroleum, the plan cheerfully, optimistically ignores this. Bicycles and pedestrians are getting short shrift. 127-10, 127-11, 127-12

A more limited footprint facility would help reduce adverse impacts on transportation, reflect the California's 127-13

Comment Letter 127

coastal-dependent and coastal-related development emphasis and offer potentially better visitor-serving recreation. Options for other places for a big box besides here need more exploration. The No Project seems very limited; why couldn't environmental effects be a part of this. A park did not seem to have been given sufficient consideration. Incorporation of the railroad, tourism and the tract might beneficially be considered. Hazardous Material should include a broader survey of other hazardous materials. Diesel pollution reduction should have more importance. Is there a roll for the tract to support increased barge shipping?

↑ 127-13
| cont.
| 127-14
| 127-15
| 127-16
| 127-17

Hoping for our best,
James Orr

-Page Break-
P.S.

Ms. Sidnie L. Olson:
I tried to fax this, but your fax number is not available tonight. I live in a rural part of our rural county and do not have direct Internet access. Driving into town to do this now would be onerous and problematic. I won't be able to do so tonight, or I would as I value my privacy. Would you be able to redact my e-mail address, please? If you need one, no.unsolicited.commerial.email@gmail.com would be my preference. Thanks!

5-715

Letter 127: Jamie Orr

- 127-1 The comment states that the proposed plan to protect archaeological resources should be improved. Revisions to Mitigation Measure E-2a include archaeological and Native American monitoring of ground-disturbing activities in locations predetermined to be culturally sensitive. Areas outside these locations would be subject to Mitigation Measures E-2b and E-2c that includes provisions for unanticipated discovery of artifacts and human remains. Please see Master Response 9, Chapter 2 Errata, and responses to comments 97-3, 69-7, and 69-2.
- 127-2 The comment states that the proposed plan to protect archaeological resources should be improved. Please see Master Response 9 and responses to comments 69-7, 69-13, 69-16, and 127-1.
- 127-3 The comment states that preliminary assessment of archaeological resources should be done with remote sensing. Implementation of a subsurface survey program would help determine whether significant archaeological sites exist in the project area. Please see responses to comment 11-1 and Master Response 9, which includes revised Mitigation Measures E-2a and E-2b, which further discuss subsurface investigations.
- 127-4 The comment states that all subsurface activity should be included in the archaeological monitoring. Certain ground-disturbing activities within areas predetermined to be culturally sensitive would be monitored by an archaeological consultant. Please see Master Response 9, which includes revised Mitigation Measures E-2a and E-2b.
- 127-5 The comment states that inasmuch as the project would bar future access to unknown archaeological resources, an evaluation needs to be done before further activity occurs on the site.

Please see response to comment 69-1, which explains that once the remediation plan is finalized, a subsurface investigation would be completed in the discrete areas identified as culturally sensitive to help determine the presence or absence of cultural resources associated with the two Wiyot ethnographic village sites which may or may not exist on the project site. In the meantime, it would be impractical to require significant trenching, boring, and excavation now, in advance of project approval, and before the specific areas of disturbance are ascertained, particularly given the fact that the project site may not contain any significant archeological materials. Such extensive testing would itself require the sort of permits from regulatory agencies that the project is seeking to obtain (e.g., a wetland fill permit).

Subsurface investigations would not occur in areas that are not to be disturbed by the proposed project and/or are not within the discrete areas identified as culturally sensitive. Please see Master Response 9 and Mitigation Measures E-2a through E-2c, which include construction monitoring for archaeological resources.

Finally, it is in the excavation of materials that archaeological resources can be damaged or compromised. If materials remain undisturbed, then they remain protected from damage and would not be impacted by the proposed project. Therefore, any unknown materials that are not disturbed by the proposed project would remain protected.

- 127-6 The comment questions the urban decay analysis prepared. Please see Master Response 1, under “Jobs / Wages Impacts,” “New Recessionary Conditions,” and “Vacancy in the City of Eureka.”
- 127-7 The comment states that the proposed project would exacerbate traffic problems on U.S. 101. Please see response to comment 31-1, which states that the 33 percent increase in traffic by 2025 would occur with or without the proposed project. The response also states that mitigation measures would address almost all significant impacts.
- 127-8 The comment raises various concerns about traffic conditions, including a claim that proposed new traffic signals would slow the flow of traffic, and a suggestion that use of an improved Waterfront Drive to accommodate traffic should be explored.

Most of traffic signals would be synchronized, to make sure the flow of traffic is smooth. However, additional traffic signals do imply slower speed operations than without such signals. Even without the project, however, there would still be a need for signals on both Fourth and Fifth Street at C Street. One new signal that may slow traffic would be added at Broadway and Fourth Street. The additional signal at Hawthorne, however, would actually improve traffic flows because elimination of the Fairfield approach at Wabash Avenue and Broadway increases total intersection capacity. Currently, signals along Broadway are not synchronized because of the long cycle lengths required for the Broadway intersection of Wabash Avenue and Fairfield. Accidents are a function of total traffic entering into an intersection plus traffic controls. The mitigation measures in the Draft EIR would help improve traffic operations and would likely reduce accident rates, but overall, traffic accidents are likely to increase with or without Marina Center by 2025 due to projected traffic growth. With the mitigation measures implemented by Marina Center, it is likely that the number of accidents in the future would be less with the Marina Center project than if the project is not built and its mitigation measures remain unimplemented. Waterfront Drive is already classified as a Major Collector by the City of Eureka, and as such is intended to carry significant volumes of traffic from traffic generators to the principal arterial system.

- 127-9 The comment states that the greenhouse gas (GHG) analysis is inadequate. Comment is noted. As discussed in pages IV.C-19 through IV.C-22, the proposed project would not make a cumulatively considerable contribution to GHG emissions. Please also see response to comment 16-22, which further explains the determination of significance for cumulative GHG emissions.
- 127-10 The comment regarding housing in a tsunami area are noted. As stated on Draft EIR pages IV.H-22 through IV.H-24, the potential for the Marina Center project to result in

adverse impacts due to inundation of seiche, tsunami, or mudflow would be less than significant.

- 127-11 The comment states that the project plan “cheerfully and optimistically “ ignores “Peak Oil” and that many countries are aspiring to increase the use of petroleum.

“Peak Oil” is a term used to describe a theoretical era during which the annual total quantity oil supply is at its peak, and that in the near future (after the peak) the annual supply is going to begin decreasing.

The proposed project, while inclusive of parking lots, is an infill development directly adjacent to a city’s downtown, which can encourage use of alternative modes of transportation to the project site. The total global supply of oil, as well as the increased oil use in other countries, is beyond the scope of CEQA.

- 127-12 The comment states that bicycles and pedestrians are getting the “short shrift.” The comment is noted. As discussed on pages IV.O-45 through IV.O-48, the proposed project, with identified mitigation measures, would have a less-than-significant potential to conflict with adopted plans, policies, or programs supporting alternative transportation.

- 127-13 The comment advocates for a reduced project with a smaller footprint than the proposed project. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI.

- 127-14 The comment states that the No Project Alternative is too limited. Please see response to comment 16-241, which discusses the requirements of the No Project Alternative and why it cannot include uses not yet planned or proposed for the project site.

- 127-15 The comment suggesting other uses for the project site are noted. An analysis of alternatives to the proposed project is provided in Chapter VI of the Draft EIR. Please see responses to comments 16-9, 16-239, and 16-242, which discuss the requirement for a reasonable range of alternatives. Alternatives containing uses similar to those described could be the Tourism Use Alternative, the Convention Center Alternative, Wetlands Restoration and Public Park Alternative, and the Limited Industrial Zoning Alternative.

- 127-16 The comment states that hazardous materials should be further investigated. For further discussion regarding the Remedial Action Plan for the proposed project, as well as other investigations performed to date, please see Master Response 4 and new Appendix S.

- 127-17 The comment states that diesel pollution reduction should have more importance. The comment is noted. Diesel pollution is discussed in Chapter IV.C, Air Quality.

- 127-18 The comment suggesting barge shipping for the project site is noted. An analysis of alternatives to the proposed project is provided in Chapter VI of the Draft EIR. An alternative containing uses similar to the described “barge shipping” could be the Coastal Dependent Industrial Zoning Alternative.

Sidnie Olson

From: Jean Paulson [flyin-lion@humboldt1.com]
Sent: Friday, January 30, 2009 2:11 PM
To: DEIRcomments
Subject: Marina Ctr.

I'm concerned about the presence of contaminants in this site, about the increased traffic flow (which hasn't been clearly addressed), but more than these issues, about the creeping and irreversible mall-ing of our area. Having lived in two similar areas (outside Madison, Wis. and Warwick, N.Y.) and watched them succumb to urban sprawl, replete with big box stores, and the attendant loss of vibrant, unusual, local businesses, I mourn, and am angered by the idea of a similar fate befalling this remarkable place. Home Depot is in trouble...why would we want them here? Why are we not more concerned with protecting our own? What about a center for business incubation (as in Arcata), a tech center, etc. Not more big stores, over-priced housing etc. on a lot that has yet to pass EIR muster. NO!

Sincerely, Jean Paulson(Eureka)

128-1

128-2

Letter 128: Jean Paulson

128-1 The comment states concern with hazardous materials, traffic, and “mallng” of the City.

The proposed project’s potential impacts to hazards and hazardous materials are discussed in Chapter IV.G. Please also see Master Response 4 and new Appendix S. The proposed project’s potential impacts to traffic are detailed in Chapter IV.O.

As stated on Draft EIR page III-16, one of the Project Applicant’s objectives is to discourage sprawl by promoting an infill development project. The project site vicinity is largely built out. As stated on Draft EIR page IV.I-12, the proposed project “embodies most of the major principles of smart growth, including infill of a brownfield in the city center using a mixture of land uses in a walkable environment adjacent to open space.”

Please see Master Response 1. Although big box stores are frequently associated with urban sprawl, that association is not always accurate, especially when development adheres to some of the smart growth characteristics listed above. For example, there are several big box stores in Manhattan (including two Home Depot stores), San Francisco, and Chicago—three places known for high-density, compact development.

128-2 The comment criticizes the inclusion of Home Depot and suggests alternative development projects. The comment is noted. Please also see Master Response 1. Alternatives to the proposed project, some of which include the components in the comment, are in Chapter VI of the Draft EIR.

Sidnie Olson

From: Susan Penn [spenn@quik.com]
Sent: Friday, January 30, 2009 3:17 PM
To: DEIRcomments
Subject: Marina Center DEIR

They DEIR states that the project will not contribute to urban decay. It also states that urban decay can be the result of business closures when the vacancies are not filled in a reasonable time, and result in boarded windows, etc. The report goes on to praise our low commercial vacancy rates. The square footage of vacancy may be considered low, but the number of vacancies is high (by my standards, since there were no comparative numbers given.) There are over 100 vacant store fronts now. How many more would the new Marina Center create?

129-1

When the Bayshore mall opened, the effect on downtown Eureka was devastating. Many stores were indeed boarded for a period of time, windows broken, etc. Many dollars and efforts later, Old Town is starting to recover. Haven't we learned our lesson? Do we want to try to do it all again?

Susan Penn
PO Box 1036
Eureka, CA 95502

Letter 129: Susan Penn

129-1 The comment relates to urban decay questions the urban decay analysis. Please see Master Response 1, under “Vacancy in the City of Eureka,” as well as under “The Effect of the Bayshore Mall on Local Businesses.”

Sidnie Olson

From: Jamie Peterson [cr_princess_1501@yahoo.com]
Sent: Friday, January 30, 2009 8:02 PM
To: DEIRcomments
Subject: Marina Center

I would like to state my opinion on the current plans for the Marina Center DEIR.

I think the traffic issues have not been addressed adequately. I believe that there is Too much traffic going on to Waterfront drive. What would the traffic look like on Broadway if we add the trains with trucks moving their containers?

130-1

I believe the big box stores are more suited outside the city. We want a good tourist environment that does not cause urban decay. Stores are closing right and left. Do we think by the time this is built the economy will be any better? We need to Help our some nick business to thrive in our quaint town.

130-2

One of my main concerns having lived here for 30 years is the way the bay has been polluted. I used to love to fish the bay but I am concerned of the toxic water that is in the bay and how it touches the fauna. I don't see capping the ballon track as a solution or leaving it the way it is currently either. The report did not address the dioxins in the soils and their levels. The toxics are seeping into the bay. What about a family living in that waste. It does not say if they will rip up the asphalt or what. What will be the means for building the structures on the site?

130-3

The studies that were sited were long ago and as we know one can skew statistics with leaving out variables.

130-4

I don't see any definite plans for really having the electric cars, and how many. Our PM10 rate for air quality is over now. I am afraid this would add to it.

130-5

Please reconsider the use of this land. YOU have done such a wonderful job with the boadwalk and newer building near the water.

Thanks you,

Jamie Peterson

Letter 130: Jamie Peterson

130-1 The comment states that the Draft EIR does not adequately address traffic issues on Waterfront Drive. Waterfront Drive is already classified as a Major Collector by the City of Eureka, and as such is intended to carry high volumes of traffic from traffic generators to the principal arterial system. The proposed project would add approximately 400 vehicle trips to Waterfront Drive south of the Fourth Street Extension, and about 480 vehicle trips to Waterfront Drive north of the Fourth Street Extension during the p.m. peak period in 2025. The capacity of Waterfront Drive at stop controlled intersections is roughly twice the projected traffic volumes even with the parked cars on the street. Even though the traffic volume is expected to grow, the levels of service are expected to remain within the acceptable range established by the City of Eureka. The average speeds along this section of Waterfront Drive may drop because of slower vehicles traveling through the Marina, but the capacity of the street, as described above, is far higher than the projected future use of the roadway determined in the study.

The comment also asks about impact of trains on Broadway. As stated in Draft EIR Chapter IV.O, the proposed project would not interfere with possible future reactivation of the Northwestern Pacific Railroad.

The comment asks generally what the traffic would look like if the City adds “the trains with trucks moving their containers?” The comment is unclear as to which trains and trucks it may be referring to, and therefore a specific response may be speculative. Cumulative projects and growth projections for the City of Eureka do not identify any additional rail container or associated truck traffic. Consequently, this is not a cumulative impact of the project and no further analysis is required. Please also see response to comment 52-18.

130-2 The comment states that the proposed project’s uses are better suited for other locations. The comment is noted. Alternative sites for the proposed project are screened for analysis in Chapter VI of the Draft EIR.

The comment also implies that the proposed project would cause urban decay, put companies out of business, and should not be built considering the current state of the economy. Please also see Master Response 1.

130-3 The comment requests further detail regarding the existing contamination of the project site and the remediation plan, as well as the potential for toxic contaminants to seep into the Bay.

For further discussion regarding the Remedial Action Plan for the proposed project, including a discussion of subsurface chemical migration, please see Master Response 4 and new Appendix S.

- 130-4 The comment regarding previous studies is noted. Please see Master Response 4 and Appendix S for further information regarding the regulatory approval process, as well as information regarding more recent site investigations.
- 130-5 The comment makes a statement that there are no definite plans for having electric cars and that the already high PM10 levels would increase. For a response associated with the outlets for the electric cars component of Mitigation Measure C-2a, see response to comment 12-3. As stated in that response, it is reasonable to assume that the measure would result in some level of emission reductions by making the proposed parking facilities more convenient to electric and hybrid car owners.

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Amy Pollock

Address: 329 Clark St. (home) + 322 F St. (shop)

E-mail: I oppose the Marina Center/Balloon Tract development project. As a resident I am apposed to increased traffic & urban decay. As a local artist, I value the cultural importance of locally produced goods shared with visitors to our area.

Do Tourists can go to Home Depot, etc. at their own homes. The unique, local businesses create our unique cultural environment. This project is not sustainable economically, environ-

Signed: Amy Pollock mentally, socially or culturally. Please

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov
do not waste the resources of the people of this

131-1

Letter 131: Amy Pollock

- 131-1 The comment in opposition to the proposed project's potential impacts to urban decay and transportation is noted. The proposed project's potential impacts to transportation are discussed in Chapter IV.O, and the proposed project's potential impacts to urban decay are discussed in Chapter IV.P of the Draft EIR. Also please see Master Responses 1, 6, and 7.

Sidnie Olson

From: David Fix & Jude Power [foglark@att.net]
Sent: Saturday, January 31, 2009 10:19 PM
To: DEIRcomments
Subject: Marina Center

Dear Sidnie Olson,

I would like to share my opinion that the proposed Marina Center development would have a negative effect on Eureka and Humboldt County and I do not think it should proceed at this time. The construction of a Home Depot along with other new retail spaces in downtown Eureka would certainly cause many of our existing businesses to fail. An example is Pierson's, an exemplary locally-owned home improvement center, which could not compete with H.D. Humboldt County has a very small, economically depressed population, approximately 125,000, and we cannot support more retail stores than we already have. Why do you think Trader Joe's refused to come here? Because they knew our population was too small and too poor to support it. Home Depot itself has recently laid-off thousands of employees and is closing many of its centers. We have many empty store fronts as it is; it is irrational to consider building more. Local businesses are struggling (except the liquor stores?) and cannot take the blow of another big mall. Even Bayshore Mall is hurting - the two anchor stores are failing and spaces are vacant.

132-1

Another response I have to the proposed Marina Center is the aesthetic aspect. I was alarmed by the artist's rendition in the Times-Standard. It looked like a 1950's strip mall in the Central Valley. Isn't this supposed to be a Victorian Seaport? The architecture had no relevance to our culture or architectural heritage. It was really off-putting, although perhaps not as horrendous as the Italianesque County Jail facade on 5th Street. And I haven't even mentioned the traffic problems that will plague the 4th Street/Broadway area or the drug dealers and prostitutes who will flock to the new development. All in all, the Marina Center is a very bad idea in its present form.

132-2
132-3

Thank you for considering my input,
Jude Power
Eureka Shopper
Humboldt Co. resident since 1971

Letter 132: Jude Power and David Fix

- 132-1 The comment states that the proposed project would cause other businesses to fail and states that national chains avoids Eureka because the market is not strong enough to support them.

Please see Master Response 1, under “National Stores vs. Local Stores” and “Potential Local Store Closures.”

- 132-2 The opinion of the preliminary project renderings is noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

- 132-3 The comment relates to site security and police protection. Please see response to comment 16-178. As stated there, by providing new development on the project site, including new residents, employment, economic activity, and public activity, the project may have a beneficial effect on safety of the area.

Also, the Police Department has indicated that one additional police office and one police service officer would be needed as a result of the proposed project, and the proposed project would contribute both sales tax and property tax revenues to the City, which would in turn increase the general fund. If the City Council determines through its annual budget review that additional police services are warranted, for either onsite services or off-site traffic enforcement, they would direct some of the increased general fund revenues to the Police Department.

Sidnie Olson

From: Christy Prescott [csprescott@yahoo.com]
Sent: Saturday, January 31, 2009 5:27 PM
To: DEIRcomments
Subject: Marina Center DEIR Comments

Dear Sidnie Olson,

Please take my comments under consideration regarding the DEIR for the proposed Marina Center.

While I recognise the many benefits that may flow from the development of the Ballon Tract, I am concerned about the proposed big box development. While I support creating jobs in Humboldt, I believe these should be generated in a manner that does not compromise the sustainability of locally owned small businesses. I would like to see an analysis of the impacts of the big box development on local businesses.

133-1

My other concern with the DEIR is the lack of consideration and analysis used to support the General Plan land use designation amendment. Given that the development will require a site specific plan amendment to move forward, I would expect that the city would carefully consider the need for a big box development versus what the site is currently zoned for or other potential development types.

133-2

Consideration of the site's inherent qualities should be a fundament in the city's decision on approving any land use amendment to the plan. A big box development does not capitalize on the site's spectacular views or proximity to Old Town and Humboldt Bay. The DEIR needs to include a thoughtful and thorough analysis of the impacts associated with the proposed plan amendment direction. I find that the DEIR is currently lacking in this respect.

133-3

Thank you for the opportunity to comment. I hope that you will take these comments under serious consideration in moving forward.

Sincerely,
/s/ Christy Prescott
2704 G Street
Eureka, CA 95501

Letter 133: Christy Prescott

- 133-1 The comment expresses concern that the proposed project would compromise the stability of locally owned businesses. The comment is noted. Please see Master Response 1, under “Potential Local Store Closures.”
- 133-2 The comment expressing concern that the Draft EIR lacks consideration and analysis of the proposed General Plan amendment is noted.

The project entitlements and approvals are listed on pages III-17 and III-18. Chapter IV.I, Land Use and Planning, describes the existing land use and zoning designations and the proposed amendments. The potential environmental impacts of these entitlements and approvals are detailed throughout the Draft EIR. In addition, please see Master Response 4, which describes the existing and proposed zoning on the project site and permissible uses. Master Response 3 also discusses the Local Coastal Program’s Land Use Plan, which is an integral component of the General Plan.

- 133-3 The comment encouraging a thorough review of the proposed project’s entitlements and aesthetic impacts is noted.

The project entitlements and approvals are listed on pages III-17 and III-18. The proposed projects’ potential impacts to scenic vistas are discussed in Chapter IV.A, Aesthetics. The proposed project’s consistency with the Local Coastal Program is discussed in Chapter IV.I, Land Use and Planning, as well as in Master Response 3.

To: City of Eureka
Community Development Dept.
attn: Sidnie L. Olson, Principal Planner
531 R Street
Eureka, Ca. 95501-1165

RECEIVED
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Comments on Marina Center DEIR: 1/31/09

I have lived in Humboldt Co. for 37 years. I have attended C/R, HSU, raised my family here and started my own family business. I'm a homeowner who built my passive solar home in 1981. I have lived in San Lake, Mendocino, Eureka, Ukiah, McKinleyville, Westhaven, Trinidad, Arcata and Eureka and had ample opportunity to witness both rural and urban development and historical decay as well as spoken over the years with fourth and fifth generation locals.

Where to begin about this ill-fated draft EIR is overwhelming to me. Let's go back to the early seventies when Old Town Eureka was a dilapidated waterfront fisherman's town in the glory days of Faribos and abundant fish stocks. The Madaket, Old Town Bar and Grill and Fog's brought people to Old Town and all businesses boomed when the economy took a downturn. The funky but functional Eureka mall did the Downtown area took a permanent hit when the Bayshore Mall was built, after yet another very expensive Old Town Eureka revitalization project. But the brick Gagebo in. It couldn't sustain local businesses when even J.C. Penney's closed their Eureka store and moved to the mall. Down-

The loss of anchor stores at the Bayshore Mall, empty storefronts, declining sales, a deep recession beyond anything our grand parents have seen since the Great Depression should be enough to halt this grandiose bloated project. Even the Bear River revitalization project from 16 years ago still sits vacant with no local retailers, with the empty condos and retail space on F Street. The Marina Center is a bizarre hodge-podge of big box commercial, regular commercial space, office, residential and light industry. "Shipping needs" just traffic and enhancement? Combining just traffic and shipping needs for this Center is totally incongruous and nonsensical. Spade-gate existing traffic corridors on Broadway and side streets would bring commuting and peak traffic times to a gridlock standstill something we already "enjoy". Traffic Studies for Herrick Road, Elk River Road, Vaher Ave, Mayer Ave, intersection of F and Oak Street have not been addressed, let alone the traffic emission from 15,000 idling cars on the waterfront. There are 2 Wjst historic sites within the project boundaries which have not been addressed. Wetlands mitigation, monitoring of non-native ice grass needs to be addressed. There are numerous known toxic contaminants in the soil: hydrocarbons, copper, lead, arsenic, and dioxins, seeping into the groundwater. In the current recession, Home Depot announced last week that were closing hundreds of stores

134-1

134-2

134-3

134-4

134-5

134-6

5-732

We need to use the urban backfill/
 infrastructure that we have such as all
 that space we have already available on James
 Blvd's old warehousing sites. Letting Home Depot
 in would be a slap in the face to the
 few surviving local retailers like Ernie
 Pierson, where you get expertise and local
 service after the sale, unlike a national
 retail chain whose corporate headquarters
 are outsourced 3rd towns where public
 transit to the marina water? nonexistent.
 Safe bike trails and walkable space at
 the Marina Center? Good luck dodging
 the delivery trucks! The Eureka waterfront
 wetlands would be better served with a
 through channel and a Visitor-serving Recreation
 Use Center, an eco-tourist destination flagship
 along the lines of our global trend setting
 Arcata Marsh and Schatz Energy Center.
 Shopping destinations are quickly becoming
 dinosaurs of the Wall Street excess, and not
 wise or sustainable for our local economy. 40
 years of these revitalization bronztoggers
 should be history enough to cancel this
 ridiculous outdated mindset. Invest in
 our natural local sustainability and
 eco-tourism and green jobs instead
 I invite you all to take a walk today on our water
 front with open eyes. Take a deep breath,
 a fish rots from the head down. If it looks like
 a fish and smells like a fish, it indeed is a
 fish. Fitz Hill.

134-7

134-8

134-9

134-10

Thank you for your kind
 attention in this very important issues.

Sincerely,
 Leslie Quinn
 LESLIE QUINN
 1887 HAUSER CT.
 ARCATA, CA. 95521
 # 825-0209

5-733

Letter 134: Leslie Quinn

- 134-1 The comment lists vacant retail spaces, notes current economic conditions, and states that these reasons should be enough to disapprove the proposed project. The comment is noted.

