

Baloon Track

1) 20 acres of restored wetlands
Tidelands & Buffer [171-1

2) Better Architecture [171-2

3) BUILD A RESTAURANT LIKE ^(A) THE TRAIN
STATION. CALL IT THE DEPOT. [171-3

ANN WHITE
(4435023)
935 B ST.
FUNKA, Ga. 95501

RECEIVED

JAN 30 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Letter 171: Ann White

- 171-1 The comment simply states, “20 acres of restored wetland, tideland and buffer.” The comment is not clear about what it is suggesting. The Marina Center project includes the creation of contiguous estuarine wetlands at the south end of the project site at an acreage exceeding the extent of the existing combined degraded seasonal and estuarine wetlands (mitigation ratio of 1.05:1). These restored wetlands are anticipated to be of much higher quality than those currently onsite. The restoration area would total 11.89 acres and consist of 8.98 acres of estuarine wetlands surrounded by 2.91 acres of upland buffer.
- 171-2 The comment states only, “Better architecture.” As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 171-3 The comment suggestion a restaurant resembling a train station and calling it “Depot” is noted. As stated in the Project Description in Chapter III, the proposed project would include space for restaurant uses. In addition, as stated in Chapter VI, Alternatives, of the Draft EIR several of the alternatives screened for analysis would contain space for restaurant uses.

Sidnie Olson

From: Andrew Whitney [andsw@hotmail.com]
Sent: Sunday, February 01, 2009 12:00 AM
To: Sidnie Olson; Larry Glass; Linda Atkins; Jeff Leonard; Frank Jager; Mike Jones; Kathleen Franco Simmons; Virginia Bass
Subject: Marina Center DEIR Comments

95503
445-5796

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Dear Ms. Bass, Mr Leonard, Mr Glass, Mr Jager, Mr Jones, Ms. Atkins, and Ms Olson,

Please accept my comments on the Marina center DEIR. My first comment is that I feel the comment period is too short for citizens to have meaningful input on the document. You have chosen to use the CEQA minimum comment period but I don't think that is sufficient time given the enormity of the document. It took paid consultants two years to produce the document and with attachments it is about 2000 pages in length. If I were to spend three minutes per page it would take me 100 hours to review the document. As a working parent it is tough for me to get a free hour everyday after the laundry, cooking, cleaning, and workday is over. Given this timeframe it would take me 100 days to review the DEIR not 60. Coupled with the fact that the comment period ran through the busy holiday season, effective public participation in the DEIR difficult. Yes I should have spoken up earlier on this but it is completely within the power of the council to accept late comments or to extend the comment period.

172-1

From the outset of the project, meaningful opportunities for public participation have been completely absent. We must remember what is under consideration: changing the zoning of the property from a public use to a private use. If this is to occur, basic fairness indicates that the public should have the chance to have meaningful input on the decision. Meaningful public participation has been wholly absent from the Marina Center proposal thus far.

5-826

The alternatives section infers that the project as proposed is the only feasible route to a remediated site. This is not true. The council could impel the property owner to clean the site under california law. The Palanco Act states that:

- Allows a redevelopment agency to order parties responsible for contaminating property in the redevelopment project area to perform the necessary cleanup.
- If the responsible party does not cooperate, the redevelopment agency can perform the cleanup itself or arrange for a third party to clean up the property.
- The redevelopment agency can require a property owner to provide all environmental information related to the property, including Phase 1 assessment or subsequent environmental tests.
- The redevelopment agency can perform cleanup on property owned by the agency as well as property owned by another party.
- The Act can be found at Health and Safety Code Section, 33459 et seq. The City Council should make the documents referenced in Volume 2 Appendix J available to the public. The public can not possibly made adequate comments on this appendix without access to the source documentation (Phase I, Phase II and additional sampling results. The RDA could at the very least require SN to furnish the Phase I, Phase II ESA and additional sampling results to the public.

172-2

In Conclusion I hope you will Re-release the DEIR with the above motioned documents appended.

Thank You,

Andrew Whitney
827 Manzanita Ave.
Eureka, CA

Letter 172: Andrew Whitney

172-1 The comment states that the public review period for the Draft EIR was not long enough.

Please see response to comment 64-4, which outlines the preparation process of the Draft EIR. As stated in CEQA Guidelines 15105, “the public review period for the Draft EIR shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances.”

172-2 The comment states that the Alternatives Chapter implies that the proposed project is the only feasible route to remediate the project site.

Contrary to the comment’s contention, 16 of the 24 alternatives screened for analysis would facilitate brownfield redevelopment [cleanup]. The course of action described in the comment, forced cleanup pursuant to the Palanco Act, is outside the scope of the proposed project, the Draft EIR, and CEQA.

Comment Letter 173

Comment Letter 173

Sidnie Olson

From: Ann Wieland [ann@redmed.com]
Sent: Saturday, January 31, 2009 2:54 PM
To: DEIRcomments
Subject: DEIR Comments on the Marina Center

Attachments: Marina Center DEIR reponse.doc



5-828

My name is Ann Wieland. I live in Eureka: 2775 Pleasant Ave. Eureka, Ca. 95503. I also work as a teacher at Eureka High School. My e-mail address is the following: ann@redmed.com

These are my comments to the City of Eureka regarding the DEIR for the Marina Center.

