

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

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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

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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

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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

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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

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Californians for Alternatives to Toxics v. Department of Food and Agriculture (1st Dist. 2005)
136 Cal. App. 4th 1 [38 Cal.Rptr. 3d 638]
<http://www.courtinfo.ca.gov/opinions/documents/A107088.PDF>

Herbicides

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<http://arjournals.annualreviews.org/doi/abs/10.1146/annurev.py.30.090192.003051>

Data Analysis of Forestry Herbicide Residues in Plants of Interest to California Tribes. Li L.
<http://www.cdpr.ca.gov/docs/specproj/forest/reports.htm>

Environmental Protection Agency-Registration Eligibility Decision Facts: Glyphosate. September
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<http://www.epa.gov/pesticides/reregistration/glyphosate/>

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http://www.epa.gov/oppsrrd1/REDs/simazine_red.pdf
Environmental Protection Agency-Registration Eligibility Decision: Triclopyr Salts and Esters.
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<http://www.epa.gov/oppsrrd1/REDs/2710red.pdf>

Extension Toxicology Network Pesticide Information Profiles: Glyphosate. June 1996
<http://extoxnet.orst.edu/pips/glyphosa.htm>

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<http://pmep.cce.cornell.edu/profiles/extoxnet/pyrethrin-siram/triclopyr-ext.html>

Environmental Health Perspectives. "Differential Effects of Glyphosate and Round-up on
Human Placental Cells and Aromatase". Vol. 113, No. 6, June 2005.
<http://www.ehponline.org/members/2005/7728/7728.pdf>

Environmental Health Perspectives. "Unidentified Inert Ingredients in Pesticides: Implications
for Human and Environmental Health". Vol. 114, No. 12, Dec. 2006
<http://www.ehponline.org/members/2006/9374/9374.html>

Environmental Health Perspectives. "Perturbation of Organogenesis by the Herbicide Atrazine in
the Amphibian *Xenopus laevis*". Vol 116. No. 2, Feb 2008.
<http://www.ehponline.org/members/2007/10742/10742.pdf>

Air Quality

Clean Air Task Force: Diesel Engines, Health and Environmental Impacts
<http://www.catf.us/projects/diesel/>

Clean Air Task Force: Diesel Soot Health Impacts

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<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>

Environmental Protection Agency- Integrated Risk Information System: Diesel Engine Exhaust
<http://www.epa.gov/IRIS/subst/0642.htm>

Los Angeles Times: "L.A., Long Beach Ports Inaugurate New Anti-smog Plan"
October 2, 2008
<http://articles.latimes.com/2008/oct/02/local>

North Coast Unified Air Quality Management District: July 2007 Annual Air Monitoring
Network Plan
<http://www.ncuaqmd.org/files/Annual%20network%20plan%202007.pdf>

Red Orbit News: "Port of Los Angeles Announces Shift Toward Air Quality Improvement
Initiatives Powered By Natural Gas, Electricity and Alternative Fuels". 2005
<http://www.redorbit.com/news/display/?id=269797>

South Coast Air Quality Management District: Multiple Air Toxics Exposure Study in the South
Coast Air Basin. March 2000
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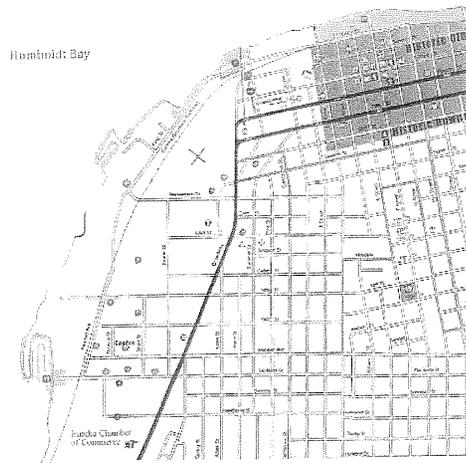
The Pacific Institute: Paying with our Health, the Real Cost of Freight Transport in California.
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http://www.pacinst.org/reports/freight_transport/

ScienceDaily Toxic Air Pollution In Urban Parking Garages: SUVs Pollute Slightly More
(Aug. 27, 2007) <http://www.sciencedaily.com/releases/2007/08/070823141003.htm>

California Cancer Registry. Invasive Cancer Incidence Rates by County in
California.(Humboldt-Del Norte are third per capita, age adjusted)
<http://www.cancer-rates.info/ca/>

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. Mendus 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

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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

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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:

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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

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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
↓

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.

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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.

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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.

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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

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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

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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

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Similarly, the EIR also ignored existing urban decay in central Eureka. A number of 14-3 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.

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Figure 1: This store on 15th Street is boarded up and starting to deteriorate.