Please see Master Response 1, under “New Recessionary Conditions,” as well as under “The Effect of the Bayshore Mall on Local Businesses.”

- 134-2 The comment states that the proposed project would bring traffic corridors on Broadway to a standstill.

To the contrary, the Draft EIR’s analysis shows that after implementation of the identified mitigation measures, all intersections on U.S. 101 in the project area would operate acceptably (i.e., without adverse congestion). All other intersections in the study area would similarly operate acceptably, except Koster Street and Wabash Avenue.

- 134-3 The comment lists several streets in the City of Eureka and claims that the traffic impact study did not address these streets and associated intersections. The comment also expresses concerns about emissions from project-generated vehicular trips.

The traffic consultant preparing the Draft EIR traffic analysis consulted with the City of Eureka, Caltrans District 1, and the EIR consultant ESA in developing the list of study intersections. Subsequently, the traffic consultant looked at potential impacts from project traffic on intersections beyond the study area including U.S. 101 and State Route 255 (Fourth and Fifth Streets at R Street), F Street south of Downtown, and Herrick Avenue at U.S. 101 and at Elk River Road. And it is found by the traffic consultant that the project’s impacts on these outlying intersections and roadways would be less than significant.

On vehicle emissions, it should be noted that all of the vehicle trips identified in the traffic analysis are not necessarily “new” trips. In fact, the air quality analysis was conducted both for project-generated vehicle trips in the URBEMIS2007 air emissions model, and also cumulative regional projections in population growth and vehicle emissions that would occur with or without the project. (Draft EIR, pages IV.C-14 and -15.) So those impacts are evaluated and addressed by the project to the extent feasible. Moreover, vehicles are not expected to idle on the project site as the comment suggests. Vehicle trips would begin or end at the project site. Except for some limited idling associated with delivery trucks, there is no evidence to suggest that vehicles would be left idling unnecessarily at the site. Finally, vehicle emissions arise from several factors which cannot be controlled by the project. For example, the project cannot control individual buying or driving habits, which would affect the fuel efficiency rates and whether individuals commute shorter or longer distances. In any event, the Marina Center is designed as a mixed-use project, with various land uses co-located so as to avoid unnecessary vehicle trips and thus reduce or minimize vehicle emissions.

- 134-4 The comment states that the potential Wiyot villages beneath the project site have not been addressed.

Implementation of a subsurface archaeological survey program would help determine whether significant archaeological sites exist in the project area. Please also see Master Response 9, which outlines revised Mitigation Measures E-2a and E-2b to implement the subsurface archaeological survey.

- 134-5 The comment states that there are numerous known toxic contaminants in the soil: hydrocarbons, copper, lead, arsenic, and dioxins, seeping into the groundwater.

Please see Master Response 4. The comment is correct that hydrocarbons, copper, lead, arsenic, and dioxins have each been detected at the project site, and that migration to groundwater may be a concern at other project sites. Petroleum hydrocarbons have been found in the “A” zone wells, but the area affected is limited, the amounts are decreasing from natural processes, and the hydrocarbons are not migrating. The impact to groundwater by arsenic, copper, and lead has also been minimal given the low concentrations and the tendency of these metals to bind to soil. Likewise, impacts to groundwater in the “B” zone have been minimal, indicating that the layer of densely compacted bay mud that separates the “A” zone from the “B” zone is an effective aquitard. Dioxins, on the other hand, are insoluble and therefore should not be present in groundwater. Dioxins were detected in ditches and Clark Slough. This, and the fact that dioxins are not associated with any of the past uses of the project site, suggest that these elevated levels of dioxin are attributable to offsite sources. In any event, the project proposes as Phase 1 to conduct site remediation and wetland restoration, which would together eliminate exposure pathways and reduce the risk to human health and the environment to a less-than-significant level.

- 134-6 The comment states that the Home Depot recently announced that it is closing stores. Please see Master Response 1, under “New Recessionary Conditions.”

- 134-7 The comment states that the City should use the urban backfill / infrastructure and states that Home Depot is a slap in the face to locally owned retailers. The comment is noted.

The project site is considered an urban infill site similar to the “urban backfill” sites suggested by the comment. Please see Master Response 1 regarding comments about national retail chains. Please also see Master Response 1, under “Potential Local Store Closures.”

- 134-8 The comment makes terse statements accusing the proposed project of lacking transit, bicycle, and pedestrian access. To the contrary, transit and bike routes that would serve the project are discussed in the Draft EIR under Impact O-7 on pages IV.O-45 to IV.O-48.

- 134-9 The comment suggesting alternative uses for the project site is noted. An analysis of alternatives to the proposed project is provided in Chapter VI of the Draft EIR. Please see

responses to comments 16-9, 16-239, and 16-242, which explain that the analysis has included a reasonable range of alternatives, as required by CEQA. Alternatives containing uses similar to those described could be the College of the Redwoods Alternative, the Tourism Use Alternative, the Horticultural Gardens Alternative, or the Wetland Restoration and Public Park Alternative, which are considered in Chapter VI of the Draft EIR.

- 134-10 The comment inappropriately confuses the demand for destination retail shopping centers with the fate of “Wall Street excess,” which is likely to mean the performance of banks and investment companies that took on too much risk during the past decade.

Destination retail shopping centers have existed for centuries. In addition, large-format destination retail, such as department stores, have existed for more than a century. These retail developments occurred more than one hundred years before the advent of credit default swaps and subprime mortgage-backed securities that played a large role in the crises in the financial banking sector from 2007 through 2009.

The demand for destination retail, while affected by the current economic conditions, is therefore not assumed to wane into extinction, as implied by the comment. Please also see Master Response 1, specifically under “New Recessionary Conditions.”

Sidnie Olson

From: howdix@earthlink.net
Sent: Thursday, January 29, 2009 10:34 AM
To: DEIRcomments
Subject: Marina Center

To whom it may concern:

The Balloon tract has laid fallow far too long. I hope it will soon be turned into a better revenue source for the City of Eureka. I feel that the developers have far exceeded what they should have to just to try and satisfy everyone. They have satisfied me and at age 80 I hope I can live long enough to see the Marina Center completed.

135-1

Howard Rien, RDC, USN Ret.
howdix@earthlink.net
Eureka, CA

Letter 135: Howard Rein

135-1 The comment in support of the proposed project is noted.

Sidnie Olson

From: Jane Riggan [jriggan@humboldt1.com]
Sent: Monday, January 26, 2009 2:27 PM
To: DEIRcomments
Subject: Marina Center EIR comments

Dear Sidnie:

I am particularly concerned about the human health effects of constructing the Marina Center on an old hazardous waste site and whether there have been any effects from the previous soil and hazardous waste material removal. My main concern is regarding the residential and museum use (especially in relation to children). Once I got a copy of Hazardous Materials Assessment in Appendix J, I was disturbed to see the brevity of the Health Risk Assessment (4.0).

Maybe this was only a summary, but there were still some disturbing aspects. Colleagues who have been familiar with other Union Pacific sites raised the issue of dioxins and PCBs and why they were not addressed. I am also concerned that Health Risk Assessment is based on one completed by Geomatrix in 1997 and an Addendum in 2000. That was nine years ago and it seems to me that the data would be considered outdated. It certainly seems that is would be prudent to get more recent data especially if your accepted version includes residences and the Discovery Museum.

136-1

Thank you for your careful consideration of these comments. Feel free to call me if you need clarification.

Jane Riggan
1721 J Street
Arcata, CA
825-6756

Letter 136: Janet Riggan

136-1 The comment requests further detail regarding the hazardous materials and radiation plan.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

Sidnie Olson

From: nick robinson [swissforestryrobinson@yahoo.com]
Sent: Friday, January 02, 2009 1:48 PM
To: DEIRcomments
Subject: Marina Center Public Comment

Hello

As a citizen and home owner in Eureka Ca, I wish to express my support of the Marina Center. I believe that this project will benefit the area tremendously. As long as I have lived in this city it has gradually improved, and the waterfront areas are particularly run down. As each new project is completed the aesthetics of our area improves, as does our quality of life. I also believe that the perceived impact of a big box store is grossly over stated. This area has a long history of supporting local businesses. People will not abandoned this notion just because a new store opens. Businesses such as Peirsons and Ace may experience a short term loss in business, but I believe that the local population will be loyal to their local stores. Competition will be good in the long run for everyone. I haven't seen anything close because of Target or COSCO.

137-1
137-2

The biggest potential impact from this project is the "No Project" scenario. The longer improvement and clean up proposals are delayed, the more expensive they become. How many assessments does it take to assess something? This area struggles enough as it is. We have always relied on a resource based economy, and being in such a remote location, inefficiency kills business. The bureaucracy of these projects may be necessary to some degree, but lets keep the layers as thin a practical and keep Eureka alive.

137-3

Nick Robinson
3378 L st
Eureka CA 95503

Letter 137: Nick Robinson

- 137-1 The comment's support of the proposed project is noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 137-2 The comment states that local businesses may experience short-term losses due to the proposed project, but that the local population would be loyal to the local stores. The comment is noted. Please see Master Response 1 for further discussion.
- 137-3 The comment regarding the potential impacts of the No Project Alternative are noted. Please see response to comment 16-241, which further discusses the No Project Alternative.

Comment Letter 138

January 27, 2009

Sidnie Olson
Principle Planner
Eureka Community Development Department
531 K Street
Eureka, CA 95501

RECEIVED
JAN 29 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Re: Marina Center Project

Dear Ms. Olson:

The Marina Center Project proposed for the Eureka waterfront will result in years of construction pollution, heavy equipment and trucks and accompanying diesel fumes, noise, ground vibrations, hazardous materials and dirt in the center of town for a project with serious environmental impacts and real potential for causing more business closures and urban decay in the area. Having "Home Depot" as an anchor store will bring large delivery trucks, constant auto traffic in and through the beautiful and fragile old town area and the increasingly congested Highway 101 corridor. Will studies be made to address, quantify, mitigate and publicize all these impacts? What cumulative impacts will be made on existing infrastructure and who will pay for necessary upgrades - other than unwilling taxpayers? What about earthquake protection? How will the tourist business be affected? The project effects will be severe and permanent.

138-1

I live in the Myrtle town area of Eureka which has been impacted by increasing growth and development, construction and truck traffic with inadequate traffic calming and danger from speeding and increased traffic flows diverted into the neighborhood to accommodate this growth. The diesel fumes, construction dust and dirt, trucks passing by, some days almost continuously, plus the noise, vibration damage and danger they pose to public health and safety cannot be overstated. I think the same could be stated about the Marina Center project. I am concerned that this project will add greatly to the negative impacts already evident locally. Such a loss for such a beautiful urban waterfront.

It is very important that environmental, health and safety, land use and traffic concerns are adequately addressed. The public must be involved, listened to, protected and informed since we will all pay the price for this development one way or another.

Sincerely yours,



Nola Roiz
P.O. Box 6309
Eureka, CA 95502

Letter 138: Nola Roiz

- 138-1 The comments questioning the proposed project's construction schedule, traffic, air quality, and hazardous materials impacts are noted.

The proposed project's construction timeline is described on page III-14. Please also see Chapter 2, which includes text changes to the Draft EIR explains that only the first phase of the proposed project would move forward presently.

The proposed project's potential impacts to traffic, including those from deliveries, are discussed in Chapter IV.O, Transportation. The proposed project's potential impacts to air quality, including impacts to air quality due to diesel fumes during construction, are discussed in Chapter IV.C, Air Quality. The proposed project's impact to noise and vibration are discussed in Chapter IV.K, Noise. The proposed project's potential impact to hazardous materials is discussed in Chapter IV.G, Hazards and Hazardous Materials. The proposed project's impact to urban decay is discussed in Chapter IV.P, Urban Decay. The proposed project's potential impacts to infrastructure are discussed in Chapter IV.Q, Utilities and Services Systems and Chapter IV.O, Transportation. The proposed project's impacts related to earthquakes are discussed in Chapter IV.F, Geology, Soils, and Seismicity. The proposed project's impacts to aesthetics of the urban waterfront are discussed in Chapter IV.A, Aesthetics. Cumulative Impacts are discussed in each chapter, as applicable.

The EIR is the primary document that analyzes these effects, often drawing on studies and documents prepared for specific impact categories. These references are cited at the end of each chapter, and those not previously publicly available are included as appendices in Volume II of the Draft EIR.

The proposed project would contribute sales and property taxes that would be directed into the City's general fund and would be available for distribution to the police or fire departments at the discretion of the City Council. Taxes would also be paid to state and federal revenue agencies for distribution at the discretion of decision-makers to various levels of government and utilities serving the project site. Please also see Master Response 1 regarding funding of police and fire services.

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Cindy Rosenfeld, DVM

Address: 38 Apple Valley Lane Eureka 95503

E-mail: cindrs@aol.com

What a wonderful idea to build a beautiful marina in Eureka. But there are serious issues you have not addressed. One of my interests is the impact of natural wildlife habitat. As a licensed veterinarian, I believe we have a responsibility to restore the tidal estuary we have destroyed. We must reverse the loss of natural wildlife habitat. Won't you please consider combining your project with this deeply moral issue which may also be part of the

Signed: Cindy Rosenfeld DVM Coastal Act!

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

139-1

Letter 139: Cindy Rosenfeld

139-1 The comment states that the project should include a component to restore the tidal estuary. Restoration of Clark Slough is an integral part of the proposed project. Please also see Master Response 4 and Appendix S, which discuss the remediation plan for the proposed project.

Sidnie Olson

From: Ruud [ruud@suddenlink.net]
Sent: Thursday, January 29, 2009 1:26 PM
To: DEIRcomments
Subject: Marina Center Comments

We are pleased to fully support the Marina Center Development and hope that the City of Eureka makes every effort to see this project completed.

We commend the Arkleys/Security National for wanting to invest in our community. Here we have people who have the vision, financial resources and experience to develop his type of project yet there is a resistance of the minority. We were born & raised her and are sick & tired of mostly the implants trying to block projects like this. There are many folks in this community that support this development.

140-1

Most of the waterfront area has been left to deteriorate for decades. This area cannot afford a "government funded project" as many of the "progressives" in this community would like to see. What part of 'private enterprise' don't these people get?

This mixed use development will become a tremendous asset to this community. The naysayers are wasting our best asset by attempting to block this project. We do have the Wharfinger & new docks then many blocks later the Adorni Center & Halverson Park and in the middle there's the boardwalk to nowhere. We have no restaurants on the waterfront; no hotels on the waterfront; empty and barren parcel after parcel along the waterfront ... what are we waiting for?

We recently had relatives from Norway visit who live on the southern coast along the North Sea. This was their 3rd trip to our northcoast. They cannot believe the lack of development around the waterfront & the bay. Their question was "why don't they do something to the waterfront area like build apartments, hotels, a fish market, restaurants, shops and places for people to go and enjoy the waterfront". We agreed wholeheartedly with them. We have visited their hometown in Kristiansand Norway which has done a tremendous job in developing their waterfront area. It has become a bustling hub of the city.

Note also that Norway is approximately the size of California and Baja combined and is one of the 'greenest' nations in the world. Also something that most people here are probably unaware of is that Norway is the 3rd largest oil exporter in the world behind only Saudi Arabia & Russia. They also really know how to do off-shore drilling cleanly.

The City of Kristiansand Norway is truly an example that the City of Eureka should follow.

Let's get this development approved and on the road to a reality.

Thank you for the opportunity to voice our opinion.

Michael & Lucy Ruud
5228 Meadow Court
Eureka CA 95503
ruud@suddenlink.net

Letter 140: Michael and Lucy Rudd

140-1 The comment in support of the proposed project is noted. As stated in Chapter I, Introduction, the proposed project requires several approvals from the City of Eureka and other public agencies. The EIR is a document used as a resource to aid in that decision-making.

Sidnie Olson

From: dryerson2@suddenlink.net
Sent: Saturday, January 31, 2009 10:44 AM
To: DEIRcomments
Cc: dryerson2@suddenlink.net
Subject: Marina Center DEIR Comments

January 31, 2009

Sidnie Olson, AICP, Principal Planner
Community Development Department
City of Eureka
513 K St.
Eureka, CA 95501

RE: Marina Center DEIR Comments

Dear Ms. Olson:

I concur with and support the Marina Center DEIR comments submitted by CA Fish & Game, Humboldt County Public Works Dept., the Wiyot Tribe and Bear River Band, and Humboldt Baykeeper. I do not support the Marina Center Project.

141-1

All residents of our County would best benefit from a more inclusive long range master plan that covered the entire area along the Hwy 101 corridor (west to the waterfront and a block or two east of 101) from V Street in the north to Herrick Rd in the south. This area could be redeveloped so that it is integrally connected and serves as a tourist destination, cultural and community center for County residents, incubation center for independent local businesses, and more. I have a vision for this area that I would love to discuss with you and learn from your knowledge and ideas.

141-2

The advantages of master planning for the entire area described above could include:
--Eliminating the battle over Waterfront Drive extension; --Improving traffic flow to be in synch with current flow at 25-30 mph between I and E streets; --Coherent design that draws from Old Town design; --Improving safety for pedestrians, cyclists, and motor vehicles; --Creating bay views and designing to maximize everyones opportunity to enjoy the natural beauty and functions of the bay; --Fostering a sustainable economy based on local independent businesses; --Designing to decrease auto dependence and reduce VMT (helps meet AB32 requirements).

Thank you for considering my comments.

Sincerely,

Diane Ryerson
1659 I Street
Arcata, CA 95521
707-826-7750

Letter 141: Diane Ryerson

- 141-1 The comments concurring with the Department of Fish and Game comments, and expressing opposition to the proposed project, are noted.
- 141-2 The comments advocating a Master Plan for the entire area along the U.S. 101 corridor are noted.

It is beyond the scope and capability of this EIR and CEQA to analyze the environmental impacts of projects and plans not yet developed through a suggested alternative design charrette process. The Lead Agency is required by CEQA to analyze the proposed project. Alternatives to the proposed project, some of which include the uses suggested, are discussed in Chapter VI of the Draft EIR.

Comment Letter 142

Comment Letter 142

Karen Sanderson P. O. Box 125, Arcata, California 95518 707-502-4019

Karen Sanderson P. O. Box 125, Arcata, California 95518 707-502-4019

Sidnie L. Olson, AICP
Principal Planner
City of Eureka, Community Development Department
531 K Street
Eureka, CA 95501-1165

January 28, 2009
RECEIVED
JAN 29 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Sidnie L. Olson, AICP
Principal Planner
City of Eureka, Community Development Department
531 K Street
Eureka, CA 95501-1165

January 29, 2009
RECEIVED
JAN 02 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Dear Sidnie Olson,

Dear Sidnie L. Olson,

The Marina Center would negatively impact traffic patterns and traffic in and around the city of Eureka. It happened in Capitola, CA when a mall was put in on 41st Avenue, it happened when the Bayside Mall was put in on Broadway, it happened in Monterey CA when a big box store was put in Marina, it happened all over the San Francisco Bay area, it happened in other areas of the state and it will happen here. If you want gridlock on a daily basis in downtown Eureka, go ahead with the Marina Center as planned.

142-1

The Marina Center (including big box stores like Home Depot) would negatively impact many local companies (such as Pierson Building Center, Schmidbauer Building Supply, locally owned Ace Hardware Stores, Almquist Lumber, Arcata Do It Best Lumber, Forbusco Lumber and other Fortuna businesses, Mad River Lumber, The Mill Yard, Myrtle town Lumber and Supply, Resale Lumber, Alternative Building Center, Hensell Materials, Inc., Thomas Home Center, True Value Hardware, Restoration Hardware, as well as companies that sell related products and services, probably putting many companies out of business.

142-2

It happened to Daly's Department Store, Hornbrook's Shoes, Anita Dress Shop, Woolworth's and Kress stores, Bistrin's Department Store, and all the related stores on 4th and 5th between F and G streets when the Eureka Mall was put in and free mall parking out-competed downtown parking meters.

There is no excuse for placing a four story parking garage in the view area surrounding the bay. Many people would hate seeing it for years to come. There is also no excuse for placing any multi-story building in the view area surrounding the bay. This would be an example of corporations and a few people making large amounts of money at the expense of our community and many people. There are so many examples of this kind of abuse in California and around the world.

142-3

We have some resources here that are valuable and found in few other places. They are important to our major industry, tourism. It is important to protect the views we have, avoid more traffic congestion, and protect the local businesses and workers that make up our economy. It would be more economically sensible to place tourism-related low impact facilities around the bay. At the very least all environmental, traffic, economic, and other impact reports should be ordered and studied in great detail.

142-4

Please look at the problems in other communities caused by misuse of prime waterfront property. One does not have to be anti-progress or anti-growth to realize the implications of our community choices

142-5

Sincerely,
Karen Sanderson

After studying the Marina Center Draft EIR in more detail, it is obvious that the document is extremely lacking in substance, content and depth. It would be foolish and civically irresponsible to go ahead with the project based on this document.

There is a doctrine of "highest and best use" in real estate which refers to net income for a parcel of land. In this new century "highest and best use" must change focus to include long term liabilities in the net income equation, such as the loss we are experiencing in the fishing industry, loss in biologic diversity, loss in the tourism industry (our greatest money maker at this point), cost of environmental cleanup (greater or lesser depending on how it is done), loss in lifestyle amenities such as noise and traffic.

142-6

The planning for this site was done before the recent economic meltdown and resulting consumer purchasing freeze. We need to look at the future based on reality, not outmoded civic and corporate planning models. We have a low population base which can barely support the local businesses. Any major business additions will draw customers away from them. This is an isolated and rural county and will stay that way for a long time.

142-7

This site has the potential for wetlands restoration that few other sites could ever have, and this cannot be mitigated in any way. Once the site is developed as planned, it is gone for generations. We need to look forward and not be encumbered by past civic errors.

The entire site could and should be used for wetland restoration and water conservation, cutting edge hazardous materials cleanup, bio-diversity enhancement and related environmental and social arenas. It could be a model of civic responsibility and include wetland and biologic species learning opportunities, Native American sites, local history displays, even toxic cleanup displays and structures. This could be an incredible asset to Humboldt County and enhance the local college and university programs and draw researchers, students and tourists to this area.

142-8

The DEIR states that Project would significantly impact air quality and transportation. There is no way to mitigate those two environmental problems as they are entwined. A project of this size needs to draw population of approximately fifty to one hundred thousand persons to succeed. These people would come from all areas of our county on a daily and weekly basis.

142-9

Few patrons of Home Depot would take a bus to buy building supplies. Few families would take a bus from Trinidad or Orick or Fortuna to shop at the Marina Center. Automobiles are a necessity for most people in a spread out county like ours and they are a fact of life. This would massively increase automobile use and transportation and related air quality problems.

5-751

Comment Letter 142

A wetland restoration would have much less impact on traffic and related air pollution, could be designed to cleanup toxic contaminants and encompass many cultural and biologic needs in this area. The long term net income for Humboldt County would be much higher than allowing the site to be used to line developers pockets. The recent economic meltdown and resulting lifestyle changes necessitate nurturing local businesses, and bringing in a big box store which uses predatory business and labor practices would destroy many local businesses.

142-10

The DEIR states that impacts to Aesthetics, Agricultural Resources, Biological Resources, Cultural Resources, Geology, Soils, and Seismicity, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Urban Decay, Utilities and Service Systems, "after mitigation to be less than significant."

142-11

Impacts to Aesthetics, Biological Resources, Cultural Resources, Geology, Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Population and Housing, Public Services, Recreation, Urban Decay, Utilities and Service Systems are never "less than significant." The impacts from this project would harm everyone in this area in many ways for decades to come.

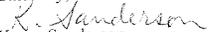
How could anyone mitigate the loss of wetland restoration and the resulting negative biologic effects on Clark Slough, Humboldt Bay and the wildlife that would be enhanced if this site was restored to wetlands? The DEIR is so arrogantly written to ignore so many real problems with this project that I hope you will not accept it. Real and factual impact reports need to be done and should include alternative uses for the parcel.

142-12

Once a five story building is put up next to a body of water, no one can see through it and it will always be an ugly blot on the landscape. Once local businesses are out of business they are gone, and the social and economic fabric of our community is degraded. This project is a giant step in bringing Los Angeles sprawl to our county. If we wanted to live with L. A. sprawl, we would live there.

142-13

People live in Humboldt County for the lifestyle and if this project goes forward it will damage that lifestyle forever.

Sincerely,

Karen Sanderson

Letter 142: Karen Sanderson

- 142-1 The comment states that traffic patterns around the city would be negatively impacted by the proposed project.

Please see responses to comments 31-1, 32-9, and 38-4. Response to comment 31-1 explains that traffic is expected to increase 33 percent with or without the proposed project by 2025 and that the proposed project would include mitigation measures to reduce most significant impacts. Response to comment 32-9 addresses potential impacts to Sixth and Seventh Streets. Finally, response to comment 38-4 addresses potential impacts to Henderson Street and Harris Street.

- 142-2 The comment states that the proposed project could negatively impact local companies. The comment is noted.

Please see Master Response 1, under “New Recessionary Conditions” and “Potential Local Store Closures.”

- 142-3 The comment’s concern on the height of the proposed buildings are noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

- 142-4 The comments expressing desire to preserve views, sustain tourism, avoid traffic congestion, and protect local businesses are noted.

The potential environmental impacts of the proposed project—including impacts to traffic, aesthetics, and urban decay—are detailed throughout the Draft EIR. Alternatives to the proposed project, some of which include the uses suggested, are discussed in Chapter VI.

- 142-5 The comment suggesting an analysis of other communities’ uses of waterfront property is noted. It is beyond the scope of this Draft EIR to first describe other proposed projects in the coastal zone, and then analyze those projects’ environmental impacts in an attempt to draw comparative conclusions. The Lead Agency is required to analyze the environmental impacts of the proposed project, as well as a reasonable range of feasible alternatives, which it has done (see Chapter V Draft EIR). Also see coastal zone issues addressed in Master Responses 3 and 5 of this Final EIR.

- 142-6 The comment regarding “highest and best use” is noted. The Draft EIR analyzes potential environmental impacts from the proposed project. “Highest and best use” is a term used in the real estate appraisal industry to describe the use that would generate the highest

return on investment. The Draft EIR does not address “highest and best use.” From a planning perspective, the opinion of “highest and best use” depends on several factors. As stated in the Draft EIR, the Lead Agency is required to analyze the proposed project pursuant to CEQA.

- 142-7 The comment expresses opposition to the project and states that alternative uses should be considered. The Marina Center project includes the creation of contiguous estuarine wetlands at the south end of the project site at an acreage exceeding the extent of the existing combined degraded seasonal and estuarine wetlands (mitigation ratio of 1.05:1). These restored wetlands are anticipated to be of much higher quality than those currently onsite.

As for alternative uses, the Draft EIR does evaluate a reasonable range of alternative uses. Other than possibly converting the entire project site to wetland restoration – a project alternative that is considered and rejected under the City’s initial screening criteria for a number of reasons – the comment does not provide any list of possible alternatives that should be considered. It should be noted that this site is also not well-suited for the type of wetland restoration project that the comment seems to be alluding to. The site is within a larger industrial and commercial area, and surrounded by City streets and rights-of-way or existing industrial or commercial uses. With the Marina on the bay-side of Waterfront Drive also renders restoration impractical.

Please also see Master Response 1, under “New Recessionary Conditions.”

- 142-8 The comment expresses dismay that the project site would be developed. The Marina Center project includes the creation of contiguous estuarine wetlands at the south end of the project site at an acreage exceeding the extent of the existing combined scattered, degraded seasonal and estuarine wetlands (mitigation ratio of 1.05:1). These restored wetlands are anticipated to be of much higher quality and biological value than those currently onsite. Please also see response to comment 8-6 on global warming and sea-level rise.

The comment also suggests other uses for the project site. As discussed in Chapter VI, Alternatives, a Wetlands Restoration and Public Park alternative is screened out of detailed analysis because it would not meet the objectives of the proposed project and would not be feasible.

- 142-9 The comment states that there is no way to mitigate air quality and transportation impacts because they are intertwined. The comment is noted. Mitigation measures to address impacts to air quality and transportation are discussed in Chapters IV.C and IV.O, respectively.

- 142-10 The comment suggesting wetland restoration in place of the proposed project is noted. Alternatives to the proposed project, some of which include the uses suggested, are

discussed in Chapter VI. As shown there, some alternatives screened and analyzed would reduce significant impacts to a less-than-significant level.

- 142-11 The comment questions the definition of “less-than-significant impacts” and states that no impacts are ever “less than significant.”

Please see responses to comments 64-4 and 88-1, which explain that the Draft EIR was prepared pursuant to CEQA Guidelines and explains the determination of the baseline condition against which the proposed project is measured. Significance levels are determined by the Lead Agency pursuant to CEQA Guidelines.

- 142-12 The comment states that the proposed project has a significant and unavoidable impact because it does not allow for a course of action similar to the Wetlands Restoration and Public Park alternative. The comment uses a line of reasoning that the project site could be fully restored as a wetland area, and therefore the proposed project has a significant and unavoidable impact because it causes the loss of those wetlands, despite the fact that there is no current proposed plan to create or restore those wetlands.

Under CEQA, the proposed project cannot be said to have a significant and unavoidable impact to an alternative.

Analysis of the existing wetlands and hydrology on the project site and the impacts of the proposed project are included in Chapter IV.V, Biological Resources, and Chapter IV.H, Hydrology and Water Quality. These chapters include the identification of impacts and mitigation measures to reduce impacts to less-than-significant levels. Please also see response to comment 98-4, which explains that the proposed project would have a beneficial impact to onsite wetlands.

- 142-13 The opinion of the proposed project’s height and bulk is noted. As stated in the outline on page III-18 of the Draft EIR, under *F. Project Entitlements and Approvals*, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

The comment’s expressed concern about the proposed project’s impacts on local businesses is noted. Please see Master Response 1 for a discussion of urban decay.

Sidnie Olson

From: Jon Hafstrom [starstrm@suddenlink.net]
Sent: Saturday, January 31, 2009 4:49 PM
To: DEIRcomments
Subject: Marina Center

Sidnie L. Olson, Principal Planner
City of Eureka Community Development Department

Dear Sidnie Olson:

I am opposed to the Marina Center. We don't need any more places to shop. Many retail businesses have already failed, leaving empty storefronts throughout Eureka. The remaining businesses would be further threatened by the Marina Center. National chain stores only offer low paying jobs and send profits out of the area. Let's support local businesses; we don't need the Marina Center.

143-1

I do support having the railroad company clean up the mess they made of the Balloon Tract. I also support using the land for coastal dependent industry, and visitor-serving commercial recreational facilities.

143-2

Sincerely,
Lynne Sarty
Eureka, CA
442-7569
January 31, 2009

Letter 143: Lynne Sarty

- 143-1 The comment expressing opposition to the proposed project and its potential impacts to local businesses is noted. Please see Master Response 1, under “Jobs / Wages Impacts,” “National Stores vs. Local Stores,” and “Potential Local Store Closures.”
- 143-2 The comment advocating for cleanup of the project site is noted. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.

Sidnie Olson

From: Glenn & Janis Saunders [glennsaunders@suddenlink.net]

Sent: Tuesday, December 16, 2008 9:40 AM

To: DEIRcomments

Subject: Marina Center

We would like to add our names to the supporting list for the Marina Center [144-1

Glenn & Janis Saunders
Trinidad, CA.

Letter 144: Glenn and Janis Saunders

144-1 The comment in support of the proposed project is noted.

Sidnie Olson

From: skeeterdog1@sbcglobal.net
Sent: Friday, January 30, 2009 9:15 AM
To: DEIRcomments
Subject: Marina

Allow the Marina Center to go forward and BUILD!! [145-1

Dave & Jackie Saunderson
442-6064

Letter 145: Dave and Jackie Saunderson

145-1 The comment in support of the proposed project and urging its construction is noted. As stated in Chapter I, Introduction, the proposed project requires several approvals from the City of Eureka and other public agencies. The EIR is a document used as a resource to aid in that decision-making.

Sidnie Olson

From: Pastor Don Schatz [pastordon@lutheranchurcharcata.org]
Sent: Wednesday, December 17, 2008 10:41 AM
To: DEIRcomments
Subject: Marina Center

Thank you for the opportunity to write in strong support of the Marina Center project. The EIR accompanying the proposal is thorough and complete. The benefits of the project to the larger community are enormous. The area desperately needs jobs. Too many local employers are comfortable paying minimum wage. The county's median income is \$20,000 less than the national average. In my brief 16 months in the area, it has nevertheless become clear that local and county governmental entities have served to protect the wealthy minority of the area at the expense of creating a too-large underclass of poorly housed and poorly fed individuals and families. It is time for local government to serve and advocate for the needs of the larger community.

146-1

The Marina Center project as proposed by Security National is a reasonable approach to use of the Balloon property. The willingness of the developer to take on the cost of cleaning up the property is laudable. The mixed use nature of the plan provides for a wider range of benefits to the public. The addition of residential units and the inclusion of the Discovery Museum hold out the vision of an 'urban village' style of development that is common throughout the country. The inclusion of ground-floor retail space below apartment and condominium-style properties is likewise understood nationally as part of a reasonable solution to 'urban sprawl' (a concern even for a smaller city). It also creates less demand on services such as police and fire than does an ever-expanding city limit.

146-2

I encourage the Community Development Department and the City of Eureka to view the Marina Center proposal favorably, acting in the interests of the larger community, with an eye toward the reasonable and responsible development of a significant property.

Pastor Don Schatz, D.Min.
Lutheran Church of Arcata
PATH Student Ministry
Humboldt State University
College of the Redwoods
Arcata, CA
707-822-5117

Letter 146: Don Schatz

- 146-1 The comment in support of the proposed project is noted. Regarding the potential employment increase from the proposed project, please see Master Response 1, under “Jobs / Wages Impacts.”
- 146-2 The comments summarizing the proposed project’s potential benefits is noted. Please see Master Response 4 regarding remediation of the project site. In addition, the proposed project’s potential impacts to police and fire services are discussed in Chapter IV.M, Public Services of the Draft EIR.

Sidnie Olson

From: BrendaLou [brendalou8@aol.com]
Sent: Thursday, January 29, 2009 12:24 PM
To: DEIRcomments
Subject: Marina Center

I am writing in support of the Marina Center project. I have lived in Eureka afor 37 years, raised my family here and now my grandchildren are enjoying the benefits of living in town. I believe the Marina Center Project will greatly benefit our community by cleaning up an unsightly and unusable space and turning it into an opportunity for our community members to shop, play & live. I am in favor of Home Depot coming to our area. We own and operate a Construction Company as well as a Retail Store within the city limits and while we shop at local existing businesses (Pierson's and more) that we are now spending thousands of dollars each year out of the area at Home Depot. Those sales tax \$\$ could be benefiting our community.

147-1

147-2

Many jobs will be created locally both with the construction and the new businesses. I think the Marina Center will breathe new life into our Downtown area....I am contemplating a move to the general area when the project commences.

147-3

BrendaLou Scott
Scottie Dog Quilts
301 W. Harris St.
Eureka, CA 95503

(707)444-9662
www.scottiedogquilts.com
Blog: www.brendalousblog.blogspot.com/

Letter 147: BrendaLou Scott

- 147-1 The comment in support of the proposed project is noted. The comment supporting cleanup of the project site is also noted. Please see Master Response 4 regarding site remediation.
- 147-2 The comment stating that sales tax dollars generated by the proposed project could benefit the community is noted. Please see Master Response 1, under “Fiscal Impacts to the City of Eureka and Other Jurisdictions.”
- 147-3 The comment regarding the potential employment increase generated by the proposed project is noted. Please see Master Response 1, under “Jobs / Wages Impacts.”

Comment Letter 148

Comment Letter 148

Sidnie Olson

From: Rick Siegfried [humboldtrick@yahoo.com]
Sent: Saturday, January 31, 2009 5:13 PM
To: DEIRcomments
Subject: Marina Center DEIR comments

31 January 2009

Sidnie L. Olson, Principal Planner
 City of Eureka Community Development Department
 531 K Street
 Eureka, CA 95501-1165

Re: Marina Center DEIR

Dear Sidnie Olson:

My comments on the Marina Center Draft Environmental Impact reports are as follows:

CHAPTER IV.A Aesthetics

Regarding Impact A-3, the renderings look like some ghasly clones from the San Francisco Bay Area were plopped down next to our Humboldt Bay. The architecture looks like nothing that exists in our County, and doesn't look like it belongs in our County. Is this a real reflection of our "Victorian Seaport"? Does it look anything like a "Victorian Seaport"? Visually, this project is an ugly monstrosity.

Aesthetically, this project has a negative impact on the community.

CHAPTER IV.C Air Quality

Mitigation Measure C-2a does not quantify the number of electrical outlet for electric/hybrid vehicles, and actually opens the possibility of none being installed due to being inappropriate or not feasible. The impact of pedestrian and bicycle travel zones on the reduction of emissions is not analyzed. I believe synchronized traffic lights would be the domain of CalTrans, not CUE IV. The project is supposed to accommodate public transit, but I see no bus stop turn-outs indicated in the plans.

It would also seem that the Health Risk Assessment (Winzler and Kelley, 2006), which is used for analysis by the lead agency, is flawed by inadequate data sets. These flaws are: Cited data from the Jacobs Monitoring Station were cited even though they were NOT available at the time the Risk Assessment was prepared. The Eureka 1st Monitoring Station is located upwind from the prevailing wind patterns of the project. It omits analysis of project impacts on immediate residents. Cumulative impacts are inadequately described, quantified or analyzed. Cumulative impacts that are ignored are: current delivery vehicle

148-1

148-2

148-3

emissions; current PM10 contributors; adverse effects of PG&E's Repowering Plant; transportation corridor effects outside the project's immediate vicinity; contribution of combustion of wood for heat in a large number of Eureka homes.

Regarding air quality, this project has a negative impact on our community.

CHAPTER IV.E Cultural Resources

I am not Native American, but I believe we need to respect the wishes of Native American peoples (better late than never, I guess). The Wiyot Tribe believes there is one or maybe two Wiyot villages within the proposed project's boundaries. The Tribe feels that monitoring during construction will not be sufficient. The Tribe requests testing for site identification in sensitive areas, and monitoring of construction during all ground-disturbing activities. Without this testing, this project will have a negative impact on the perception of our community by local Native Americans.

CHAPTER IV.G Hazards and Hazardous Materials

Recent samplings by Humboldt Baykeepers has found dioxins and furans in site soils and sediments. These substances are not indicated in the DEIR, indicating that their analysis of known contaminants is incomplete. Also, levels of known contaminants are not quantified.

The Health Risk Assessment was completed with inadequate data. Dioxins and furans were not considered in the assessment. Risk was based upon exposure pathways for a vacant lot, not for the proposed uses, including residential. Toxicity values for chemicals at the site have been updated by the EPA since the Addendum was prepared and should be reconsidered. There was no analysis of ecological risk (risk to wildlife).

The DEIR states that there is potential for contamination to remain on site after remediation. This should be quantified to assure safety for the site's proposed uses. Mitigation Measures G-1a to G-1e defer identification of actual cleanup measures to a future date. The project applicant should be required to prepare a site-specific remediation plan before project approval. If not, how can the City be assured of sufficient cleanup of the property?

The health risks of this project will have a negative impact on our community.

CHAPTER IV.I Land Use and Planning

This project, while masquerading as smart growth, is a hodgepodge of uses thrown together willy-nilly to justify a big-box store. Its balance is highly questionable. In addition, ALL of the proposed Marina Center uses are in the LOWEST PRIORITY GROUP (#2) of the Allowable Uses in the Coastal Zone. I personally believe that State Law in the Public Resources Code (PRC) should be obeyed: "Visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation SHALL HAVE PRIORITY over PRIVATE residential,

↑
148-3
cont.

148-4

148-5

148-6

148-7

148-8

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Comment Letter 148

Comment Letter 148

general industrial or general commercial development, but not over agriculture or coastal-dependent industry." (PRC 30222) This project is NOT coastal-dependent.

148-8
cont.

This is the premiere undeveloped property in the City of Eureka. It should be developed for the enjoyment and use of the citizens of Eureka, not for the profit and ego boost of a single resident. The DEIR's analysis of Alternatives is incomplete, totally inadequate, and misleading, at best.

148-9

This is not the best project for this parcel. It will have a negative impact on our community.

CHAPTER IV.L Population and Housing
Contrary to popular local belief, more housing is NOT needed in this area. Every block in this City has houses for sale, and spec houses around the County sit vacant with "For Sale" signs in their yards.

148-10

The increase in housing units from this project will have a negative impact on our community.

CHAPTER IV.N Recreation
Bike and walking trails already exist throughout the City. Sitting on a bench in a wetland is NOT recreation. Since this project sits right next to Humboldt Bay, I am surprised that there is no recreation linked to the Bay. This project does nothing substantial to increase recreational opportunities.

148-11

This project will have a negative impact on recreation on the Bay in this community.

CHAPTER IV.O Transportation
Wow! This project is going to make 4th & 5th Streets and Broadway a MESS!!!! 15,669 new vehicle trips per weekday? This area can't handle that traffic load. Impact O-1 and Impact O-8 will admittedly remain significant even after mitigation efforts. Public transportation would help but is left as optional, and is not offered within the project area.

148-12

Bicycle and pedestrian traffic is not accommodated on the Broadway side of the project. All concessions to bicycles and pedestrians are made on Waterfront Drive (where all exiting traffic is to be directed, creating a hazard for those on foot or on bikes). 4th, 5th and Broadway will become even more dangerous for pedestrians and bicyclists to cross and navigate with more vehicular traffic and lack of road shoulders.

148-13

Traffic studies for this project were NOT done during tourist season, making the conclusions suspect.

148-14

There is no discussion of mitigating traffic congestion caused by this project, nor is there any analysis of the impact of traffic diversions through surrounding neighborhoods.

148-15

Finally, each residence in the project is given ONE parking space. According to AAA, the average Eureka residence has 3.5 cars. Where will the other 2.5 cars park?

148-16

Traffic and congestion from this project will have a negative impact on our community.

CHAPTER IV.P Urban Decay
I have worked and owned a business in Old Town for almost 30 years. I feel I have direct experience with this issue, having seen the effects the Bayshore Mall, Costco and Target have had on the Old Town/Downtown area.

The DEIR states that the Marina Center's potential for causing urban decay in the greater Eureka area is "less-than-significant". The study completely ignores the most obvious real-life example: no mention is made of the effects that the Bayshore Mall had on the greater Eureka area. The opening of the Bayshore Mall had major negative impacts mainly effecting the Old Town/Downtown areas, but also having a negative effect on the Eureka Mall and Henderson Center. These effects were evident as far away as Fortuna, which lost stores in the Downtown/Main Street areas; Arcata, which had store closings associated with the Mall's opening; and to a lesser extent, McKinleyville also had a few related store closings.

The City of Eureka recognized, after the fact, the damage caused to the Old Town/Downtown districts. This was evident in the closure of many businesses in the area and a resulting decay of buildings and storefronts. As a result, the City implemented the Main Street Program. In conjunction with that program, the City of Eureka invested in the infrastructure of the areas with improved lighting, sidewalks, etc. This has slowly (and painfully) resulted in the Old Town/Downtown area returning to the "gem" of Eureka.

148-17

In the meantime, the openings of both Costco and Target have been felt in the Old Town/Downtown area. Some stores have closed as a result, and others have had to augment or shift their focus to stay alive.

The lack of demand for retail & professional space has resulted in many upper level office spaces in Old Town/Downtown changing from dentists, lawyers, doctors, etc. to non-profit and governmental organizations, reducing the tax base of the City. The addition of more retail space will not reverse this trend.

When locally-owned stores close in favor of large chain stores and big-box retailers, store owners become workers (changing the social fabric of the community), and much of the profit from the retail sales leaves the area bound for corporate headquarters. This also encourages urban decay: the non-local corporations don't have the same personal investment in the community—they don't live here! When sales drop, they have no real motivation to stick it out. They simply pull up the carpet and leave, encumbering the community with any messes this creates.

If retail space is so sorely needed, then why is the Boardwalk project sitting idle? This prime waterfront property has been vacant for 16

5-767

Comment Letter 148

Comment Letter 148

years! Why is that? Also, there are many vacant retail spaces throughout Eureka; one person counted over 125 vacancies! The study's analysis of the scarcity of retail space is absolutely wrong!

148-17
cont.

The current economic climate in this country (and the world) does not warrant the addition of retail space to the local community. Where will the money come from if not from other local retailers? Will this additional spending money appear from thin air as though by magic? No! If this project goes through as planned, stores will close throughout Eureka resulting in vacant, run-down buildings and decaying infrastructure. The City's sales tax revenues will just shift from many mom-and-pop stores to a very few big-box and major chain retailers. Wake up! It's been done before: we've seen this happen in very recent history!

148-18

The Old Town/Downtown area is the heart and soul of Eureka. It is what gives this City its unique and special flavor! It would be folly for the City of Eureka to basically throw away all the investments made in the Old Town/Downtown area by allowing this project to proceed.

148-19

This project will create urban decay and will have a negative impact on our community.

CHAPTER V Impact Overview

This overview ignores so many issues, many but not all listed above, that the Report becomes obviously flawed, inadequate and misleading, whether intentional or not.

148-20

CHAPTER VI Alternatives

In Section C. Screening for Alternatives, Step 1. Define Basic Objectives, #1 seems redundant—I believe Eureka is already the retail and employment center of Humboldt County. This project will NOT add to that; if anything it will detract from that goal through urban and social decay. In addition, the current economic climate makes this idea ludicrous. #2 seems to require economic viability of the mixed use project. Economic viability has NOT been shown for this project. #3 seems to connect cleanup with development, not a necessary connection. Also, there is no necessity for this project to be located in the Redevelopment Zone other than the wishes of the developer. It is interesting how the Project's Basic Objectives are written so that only this project in that location could meet those "objectives"! I guess the basic objective of the project is to do this project!!! The deception written into these objectives is as transparent as a brick wall.

148-21

Step 3. Develop Broad List of Potential Alternatives, the list of alternatives (at least those for the property in question, not for the project itself) is limited to 4 alternatives, with three being alternatives for this specific project and the other being "No Project". This is hardly a "Broad List"! I believe this step requires alternative USES for THIS PROPERTY, not alternative variations on the project or alternative SITES for the project. So, in this respect, this requirement has hardly been met, and seems to have been intentionally side-stepped.

148-22

I suggest a REAL alternative. How about a museum dedicated to the Wiyot Tribe as well as other local Tribes, possibly with a connection to a memorial on Indian Island. The site could also have tourist/recreation-related businesses such as boat rentals with access to the Bay, or a fishing supplies store; a wetlands area with informational signage; perhaps some sort of small camping/RV facility; basically recreation-based usage with appeal to both locals and tourists. This prime Eureka parcel should NOT be wasted on more, ugly retail/industrial/residential structures. This is a prime spot to celebrate the very best of what this area has to offer: the great outdoors.

148-23

IN CONCLUSION, this Report seems to be terribly inadequate in its assessment of the project's effect on the surrounding areas, from horrendous traffic congestion, to the level of cleanup the site will require, to the effects the opening of the project will have on the rest of Eureka's retail districts. Analyses have been incomplete, outdated data with limited scope has been used, in many instances data has not been quantified, and no site-specific remediation plan has been submitted, so approval of cleanup and this DEIR cannot possibly be made. This Report is lacking in so many substantial areas that approval should be denied without a more in-depth and accurate DEIR.

Sincerely,
Rick Siegfried
2125 18th Street
Eureka, CA 95501

5-768

Letter 148: Rick Siegfried

148-1 The opinion of the preliminary project renderings is noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

148-2 The comment states that restriction of traffic could reduce emissions. Pedestrian and bicycle zones are typically established in the congested core of dense, major cities such as London, New York and Asian cities such as Singapore. New York recently converted portions of Broadway between 42nd and 47th Streets to pedestrian and bicycle use only, and San Francisco is starting the planning process for prohibition of cars and trucks on Market Street. Eureka is distinguishable from major cities such as London or New York, and restricting traffic in the area is not a reasonable or feasible strategy for encouraging reductions in vehicle travel and curbing air emissions because there is insufficient residential and commercial density to support vehicle restrictions. The project does provide a pedestrian and bike-friendly site with on-street parking, slow speeds, sidewalks, and retail below offices and residential uses. The EIR, however, must still evaluate estimated vehicle traffic to and from the project in order to inform decision-makers and the public about the potential environmental impacts associated with the project.

The comment is correct that traffic light synchronization is the domain of Caltrans, but also the City of Eureka. The traffic signals along Broadway north of Henderson are not currently synchronized because of the large disparity in required cycle lengths (i.e., the total time it takes a signal to serve all movements on all approaches). To properly coordinate traffic signals, the cycle lengths need to be reasonably similar along a route. The project mitigation would do much of the needed work in upgrading and synchronizing the signal system along U.S. 101 in Eureka, which the Draft EIR acknowledges would require coordination and approval from Caltrans. Moreover, traffic light synchronization would need to be implemented by Caltrans as well. The City and Project Applicant have met with Caltrans to begin this process, and thus believe that Caltrans would accept some form of synchronization. And once synchronized, coordinated signals commonly result in a 30 percent reduction in travel time along a route as well as over a 50 percent reduction in stops and delays at red lights.

The comment also questions whether public transit would be accommodated by the proposed project. With respect to public transit stops, please see response to comment 52-25, which explains the potential demand for public transit within the proposed project.

- 148-3 The comment states that the HRA used inadequate data sets, inappropriately citing data from the Jacobs Monitoring Station, and that Humboldt County has a high incidence of cancer risk.

The health risk assessment in Appendix E does not cite the Jacobs Monitoring Station. The weather data used in the analysis is provided in a database compiled by the California Air Resources Board. The database provides weather data for wind direction, temperature, and air inversion modeling. The appropriate values from the database are selected based on the site location coordinates. If the closest weather station represented in the database does not have a particular parameter, such as wind direction, data from the next nearest station with appropriate data is selected.

Please see Master Response 2, which explains that Humboldt County does not have a high ranking for risk of cancer.

- 148-4 The comment requests subsurface archaeological investigations on the project site. Please see Master Response 9 and response to comment 134-4, which explain the revised Mitigation Measures E-2a and E-2b that would include subsurface archaeological investigations.

- 148-5 The comment incorrectly states that contaminants in the soils are not discussed in the Draft EIR, although they are cited on page IV.G-6 of the Draft EIR. The comment also states that toxicity levels for specific chemicals have been updated by the EPA.