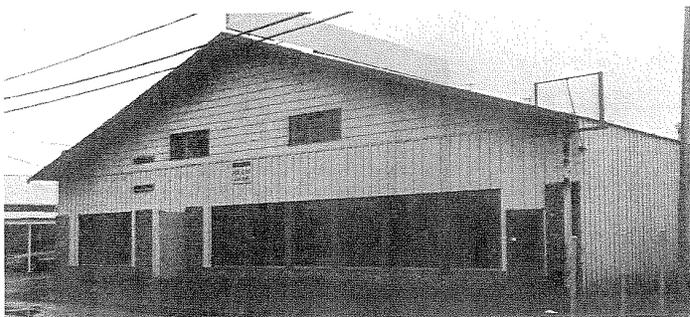


Figure 2: This store at 3d and Jacobs is vacant and suffering from lack of maintenance.

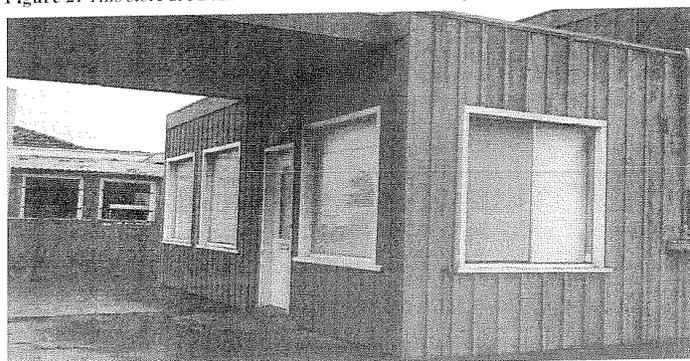


Figure 3: This building on 4th Street is deteriorating.



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.

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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

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

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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.

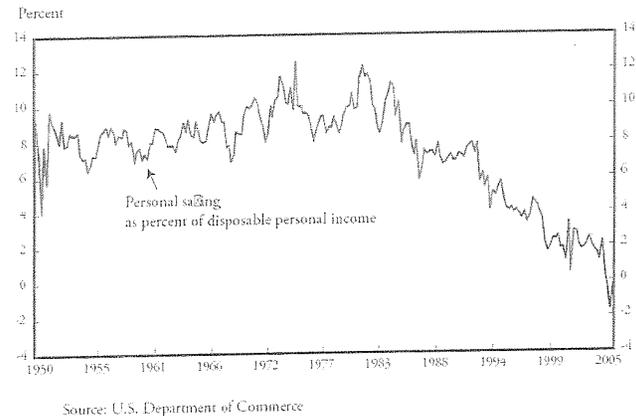


Figure 9: U.S. Personal Savings Rate 1950-2005³

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.

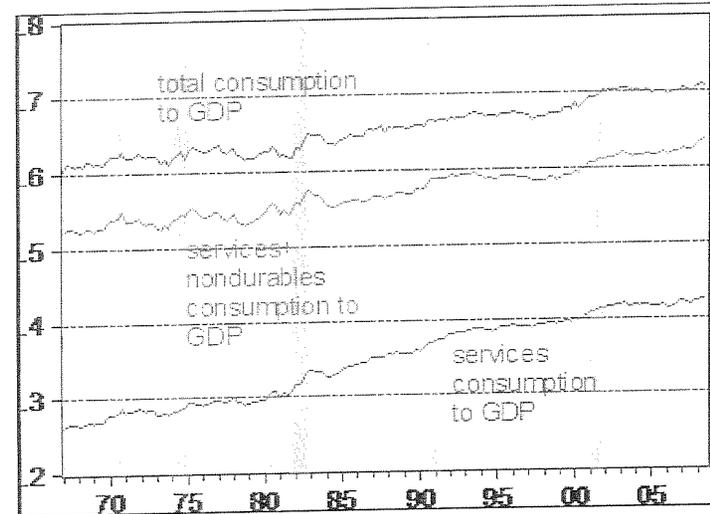


Figure 10: Consumption Expenditures as percentage of GDP: 1965-2008⁵

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.

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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 excepted 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

PHILIP G. KING
Economics Department, San Francisco State University
E-mail: pgking@sfsu.edu

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
9/83-5/85	ASSISTANT PROFESSOR, ECONOMICS	S.U.N.Y. at CORTLAND

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.
"The Multinational Corporation: Pro and Con," in *International Economics and International Economic Policy*, McGraw-Hill, 1990.
"Negotiations over Mineral and Petroleum Contracts in Developing Countries: a new explanation," Winter 1987, *Journal of Economics and International Relations*.

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"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*

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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 retenant. 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.