For further information on site contamination and discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

- 148-6 The comment states that the Health Risk Assessments did not include furans and dioxins. The comment also states that the risk to wildlife is not addressed. The comment is noted.

For further discussion regarding the health risk assessment for the proposed project, please see Master Response 4 and new Appendix S. These sections detail the numerous investigations of the project site, including for furans and dioxins.

With regard to ecological risks, please Impacts G-1 through G-9 (pages IV.G-19 through IV.G-26) discussed potential impacts related to hazards and hazardous materials. In addition, potential impacts to wetlands and associated habitats are discussed under Impacts D-1 through D-8 on pages IV.D-18 through IV.D-34. Note that the contamination on the project site is an existing condition, and that the proposed project would excavate and remove contaminated hot spots, as well as remove exposure pathways.

- 148-7 The comment expresses concern that toxics could still be in the subsurface after site remediation. The comment is noted. For further discussion regarding the Remedial Action Plan for the proposed project, including excavation and removal of contaminated hot spots, please see Master Response 4 and new Appendix S.

- 148-8 The comment accusing the proposed project as masquerading as smart growth is noted, as are comments related to priority uses within the coastal zone.

Regarding smart growth, please see response to comment 128-1, which explains that the proposed project includes many characteristics of smart growth. Regarding priority land uses in the coastal zone, please see Master Responses 3 and 5, which discuss the Local Coastal Program Land Use Plan and the Coastal Act.

- 148-9 The comment suggesting that the project site be developed for other uses is noted. Please see response to comment 16-239, which discusses alternatives to the proposed project. Please also see Master Response 3, which explains that the project site is not owned by the City of Eureka. The City of Eureka is Lead Agency for the proposed project pursuant to CEQA and is required to analyze the potential environmental effects of the proposed project.

- 148-10 The comment states that additional housing is not needed in the area and that the proposed additional housing would have a negative impact on the community. The Draft EIR's population and housing analysis in Chapter IV.L evaluated the population impact of the estimated 122 new residents that would be associated with the proposed addition of 54 new housing units at the project site and concludes that this level of increase would have a less-than-significant adverse impact on the community.

- 148-11 The comment states that sitting on a bench is not recreation. The comment is noted.

Recreational facilities and spaces are categorized as either passive or active, depending on the intensity of activity by their users. For example, tennis courts are considered active recreational facilities, while benches are considered passive facilities. Trails are passive recreational facilities. The proposed project's trail/walkway and benches around the wetland are considered recreational spaces.

As shown in Figure III-2 on page III-5, the project site does not have direct recreational access to the bay. Waterfront drive is between the site and the bay. Given the Project Applicant does not control the waterfront, waterfront recreational uses are not proposed.

As stated on Draft EIR pages IV.N-2 through IV.N-4, the proposed project would have a less-than-significant impact on recreational facilities. It would not affect the existing ratio of park space per 1,000 residents, it would expand recreational opportunities through the construction of the pedestrian and bicycle path and wetland, and is located in an area adequately served by existing regional, community, and neighborhood parks.

- 148-12 The comment states that the proposed project would cause a traffic mess. Please see the response to comment 31-1, which explains that traffic on Broadway would increase 33 percent by 2025 with or without the proposed project, and that the mitigation measures identified in the Draft EIR would reduce almost all potential significant impacts to less-than-significant levels. Please also see response to comment and 32-9 regarding

potential impacts to nearby streets. Also, response to comment 52-25 addresses the feasibility of a more extensive mass transit service for the proposed project.

- 148-13 The comment expresses concerns regarding bicycle and pedestrian accommodation on Broadway.

Please see response to comment 33-3, which discusses the proposed bike path connection via Broadway and the potential effects on pedestrian circulation. Please also note that sidewalks exist along both sides of Broadway, Fourth and Fifth Streets, and additional signals on Fourth and Fifth Streets at Commercial and C Streets would be provided which would improve pedestrian access crossing these one-way streets.

- 148-14 The comment expresses concern that traffic data collected in the traffic impact study were not collected during the tourist season. The comment is noted. Please see response to comment 66-7, which explains the methodology used to account for traffic data collection during off-peak times of year.

- 148-15 The comment incorrectly states that there is no discussion of traffic impact mitigation. Please see the response to comment 31-1, which explains that the mitigation measures identified in the Draft EIR would mitigate almost all traffic impacts to less-than-significant levels. Please also see responses to comments 32-9 and 40-2, which addresses traffic on nearby streets. Please also see Master Response 7, which discusses trip distribution used for the traffic impact analysis.

- 148-16 The comment suggests that demand for residential parking onsite would be higher than the proposed supply of parking spaces for project residents.

The analysis of potential parking impacts associated with the project is presented on pages IV.O-44 and IV.O-45 of the Draft EIR. As stated, a shared parking analysis (i.e., how different land uses “share” a given parking space at different times of the day) for the proposed land uses (including the 54 residential units) found that the maximum demand for parking would be less than the provided spaces, excepting in the month of December when the total parking demand would at times exceed available parking by as many as 94 spaces. The residential units would have one reserved parking space, but residents would be able to park in other onsite spaces.

- 148-17 The comment makes several statements regarding the potential for the proposed project to result in urban decay.

Please see Master Response 1, under “National Stores vs. Local Stores,” “Vacancy in the City of Eureka,” “The Effect of the Bayshore Mall on Local Businesses,” and “Potential Local Store Closures.”

- 148-18 The comment expresses concern about the current economic climate in relation to the proposed project. Please see Master Response 1, under “New Recessionary Conditions.”

148-19 The comment states that allowing the proposed project to proceed would throw out all of the investment made in Downtown and Old Town. The comment is noted. Please see Master Response 1, which addresses the potential for the proposed project to result in urban decay in further detail.

148-20 The comment stating that the Impact Overview chapter ignores issues is noted.

As stated on Draft EIR page V-1, the Impact Overview section summarizes the findings with respect to significant, unavoidable environmental impacts, significant irreversible environmental changes, cumulative impacts, growth-inducing impacts of the proposed projects, and effects found to be less than significant. It is not intended to be a detailed discussion of potential environmental impacts, which are discussed in Chapter IV.

148-21 The comment questioning the completeness and methodology of the alternatives analysis is noted.

As stated in Chapter VI, Alternatives, alternatives selected for evaluation should meet the basic project objectives, which include the creation of a destination retail center. As detailed in the chapter, of the 24 alternatives screened for detailed analysis, 18 of them met most of the basic objectives of the project. However, only the Reduced Footprint Alternative, Limited Industrial Zoning Alternative, and the Shoreline Property Alternative are also determined to be feasible and to either avoid or substantially lessen at least one significant impact. Please also see responses to comments 16-239 and 16-242, which explain that the Draft EIR includes a reasonable range of alternatives.

As stated in Chapter IV.P, Urban Decay, the proposed project would have a less-than-significant impact on urban decay. Please see also Master Response 1.

The EIR analyzes the potential environmental effects of the proposed project, pursuant to CEQA. The City Council will make its determination on the proposed project based on a number of variables, including but not limited to economic, environmental, and social reasons. The economic viability of the proposed project is beyond the scope of CEQA and this Draft EIR.

148-22 The comment stating that not enough alternatives are analyzed is noted. As detailed in Chapter VI, Alternatives, 24 separate alternatives are screened for further analysis in the Draft EIR. Please see response to comment 16-239.

148-23 The comment suggesting other uses for the project site is noted. An analysis of alternatives to the proposed project is provided in Chapter VI of the Draft EIR. Please see responses to comments 16-9, 16-239, and 16-242, which explain that the Draft EIR includes a reasonable range of alternatives. Alternatives containing uses similar to those described could be the Tourism Use Alternative, the Coastal Dependent Industrial Zoning Alternative, the Wetlands Restoration and Public Park Alternative, and the Limited Industrial Zoning Alternative, which are considered in Chapter VI of the Draft EIR.

2010 FOXWOOD DR.
Eureka, CA 95503

1-29-09

Community Development Dept. -

This letter is in response to requests for public input into the Marina Project - Home Depot + waterfront housing.

At retirement I moved to Eureka from So. Calif. 5 yrs. ago. The population there allowed for an over abundance of various big box stores where the customer was just a number not a person.

The first thing that impressed me about Eureka/Arca area was the friendliness, helpfulness, personal concern/ service of the local business community to its customers.

Statements such as "Home Depot will create jobs" - true to a point if one looks no further. So many local stores + businesses have already been forced to close in town. If a big box retail store is allowed to be built, consider how many more independent, family owned, local businesses would need to close + lay off workers - e.g. lumber yards, garden centers/nurseries, home decor/paint/window products + services, etc., etc. ... Let's not encourage more urban decay in Eureka!

149-1

Imagine how much Home Depot money would be shipped to corporate offices instead of being reinvested/spent here in Humboldt Co. The potential loss to the local economy and community would be huge.

149-2

'New waterfront housing' is mentioned in the report. Existing waterfront housing is already unaffordable + vacant in Eureka. These hard economic times do not produce buyers.

149-3

The most obvious concern is worsening of traffic congestion in + around the development area, as well as increased traffic on the many feeder residential streets.

149-4

In conclusion, I believe the size of our area will not support a big box store without serious damage to local business/rural environment most of us desire.

Home Depot is currently closing many stores/laying off workers. Why would a Eureka store not suffer the same fate, leaving us blighted in its wake?

149-5

The price we would have to pay is too dear.
My vote is NO!

RECEIVED

JAN 30 2009
DEPARTMENT OF

Thank you for your consideration.

Sincerely,
Elaine Skelly
447-2747

Letter 149: Elaine Skelly

- 149-1 The comment expresses concerns that the proposed project would negatively impact existing local stores. The comment is noted. Please see Master Response 1, under “Potential Local Store Closures.”
- 149-2 The comment expresses concerns regarding the fiscal impact of a national chain on the City of Eureka. Please see Master Response 1, under “National Stores vs. Local Stores.”
- 149-3 The comment states that existing waterfront housing is unaffordable and vacant. The comment further implies that the current economic downturn would ensure insufficient sales demand for the project’s proposed new housing. The Comment is duly noted. As shown in Chapter IV.L, the Draft EIR’s housing and population analysis considered current and historical local housing vacancy rates in its analysis and findings.
- 149-4 The comment expresses concerns about traffic congestion around the project site.
- The Draft EIR’s analysis shows that after implementation of the identified mitigation measures, all intersections on U.S. 101 in the project area would operate acceptably (i.e., without adverse congestion). All other intersections in the study area would similarly operate acceptably, except the intersection of Koster Street and Wabash Avenue.
- 149-5 The comment asks why Home Depot would not close its store in Eureka, considering recent economic conditions, leaving “blight” in its wake. Please see Master Response 1, specifically “New Recessionary Conditions.”

Comment Letter 150

Comment Letter 150

23 January 2009

RECEIVED

JAN 26 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

City of Eureka
Community Development Department
Sidnie L. Olson, AICP
Principal Planner
531 K Street
Eureka, CA 95501-1146

Regarding: Marina Center Mixed Use Development Project
Draft Environmental Impact Report (EIR)

Dear Ms. Olson:

Thank you for the opportunity to review the subject project. I would like to offer comments on three components of the report: Cultural Resources, Urban Decay (Social and Economic Impacts) and Mixed Use.

Cultural Resources - As a cultural resources professional, I found the cultural resources investigation to be thorough and complete. However, it is clear from the report that there is a strong likelihood that the project may have adverse impacts to two prehistoric archaeological resources, CA-HUM-69, an important Wiyot village site, and to 'Moprakw', a second Wiyot site. The mitigation offered in the report is archaeological training of on-site construction workers, and Native American observers for project coring activities. These are NOT adequate measures for the mitigation of adverse impacts to possibly National Register of Historic Places eligible cultural resources. In addition, if these cultural resources were encountered during the course of construction, it would result in costly delays to the project. Therefore, as mitigation of possible adverse impacts to cultural resources, I recommend a program of subsurface testing for the presence of archaeological resources BEFORE the onset of soil disturbing construction activities. Depending on the results of the subsurface testing, additional mitigation of adverse impacts, including archaeological excavations, may be required

150-1

Urban Decay - According to the EIR, under the California Environmental Quality Act, the social and economic impacts of a project do not need to be evaluated, only the impacts on Urban Decay. And, the EIR states that the project will not result in adverse impacts of Urban Decay. I think that it is very likely that the preferred alternative of the project will have major economic impacts that should be evaluated under CEQA. When an agency implements CEQA, it has a lot of discretion in that implementation. In addition, it is not only the letter of the law which must be implemented, but also the spirit. Therefore, if a major impact is likely, that impact should be evaluated. It is reasonable to expect that the project will have adverse economic impacts to the existing retail establishments in downtown Eureka, in Old Town Eureka, in the community of Eureka and in the Bayshore Mall. In fact, downtown Eureka has only recently recovered

150-2

from the adverse economic impacts of the Bayshore Mall; a second setback would be severe.

150-2
cont.

Mixed Use - The project preferred alternative favors retail and office over housing. In part this is based on data collected before the recent major downturn in the country, state and local economies. Based on the current economic situation it appears that there no longer is a need for additional retail space in Eureka. In contrast, especially according to the primary project developer, there is a need for additional housing in the county. A project which entails primarily housing, with minimal retail space, would be appropriate. It also would be much more appropriate for the Marina Village coastal location.

150-3

I look forward to your response.

Sincerely,

Ann King Smith
387 Ole Hanson Road
Eureka, CA 95503

5-776

Letter 150: Anna King Smith

150-1 Comments that the cultural resources investigation is thorough and complete are noted. Revisions to Mitigation Measure E-2 includes a subsurface investigation that would help identify the presence of cultural materials in areas predetermined to be culturally sensitive, and ensures protection of resources if found. This investigation would commence when engineering plans and soil remediation plans are finalized, and prior to project construction. Please see Master Response 9.

150-2 The comment expresses concern that the proposed project would cause local businesses to close. The comment is noted.

Please see Master Response 1, under “The Effect of the Bayshore Mall on Local Businesses” and “Potential Local Store Closures.”

150-3 The comment suggesting that more housing be included in the proposed project is noted. Twenty-four separate alternatives are screened for analysis, as detailed in Chapter VI of the Draft EIR. Regarding the demand for retail space, please see Master Response 1.

Comment Letter 151

Comment Letter 151

From: Doralee Smith <rivrwomn@suddenlink.net>
Subject: DEIR comments
Date: January 31, 2009 6:44:20 PM PST
To: ci.eureka.ca.gov

For some reason, I was unable to email this message, so I am emailing it I pray that it will be post marked for 1-31.

To Sidnie Olson
Principal Program Planner
City of Eureka

I have some major concerns regarding the proposed Marina project. One of them is-how air quality will be adversely affected if this project goes forward as proposed. It appears that this project will create dangerously high levels of diesel exhaust (38 tons per year of particulate matter). Since 70% of all airborne cancer risk comes from diesel exhaust, this concerns me very much. I would like to know how this danger will be mitigated. 151-3

I am also concerned about the Traffic impact of this project. According to the study (TIS3), projected increases in traffic will be 66% in the am, and almost 300% in the pm. I fear that these projected increases will put a severe strain on Broadway, which is already very congested and dangerous at these times. 151-4

The pedestrian crossing infrastructure does not match the increases traffic volumes on Broadway (1VO.37.38). Very few crossing paths are being installed. I feel that the mitigation measures proposed are inadequate to provide for the safety of pedestrians, cyclists, and motorists. 151-5

Difficulty of traffic entering Broadway from private driveways is not addressed. 151-6

Also, please take note that: 151-7

-No public transit service within the project area is proposed. Why? 151-7

-Broadway congestion problems may be worse than originally projected. 151-8

-Project footprint and corresponding traffic reduction is not discussed. 151-8

-Diversion of traffic into neighborhoods east and south of the project area is not addressed. 151-9

Another area I would like to address is Land Use. Since this project is in a Coastal zone, the proposed land uses must be consistent with the certified Local Coastal Program, or the LCP must be amended. LCP amendments require approval of the California Coastal Commission. Has this approval been granted? 151-10

Also, the proposed land use of this project does not meet with Eureka's General Plan or Zoning. The proposed Marina Center is a combination of big box commercial, regular commercial, office, residential and light industrial. The project does not have a cohesive, logical, or balanced feel; and it's various uses do not seem complimentary to each other. 151-11

State Law in the Public Resources code states that: 151-11

-Visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. 151-11

When appropriate, coastal-related developments shall be accommodated within reasonable proximity to the coastal-dependent uses they support (PRC 30255). 151-11

Allowable Uses by priority in the Coastal Zone is roughly in two groups: 151-11

1) Coastal Dependent Industry 151-11

Agriculture 151-11

Coastal Dependent Development (Non-Industrial) 151-11

Coastal Related Development 151-11

Visitor-Serving Commercial Recreational 151-11

2) Private Residential 151-11

General Industrial 151-11

General Commercial 151-11

I'm wondering why the only uses being considered in this project are not in the #1 preferred categories under the Coastal Act??? 151-12

All of the proposed Marina Center uses are in the lowest priority group. The DEIR provides no analysis regarding why these lower priority uses were chosen over other potential higher priority uses. 151-12

This property has too much potential to be wasted on the uses proposed in the Marina project. In its present "Public" zoning designation, the City could work with other public agencies to require a cleanup of the contamination on the site, and then restore the slough and wetlands for a public park. 151-12

The Coastal Act specifies that wetlands may be dredged or filled only under certain limitations, and for certain specified uses. 151-12

What would be the justification to go against the Coastal Act and approve this project which does not meet the requirements of the 151-12

5-778

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Doralee Smith Physical address: Box 366 Arcata, CA, 95518
Address: 2840 Buttermilk Pl.
E-mail: rivrwomn@suddenlink.net

I am very concerned about the pollutants that are identified in the DEIR (Hydrocarbons, copper, etc.) No information is included on the levels of these contaminants. Also, no mention is made of dioxins and furans that have been found on the site (by Humboldt Baykeepers). More analysis needs to be done on these dangerous toxins that have been found in the soils, sediments, and fish in the bay. The source and levels of the above toxins is not identified in the DEIR. I am very concerned about the possibility of capping over the contaminated soil. There needs to be a site specific remediation plan and a health and safety plan that meets the requirements of the Regional Water Quality Control

Signed: Doralee Smith
Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Thank you, Doralee Smith



Comment Letter 151

Coastal Act?
THERE IS NO COASTAL ACT BASIS FOR SUCH AN APPROVAL. There is no analysis of coastal preferred uses in the DEIR, not is there much analysis of any alternative vision for this property. The Alternatives Analysis is incomplete and inadequate.

↑151-12
| cont.

I would like to see some of all of the following Alternatives considered for this property:

- A visitor serving recreational use such as a hotel or a restaurant.
- A Community Park (after the wetlands are restored).
- An Aquarium and Marine research center, which would bring in tourists, and stimulate business
- A Cultural and Natural History Museum
- Businesses that would encourage tourism and provide services compatible with this beautiful waterfront location.

| 151-13

I also feel that consideration should be given to the No Project Alternative. This project alternative could result in Cleaning up the polluted soil and restoring the site to the original wetlands. Please do not approve the Marina project as proposed. I feel that his project would be an environmental, esthetic and economic disaster. This project would have many negative effects on the quality of life in our community.

| 151-14

Sincerely,

Doralee Smith *Doralee Smith*
Box 366 Arcata, Calif. 95518

Letter 151: Doralee Smith

- 151-1 The comment expresses concern regarding the pollutants identified in Chapter IV.G of the Draft EIR and requests more information regarding the levels of pollutants. For further discussion regarding the Remedial Action Plan for the proposed project, including the levels of pollutants, please see Master Response 4 and Appendix S.
- 151-2 The comment states that the sources and levels of pollutants are not identified in the Draft EIR. To the contrary, the Draft EIR identifies historic uses on the project site as the source of pollutants. For further discussion regarding the Remedial Action Plan for the proposed project and levels of pollutants, please see Master Response 4.
- 151-3 The comment states that diesel exhaust would reach dangerously high levels and that these levels should be mitigated to reduce cancer risk. Please see response to comment 32-3, which indicates that Humboldt County is not at a higher cancer risk than other areas. Please also see Chapter IV.C, which includes mitigation measures addressing diesel exhaust.
- 151-3 The comment raises the concern that project related particulate emissions would increase cancer risks. Although the project is estimated to generate a significant amount of PM10 emissions on a regional scale, the health risk impact that would be associated with the project is found to be less than significant. For discussion of potential health risks that would be associated with project emissions, please see Draft EIR pages IV.C-16 through IV.C-19.
- 151-4 The comment expresses concern of traffic-related project impacts. Please see response to comment 31-1, which explains that there would be a 33 percent increase in traffic on Broadway by the year 2025 with or without the proposed project, and the proposed project includes mitigation measures that would reduce most impacts to less-than-significant levels. Please also see response to comments 32-9 and 38-4 regarding potential impacts to nearby streets.
- 151-5 The comment expresses concern regarding pedestrian crossings of Broadway. Please see the response to comment 33-3, which includes a discussion of pedestrian circulation at Broadway and concludes that there would be a less-than-significant impact to pedestrian circulation.
- 151-6 The comment states that the difficulty of turning onto Broadway from private driveways is not addressed. As stated in response to comment 16-294, traffic volumes on U.S. 101 will increase with or without the proposed project, and the project has very little if any impact on accidents due to drivers turning into or out of driveways confronted with higher volumes in the future.

- 151-7 The comment states that no public transit is proposed as part of the project. The project is designed to incorporate the existing public transit system to and through the project. Please also see response to comment 75-4.
- 151-8 It is not clear what the comment is asking in stating, “Project footprint and corresponding traffic reduction is not discussed.” Therefore, no response can be given.
- 151-9 The comment states that diversion of traffic into neighborhoods east and south of the project site is not addressed in the Draft EIR. Please see the response to comment 32-9, as well as Master Response 7, which discussion traffic diversion onto nearby streets and the trip distribution of the traffic impact analysis.
- 151-10 The comment asks whether the Coastal Commission has approved of the proposed Local Coastal Program amendments.
- As stated on Draft EIR pages III-17 to III-18, the proposed project would require a Local Coastal Program amendment. The amendment cannot be granted until after the environmental review process.
- 151-11 The comment states that the proposed project is not consistent with the current General Plan land use and zoning designations of the project site, as well as that the uses proposed are not consistent with state law.
- As stated in Chapter III, Project Description, the proposed project would require a rezoning and Local Coastal Program Amendment. The Draft EIR therefore acknowledges that a rezoning is required, and the proposed project’s inconsistency with existing zoning is disclosed. Please see Master Responses 3 and 5 regarding uses in the coastal zone.
- 151-12 The comment stating the preferred uses under the Coastal Act is noted. Please see Master Response 3 regarding land use policy issues pertinent to the coastal zone, and Master Response 5 regarding wetlands fill policies of the Coastal Act.
- 151-13 The comments suggesting alternative uses for the project site are noted. An analysis of alternatives to the proposed project is provided in Chapter VI of the Draft EIR. Please see responses to comments 16-9, 16-239, and 16-242, which explain that the Draft EIR includes a reasonable range of alternatives. Alternatives containing uses similar to those described could be the Tourism Use Alternative, the Coastal Dependent Industrial Zoning Alternative, the Wetlands Restoration and Public Park Alternative, and the College of the Redwoods Alternative.
- 151-14 The comment urging consideration of the No Project Alternative is noted. Please see response to comments 16-241, which discusses the No Project Alternative.

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JAN 02 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Jan. 30, 2009

City of Eureka
Community Development Department
Attn: Sidnie Olson, AICP
531 K St.
Eureka, CA 95501

Re: Marina Center

Having a retail, residential and community use of the Balloon Tract is a good idea, so to that extent I support parts of the Marina Center.

152-1

But if it depends on the paving and building for a Home Depot, I oppose it. Can't we remember that a study was done when the Wal-Mart question was before the community which showed that it would damage family owned local businesses? We haven't grown sufficiently that a massive project like that wouldn't harm local businesses.

152-2

With this economy, we also have so many stores cutting back or closing altogether. It doesn't make sense to bring in another huge retail outlet that would hurt existing local businesses. People already have to carefully budget their dwindling dollars. I'd rather spend them at the home building centers we already have here, centers that are owned and operated locally.

152-3

Thank you



Linda Smith
2310 Hillside Drive
Eureka, CA 95501

Letter 152: Linda Smith

152-1 The comment expressing support for components of the proposed project is noted.

152-2 The comment regarding the potential economic effects of the proposed project and previous development proposals is noted.

Please see Master Response 1, under “Potential Local Store Closures,” as well as under “New Recessionary Conditions,” as well as under “The 1999 Bay Area Economics (BAE) Report” regarding a proposed Wal-Mart Store in Eureka.

152-3 The comment relates to the existing economic climate. Please see Master Response 1, under “New Recessionary Conditions.”

Sidnie Olson

From: Twin Parks [twinparks@radc.com]
Sent: Wednesday, January 28, 2009 11:11 AM
To: DEIRcomments
Subject: Marina Center comments

Jan. 24, 2009

To the City of Eureka,

Comments on the Marina Center DEIS

I question the wisdom of allowing such a large scale development in a low-lying area that is likely to experience severe ground shaking during moderate to large earthquakes; liquifaction is also likely. It would be nearly impossible to evacuate the number of people that this development will attract in the event of a local source tsunami.

153-1

These issues must be addressed. I am not sure they can be safely mitigated.

Aside from these environmental and public safety concerns, I do not believe that it is in the best interests of the local population and the local small business economy to allow this development to go forward. I would prefer to see the energy directed towards helping local small businesses become established in the existing commercial districts of Eureka, and development funds used to upgrade buildings and infrastructure in these underutilized areas. This would help prevent further decay of downtown Eureka, is more environmentally sound, preserves unsafe low lying lands for watershed and bay protection, and provides a much greater diversity of businesses and business owners, who will be more resilient in changing economic times.

153-2

Thank you for the opportunity to comment,

Terry Spreiter
P.O. Box 333
Orick, CA 95555
twinparks@radc.com

Letter 153: Terry Spreiter

- 153-1 The comment questions the wisdom of placing this development in a low-lying area and claims that the project site will likely experience severe ground shaking during moderate and large earthquakes. The comment states that liquefaction is also likely, and that it would be nearly impossible to evacuate people in the event of a local source tsunami.

Severe ground shaking is a regional hazard that is no more pronounced at the Marina Center site than at other sites in the area. Liquefaction potential at the project site is recognized in the EIR, and mitigation measures (for example, deep foundation systems) are included to reduce the level of risk to acceptable levels.

Local source tsunamis (that is, a tsunami generated on the nearby Cascadia Subduction Zone) would strike the coastline of northern California quickly (within minutes). As described in the EIR, the project site is buffered by the Samoa Peninsula, which would block all but the largest tsunamis. In the unlikely event that a tsunami occurs of sufficient magnitude to affect the project site, the most likely scenario is overtopping of the southern end of the North spit, followed by a rapid rise of floodwaters within Humboldt Bay. The Peninsula should provide some buffer even in the worst-case scenario where the spit would be over-topped by large waves. In any case, the EIR includes mitigation measures intended to reduce the risk of tsunami inundation, no matter the lead-time before wave impact. Structures would be required to be strong enough to resist wave surge, scour, and hydraulic uplift forces, which would provide safe haven and vertical evacuation opportunities. A tsunami evacuation and education plan is required to be developed, as is an integrated tsunami warning system. With the proper warning system, pedestrians would also be able to walk within minutes to an elevation and distance to the east (about three blocks, to the areas immediately east of Broadway/U.S. 101) that would similarly be able to serve as safe haven. The Draft EIR evaluates the risk from local source tsunamis, and accurately concludes that the risk would be less than significant with the proposed mitigation measures incorporated. For further discussion regarding the geologic and seismic hazards, please see response to comment 3-11, above. For further discussion regarding the tsunami hazards, please see response to comment 16-35.

- 153-2 The comment states that it would be preferable to have an economic development program aimed at expanding local businesses instead of having the proposed project. The comment's opinion is noted.

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): M. Carol Stafford

Address: 3214 P Street, Eureka

E-mail: _____

I oppose the Marina Center project. I do not want to see our local merchants being forced out of business by big corporate retail stores. I do not want the traffic that will snarl Eureka's streets & create smog. Eureka needs a light industrial park for small local businesses. There are so many towns smothered by big stores. Eureka is still a place an independent business can grow. I owned a business in Eureka for 13 years. The Marina project would have killed my business

154-1
154-2
154-3

Signed Carol Stafford

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

along with every glass shop, bldg supply & many other good bus. enterprises

Letter 154: M. Carol Stafford

- 154-1 The comment in opposition to the Marina Center project is noted. The comment also expresses concern for local businesses. Please see Master Response 1, under “Potential Local Store Closures.”
- 154-2 The comment expresses concern that project-related traffic would snarl Eureka’s streets and create smog. The Draft EIR’s analysis shows that after implementation of the identified mitigation measures, all intersections on U.S. 101 in the project area would operate acceptably (i.e., without adverse congestion). All other intersections in the study area would similarly operate acceptably, except Koster Street and Wabash Avenue. Note that the 33 percent increase in traffic on Broadway would occur with or without the proposed project.
- 154-3 The comment advocated other uses for the project site is noted. Alternatives to the proposed project, including uses similar to those suggested, are discussed in Chapter VI of the Draft EIR.

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): BEA STANLEY

Address: PO BOX 979 TRINIDAD CA 95570

E-mail: _____

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FEB 02 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

THE MARINA CENTER DEIR IS LACKING IN ALMOST ALL PERTINENT AREAS
 HAZARDOUS MATERIALS' LEVELS ARE INACCURATE OR NOT CONSIDERED; THE
 EXISTENCE OF NATIVE AMERICAN ARTIFACTS HAS BEEN GIVEN SHORT SHRI
 THERE IS NOT EVEN MENTION OF FURTHER URBAN DECAY BECAUSE OF
 MORE LIGHTING (NECESSITATED BY A DEVELOPMENT OF THIS SIZE)
 NO CONSIDERATION OF INCREASED TOXIC RUN OFF (IE., DIESEL, GAS, OIL
 POSSIBLE SPRAYING/FERTILIZING OF LANDSCAPING) FROM INCREASED
 PAVING/LANDSCAPING; SCANT CONSIDERATION OF BIKING/WALKING ACCESS
 THIS LAND WOULD BEST SERVE THE COMMUNITY BY BEING RETURNED TO
 OCEANFRONT OR AS AN ARCHAEOLOGICAL SITE, AFTER JUDICIOUS REMEDIATION

Signed: BEA STANLEY

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

REMOVAL OF TOLUENE, NOT TO
INCLUDE CAPPING

155-1
 155-2
 155-3
 155-4
 155-5
 155-6
 155-7

Letter 155: Bea Stanley

- 155-1 The comment states that the Draft EIR hazardous materials assessment includes inaccurate and incomplete information. The comment is noted. For further information on site contamination levels and locations, as well as more details regarding remediating the project site, please see Master Response 4 and Appendix S.
- 155-2 The comment states that the existence of Native American artifacts are given the “short shrift.” Implementation of a subsurface archaeological survey program would help determine whether significant archaeological sites exist in the project area. Please see Master Response 9, which includes revised Mitigation Measures to perform a subsurface archaeological investigation.
- 155-3 The comment states that increased lighting at the project site would cause urban decay.
- Impacts related to light and glare that would be generated by the proposed project are discussed under Impact A-4 on pages IV.A-16 to IV.A-17. Urban Decay is discussed in Chapter IV.P. Light and glare introduced by the proposed project is discussed under Impact A-4 on page IV.A-16 of the Draft EIR. The potential adverse impacts resulting from the introducing of new light and glare is mitigated to a less-than-significant level by Mitigation Measure A-4a, which requires that a lighting plan be submitted and approved by the City of Eureka Design Review Committee.
- 155-4 The comment states that the Draft EIR gives no consideration to toxic chemicals in stormwater runoff. For further discussion regarding pollutants in stormwater runoff, please see responses to comments 7-8 and 16-44, which indicate that best management practices would be implemented to filter the runoff.
- 155-5 The comment states that the Draft EIR gives scant consideration to biking and walking access. Access via these modes are addressed Draft EIR Chapter IV.O, as well as response to comment 33-3, which specifically discusses pedestrian and bicycle access across Broadway
- 155-6 The comment suggesting other uses for the project site is noted. Alternatives to the proposed project, including uses similar to those suggested, are discussed in Chapter VI of the Draft EIR.
- 155-7 The comment expresses disagreement with placement of clean cover material over the project site as a tool for hazardous materials remediation. The comment is noted. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S, which discuss how placement of clean cover material over the project site would be one of several steps in remediation, including excavation and removal of contaminated hot spots.

Sidnie Olson

From: Tara Stetz [tarastetz@gmail.com]
Sent: Saturday, January 31, 2009 1:59 PM
To: DEIRcomments
Subject: Marina Center DEIR comment

To City of Eureka Community Development Dept:

I have strong concerns over the DEIR for the Marina Center. My principal concerns are related to cultural resources, hazardous materials and land use.

Cultural resources: I understand the the DEIR does acknowledge the potential for native village sites to be found on the land that the Marina Center is slated for. However, I do not feel that the proposed action of monitoring during development is sufficient.

Hundreds of village sites are known to be around Humboldt Bay and there is ethnographic evidence of one, possibly two, Wiyot villages within the proposed development site. Every measure should be taken to ensure that we do not lose more of our local, native history to poorly planned development. I understand that a variety of methods can be used to identify sites before disturbing them. I hope that the city chooses to protect our local heritage and native peoples by ensuring that village sites are given the appropriate care and respect.

156-1

Hazardous Materials: The DEIR addresses the the presence of hydrocarbons, copper, lead, and arsenic at the site. It fails to address the presence of dioxins and furons at the site, toxins that have been found there by samples done by Humboldt Baykeeper.

The EPA recognizes that dioxins cause development defects, reproductive disorders, thyroid disorders, immune system disorders, and are a suspected carcinogen. The fact that this is not even addressed in the DEIR should concern you deeply. Please take note that children and ederly people are at the most risk, that dioxins bioaccumulate in fatty tissue meaning that small amounts can grow to dangerous levels. Furans are also toxic and may be carcinogenic.

156-2

Land Use: I also understand that the Marina Center project is not consistent with the Local Coastal Program and that the Coastal Commission will have to approve the changes and ammend the LCP. This property is in the coastal zone, I believe that the City of Eureka and all of Humboldt County would benefit greatly from an area that favored tourism, that took advantage of this piece of land with coastal views.

The Public Resource Code states that "Visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over...general commercial development" (PRC 30222) I cannot understand why the city would even consider a project that involves commercial industry and private residences instead of coastal related and visitor serving development- especially since this appears to be the prime undeveloped parcel within the city's coastal zone.

156-3

Thank you for your time.

Tara Stetz
1593 Peninsula Drive
Manila, CA 95521

Letter 156: Teresa Stetz

- 156-1 The comment expresses concern that any buried Wiyot artifacts are given appropriate care. Please see Master Response 9, which includes revised Mitigation Measures E-2a and E-2b.
- 156-2 The comment incorrectly states that the Draft EIR does not address furans and dioxins in the soil at the project site. These chemicals are included in the Draft EIR discussion of hazardous materials. For further discussion regarding the Remedial Action Plan for the proposed project, and other investigations of the project site, please see Master Response 4 and new Appendix S.
- 156-3 The comments regarding the Local Coastal Program amendment noted. The project entitlements and approvals are listed on pages III-17 and III-18. The City of Eureka, as Lead Agency for the proposed project, is legally required to analyze the potential environmental impacts of the proposed project. The comment also expresses concern related to scenic vistas, which are addressed in Chapter IV.A, Aesthetics.

Sidnie Olson

From: William Stiles [bill0016@sbcglobal.net]
Sent: Tuesday, December 16, 2008 7:48 AM
To: DEIRcomments
Subject: Increased traffic on H and I streets

Draft EIR does not mention possible(likely) increased traffic on H and I streets as more people use these routes to avoid the already congested 101 corridor through Eureka. I live on very busy H Street and would not welcome an increase in traffic on this residential street.

157-1

Sincerely yours, William Stiles

Letter 157: William Stiles

- 157-1 The comment states that the Draft EIR does not mention the increased traffic on Hi and I streets that would result from the proposed project. Please see response to comment 32-9, which discusses diversion of traffic onto other streets and concludes that there would be a less-than-significant impact as disclosed in the Draft EIR. Please also see Master Response 7, which addressed trip distribution of the traffic impact study.

Sidnie Olson

From: kstricklan@humboldt1.com
Sent: Saturday, January 31, 2009 10:58 AM
To: DEIRcomments; infi@MarinaCenter.org; DEIRcomments; rgans@sns.com
Cc: kstricklan@humboldt1.com; leemarcus@humboldt1.com
Subject: DEIR Marina center

I totally agree with the comment from Marcus.

158-1

I also like much of the plan for the Marina Center. Thanks Randy for the CD, I haven't been able to study it much either, as my eyes won't let me read alot from the computer screen. We definitely need to bring our railroad back in combination with the port issues and we need them both to bring back the desperately needed 'good stable living wage' jobs. I'm still hoping some other business than Home Depot can be substituted. But do want a project to happen since the Balloon Track is too valuable property near bay to leave for more vandalism.

158-2

From Kaye Strickland
3125 Lowell St.
Eureka CA 95503
707-443-6105

Subject: Marina center
From: leemarcus@humboldt1.com
Date: Fri, January 30, 2009 11:58 am
To: deircomment@eureka.ca.gov
Cc: kstricklan@humboldt1.com

I generally support the project. I would like to make sure that the TWO tracks of the railroad are kept in place, so a locomotive can run around a train to the other end. Also, I would like to see an intermodal transportation center built on the site of the original NWP depot. The City of Eureka spent the money and created drawings for this, for a building that would be a replica of the original, historic depot. Dave Tyson commented that the depot would compliment the appearance of the Warfinger building and would add to the historic nature of Old Town. The location would be historic, would serve multiple modes, such as buses, taxi and trains. An earlier study for this intermodal transit center identified this location as the best place for in the city. Marcus Brown

158-3

Letter 158: Kaye Strickland

- 158-1 The comment states agreement with comment 158-3, which advocates for other developments and project alternatives. Please see responses to comments 16-9, 16-239, and 16-242, which explain that the Draft EIR includes a reasonable range of alternatives. An alternative containing uses similar to those described could be the Intermodal Bus Terminal Alternative.
- 158-2 The comment broadly supports the project's reuse of the project site and its future job creation effects. The comment also expresses a preference for an alternate business tenant than Home Depot. The comment is noted.
- 158-3 The comment suggests an alternative use for the project site. The comment is noted. Please see responses to comments 16-9, 16-239, and 16-242, which explain that the Draft EIR includes a reasonable range of alternatives. An alternative containing uses similar to those described could be the Intermodal Bus Terminal Alternative, which is considered in Chapter VI of the Draft EIR.

Comment Letter 159

RECEIVED
FEB 02 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

January 28, 2009

Sidnie L. Olson, Principal planner
Community Development Department
531 K Street
Eureka, CA 95501

Thank you for reading my letter. I LOVE Humboldt County. I have resided in my Eureka home for 36 years. I have lived in many other places and chose to be here. I would like the City of Eureka to reject the proposed Marina Center on Eureka's Balloon Tract.

I am concerned with quite a few aspects of the proposal:

the area is environmentally sensitive, which include wetlands;

there are 2-3 Wiyot village sites there, the sites have not been identified yet and we have to save their history;

we will have urban decay – check out other towns and see what has happened when big box stores came in - it will suck Old Town and downtown dry. That happened when the Mall came in – we lost most of our downtown;

I am concerned with our air quality – they have not given us all the information we need. We have a high cancer rate already. I want my grandchildren to have clean air and a good quality of life. Standards are being violated under the Federal Clean Air Act with this proposal. Our #1 monitoring station is located upwind from prevailing wind patterns of the proposed project site;

all the traffic issues have not been addressed – especially affecting Old Town and tourist season. The information they have given us is incorrect;

this project will change Eureka forever and I am very against that especially because in order to put this project through they have to change the General Plan – they shouldn't have to change laws to make the project happen;

the proposed area is a premier piece of property. This is not smart growth – the core of the project is a big box store. Ask local merchants, who help bring money into this county, what happened when our two big box stores came here already. We should care about the closing of many stores in Eureka who cannot compete with the big box stores; we have 126 vacant buildings in Eureka now.

159-1
159-2
159-3
159-4
159-5
159-6

I feel that the proposed Marina Center will create too many problems, as I stated.

Is this how we want our community to be?

I hope those who have the power to make such decisions will do so with the love of our truly wonderful area in mind. Once it changes, it can't come back.

Respectfully,

Charlotte D. Stuart

Charlotte Stuart
2125 18th Street
Eureka, CA 95501

Letter 159: Charlotte Stuart

- 159-1 The comment expresses concern that any Wiyot villages beneath the project site have not been identified. Please see Master Response 9, which includes revised mitigation measures to perform a subsurface archaeological investigation.
- 159-2 The comment states that the proposed project would bring urban decay by forcing other businesses to close. Please see Master Response 1, under “The Effect of the Bayshore Mall on Local Businesses” and “Potential Local Store Closures.”
- 159-3 The comment expresses concerns about poor air quality and that additional information on the subject is needed. For all of the available project information related to air quality, see Draft EIR Chapter IV.C, Air Quality, and Appendix C.
- 159-4 The comment raises concerns about traffic impact related to Old Town and the tourist season, and states an opinion that the information provided is incorrect.

Without the comment specifying which information in the Draft EIR is incorrect, it is impossible to prepare a detailed response to the comment. The Draft EIR and associated technical documents fully address all relevant information about potentially significant impacts of the proposed project.

As for traffic impacts associated with Old Town during the tourist season, the amount of vehicular traffic from the project into Old Town via Second and Third Streets would be minor – fewer than 100 vehicles per hour in either direction distributed between Waterfront Drive/First Street, Second Street and Third Street. Modeling conducted for the Draft EIR shows little interaction between project trips and Old Town trips, as these routes are far slower than using Fourth and Fifth Streets for trips to and from the east. This added time would discourage all trips excepting those that actually start and end in Old Town itself.

The addition of perhaps one vehicle per minute in each direction on First, Second and Third Streets in Old Town would not be noticeable to those trying to park and to cross these streets as pedestrians. Most traffic heading east on U.S. 101 would use Commercial Street and C Street to get to Fifth Street during the p.m. peak hour. Westbound traffic on Fourth Street would enter the project directly with no need to use First, Second or Third Streets. Only traffic originating from the Old Town would use these streets to get to the project, as traffic coming from other originations would be more likely to use arterial routes such as Fourth Street and U.S. 101/Broadway.

Visitors to the project site might also visit Old Town, sometimes by parking once and walking between. Visitors would be likely to walk between the two locations, and the additional traffic would be minimal due to the minimal parking in Old Town and the infrequency of vehicle trips expected between these two retail destinations.

Finally, traffic from the proposed project would not divert through Old Town because it represents a slower alternative route compared to using C Street towards Fifth Street and destinations east. Consequently, the impacts of the project on Old Town, even during the tourist season, would be less than significant.

- 159-5 The comment expressing disapproval of General Plan and Local Coastal Program Land Use Plan amendment are noted. The project entitlements and approvals are listed on pages III-17 and III-18.
- 159-6 The comment states that the proposed project is not smart growth because it may result in the closing of local businesses. The comment is noted. Please see Master Response 1, specifically “Potential Local Store Closures.” The comment also states that there are 126 vacant buildings in Eureka. No source is cited. Please see Master Response 1, specifically “Vacancy in the City of Eureka.”

1-24-2009

SIDNIE L. OLSON, AICP, PRINCIPAL PLANNER
COMMUNITY DEVELOPMENT DEPARTMENT
CITY OF EUREKA
531 K STREET
EUREKA, CA 95501

RECEIVED

FEB 02 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

DEAR MS. OLSON,

I'm very concerned about the Marina Center development. A series of articles in the Times-Standard seemed very general, minimized environmental concerns, poorly addressed historic Wiyot village sites and seemed supportive of the developers.

Clean-up of the area with its proximity to the bay is vital. Development atop contaminated soil is unacceptable, particularly development with a heavy footprint makes an irrevocable statement about the area and does not seem appropriate at this time.

160-1

Eureka has enough retail stores spread out in various directions from 101 south, out 101 north with the old mall, Henderson Center, Marketplace, downtown, old town and so on in between. Development that may cause existing businesses to close is wasteful and a poor use of resources. Big box stores do not bring the prosperity they promise.

160-2

Despite assurances, this development only adds to traffic problems and further congestion.

160-3

As a past Eureka resident and likely future resident, I would like to see the area cleaned up in a manner that addresses environmental standards, recognizes and protects historical sites and then developed in a way that will benefit the general population not just an affluent few.

160-4

Thank you for your time and consideration.

Linda Sutton
LINDA SUTTON
P.O. Box 631
Redway, CA 95560

707 923-2574

Letter 160: Linda Sutton

- 160-1 The comment states that development on the project site is unacceptable given its located and contamination. The comment is noted. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S, which discuss subsurface chemical migration and excavation and removal of contaminated hot spots.
- 160-2 The comment expresses concern that the retail market in Eureka is saturated. The comment is noted. Please see Master Response 1, under “Potential Local Store Closures.”
- 160-3 The comment states that the proposed project adds development and congestion. The Draft EIR’s analysis shows that after implementation of the identified mitigation measures, all intersections on U.S. 101 in the project area would operate acceptably (i.e., without adverse congestion). All other intersections in the study area would similarly operate acceptably, except the intersection of Koster Street and Wabash Avenue. Note that the 33 percent increase in traffic on Broadway by the year 2025 would occur with or without the proposed project.
- 160-4 The comment expressing support for hazardous materials remediation, cultural resources protection, and general benefits of development is noted. Please see Draft EIR Chapter IV.G for the analysis of Hazards and Hazardous Materials, as well as Master Response 4 and new Appendix S, which expand on the Remedial Action Plan for the project site. Please see also Draft EIR Chapter IV.E for the analysis of Cultural Resources, as well as Master Response 9, which includes revised mitigation measures to implement a subsurface archaeological investigation.

Sidnie Olson

From: Sidnie Olson
Sent: Tuesday, February 03, 2009 11:06 AM
To: DEIRcomments
Subject: FW: Citizen Comment Form

-----Original Message-----

From: jtimmons88@gmail.com [mailto:jtimmons88@gmail.com]
Sent: Saturday, January 31, 2009 10:16 AM
To: Pam Powell
Subject: Citizen Comment Form

This was recieved from the Citizen Comment Form

Comment: The City is already glutted with empty retail space and I cannot think of a more inappropriate location for a shopping mall than right on our waterfront. Better to leave it natural than to go forward with this ill-thought out Marina Center. Thank you. 161-1

Name: Julie timmons

Address: box 378

City: cutten

Zip: 95534

Phone: 707 4442670

Fax: 707 4442670

E-mail: jtimmons88@gmail.com

Letter 161: Julie Timmons

161-1 The comment expresses concern that the retail space market is already oversaturated in the City of Eureka. The comment is noted. Please see Master Response 1, under “Vacancy in the City of Eureka.”

Sidnie Olson

From: k.t. [k.travers@att.net]
Sent: Saturday, January 31, 2009 3:28 PM
To: DEIRcomments
Subject: marina center deir

Hello

The future is green, been a very long time coming! A change of attitude is required. We (Humboldt Co.) are so perfectly poised to lead.....

These are my concerns (some) about the Marina Center development:

ENVIRONMENT HEALTH AND SAFETY

- 1) lack of information on levels of contaminants on site.
 - 2) source for dioxin and furans on site not identified
 - 3) dioxins and furans not evaluated for health risk assessment.
 - 4) DEIR recognizes impacts and hazards posed by remediation of the property and after remediation, potential for contamination to remain on site.
 - 5) mitigation measures defer identification of actions to be employed to a future date
- Complete clean up and accountability only acceptable approach.

162-1

TRAFFIC

- 1) 15,669 new vehicle trips per week.
- 2) 14 and 74 seconds of increased travel time according to National Security brochure.
- 3) no bike or pedestrian accident projections
- 4) compatibility with ongoing traffic studies not addressed
- 5) no public transit within area
- 6) no mention of mitigation to reduce traffic
- 7) diversion of traffic not addressed

162-2

The 101 safety corridor has an approximate 5 min. increase in travel time that some commuters do not tolerate....they take short cuts (old arcata rd. and samoa blvd.). There is/was a proposal for a paved road through bird/wildlife sanctuary to Waterfront Dr., this will definately become a "short cut" should this project come to fruition. Not Good!

LAND USE AND CULTURE

- 1) zone changing: Local Coastal Program amendment for a project that is not a proper fit. The Arkleys got a change in planning once before downtown with Starbucks, will this become the norm?
- 2) destruction of Wiyot historic villages/native history

162-3

3) more retail when more coastal industrial/visitor- serving/agriculture would be economically enhancing
Regarding the Wiyot, after full investigation of the site for historical evidence of their villages/heritage, a museum and educational (memorial) could be erected. We have a huge Indian history but little of it to share outside of the Clark Museum. Maybe something to recognize the other cultures that have contributed to the area as well such as the Chinese. This has been neglected. Recognition could bring a more cohesive community. All this would be harmonious with the Discovery Museum, should it move there.

The EcoHostel is still a viable enterprise although in a different location these could all tie in.

The horse and buggy tourist transport planned for old town would also tie in nicely. Maybe some other kind of transport depot could be maintained on site i.e. bike rentals, human powered rickshaw-like taxies, kinetic-like covered rentals, etc. More could be done in the aquaculture business perhaps, boat building, an extention of Blue Ox? And this may be far reaching, but what about farming/manufacture of hops and hemp products?

URBAN DECAY

Not alot I should have to say here!!!!

- 1) old town/down town was devastated by Bayshore Mall (it was something some were convinced had to happen, I mean just think of all the jobs that will be created---short sightedness, please NOT AGAIN!)
- 2) change to the social fabric and ambience of Eureka and all of Humboldt Co. It won't end here once that pandora's box is cracked open.

162-4

We have a special, beautiful, wonderful home, not a generic big box shoppers destination!

Think out, way out of the box!