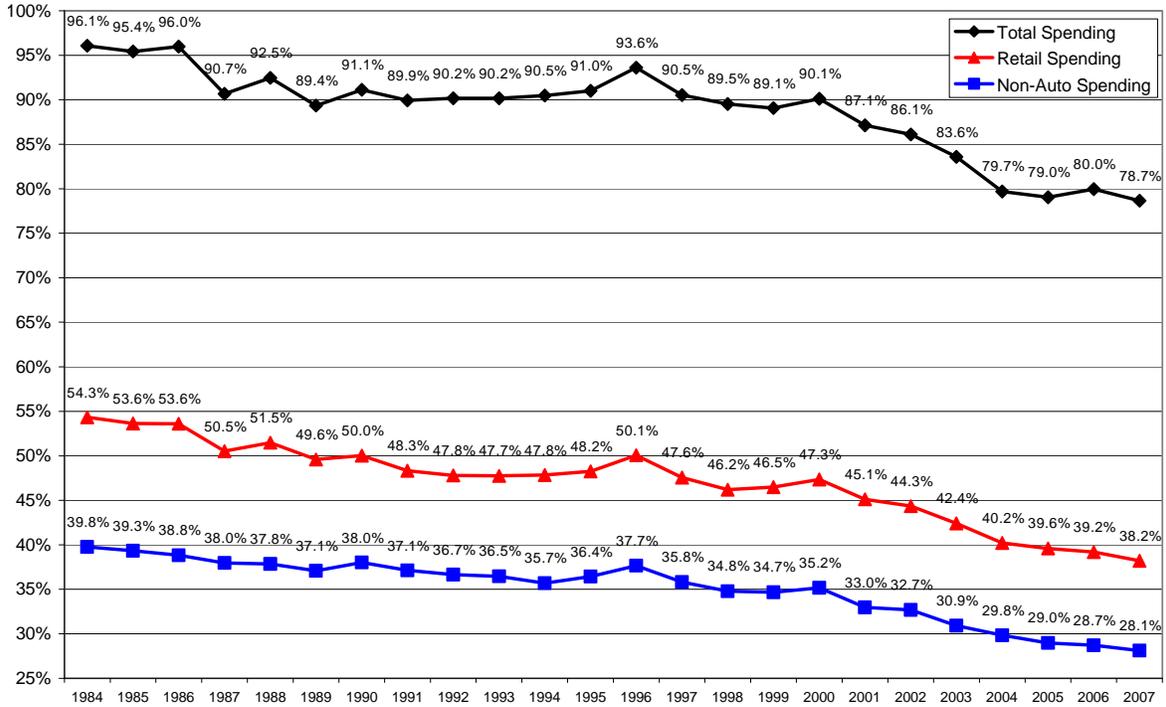
In addition, the comment theorizes that the current recession has created a permanent change in consumer spending patterns that would make the sales impacts estimates in the November 2006 report low. King references recent articles in Newsweek Magazine that claim that the recession is so deep that consumers 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.

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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.

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(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

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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.

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(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.*

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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

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Thomas H. Peters
221 Dollison St.
Eureka, CA 95501
707-445-1666
tpete@reninet.com

RECEIVED
JAN 28 2009
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Sidnie L Olson, Principal Planner
Community Development Department
531 K St.
Eureka, CA 95501-1165

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.

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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

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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

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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

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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.

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?

What is the health risk of Global Warming? What is the health risk of increased CO and CO2 in our atmosphere?

Why is the Project not being forced to stay within compliance guidelines before being considered further?

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.

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.

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.

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,

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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?

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.

D. 3a Wetland mitigation measures appear to offer restoration of less than one third of what photographic evidence shows to be historic wetland levels.

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.

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.

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.

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

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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.

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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

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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"

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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

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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. 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.

16-64

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

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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. 16-75

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. 16-80

5-151

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. 16-89

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

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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.

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)

16-97

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.

16-98

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.

16-99

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

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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

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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

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

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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

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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.

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.

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.

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.

16-143 cont.

16-144

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16-147

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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

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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

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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.

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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

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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

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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

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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.

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.

16-184

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

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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'.

16-189

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.

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

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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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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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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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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.

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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.

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.

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).

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.**

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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.

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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.

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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.

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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.

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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.

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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

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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 overburdened 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 solely 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

5-170

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

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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

5-173

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 clean-up 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

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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

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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.

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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

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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.

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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

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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 to 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.

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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

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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 where 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

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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

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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

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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.

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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

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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

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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

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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

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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?

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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

Submitted by:
Thomas H. Peters
221 Dollison St.
Eureka, CA 95501
445-1666
tpete@reninet.com

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 discuss 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	4338 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.

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17-1

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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.

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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.

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The DEIR provides some noise analysis data, which documents noise at times that

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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.

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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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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.)

“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.

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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.

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And as noted above, the DEIR does not include the potential for impacts

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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.

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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

5-286

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

707.833.3411
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.

5-303

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.