Very Sincerely Yours
Kathy Travers
1726 Sunny Ave. Eureka 95501

Letter 162: KT Travers

- 162-1 The comment states dissatisfaction with several aspects of the hazardous materials analysis, charging that the Draft EIR does not include information regarding the levels of contaminants at the project site, does not identify the source of contaminants, does not evaluate the risk of some contaminants, and deference of preparation of a Remedial Action Plan until a later date.

For further discussion regarding contamination on the project site and the Remedial Action Plan for the proposed project, please see Master Response 4 and Appendix S.

- 162-2 The comment lists a series of general concerns about the amount of new vehicle trips, increased travel time, lack of accident projections for pedestrians and bicycles, compatibility with ongoing traffic studies, no public transit within the area, no mention of mitigation to reduce traffic, diversion of traffic not addressed, and concerns about Waterfront Drive which could be extended south through a bird sanctuary becoming a “short cut” for travelers along U.S. 101.

New Vehicle Trips – An estimated 15,669 new vehicle trips per day are expected to be attracted to and from Marina Center. However, even without Marina Center, this level of new trips is expected due to regional growth in retail and commercial activities, so Marina Center acts to locate the origins and destinations of these new trips. The project itself does not increase economic growth through 2025, but rather is a part of the expected growth.

Added Travel Time – The mitigation done on U.S. 101 in conjunction with successive phases of the project serve to reduce overall travel times from what would be expected without the project while traffic continues to increase at 1.5 percent per year on average. Therefore, with a 33 percent growth in overall traffic levels during the a.m. and p.m. peak hours, travel time increases are limited to the 14 to 74 second increase overall in the corridor. Without mitigation, travel times would be far longer in 2025.

No Forecasts of Pedestrian or Bicycle Accidents – There are no generally accepted analytical methods for forecasting bicycle and pedestrian accidents. However, the identified mitigation measures are consistent with the Caltrans Manual on Uniform Traffic Control Devices in terms of provision for vehicular, pedestrian and bicycle operations along streets and at signalized and unsignalized intersections. The mitigation proposed for Marina Center is expected to result in a reduction in accident rates. This reduction in accident rates is likely to include a reduction in pedestrian and bicycle accidents, but there is no way to estimate whether this is the case.

Compatibility with Ongoing Traffic Studies – Extensive use is made of prior traffic impact studies conducted in the area. However, at the time the traffic study was completed, there were no pertinent traffic studies other than those mentioned in the

References. Subsequent to the publishing of the Draft EIR, the Ridgewood Village project traffic analysis was begun. However, that study is not yet completed. To the extent that information is available from that study, information is provided within the Final EIR for Marina Center.

No Public Transit in Area – Current transit operators have discretion on the provision of transit services near Marina Center including whether to provide direct service to Marina Center. As explained on page O.IV-46 of the Draft EIR, the increased demand for public transit service at the project site can be accommodated and would remain within reasonable walking distance from the Marina Center. Again, the project’s impacts on public transit service would remain less than significant, and no further mitigation is needed.

No Mitigation to Reduce Traffic – Marina Center is proposed as a mixed-use project, and as such, “captures” trips that would remain onsite that would otherwise use public streets. An estimated 1,776 daily trips would be kept off U.S. 101 and city streets because of the mixed-use aspect of Marina Center (based upon Table III in the Traffic Impact Study (Appendix P of the Draft EIR). The “captured trips” shown in that table are those that are expected to be completed entirely onsite due to the mixed-use character of the proposed land uses. So the project design itself partially mitigates potential traffic impacts through trip reduction. Enhanced pedestrian and bicycle paths along and around the proposed project should also aid in reducing vehicle trips.

Diversion to Waterfront Drive/Extension of Waterfront Drive through a Bird Sanctuary – It is unclear if the comment concerns Palco Marsh or the wetland reserve proposed as part of the project. To the extent that the comment is related to Palco Marsh this project would no impact because the extension of Waterfront Drive is not part of this project.

To the extent that the comment is about the wetland reserve, for diversion of traffic issues see response to comment 32-9. According to the traffic modeling, Waterfront Drive is not expected to receive any significant number of additional diverted trips along U.S. 101. In fact, the improvements provided as part of the project’s mitigations should help reduce the propensity for drivers along U.S. 101 to take alternate routes. Moreover, the area proposed to be a wetland reserve is not, at the moment, a bird sanctuary. Instead, it is a vacant brownfield site that must still undergo some site remediation. The project, as proposed, would not increase traffic on Waterfront Drive dramatically, and would also make the project site much more inhabitable for birds.

162-3 The comment disagreeing with the proposed land use approvals is noted. As stated on Draft EIR pages III-17 to III-18, the proposed project would require a Local Coastal Program amendment, which would rezone the project site.

The comment suggesting alternatives to the proposed project is noted. Pursuant to CEQA, alternatives to the proposed project are discussed in Chapter VI of the Draft EIR. Please

also see responses to comments 16-239 and 16-242, which explain that the Draft EIR includes a reasonable range of alternatives.

The comment related to Wiyot villages is noted. Please see Master Response 9, which includes revised mitigation measures to implement a subsurface archaeological investigation.

- 162-4 The comment expresses concerns that the proposed project would cause urban decay and states that the opening of the Bayshore Mall increased retail space vacancies. Please see Master Response 1, under “The Effect of the Bayshore Mall on Local Businesses.”

Sidnie Olson

From: Sara Turner [smtturner7@sbcglobal.net]
Sent: Saturday, January 31, 2009 12:55 PM
To: DEIRcomments
Subject: Marina center comments

I write in SUPPORT of the Marina Center proposal for several reasons as follows:

After decades of having a totally useless wasteland in central Eureka, the plan for development developed by Security National would create an attractive, busy hub of businesses, homes and offices and recreational opportunities. It's construction would begin immediately. I am 82 years old and I would like to see this happen while I am still alive and might enjoy it.

163-1

What governmental or non profit entities have anything to propose ready to go now, with plans or funding? Where would we get the millions of dollars to repay Security National for what they have already legally invested?

163-2

Has anyone calculated the amount of tax income that the Marina Center would generate? We can be sure there would be increased traffic. In addition to the street modifications in the current plan, a shuttle service would enable people like me to park nearby and get a low cost (or free) ride to my destination in Old Town, not just to the Center. I have often noted how parking scarcity makes shopping in Old Town difficult for anyone—not just oldsters like me. It is my belief that having the Marina Center will increase business in the entire downtown Eureka area.

163-3

Finally, there are those who object to a "big box" retail store, mostly, it seems, for the harm that it might do to small, local businesses. I find it somewhat hypocritical that those who object often shop at Costco (truly a big box) and lesser chains such as Target, Staples, etc. Over the forty plus years that I have lived in Humboldt county I have tried to shop at virtually all of the building supply stores in the Eureka-Arcata environs and, while personnel are friendly, display of and access to merchandise is not easy. Nor does the store actually see your proposed project to completion. They hand out business cards of contractors and it is up to the individual to negotiate any agreement for completion of the work. For some of us who know little about what should be done, this can be a major problem. Such is not the policy of Home Depot, as experienced by a family member who lives in another state. Her counter installation was overseen by the local store where she bought the material and saw it completed to her satisfaction.

163-4

I have no comment regarding air quality or toxic materials but since it looks as if the pulp mills may be permanently closed, we should be safe from that issue.

163-5

Sara M. Turner
1506 J Street
Arcata, CA 95521
707-822-0235

Letter 163: Sara Turner

- 163-1 The comments in support of the proposed project are noted. Please see Master Response 4 regarding the construction timeline.
- 163-2 The comment supporting the proposed project is noted.
- 163-3 The comment supports the project and suggests that it would attract new business to the entire Downtown Eureka area. The comment also inquires whether the project's tax income effects have been estimated. The comment is noted. Please see Appendix K: Eureka Balloon Track Retail Development Economic Impact and Urban Decay Analysis, CBRE Consulting Group, November 2006 which estimates net new tax income of approximately \$0.95 million and net new business sales of \$91.8 million to the City of Eureka. Please also see Master Response 1, under "Fiscal Impacts to the City of Eureka and Other Jurisdictions."
- 163-4 The comment notes the different business practices of large and small hardware stores, suggesting that the customer service, extent of services, and display and access of merchandise is superior at the large hardware chain store. The comment is noted.
- 163-5 The comment states that air quality would not be an issue. The comment is noted.

Sidnie Olson

From: Glen Twombly [gatwombly@suddenlink.net]
Sent: Thursday, December 18, 2008 11:27 AM
To: DEIRcomments
Subject: Sea level

I do not see any reference to the effects of the widely predicted rise in sea level due to global warming. Has it been considered? What is the altitude of the project above current maximum high tide? 164-1

Thanks,

Glen A. Twombly
2066 Mustang Lane,
Arcata, CA 95521

(707)826-7506

Letter 164: Glen Twombly

164-1 For further discussion regarding the sea level rise, please see response to comment 3-15, which states that direction on sea level rise to coastal permit Project Applicants is in flux, and an upper planning limit has not been established.

RECEIVED

FEB 02 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

1-29-09

City of Eureka
Community Development Dept.
Attention: Sidnie L. Olson
AICP, Principal Planner
531 K. Street
Eureka, CA 95501

I wish the people of Eureka could open their eyes and appreciate what Mr & Mrs Rob Arkley have done and want to do in the future for Eureka.

The Sequoia Zoo and the Arkley Center should first come to mind - however they reworked the kitchen of the Christ Episcopal Church - which they quietly remodeled and purchased beautiful blue sitting's for several hundred.

I'm sure there are many other projects that they have done that anyone has every known about.

We need say business in our area that we can get to employees so many that need work. We could go against the employment & Home Dept could add. I wish the Arkley's lived in Fortuna! Don Patton Vallentin
1070 Fernwood Dr. Fortuna

725-5117

165-1

Letter 165: Anne Patton Vellutini

165-1 The comment in support of the proposed project is noted.

Comment Letter 166

Comment Letter 166

Diane R. Venturini
175 Dana Lane
Eureka, CA 95503
(707)442-5524
Jan. 11, 2009

City Of Eureka
Community Development Dept.
Attn: Sidnie L. Olson
AICP Principal Planner
531 K. St.
Eureka, CA 95501

RECEIVED
JAN 13 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Dear Sidnie Olson,
After reviewing the Marina Center Draft EIR, I have a few concerns & reservations about the project.

1. Hazardous Waste Cleanup

I want a total & thorough cleanup of the site before any development begins & throughout construction of the project. Of course, they are required to meet federal & state requirements. In addition, previously unidentified contaminants may be present on or below the ground surface. Ongoing monitoring is a must!!

166-1

2. Smart Growth

A: I want smart growth for our county. I do want to see the site developed, but what is built HAS to be what is best for Eureka & Humboldt Co. as a whole.

Why is there NO mention of using any "green building" technology? Any new construction (especially on this scale) should be making some effort to build environmentally friendly structures. This is good for our health & is good for this community. The Marina project should be building this way.

This Draft EIR may not be the place where this is discussed, but to me it is a very important part of the project.

There's talk of a "green team" forming in the county with the help of the RCEA leading the way. That's smart growth.

166-2

B: Are any of the housing/residential units geared for low income/ elderly or disabled residents?? Our very own HACOG's regional Housing Needs Plan outlines the "fair share allocation" for Hum. Co. A portion of low income housing needs to be included in this project.

Also, who is going to rent these units? Surely you have seen, the 3rd coming of the extinct "Ferry Bldg." at 1st & F St.? It lays nearly vacant, years after completion!!

166-3

C: These parcels are a few of the remaining picturesque Humboldt Bay scenic vistas. I DO NOT want to see a 5 story office building and a 4 story parking garage on this site.

166-4

D: And last but not least, I DO NOT want a "Big Box" entity in this location. We the voters spoke our mind when WalMart tried to buy into Eureka. Listen to us!! Take the necessary time to make informed decisions about what growth this city needs. Do NOT cave into the pressures of corporate greed.

166-5

In summary, what I want to see developed in the "Old Balloon Tract" site, is a multi-use project. It should have an equal mix of recreation & parkland with some retail, (not a Big Box), residential units, (including some for low income/elderly), office space, (not 5 stories high) & some light industrial.

This project is too big for this community!! It is not a good fit for the current & future needs of Eureka.

Please DO NOT approve this Draft EIR!!

Thank you for listening,
Sincerely,

[Handwritten signature]

Diane R. Venturini

Cc: City Council Member Larry Glass
Board of Supervisor Mark Lovelace

5-813

Letter 166: Diane Venturini

- 166-1 The comment requesting a “total and thorough” cleanup of the project site is noted. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.
- 166-2 The comment requesting green building is noted. The building materials and methods of construction have not yet been determined for the proposed project. These materials and methods would be determined during the detailed design stage. At that time, green materials and technologies may be considered.
- 166-3 The comment inquires whether any of the project’s housing is low income and raises concerns that the project’s units would be unrented. All of the new housing is planned for sale at market rates to meet the project’s key objective to “develop an economically viable mixed use project.”
- 166-4 The comment’s concern on the height of the proposed buildings are noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 166-5 The comment states that voters already made their decision regarding big box retailers in relation to a previous proposal for a Wal-Mart. The comment also states that the proposed project is caving into corporate greed pressures. Neither statement addresses the environmental impacts of the proposed project, the Draft EIR, nor CEQA. The comment is noted.

Sidnie Olson

From: Abigail's Elegant Victorian Mansion - Eureka, California [evm@humboldt1.com]
Sent: Thursday, January 29, 2009 11:15 AM
To: DEIRcomments
Cc: DEIRcomments
Subject: Arkley's First National - and the Ballon Track

Let us stop all this Bull Shit and get this project going. Damn it, everybody knows it is needed - from a variety of reasons - all good. Let's keep the momentum going on turning this dying mill town / fishing town around. Get off your ass and push with VIGOR* to get back Eureka's former luster. How many courageous fools to you think are going to come along? Let's grab this opportunity before the guy (Arkley) has a chance to rethink the issue and just throw in the towel - like so many other prospective projects in the past. Eureka needs him much more than he needs us.

* I don't mean passive acceptance - I mean MAJOR contributing help - to get this MARINA CENTER going !

Doug Vieyra, Curator / InnKeeper

Abigail's Elegant Victorian Mansion ~ Historic Lodging Accommodations
1406 C Street, Eureka, California 95501 * PH: (707) 444-3144
www.Eureka-California.com * E-Mail: Info@Eureka-California.com

167-1

Letter 167: Doug Vieyra

167-1 The comment in support of the proposed project is noted. As stated in Chapter I, Introduction, the proposed project requires several approvals from the City of Eureka and other public agencies. The EIR is a document used as a resource to aid in that decision-making.

Comments: DEIR for the proposed Marina Center Project on Eureka's Balloon Tract

Name (print): Greg Wellish

RECEIVED

Address: PO Box 979 Trinidad CA 95570

FEB 02 2009

E-mail: Gregwellish@yahoo.com

DEPARTMENT OF

This DEIR fails to realistically address major concerns. No testing for Dioxins and Furans known to be on site. Traffic impacts are not dealt with honestly. Broadway is Hwy 101 and already over used at peak times. The traffic mitigations are not sufficient. The effects on old town/downtown by urban blight are understated. Right now businesses are closing and the commercial properties are un-rentable. History (the Bayshore Mall project) says we can expect many more empty storefronts if this is built. Project in no way meets zoning or Coastal Zone requirements. I recommend the NO BUILD alternative,

168-1
168-2
168-3
168-4
168-5

Signed: Greg Wellish

Or send e-mail comments to: DEIRComments@ci.eureka.ca.gov

Letter 168: Greg Wellish

168-1 The comment states that the Draft EIR fails to address major concerns, such as testing for dioxins and furans on the project site. The comment is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S, which detail site investigations.

168-2 The comment expresses concerns about increased traffic and states that impacts are not dealt with honestly. The comment is noted.

Please see response to comment 31-1, which states that the 33 percent increase in traffic on Broadway by the year 2025 would occur with or without the proposed project, and the mitigation measures identified reduce almost all traffic impacts to less-than-significant levels.

168-3 The comment states that the urban decay analysis is understand regarding the potential effects to existing businesses. Please see Master Response 1, under “Vacancy in the City of Eureka.”

168-4 The comment states that the opening of the Bayshore Mall prompted increase retail vacancy rates. Please see Master Response 1, under “The Effect of the Bayshore Mall on Local Businesses.”

168-5 The comment recommending the No Build Alternative is noted. Please see response to comment 16-241, which clarifies the No Build Alternative and potential remediation efforts that could be undertaken.

Comment Letter 169

Comment Letter 169

Sidnie Olson

From: Sidnie Olson
Sent: Wednesday, December 10, 2008 10:16 AM
To: DEIRComments
Subject: FW: Citizen Comment Form

I doubt it matters what those who would actually use the area think- but please reconsider.

Name: Elizabeth Welton

Address: 929 Koster

City: Eureka

Zip: 95501

Phone: 707-268-3425

E-mail: gampagampa2@aol.com

-----Original Message-----

From: Pam Powell
Sent: Tuesday, December 09, 2008 8:51 AM
To: Sidnie Olson
Subject: FW: Citizen Comment Form

Sidnie,

I forwarded this comment received from the public to council. David has asked me to forward all marina related comments to you and to not continue to forward to council.

Pam Powell
Assistant to the City Manager

-----Original Message-----

From: Pam Powell
Sent: Tuesday, December 09, 2008 8:40 AM
To: Chris Kerrigan (coachk11@yahoo.com); Council Members; Larry Glass (lglass@foggy.net); Mike Jones (mike-jones@leavitt.com); Polly Ender (pendert@sbcglobal.net); Virginia Bass-Jackson (vbjcra@aol.com)
Subject: FW: Citizen Comment Form

FYI
Pam Powell
Assistant to the City Manager

-----Original Message-----

From: gampagampa2@aol.com [mailto:gampagampa2@aol.com]
Sent: Saturday, December 06, 2008 8:53 AM
To: Pam Powell
Subject: Citizen Comment Form

This was recieved from the Citizen Comment Form

Comment: Never before have I seen such ugly buildings built on purpose!! The waterfront is now a place where I take guests to show them how unigue it is- what a nice place to walk and talk.

If you actually build the way its planned now I will avoid it like the plague- it would be embarrassing. The architecture you are reason would have been first rate in 1950- but its just ugly now.

I work in a building with some 300 people and we discussed this on Monday when the first drawings were on the front page- we all agreed- bad- really bad.

Please don't do this- When we drive by Dr. Berg office quests comment on how well he has kept that place- when I say its a new building- they can't believe anyone would have spend the money.

Thanks to the Starbucks building the look of downtown has been improved. It it looked like that (although not my first choice) at least it would be intriguing.

169-1

5-819

Letter 169: Elizabeth Welton

169-1 The comment's opinion of the preliminary project renderings are noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

Comment Letter 170

Comment Letter 170

Sidnie Olson

From: Pat Wenger [Pat.Wenger@humboldt.edu]
Sent: Friday, January 30, 2009 2:00 PM
To: DEIRcomments
Subject: draft EIR comments

From: Pat Wenger
2340 17th St
Eureka CA 95501
Friday, January 30, 2009

To: City of Eureka
Community Development Department
Attn: Sidnie L. Olson, AICP, Principal Planner
531 K St.
Eureka, CA 95501
DEIRcomments@ci.eureka.ca.gov

As a document, the draft EIR is very consistent with the contemporary American document standard of hiding information behind an abundance of nonsense and pseudo-scientific sounding filler, hoping readers will just go away. As a nation, we urgently need some succinctness and clarity standards. I encourage our City Government to avoid thinking that this EIR says much of value. It does, however, describe a project which is clearly a poor choice for healthy Eureka development: this so-called development will damage our business and public communities in many ways, and the current version of the EIR is carefully constructed to hide those issues. I will mention some of the issues I find particularly significant in this brief response to the request for public comment on the Marina Center draft EIR.

The "large anchor store" (Anchor 1) is one of the most problematic elements of the proposal. It is fortunately inconsistent with the zoning of the site, but Eureka is certainly a part of the current American culture in which politicians are 'bought' in a variety of ways, so it is highly possible that the zoning will be changed with no attendant investigation of the favors (\$) which have changed hands in the decision-making process. The issue of the zoning changes should be left to the people of Eureka, and unless they are supportive of changes in zoning, then no changes should take place.

The draft EIR, as posted at the City of Eureka WEB site (http://www.ci.eureka.ca.gov/), contains lots of valuable information, but it is carefully hidden in the onerous nature of the report. As a citizen of Eureka, I find the traffic delays unacceptable as a planned mistake, the extra waste of gas and all the associated negative environmental effects unacceptable as a planned mistake, and certainly the misplacement of a new mega-store (Anchor 1) in a location appropriately not zoned for such placement unacceptable as a planned mistake.

A mega-store specializing in building and home-improvement materials will have a tremendous detrimental effect on the Humboldt economy and will cause local money to flow out of our county with a much lower recirculation rate than money spent as smaller and businesses with a much higher 'local ownership and management' configuration (many carefully-researched studies document this, but large-store proponents continue to argue the lie of positive economic development when bringing these stores to new locations - see "Big=Box Swindle" by Stacy Mitchell, 2006, for extensive documentation of this issue). Even is our community does not wish to work toward the maximum economic benefit of Humboldt County residents, it is still an exceptionally poor idea to propose putting a mega-store in the downtown and near-waterfront location of the parcels considered in the Marina Center proposal. If our area is to suffer the economic loss which WILL accompany the arrival of such a mega-store, then at least our supervisors can have the foresight to plan a

location for such development which will not have the enormous negative traffic and wasted-burning-fuel and wasted time issues the proposal would bring to our downtown. If our City Council and zoning authorities are readers of these responses, I very much hope that they hear my request that the best interests of all Eurekaans - health, time usage, clean-air, and the possibility of a zone-appropriate usage of the parcels under consideration - is given priority over a current active pressure to allow this clearly-thought-out big development a green light. I understand the attractiveness of this already-planned big development project, but as a Eureka resident I can also see that the draft EIR for this project, as posted on the City of Eureka WEB site, works to downplay and even hide the many negative effects of this proposed development. At this point in time it will be relatively painless for Eureka leaders to make the right choice: protect our environment, protect our central Eureka from a clogging and inappropriately placed development, protect our air and related living conditions such as overall noise, and imagine that at some time in the future the parcels under consideration WILL BE put to appropriate, clean, low traffic uses which will enhance our City. Let us, as a community, encourage our developers to situate development proposals with the interests of the community more clearly in mind.

The EIR is certainly misleading in the way it handles many issues. For example, in the section "xx", states:

"In fact, the project site's proximity to a major transportation corridor through the North Coast (U.S. 101) and its location in Eureka, Humboldt County's largest city, could result in less impact on regional transportation systems and air quality than would comparable development in a more outlying area, or an area with a lower concentration of population within the county."

The language "could result in less impact" is so telling - nothing is promised, nothing is established, but the reader is expected to follow this nonsense to the conclusion that the proposal is actually O.K. When someone who wants something hires writers to prepare an EIR which supports what they want, this is exactly what it will sound like if it is hiding reality from the readers. Many of the important conclusions of the document are of this logical character - the only thing they really tell us is that the writers want the City of Eureka to approve the project. I am really quite disgusted at arguments such as that about the intersections being of poor quality already, and I hope most readers see this stuff for the smoke-screen it is intended to be.

I encourage City of Eureka leaders in the strongest possible way, please help the developers of the proposed Marina Center find some outlet for their energy and investment potential which will not pose such long-term damage to our community.

Pat Wenger
2340 17th St
Eureka CA 95501

5821

170-1

170-2

170-3

170-3 cont.

170-4

Letter 170: Pat Wenger

170-1 The comment stating that the proposed project is not consistent with current land use controls on the project site is noted. As stated on Draft EIR pages III-17 to III-18, the proposed project would require a Local Coastal Program amendment, which would rezone the project site.

170-2 The comment expresses concerns regarding increased traffic at and around the project site. Please see the response to comment 31-1, which states that the 33 percent increase in traffic on Broadway by 2025 would occur with or without the proposed project. Please also see response to comment 32-9, which discusses traffic diversion into other neighborhoods.

The comment also states that placement of a “mega-store” at the project site would be a mistake and inconsistent with zoning. As stated on Draft EIR pages III-17 to III-18, the proposed project would require a Local Coastal Program amendment, which would rezone the project site.

170-3 The comment expresses general opposition to the proposed project and its associated environmental effects. The comment is noted.

The comment also expresses opposition to big box retail stores. Please see Master Response 1, under “National Stores vs. Local Stores.”

170-4 The comment questions the use of the phrase “less-than-significant impact.” The comment also states that the Draft EIR does not represent the professional judgment of the City of Eureka, but rather written by the Project Applicant.

The City of Eureka, as Lead Agency pursuant to CEQA, must analyze potential impacts of the proposed project. The City ultimately decides what studies and data are to be included in the Environmental Impact Report.

The Marina Center Mixed Use Development Project Environmental Impact Report was prepared by Environmental Science Associates, in consultation with other consultants and the City of Eureka. As stated in Chapter I, Introduction, the City of Eureka is the Lead Agency for the proposed project, and as required by CEQA, the completed document represents the judgment of city staff.

As stated in Chapter I, Introduction, the conclusions reached in the EIR reflect the determinations of the City of Eureka, pursuant to the CEQA Guidelines. The EIR is a factual informational document, prepared in conformance with CEQA, and written for the purpose of making the public and decision-makers aware of the potential environmental consequences of the Marina Center project.

The City of Eureka sent the Notice of Preparation (NOP) to 56 governmental agencies and organizations and persons interested in the project in April, 2006, and the City held two public scoping meetings in April 2006 to obtain public comments on the scope of the EIR. As detailed in the appendices, numerous consultant reports were prepared, analyzed, and summarized. The document underwent several rounds of intensive review by city staff and by the consultants. It represents two-and-a-half years of investigation and effort by these parties.

Balloon Track

1) 20 acres of restored wetland
tidelands & Buffer [171-1

2) Better Architecture [171-2

3) BUILD A RESTAURANT LIKE ^(A) THE TRAIN
STATION. CALL IT THE DEPOT. [171-3

ANN WHITE
(4435023)
935 B ST.
FUNK, Ga. 95501

RECEIVED
JAN 30 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Letter 171: Ann White

- 171-1 The comment simply states, “20 acres of restored wetland, tideland and buffer.” The comment is not clear about what it is suggesting. The Marina Center project includes the creation of contiguous estuarine wetlands at the south end of the project site at an acreage exceeding the extent of the existing combined degraded seasonal and estuarine wetlands (mitigation ratio of 1.05:1). These restored wetlands are anticipated to be of much higher quality than those currently onsite. The restoration area would total 11.89 acres and consist of 8.98 acres of estuarine wetlands surrounded by 2.91 acres of upland buffer.
- 171-2 The comment states only, “Better architecture.” As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 171-3 The comment suggestion a restaurant resembling a train station and calling it “Depot” is noted. As stated in the Project Description in Chapter III, the proposed project would include space for restaurant uses. In addition, as stated in Chapter VI, Alternatives, of the Draft EIR several of the alternatives screened for analysis would contain space for restaurant uses.

Sidnie Olson

From: Andrew Whitney [andsw@hotmail.com]
Sent: Sunday, February 01, 2009 12:00 AM
To: Sidnie Olson; Larry Glass; Linda Atkins; Jeff Leonard; Frank Jager; Mike Jones; Kathleen Franco Simmons; Virginia Bass
Subject: Marina Center DEIR Comments

95503
445-5796

Windows Live™: E-mail. Chat. Share. Get more ways to connect. [Check it out.](#)

Dear Ms. Bass, Mr Leonard, Mr Glass, Mr Jager, Mr Jones, Ms. Atkins, and Ms Olson,

Please accept my comments on the Marina center DEIR. My first comment is that I feel the comment period is too short for citizens to have meaningful input on the document. You have chosen to use the CEQA minimum comment period but I don't think that is sufficient time given the enormity of the document. It took paid consultants two years to produce the document and with attachments it is about 2000 pages in length. If I were to spend three minutes per page it would take me 100 hours to review the document. As a working parent it is tough for me to get a free hour everyday after the laundry, cooking, cleaning, and workday is over. Given this timeframe it would take me 100 days to review the DEIR not 60. Coupled with the fact that the comment period ran through the busy holiday season, effective public participation in the DEIR difficult. Yes I should have spoken up earlier on this but it is completely within the power of the council to accept late comments or to extend the comment period.

172-1

From the outset of the project, meaningful opportunities for public participation have been completely absent. We must remember what is under consideration: changing the zoning of the property from a public use to a private use. If this is to occur, basic fairness indicates that the public should have the chance to have meaningful input on the decision. Meaningful public participation has been wholly absent from the Marina Center proposal thus far.

5-826

The alternatives section infers that the project as proposed is the only feasible route to a remediated site. This is not true. The council could impel the property owner to clean the site under California law. The Palanco Act states that:

- Allows a redevelopment agency to order parties responsible for contaminating property in the redevelopment project area to perform the necessary cleanup.
- If the responsible party does not cooperate, the redevelopment agency can perform the cleanup itself or arrange for a third party to clean up the property.
- The redevelopment agency can require a property owner to provide all environmental information related to the property, including Phase 1 assessment or subsequent environmental tests.
- The redevelopment agency can perform cleanup on property owned by the agency as well as property owned by another party.
- The Act can be found at Health and Safety Code Section, 33459 et seq. The City Council should make the documents referenced in Volume 2 Appendix J available to the public. The public can not possibly make adequate comments on this appendix without access to the source documentation (Phase I, Phase II and additional sampling results. The RDA could at the very least require SN to furnish the Phase I, Phase II ESA and additional sampling results to the public.

172-2

In Conclusion I hope you will Re-release the DEIR with the above motioned documents appended.

Thank You,

Andrew Whitney
827 Manzanita Ave.
Eureka, CA

Letter 172: Andrew Whitney

172-1 The comment states that the public review period for the Draft EIR was not long enough.

Please see response to comment 64-4, which outlines the preparation process of the Draft EIR. As stated in CEQA Guidelines 15105, “the public review period for the Draft EIR shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances.”

172-2 The comment states that the Alternatives Chapter implies that the proposed project is the only feasible route to remediate the project site.

Contrary to the comment’s contention, 16 of the 24 alternatives screened for analysis would facilitate brownfield redevelopment [cleanup]. The course of action described in the comment, forced cleanup pursuant to the Palanco Act, is outside the scope of the proposed project, the Draft EIR, and CEQA.

Comment Letter 173

Comment Letter 173

Sidnie Olson

From: Ann Wieland [ann@redmed.com]
Sent: Saturday, January 31, 2009 2:54 PM
To: DEIRcomments
Subject: DEIR Comments on the Marina Center

Attachments: Marina Center DEIR reponse.doc



5-828

My name is Ann Wieland.
I live in Eureka: 2775 Pleasant Ave. Eureka, Ca. 95503. I also work as a teacher at
Eureka High School. My e-mail address is the following: ann@redmed.com

These are my comments to the City of Eureka regarding the DEIR for the Marina Center.

- 1) Eureka is already experiencing Urban Decay. We have many vacant storefronts in downtown Eureka, and we have major big box stores declaring bankruptcy. We cannot add more retail stores that could force other well-established local businesses into bankruptcy. Adding more retail store developments would have a negative impact on our present retail businesses and cause more urban decay. 173-1
2) Adding a large retail space in this location could easily create some major transportation issues. We cannot afford to change existing roadways to meet the increased traffic demands. 173-2
3) Since the project is within the Coastal Zone—the proposed project does not match the certified Local Coastal Program (LCP), and needs to be amended for this proposed project. I strongly object to amending the LCP, and I believe that as a community we should be seeking projects that would be acceptable to the California Coastal Commission. 173-3
4) I am very concerned that the hazardous waste at the site be properly cleaned up, so that medical risks to our residents will be eliminated. I believe that the Union Pacific Railroad is responsible for the clean up of the hazardous waste: heavy metals-lead, copper, and zinc, petroleum hydrocarbons, and industrial solvents. Exposure to these hazardous wastes can cause cancer. Our community should enforce environmental regulations such as the Clean Water Act, and polluters need to be held responsible for the environmental pollution, that they have caused. Our Eureka community should hold the Union Pacific Railroad accountable for the clean up procedures, and this clean up should be completed before the city considers proposals for any new projects. 173-4

Sincerely yours,

Ann Wieland

Letter 173: Ann Wieland

173-1 The comment expresses concern that the proposed project would cause local businesses to close. The comment is noted. Please see Master Response 1, under “Vacancy in the City of Eureka” and “Potential Local Store Closures.”

173-2 The comment states that the addition of a retail space at the project site would create transportation issues.

The Draft EIR’s analysis shows that after implementation of the identified mitigation measures, all intersections on U.S. 101 in the project area would operate acceptably (i.e., without adverse congestion). All other intersections in the study area would similarly operate acceptably, except the intersection of Koster Street and Wabash Avenue. Note that the 33 percent increase in traffic on Broadway by 2025 would occur with or without the proposed project.

173-3 The comment objecting to the Local Coastal Program amendment is noted. Please see Master Responses 3 and 5 for a discussion of uses in the coastal zone.

173-4 The comment expresses concern about remediation of the project site. The comment is noted. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.

FEB 02 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

My name is Lawrence J. Wieland M.D.
I reside in Eureka: 2775 Pleasant Ave. Eureka, Ca. 95503. I also own a business,
Redwood Family Practice, in Eureka: 2350 Buhne St. Eureka, Ca. 95501. My e-mail
address is the following: lwieland@redmed.com

These are my comments to the City of Eureka regarding the DEIR for the Marina Center.

- 1) As a physician I am very concerned that the hazardous waste at the site be properly cleaned up, so that toxic risks to our habitat and ultimately to our residents will be diminished. I believe that Union Pacific Railroad is responsible for the clean up of the hazardous waste: heavy metals-lead, copper, and zinc, petroleum hydrocarbons, and industrial solvents. Exposure to these hazardous wastes can cause cancer, respiratory problems and other medical illnesses. Our community should enforce environmental regulations such as the Clean Water Act, and polluters need to be held responsible for the environmental pollution, that they have caused. Our Eureka community should hold Union Pacific Railroad accountable for the clean up procedures, and this clean up should be completed before the city considers proposals for any new projects.
- 2) Eureka is already experiencing Urban Decay. We have many vacant storefronts in downtown Eureka, and we have major big box stores declaring bankruptcy. We cannot add more retail stores that could force other well-established local businesses into bankruptcy. Adding more retail store developments would have a negative impact on our present retail businesses and cause more urban decay.
- 3) Adding a large retail space in this location could easily create some major transportation issues. We cannot afford to change existing roadways to meet the increased traffic demands. Not only am I concerned about the congestion that will occur in this part of our city but what will the pollution effect be ie. (air quality noise, and toxic run off) on the larger community from the traffic that happens with this proposed development?
- 4) Since the project is within the Coastal Zone—the proposed project does not match the certified Local Coastal Program (LCP), and needs to be amended for this proposed project. I strongly object to amending the LCP, and I believe that as a community we should be seeking projects that would be acceptable to the California Coastal Commission.

174-1

174-2

174-3

174-4

Respectfully submitted,

Lawrence J. Wieland M.D.
Lawrence J. Wieland M.D.

Letter 174: Lawrence Wieland

174-1 The comment expresses concern regarding the contamination at the project site. The comment is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.

174-2 The comment expresses concern that the proposed project would cause local businesses to close. Please see Master Response 1, under “Vacancy in the City of Eureka” and “Potential Local Store Closures.”

174-3 The comment expresses concerns related to traffic generated by the proposed project. Please see response to comment 31-1, which discusses that a 33 percent increase in traffic on Broadway by 2025 would occur with or without the proposed project, and that the identified mitigation measures would reduce almost all impacts to less-than-significant levels. Please also see response to comment 32-9, which discusses potential traffic effects on other neighborhoods in the city.

174-4 The comment objecting to the Local Coastal Program amendment is noted. Please see Master Responses 3 and 5 for a discussion of uses within the coastal zone.

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JAN 29 2009

DEPARTMENT OF

COMMUNITY DEVELOPMENT

11-28-09

In regards to the project, I have been opposed to it from the beginning. It would mean rezoning that land to include retail. The people of Eureka have already spoken on what issue and do not want it rezoned. We have plenty of retail land here or not much in the way of industrial/public use.

175-1

As for the jobs it would "create" would there really be more jobs? Or would it just be a net change? For every job "created" another would be lost at a local business. Hardly a "plus" there.

175-2

Traffic is already congested on Broadway adding traffic to a mall would really make a mess of things.

175-3

As for the housing aspect, who would want to live down there? No one I've talked to would be interested. And it would be high priced high end housing. Who could afford that here? Especially if only more retail jobs come with it? There's plenty of empty houses + apartments in and around town. More is not really necessary. Especially without the higher paying industry jobs to afford them.

175-4

I realize the city would like to see something done with this land but settling for the first idea that comes down the pike is not really the best course to take. By settling on the first thing that comes down the pike could very well mean missing out on the better and best thing that could be done there. Something that brings money into the area without shipping most of it to big box headquarters. Money that could stay here + enhance

175-5

existing businesses. I would hate to see a strip mall on our waterfront. What a waste + a terrible sight to see. Eureka can do better than that. And Eureka deserves better than that, don't we?

Please don't say yes to this project for the sake of money either. That usually doesn't turn out well. Chase after money, never turns out well. Chase after the better a best thing + the dollars will follow.

175-6

So, once again, say no to this project + idea + don't re-zone the land. Be patient + wait for the best thing.

Thank you for letting me have my say. Hope you can decipher my writing okay.

Sincerely,

Carol L. Wilton WILLIAMS

2102 "E" Street

Eureka, CA

5-832

Letter 175: Carol William

- 175-1 The comment expressing objection to the project and its retail component are noted. The project entitlements and approvals are discussed in Chapter III. The project's consistency with existing plans and policies is discussed in Chapter IV.I.
- 175-2 The comment states that the jobs created by the proposed project would not be new jobs, but would instead be jobs that had been displaced from other stores. The comment is noted. Please see Master Response 1, under "Jobs / Wages Impacts" and "National Stores vs. Local Stores."
- 175-3 The comment states that traffic is already congested on Broadway and the proposed project would make it worse.
- The Draft EIR's analysis shows that after implementation of the identified mitigation measures, all intersections on U.S. 101 in the project area would operate acceptably (i.e., without adverse congestion).
- 175-4 The comment questions who would want to live at the project site and predicts that retail spaces at the site would be empty. The comment is noted. Please see Master Response 1, under "Jobs / Wages Impacts" and "National Stores vs. Local Stores."
- 175-5 The comment states that the City of Eureka is settling for the first development proposal for the project site. Please see Master Response 1. The proposed project is not the first development proposed for the site. Please also note that the City of Eureka, as Lead Agency under CEQA, is required to analyze the Project Applicant's proposed project.
- 175-6 The comment in opposition to the proposed project is noted. The EIR analyzes the potential environmental effects of the proposed project, pursuant to CEQA. The City Council will make its determination on the proposed project based on a number of variables, including but not limited to economic, environmental, social reasons.

Sidnie Olson

From: Kevin Williams [kwilliams@omindustries.com]
Sent: Saturday, January 31, 2009 11:28 AM
To: DEIRcomments
Subject: marina center eir

City of Eureka Community development dept
Att Sidnie Olson
531 K st Eureka Ca 95501

Re Marina Center draft EIR

I have reviewed the draft EIR on the marina center project. I have found the document to be in order and very thorough. I support the EIR and the project and urge you to adopt the EIR. [176-1

Kevin Williams

Letter 176: Kevin Williams

176-1 The comment in support of the Draft EIR and the proposed project is noted.

Yes you will be able to help us and you

Comment Letter 177
Page 1 of 2

Sidnie Olson

From: Tom Wolfgram [tomwolfgram@usavalues-character.com]
Sent: Tuesday, December 30, 2008 5:42 AM
To: Undisclosed
Subject: FW: Main Street should not waste a crisis!

From: Tom Wolfgram [mailto:tomwolfgram@usavalues-character.com]
Sent: Tuesday, December 30, 2008 7:39 AM
To: Undisclosed
Subject: FW: Main Street should not waste a crisis!

From the top down you want term limits and democracy returned to the people. From the bottoms up we want absolute real opportunity for all.] 177-1

USA VALUES, Inc. Phone 651-735-3018 cell 612-968-1579
7879 Somerset Ct. Fax 651-451-1498
Woodbury, MN 55125 tomwolfgram@usavalues-character.com

Main Street should not waste a crisis!

1. Grass roots **Earned or Saved Cash** to spend on goods from Main Street will be required to restore jobs, confidence and traditional values. This money exists in the mortgage payment.
2. This new money can come from "3% low risk mortgage rates" with a low cost refinance or restoration. Count on this to also restore the value of housing in the next several years. The interest rate has been reduced for everyone except those in good standing on Main Street. Where is Main Street's New Money! Trusting who?
3. We need term limits for state and federal elected officials as our **top step** to restoring several absolute values of democracy and the USA republic. We may as well use free money to make the point.
4. We need a high quality delivery of early reading skills to 100% of pre-k (age 3-6) at risk children to restore the value of K-12 public education as the **bottom step**. This first step requirement is that age 5-6 children be given an even start because, bottom line, taxpayers pay the cost of not doing these first things first and it costs an arm and a leg and the future of 25% of our citizens.
5. Recognize that the returning veterans have more capacity to fill the local gap of opportunity because they served with commitment and rigor in a confusing high tech - high power world, in the worst of conditions and stress.
6. 90% of our population understands that collectively we need to do this from the **ground up to the top** with more rigor and commitment. We have damaged ourselves with relative value processes. We have proven that anything goes is not good enough for long enough. We ignore the ethics of our leaders, let the laws delay us and let our most at risk -- cost us our future like we want an

Yes you will be able to help us and you

Comment Letter 177
Page 2 of 2

excuse.

7. From the **top down** you want term limits and democracy returned to the people. From the **bottoms up** we want absolute real opportunity for all knowing the first 6 years of learning is critical. How do we let the crisis help us get this done from **both directions**?
Chick here to get involved. We can do this. **State opt-in or opt-out in the subject field**
firststep@usavalues-character.com
There is something here for everyone as an individual
Tom Wolfgram, President of USA VALUES, Inc.

5-836

Letter 177: Tom Wolfgram

- 177-1 The comment about democracy is noted. The comment does not directly or indirectly address the proposed project or the EIR, and it would be speculative to attempt to relate the comment to specific aspects of the project, so further response is not provided.

Comment Letter 178

Kevin C. Wright
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DEPARTMENT OF
COMMUNITY DEVELOPMENT

Sidnie L. Olson, AICP
Principal Planner
531 K Street
Eureka, CA 95501-1165

RE: Marina Center DEIR comments

Dear Mr. Olson,

As a Traffic Safety Commissioner for the City of Eureka, I have reviewed the DEIR for the proposed Marina Center project and respectfully submit the following comments to you. I will be focusing my comments largely on safety issues throughout the document and have broken my comments into four general sections: Bicycles, Pedestrians, Vehicles, and Transit.

Bicycles

The DEIR indicated the primary access point for bicycles will be 4th street where Highway 101 ties into the project area. A class III bike path is indicated for this entry point to encourage cyclist traffic to be concentrated here. Bicycle use of Highway 101 through Eureka is one of the most dangerous and least attractive routes for cyclists at the current time. With substantial increases projected for traffic entering and leaving the project area and crossing and turning onto and off of the Highway 4th street is expected to become even more dangerous and less desirable for riding. None of the potential safety problems at this entrance point were addressed in the DEIR.

Leaving the project area, the DEIR indicates that cyclists trying to access 7th street, a class II bike route accessing a large portion of residences, will be required to use a sidewalk traveling against traffic. This activity is dangerous for both pedestrians who may be using the sidewalk and bicyclists who will be forced to ride illegally due to design flaws within the DEIR. The DEIR does not recommend that cyclists ride in traffic or address any of the issues of a cyclist attempting to ride through the proposed intersection. Cyclists attempting to ride legally in the roadway are expected to encounter a variety of obstacles with high vehicular volumes that go unaddressed within the DEIR.

Traffic in general leading to and from the project area along Broadway and 4th, 5th, 6th, and 7th streets is projected to increase substantially. The majority of residences occur south and east of the project area and most residences are close enough to bike from. The project will be attracting people from these neighborhoods but none of the mitigations outlined in the DEIR address any of the problems bicyclists

178-1

Comment Letter 178

will encounter trying to ride with traffic or while attempting to cross traffic. The DEIR avoids conversation regarding appropriate shoulder widths, signal timing with bicycles in mind, and any signage or other markings that would indicate cyclists still belong despite encountering even greater competition with traffic.

178-1
cont.

The DEIR does not include any discussion of bicycle accident rates related to increases in traffic and potential changes in bicycle interactions within traffic due to alterations to infrastructure required by the mitigations named in the DEIR.

Pedestrians

The DEIR does not address impacts to pedestrians attempting to cross toward or away from the project area or pedestrians attempting to cross roadways at other locations against increased traffic flows caused by the project. On 4th, 5th, 6th, and 7th the DEIR notes current 30-40 second time delays allowing pedestrians to cross safely. The DEIR does not mention how these time delays will be affected and whether the number of current crossing locations will be diminished with the traffic increases projected to result from the project. Broadway in particular is known for pedestrian injuries related to crossing at unmarked locations and uncontrolled intersections. The DEIR does not address current pedestrian crossing safety issues and safety issues that will be encountered with the projected increase in traffic generated by the project.

178-2

Vehicles

The DEIR does not address the footprint of the project, the project choices, and what choices could be made that could potentially reduce the impact of the project's transportation-related impacts.

The DEIR does not address impacts related to traffic increases caused by the project and how they relate to noise, pollution, and quality of life for surrounding neighborhoods including those directly on Broadway and 4th and 5th streets.

The DEIR does not address potential traffic congestion in the parking lots of other businesses where traffic is attempting to merge back onto Highway 101. Potential added and unplanned congestion within business parking lots can lead to safety problems for drivers and pedestrians moving from their vehicles to and from the place of business.

178-3

The Levels of Service predictions within the DEIR assume that all traffic will leave the project area using Waterfront Drive. The DEIR does not state that Waterfront Drive will definitively be used as the only exit for the project and, therefore, the levels of service encountered outside the project area may be worse than projected and the mitigations that are proposed may not be enough to offset additional traffic at certain locations. Certain locations may experience an unacceptable state of traffic flow and result in greater safety issues.

The DEIR does not address the potential effects of diversion of traffic into residential areas south and east of the project area. Even minor increases in traffic may result in increased safety problems for children getting to school or playing around their residences, neighborhood recreation, attempts at

5-838

Comment Letter 178

traffic calming, etc. The DEIR does not address any of the potential impacts our neighborhoods may suffer from the increases in traffic projected due to the Marina project.

Because the DEIR uses Level of Service as the primary measure to implement mitigations, the DEIR fails to address any potential impacts from the project toward anything but traffic. Mitigations focus almost entirely on traffic flow to raise the Levels of Service where below satisfactory. The DEIR fails to note any other impacts that may cause changes to neighborhoods, affect quality of life, and decrease safety. Because of this, it is impossible for me to understand exactly what the threats to safety are that are caused by the project.

↑
178-3
cont.

Transit

The DEIR does not address access problems for people with disabilities and the general ridership resulting from transit service not being required within the project area.

178-4

Planning

The DEIR does not address how mitigations may limit the possibility of future infrastructural changes. In the future, if the City of Eureka deems infrastructural changes necessary for the safety of its residents it may not be able to address these changes without upsetting traffic flow issues caused by this project and the designs of its proposed mitigations named within the DEIR.

178-5

The DEIR does not address impacts to the FHSA Pedestrian Safety Audit or other planning projects currently in place that will help to shape the future of the City.

178-6

The DEIR identifies the need for major infrastructure improvements on Broadway by the year 2025 to handle the projected 33% overall increase in traffic volume but does not address how the project will mitigate for its contributions to the congestion problems it will add to at that time.

178-7

Sincerely,



Kevin C. Wright

Letter 178: Kevin Wright

- 178-1 The comment expresses concern for bicycle access to the proposed project, as well as bicyclists' safety. Please see response to comment 33-3, which concludes that the proposed project would complete a portion of the Class I bike trail along Waterfront Drive, and would provide for secured bike parking at the site. Otherwise, the project would have no significant impact on existing bike routes such as the Class II bike lanes on Sixth and Seventh Streets.
- 178-2 The comment expresses concerns related to pedestrian safety and access. Please see the response to comment 33-3, which concludes that the proposed project would improve pedestrian safety and circulation. Please also see response to comment 5-5, which indicates that some intersections on Broadway did not meet signal warrants, and therefore pedestrian signals would not be installed.
- 178-3 The comment states that the Draft EIR does not address the footprint of the project and project choices in relation to transportation-related impacts and makes several statements questioning the traffic impact methodology and analysis.

To the contrary, the transportation analysis made assumptions on trip generation and distribution based on standard methodology and correspondence with Caltrans. Alternatives to the proposed project that may include smaller project "footprints" are analyzed in Draft EIR Chapter VI.

The comment states that the Draft EIR does not address impacts to noise, pollution, and quality of life related to transportation impacts on surrounding neighborhoods. To the contrary, the Draft EIR includes chapters devoted to air quality and noise impacts. The comment also relates to potential traffic congestion in the parking lots of other businesses where traffic is attempting to merge back onto U.S. 101. Please see responses to comments 16-294 and 16-299 regarding traffic on Broadway.

Mitigation Measure O-8a does require the closure of access to Broadway at the project driveways at Fourth and Sixth Streets (although inbound traffic would be permitted at all times). As stated on Draft EIR page IV.O-54, "this mitigation measure shall be completed before the intersections exceed the acceptable LOS, which in this case is estimated to occur when southbound through volumes on Broadway at 14th Street average at least 1,700 vehicles per hour during the p.m. peak hour." That is the assurance that project traffic would be diverted off Broadway in the future. For traffic exiting the project at either Second or Third Streets and Broadway, the expectation is that drivers that would otherwise prefer to exit onto Broadway and Fourth and Sixth Streets would not backtrack north to either Second or Third Streets onsite because the travel time to do so is significantly longer than using Waterfront Drive to proceed south or east south of the project site. Therefore, the levels of service are considered to be valid and the most accurate estimates of future operations. The diversion of traffic into surrounding

neighborhoods is minimal to none as can be seen in Appendix H. Appendix H contains information on project traffic on almost all streets within Eureka.

The amount of traffic from Marina Center added to existing residential neighborhood traffic south and east of Marina Center is expected to be insignificant as shown in Appendix H. Neighborhood quality of life is typically affected by high levels of through traffic and commercial traffic, where daily traffic volumes exceed 2,000 to 3,000 vehicles daily. Marina Center is expected to add almost no additional traffic to neighborhood streets south and east of Marina Center, and even traffic added to collectors and arterials off of Broadway is expected to be less than 200 vehicles daily. Therefore, no significant impacts are forecasted for neighborhood quality of life, accident rates and neighborhood traffic conditions as a result of the project.

Regarding air quality and noise impacts, the Draft EIR includes separate chapters discusses these categories. Traffic safety is discussed in the Transportation chapter.

- 178-4 The comment states that the Draft EIR does not address access problems for the mobility-impaired.

The onsite design of private streets, circulation aisles within parking areas, sidewalks and other areas open to the public would conform to the Americans with Disability Act (ADA) requirements as a matter of law. Project mitigation offsite such as modified signals and new signals are all required to conform to ADA design and operating standards such as curb ramps, accessible pushbuttons for pedestrian signal actuation, etc.

Specific routing of bus service is provided at the discretion of the Humboldt Transit Authority. The Project Applicant shall work with the Eureka Transit Authority to reinstate the bus stop at Koster and Washington Streets and improve the bus stops in front of the Wharfinger Building and at Seventh and California Streets, including paying their fair share to enhance the amenities of the stop (i.e., shelter, bench, and signage).

As explained on page O.IV-46 of the Draft EIR, the increased demand for public transit service at the project site can be accommodated and would remain within reasonable walking distance from the Marina Center. Again, the project's impacts on public transit service would remain less than significant, and no further mitigation is needed.

- 178-5 The comment states that the Draft EIR does not address how mitigation measures could foreclose the possibility of future infrastructure changes.

It is beyond both the scope of this EIR and the ability of the Lead Agency or anyone else to first speculate the extent of possible needed future infrastructure changes determined by not yet formulated studies, development proposals, or other factors; then to speculate the conflicts that would be created by those changes; and finally to speculate which conflicts are specifically related to the proposed project's mitigation measures.

- 178-6 The comment states that the Draft EIR does not address impacts to the FHSA Pedestrian Safety Audit or other planning projects would help shape the future of the city. Regarding pedestrian safe, please see responses to comments 33-3 and 5-5, which conclude that the proposed project would improve pedestrian safety and circulation even though some intersections on Broadway did not meet signal warrants, and therefore pedestrian signals would not be installed. It is beyond the scope of this Draft EIR to discuss city-wide pedestrian improvements that would shape the future of the city.
- 178-7 The comment states that the Draft EIR does not address how the proposed project would mitigate for its contributions to cumulative traffic increases in the year 2025. Please see response to comment 16-217, which states that the Project Applicant cannot be obligated to pay more than its fair share for mitigation of cumulative impacts in 2025. As noted in the EIR at page IV.O-54, there is no program in place or funding otherwise identified to ensure completion of the mitigation measures within the time period necessary to avoid the 2025 cumulative impacts. Consequently, these impacts are identified as significant and unavoidable. Nonetheless, the City of Eureka can seek funding from future projects or develop regional fee programs that may ultimately address this shortfall and ensure that the unacceptable levels of service are avoided. Until then, however, these cumulative impacts would remain significant and unavoidable.

Comment Letter 179

Comment Letter 179

5-844

- California are known from many disturbed soils and this conclusion should be retracted or justified on an individual species basis. ↑179-8
cont.

- 9. The DEIR conclusions regarding special status animal species all appear to derive from work done by HBG biologists. In each case, ESA should make an independent determination regarding the methods and conclusions reached for each species. 179-9

- 10. The DEIR compares the HBG and Zentner and Zentner wetland delineations and concludes that both are similar and reach approximately 8.7 acres (see below for an additional comment on this figure). However, the DEIR notes that HBG modified its delineation in both 2006 and 2007 to reach that number but the only explanation for that change is an apparent expansion in the extent of hydrophytic vegetation. If hydrophytic vegetation is spreading to such an extent, then it is likely that there is a greater extent of wetlands, as defined by the Coastal Commission on-site today. At least, a more detailed rationale for the changes in the HBG delineations should be provided and an ESA-derived review of those changes to ensure that the decision makers and reviewers have an adequate understanding of the extent of wetlands on-site. 179-10

- 11. Table IV.D “Wetland Functions and Values” is based on a New England Division document. Humboldt Bay and Bay edge wetlands are likely to be somewhat different than New England wetlands. Does ESA commonly use this document to evaluate wetlands? If not, why was this used? 179-11

- 12. Table IV.D-1. The conclusion that both types of wetlands have no or limited functional value for floodflow alteration, sediment retention, nutrient removal, production export, or sediment stabilization is deeply flawed and actually contrary to the New England Division methodology as well as more commonly used wetland evaluation methods, e.g. WET, HGM, etc. These wetlands are, for the most part, well-vegetated with minor areas of rip-rapping. The fact that this vegetation is mostly non-native does not affect the ratings given for these functions. For example, the shoreline is stabilized whether it’s covered with non-native or native cordgrass. These conclusions need to be corrected and the numerous subsequent references to the low values of the wetlands modified. 179-12

- 13. The discussion of the Coastal Commission’s regulations in the Biological Resources section is inadequate. A fuller description, especially regarding the Commission wetland policies, needs to be provided. This is not a section that provides a discussion of the effect of these but the audience should be made aware of the specific language in the Act the prohibits wetlands fill except for certain uses. At least the specific language contained in the Land Use section at p. IV.I-14 should be included here. 179-13

- 14. Similarly, the discussion of the Coastal Commission’s regulations in the Land Use section is inadequate. A fuller description, especially regarding the Commission wetland policies, needs to be provided as noted above. 179-14

- 15. The discussion of the local coastal zoning regulations in the Biological Resources is also inadequate and should more fully describe these regulations. In each of these cases, it is not sufficient to simply note that these regulations exist; the reader must be able to understand from the text of the DEIR the implications of these regulations. 179-15

- 16. Project Impacts-special status plants. The points made above regarding disturbed soils and HBG work/ESA reviews are applicable here. Also did the plant survey occur in 2005 or 2006? 179-16

- 17. The DEIR concludes that the project would result in “improved foraging opportunities” for the birds observed or believed to be in the vicinity (p IV.D-15). This conclusions seems far-fetched given that a significant majority of the site is proposed for development while the site is currently undeveloped. An undeveloped site, even one strewn with non-native plants, provides abundant foraging opportunities for a variety of birds. Confining the wetlands to a small area with a reduced extent of uplands may improve foraging for a certain suite of birds but other birds will not find improved foraging habitat. The DEIR should provide detailed analysis of which species will benefit and why and which species will suffer and why. 179-17

- 18. The DEIR concludes that there is no “sensitive natural community” found at the project site. This conclusion is apparently reached through reference to the low functional value of the wetlands and repeated statements that the wetlands on-site are not “sensitive”. This conclusion appears to counter much local, regional and State practice. There have been numerous instances where post-industrial wetlands have been evaluated in the Humboldt Bay Area (Broadway Mall, PALCO marshes, South Broadway wetlands, etc). In those cases, the wetlands have all been understood to be all or part of a “sensitive natural community”. Additionally, a quick Google search of “sensitive natural community CEQA” turns up many references to CEQA documents where wetlands are understood to be “sensitive natural communities”. The DEIR should more explicitly describe why these wetlands are so unique as to escape this description and provide a full justification for this conclusion. 179-18

- 19. Similarly, the above comments on Table IV.D-1 and its conclusions should be re-addressed in light of the DEIR statements here. 179-19

Comment Letter 179

- 20. Impact D-3: The DEIR states that 5.54 acres of wetlands as delineated under the Coastal Act would be filled while earlier in the DEIR (see note above) the Coastal Act wetlands were determined to be about 8.7 acres. 179-20
- 21. Impact D-5. The DEIR inadequately describes the City's Coastal Zone policies. By not fully enumerating those policies (a point noted above also), the reader is left with the impression that wetland fill is acceptable as long as mitigation is provided. This would be an innovative reading of these policies. The policies should be provided in full and the more typical interpretation of these policies provided for comparison. Otherwise, decision-makers and readers are left with a mistaken impression and an inadequate understanding of the project's impacts. 179-21
- 22. The Land Use discussion on Coastal Act and coastal zoning regulations seeks to use balancing provisions from a number of non-regulatory entities to justify the wetland fill. For an adequate document, the EIR should compare the proposed project's actions with those permitted with other project in similar conditions. Specifically, has the Coastal Commission approved wetland fill for this type of project? What have been the Coastal Commission staff's perspectives on this issue? These and an analysis by ESA should be included in the EIR. 179-22

Thanks you very much for this opportunity,



John Zentner

5-845

Letter 179: John Zentner

- 179-1 The comment regarding the purpose of the remediation is noted. Regulatory agencies cannot approve specific remediation plans for a particular site without first knowing what intensity and types of uses are planned to take place at the project site—different uses require different levels of cleanup. Even if the primary objective of the proposed project were simply to remediate the hazardous materials on the site, a future use must be planned to determine appropriate remediation levels.

In June 2009, after the City circulated the Draft EIR for public review, Environmental Resources Management (ERM) prepared a Supplemental Interim Remedial Action Plan (SIRAP), which is added to the Marina Center EIR as Appendix S. The SIRAP is intended to address existing site contamination concerns of the Project Applicant and the California Regional Water Quality Control Board, and it is designed to be implemented with or without the build-out of the buildings and related improvements and infrastructure proposed in the project. The Project Applicant has proposed to implement the SIRAP in conjunction with onsite wetland restoration as Phase 1 of the proposed project and incorporating pertinent mitigation measures in the EIR, which are already described in the Chapters III and IV.G of the Draft EIR. Therefore, while this EIR addresses both this initial phase of the project as well as subsequent phases, the SIRAP has independent utility and can proceed on its own in advance of the City's approval of any entitlements necessary for the proposed project itself.

Please see Master Response 4 and Appendix S for further details on site remediation planning. Also note that the No Project Alternative could include a remediation component, although future uses of the project site would eventually have to be determined.

- 179-2 The comment states that the reconnaissance survey by the ESA biologist should be more specifically defined as follows: how many days were spent onsite, how many hours of each day that was spent onsite, was the entire site walked, in what fashion was the survey made (transects, meanders, etc.), were notes taken of the site, was a plant list or list of wildlife seen prepared, etc.

Mark Fogiel was the lead biologist for ESA. In addition to the activities outlined in response to comment 179-3, Mr. Fogiel spent one day conducting a general field reconnaissance of the site and verifying the findings of the HBG biological assessment.

- 179-3 The comment requests clarification of the relationship and work completed among the biology and EIR consultants. Mark Fogiel, an ESA botanist, was the primary biological analyst for ESA. Several other ESA biologists contributed to the environmental review and EIR section. In addition, Mr. Fogiel's work went through an internal quality control protocol under a senior ESA biologist. It is not unusual for a consulting biologist assigned an EIR section to be presented with the work of other consultants on the same

project, some of whom may be working for the project proponent, some for the Lead Agency. In this case, the process then proceeds to a peer-review of these reports to the point where they may be deemed adequate for citation. For example, the reconnaissance survey conducted by ESA in May 2006 was specifically to reconcile acreage differences in the wetland delineation reports. ESA found no deficiencies in the HBG delineation, which preceded the Zentner and Zentner delineation.

ESA then prepared an EIR chapter consistent with ESA's professional practice standards, using the other consultants' reports as technical documents for citation or inclusion in appendices. Ultimately an EIR is the responsibility of the Lead Agency (the City of Eureka). Under CEQA, lead agencies can employ a number of methods for preparing an EIR, including the method used here of contracting with ESA and incorporating information from other sources (including the Project Applicant's consultants), so long as the Lead Agency conducts its own review and analysis and the EIR reflects the agency's independent judgment. (Pub. Res. Code, Section 21082.1(c); CEQA Guidelines Sections 15084(d),(e).) Here, the City of Eureka has employed ESA and City staff to conduct its own review and analysis, and the EIR reflects the City of Eureka's independent judgment.

ESA deems the conclusions made in the Biological Resources section of the Draft EIR professionally sound and defensible, consistent with CEQA's "reasonable" standard under CEQA Guidelines Section 15151, and its full disclosure and good faith effort standard in Guidelines Section 15204 (a).

- 179-4 Please see response to comment 31-12 regarding the authorship of the Draft EIR. The Project Applicant has reviewed the Draft EIR, but the final text, significance determinations, analysis, and conclusions represent those of the City of Eureka, not the Project Applicant. Please also see response to comment 179-3 regarding the biological consultants.
- 179-5 Please see response to comment 179-2 and -3, which details the work completed by the consultants.
- 179-6 Please see response to comment 179-2 and -33, which details the work completed by the consultants.
- 179-7 Please see response to comment 179-2 and -3, which details the work completed by the consultants.
- 179-8 Please see response to comment 13-1, which details the surveys and findings concerning rare plants.
- 179-9 Please see response to comment 179-3, which details the work completed by the consultants.

179-10 The comment states that the Draft EIR compares the HBG and Zentner and Zentner wetland delineations and concludes that both are similar and reach approximately 8.7 acres (see below for an additional comment on this figure). The comment notes that the Draft EIR states that HBG modified its delineation in both 2006 and 2007 to reach that number but the only explanation for that change is an apparent expansion in the extent of hydrophytic vegetation. The comment argues that if hydrophytic vegetation is spreading to such an extent, then it is likely that there is a greater extent of wetlands, as defined by the Coastal Commission onsite today. The comment requests a more detailed rationale for the changes in the HBG delineations be provided and an ESA-derived review of those changes to ensure that the decision makers and reviewers have an adequate understanding of the extent of wetlands onsite.

The modification of the wetland delineation as described in the comment is primarily related to the finding by HBG based on additional site study that *Phragmites australis*, which exhibits rhizomatous growth in either non-wetland or wetland conditions, had expanded from the edges of the previously delineated wetlands during the study period. This expansion into areas not previously occupied by the *Phragmites* resulted from the species having a competitive advantage subsequent to mowing of the site as required by the City for reasons of fire protection and nuisance abatement. Minor expansion around the margins of other wetlands previously identified also was found to occur. This was most likely due to the removal of competition of non-hydrophyte species or trash and debris subsequent to site mowing and trash and debris removal. Based on soil moisture data collected by HBG during the rainy season and as reported in the delineation report, it does not appear as though there are additional remaining suitable habitats for further expansion of the species or for wetlands predominated by *Phragmites* or other hydrophytes to form. Wetland delineations have been conducted according to both the Coastal Commission and Corps guidelines, and reflect the most accurate and current information on present site conditions.

179-11 The comment states that Table IV.D “Wetland Functions and Values” is based on a New England Division document, and that Humboldt Bay and Bay edge wetlands are likely to be somewhat different from New England wetlands. The comment asks whether ESA commonly uses this document to evaluate wetlands, and if not, why this was used.

There is no methodology for the identification and description of wetland functions and associated values that is officially adopted or approved for use by federal or state regulatory agencies in California. However a qualitative preliminary function and value assessment contained within the Biological Assessment and Draft EIR is intended to provide information at a basic level regarding the presence or absence of certain functions and associated values of identified wetlands within their current environmental configuration at the project site, and to provide a preliminary indication as to whether these functions and associated values would be created or would continue to occur within the configuration of wetlands anticipated to be restored subsequent to project site development and estuarine wetland restoration activities. The New England method was

selected for this purpose as it can be used as a non-region specific descriptive tool (e.g., a checklist) to ascertain which functions may be performed by a wetland system and if any associated values resulting from performance of the identified functions are present, but without quantification as to the extent functions are performed or comparison to the extent (quality) such functions are performed within other wetland systems in the project area. This methodology served the purposes of a preliminary investigation of whether wetland functions and associated values are present within the project site for the Biological Assessment and Draft EIR. While ESA does not commonly apply the New England method specifically in its wetland evaluations, it supports its use in this case given the clear need to consider wetland values and functions in the impact assessment and policy consistency context.

- 179-12 The comment states that the conclusion that both types of wetlands have no or limited functional value for floodflow alteration, sediment retention, nutrient removal, production export, or sediment stabilization is deeply flawed and actually contrary to the New England Division methodology as well as more commonly used wetland evaluation methods, e.g. WET, HGM, etc. The comment further states that these wetlands are, for the most part, well-vegetated with minor areas of rip-rapping, and that the fact that this vegetation is mostly non-native does not affect the ratings given for these functions. The comment states that the shoreline is stabilized whether it's covered with non-native or native cordgrass, and that these conclusions need to be corrected and the numerous subsequent references to the low values of the wetlands modified.

Most of the existing scattered palustrine wetlands that would be impacted are formed in depressions created by industrial use of the project site in imported soils impacted by environmental contamination, and are limited compared to functions provided by natural wetlands. For instance, some of the wetlands at the project site were contained within currently serviceable roadways in need of maintenance to repair large potholes containing regulated wetlands, and on October 2, 2006, HBG submitted a Nationwide 3 (Maintenance) Pre-Construction Notification for the Balloon Tract Road Maintenance Project to conduct these repairs. Another example of the degraded nature of these wetlands is the area of the former locomotive turntable facility where wetlands have developed even though this area is strewn with trash and environmentally contaminated sumpage. Although palustrine and estuarine emergent wetlands at the project site perform the wetland functions mentioned in the comment (floodflow alteration, sediment retention, nutrient removal, production export, sediment stabilization), these functions are limited at the project site as found in the preliminary functional assessment shown in Table IV.D.1 of the Draft EIR and included in the HBG Biological Assessment report at pages 16 through 23. The limits on functions within the existing estuarine wetlands stem from such things as a narrow, steep-sided, relatively unvegetated and in some locations rip-rapped channel and lack of connectivity to natural tidal marsh areas. Functions within palustrine emergent wetlands are limited as shallow wetlands with short hydroperiods on imported soil, non-native vegetation and soil contamination. The Biological Assessment and Draft EIR are clear though that in some of the wetlands at the project site the wetland

functions are not limited, except by contamination. Overall, however, these artificial, man-made, disturbed, and degraded wetlands do not perform to the level expected from naturally-occurring wetlands or wetlands proposed to be created with the reserve area.

- 179-13 The comment requests a fuller description of the Coastal Commission wetland policies, arguing that the audience should be made aware of the specific language in the Act that prohibits wetlands fill except for certain uses, and that at least the specific language contained in the Land Use section should be included here.

Please see the specific subject policies which are printed in full within the Land Use and Planning section of the Draft EIR. A detailed review of the project as it relates to policies of the Coastal Act, specifically Coastal Act Section 30233 is discussed in the Land Use and Planning section on pages IV.I-13 through IV.I-15.

Please also see Master Response 5, which discusses in more depth wetland fill policy issues pertinent to the coastal zone.

- 179-14 The comment stating that the Coastal Commission regulation discussion in the Draft EIR is inadequate is noted. Please see response to comment 3-31, as well as Master Response 5, which include additional discussion.

- 179-15 The comment stating that the Local Coastal zoning regulation discussion in the Draft EIR is inadequate is noted. Please see response to comment 3-31, as well as Master Response 3, which discuss uses in the coastal zone and the Local Coastal Program.

- 179-16 The comment discusses project Impacts-special status plants. Please see response to comment 179-18 regarding natural communities at the project site. Plant surveys were conducted in 2006 and 2009. Please also see response to comment 13-1.

- 179-17 The comment rejects the assertion on Draft EIR page IV.D-19 that the project would result in improved foraging opportunities for birds. The central point here is that the restored wetland would be closer to a natural feature – more stable, diverse, and robust. Enhancement of wetlands along these lines, and with these outcomes, is part of restoration ecology for many years, and affirmed by the resource agencies and conservation groups alike. Also, the new wetlands would not be contaminated.

The disturbed grassland and other upland areas of the project site provide foraging habitat for common, widespread species such as rock pigeon, black phoebe, common raven, American robin, European starling, and ruby-crowned kinglet. These species are either not declining or are introduced, and are generally distributed across California and the western United States.

The Project Applicant proposes an 8.98-acre muted tidal wetland restoration area that, when combined with a 2.91 acre upland buffer habitat, would constitute an 11.89-acre open space wetland reserve. The 11.89-acre area would be protected from future

development by a conservation easement in accordance with California Civil Code Sections 815-816.

The mitigation measures include 2.91 acres of upland buffer habitat. The 2.91-acre upland buffer habitat would be planted with native trees and shrubs, and would provide foraging habitat for most of the bird species that utilize the currently undeveloped site.

The existing wetlands consist of 7.61 acres of seasonal wetlands that have formed on contaminated soils and 1.06 acres of muted tidal habitat within a remnant of Clark Slough, for a total of 8.67 acres of wetlands. After implementation of the project, Clark Slough would be restored with a surrounding estuarine/palustrine area of greater quality and biological significance.

The proposed wetland restoration project would provide at least a 1:1 replacement of wetland acreage on the project site that would be higher in quality than the existing scattered palustrine wetlands currently present. Factors that would improve wetland quality include increasing the acreage of estuarine wetlands within Clark Slough, removing most of the riprap currently lining the banks of the slough, and enlarging the muted tidal area. Enlarging the muted tidal area would improve water quality and nutrient recruitment. Removing the riprap currently lining the banks of Clark Slough would provide for a more natural slope between wetlands and uplands, thus improving the quality of high tide refugia for bird species such as the Virginia rail by increasing the available vegetative cover. Enlarging the tidal area would also greatly expand both the size and quality of foraging habitat for nearby nesting sensitive bird species such as black-crowned night-herons, snowy egrets, great egrets, and great blue herons. Increasing the size of wetlands on the project site would increase filtration of sediments and toxicants and improve fish and shellfish habitat.

As a result of implementing the proposed wetland restoration, biodiversity should increase on the project site. Common bird species should continue to utilize the proposed upland buffer habitat, and other more wetland-dependent species would take advantage of the newly available higher-quality larger wetlands. Current waterbird habitat consists of seasonally flooded shallow depressions and a deep, muted tidal channel. Both open water and mudflat habitat would increase, and the open water habitat would be of a medium depth more appropriate for long-legged wading bird species. Examples of previously unrecorded species that may utilize the restored site include American wigeon, green-winged teal, northern pintail, whimbrel, American avocet, and black-necked stilt.

179-18 The comment questions the assertion that there are no sensitive natural communities onsite, i.e. that all the extant wetland should be considered under this heading.

The threshold for significance proposed in Appendix G of the CEQA Guidelines asks the question of whether the project would have a “substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife

Service?” The comment seems to suggest that any wetland, however degraded or unnatural or useless to sensitive species, should nonetheless be treated as a “sensitive natural community” because it is a wetland.

But whatever definition is assigned “sensitive natural community” in other EIRs, to read this threshold so broadly would provide no meaning to the phrase. There must be some characteristic of the natural area that makes it unique in order to satisfy this threshold. As the term connotes, the area should be part of a “community,” which in biological terms means some combination of plants, animals, and habitats that are part of a functioning ecosystem. It should be natural, in that it should function and occur as a product of nature, and should not have been produced artificially. And finally, it should be sensitive – that is, susceptible to variations in the environment and physical condition of the natural community.

With the possible exception of the Clark Slough remnant – which is proposed to be restored – the site does not contain any of the attributes of a “sensitive natural community.” Neither the plant nor the animal species under existing conditions at the project site are especially rare; there is relatively little potentially suitable habitat for special-status species on the project site; and much of the existing vegetation is non-native and invasive. Most of the existing scattered palustrine wetlands that would be impacted are formed in depressions created by past industrial use of the project site in imported, contaminated soils. The underlying soils within all existing wetlands at the project site would be subject to soil remediation as part of the site cleanup, and wetlands created under the mitigation/restoration plan would therefore be of higher quality than those currently existing at the project site.

Consequently, the project would have no “significant adverse effect” on any sensitive natural community, and no further mitigation or analysis is warranted.

179-19 The comment questions the conclusions stated in Table IV.I of the Draft EIR. Table IV.1 represents the best professional judgment of the analyst

179-20 The comment requests clarity regarding the number of acres of wetlands to be filled on the project site. Please see response to comment 1-2, which states that the proposed project would result in the permanent filling of 6.15 acres of wetlands and the temporary filling of 1.45 acres of wetlands. The project would create approximately 6.46 acres of new wetlands, resulting in a net increase of wetland acreage on the site. Please also see response to comment 3-8.

179-21 The comment states that the Draft EIR inadequately discusses the City’s coastal zone policies. Please see Master Response 3, which provides an overview of the framework of the Local Coastal Program and uses permitted in the coastal zone pursuant to applicable zoning regulations from the LCP.

179-22 The comment states that the Draft EIR should compare the proposed project with other projects in its assessment of the project's conformity with the Coastal Act and coastal zoning regulations.

It is beyond the scope of this Draft EIR to first describe other projects in the coastal zone, then analyze those projects' adherence to and/or conflict with Coastal Act and local zoning provisions, and finally to compare the proposed project with the actions of the other proposed developments in an attempt to infer conclusions. Each project's adherence to or conflict with Coastal Act policies and coastal zoning is analyzed based on the characteristics of each project and site, not the characteristics or sites of other projects. Also please see Master Responses 3 and 5, which discuss the Local Coastal Program and the Coastal Act.

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