- 1) Eureka is already experiencing Urban Decay. We have many vacant storefronts in downtown Eureka, and we have major big box stores declaring bankruptcy. We cannot add more retail stores that could force other well-established local businesses into bankruptcy. Adding more retail store developments would have a negative impact on our present retail businesses and cause more urban decay. 173-1
2) Adding a large retail space in this location could easily create some major transportation issues. We cannot afford to change existing roadways to meet the increased traffic demands. 173-2
3) Since the project is within the Coastal Zone—the proposed project does not match the certified Local Coastal Program (LCP), and needs to be amended for this proposed project. I strongly object to amending the LCP, and I believe that as a community we should be seeking projects that would be acceptable to the California Coastal Commission. 173-3
4) I am very concerned that the hazardous waste at the site be properly cleaned up, so that medical risks to our residents will be eliminated. I believe that the Union Pacific Railroad is responsible for the clean up of the hazardous waste: heavy metals-lead, copper, and zinc, petroleum hydrocarbons, and industrial solvents. Exposure to these hazardous wastes can cause cancer. Our community should enforce environmental regulations such as the Clean Water Act, and polluters need to be held responsible for the environmental pollution, that they have caused. Our Eureka community should hold the Union Pacific Railroad accountable for the clean up procedures, and this clean up should be completed before the city considers proposals for any new projects. 173-4

Sincerely yours,

Ann Wieland

Letter 173: Ann Wieland

173-1 The comment expresses concern that the proposed project would cause local businesses to close. The comment is noted. Please see Master Response 1, under “Vacancy in the City of Eureka” and “Potential Local Store Closures.”

173-2 The comment states that the addition of a retail space at the project site would create transportation issues.

The Draft EIR’s analysis shows that after implementation of the identified mitigation measures, all intersections on U.S. 101 in the project area would operate acceptably (i.e., without adverse congestion). All other intersections in the study area would similarly operate acceptably, except the intersection of Koster Street and Wabash Avenue. Note that the 33 percent increase in traffic on Broadway by 2025 would occur with or without the proposed project.

173-3 The comment objecting to the Local Coastal Program amendment is noted. Please see Master Responses 3 and 5 for a discussion of uses in the coastal zone.

173-4 The comment expresses concern about remediation of the project site. The comment is noted. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.

Comment Letter 174

FEB 02 2009

DEPARTMENT OF
COMMUNITY DEVELOPMENT

My name is Lawrence J. Wieland M.D.
I reside in Eureka: 2775 Pleasant Ave. Eureka, Ca. 95503. I also own a business,
Redwood Family Practice, in Eureka: 2350 Buhne St. Eureka, Ca. 95501. My e-mail
address is the following: lwieland@redmed.com

These are my comments to the City of Eureka regarding the DEIR for the Marina Center.

- 1) As a physician I am very concerned that the hazardous waste at the site be properly cleaned up, so that toxic risks to our habitat and ultimately to our residents will be diminished. I believe that Union Pacific Railroad is responsible for the clean up of the hazardous waste: heavy metals-lead, copper, and zinc, petroleum hydrocarbons, and industrial solvents. Exposure to these hazardous wastes can cause cancer, respiratory problems and other medical illnesses. Our community should enforce environmental regulations such as the Clean Water Act, and polluters need to be held responsible for the environmental pollution, that they have caused. Our Eureka community should hold Union Pacific Railroad accountable for the clean up procedures, and this clean up should be completed before the city considers proposals for any new projects.
- 2) Eureka is already experiencing Urban Decay. We have many vacant storefronts in downtown Eureka, and we have major big box stores declaring bankruptcy. We cannot add more retail stores that could force other well-established local businesses into bankruptcy. Adding more retail store developments would have a negative impact on our present retail businesses and cause more urban decay.
- 3) Adding a large retail space in this location could easily create some major transportation issues. We cannot afford to change existing roadways to meet the increased traffic demands. Not only am I concerned about the congestion that will occur in this part of our city but what will the pollution effect be ie. (air quality noise, and toxic run off) on the larger community from the traffic that happens with this proposed development?
- 4) Since the project is within the Coastal Zone—the proposed project does not match the certified Local Coastal Program (LCP), and needs to be amended for this proposed project. I strongly object to amending the LCP, and I believe that as a community we should be seeking projects that would be acceptable to the California Coastal Commission.

174-1

174-2

174-3

174-4

Respectfully submitted,

Lawrence J. Wieland M.D.
Lawrence J. Wieland M.D.

Letter 174: Lawrence Wieland

174-1 The comment expresses concern regarding the contamination at the project site. The comment is noted.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S.

174-2 The comment expresses concern that the proposed project would cause local businesses to close. Please see Master Response 1, under “Vacancy in the City of Eureka” and “Potential Local Store Closures.”

174-3 The comment expresses concerns related to traffic generated by the proposed project. Please see response to comment 31-1, which discusses that a 33 percent increase in traffic on Broadway by 2025 would occur with or without the proposed project, and that the identified mitigation measures would reduce almost all impacts to less-than-significant levels. Please also see response to comment 32-9, which discusses potential traffic effects on other neighborhoods in the city.

174-4 The comment objecting to the Local Coastal Program amendment is noted. Please see Master Responses 3 and 5 for a discussion of uses within the coastal zone.

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DEPARTMENT OF

COMMUNITY DEVELOPMENT

In regards to the project, I have been opposed to it from the beginning. It would mean rezoning that land to include retail. The people of Eureka have already spoken on what issue and do not want it rezoned. We have plenty of retail land here or not much in the way of industrial public use.

175-1

As for the jobs it would "create" would there really be more jobs? Or would it just be a net change? For every job "created" another would be lost at a local business. Hardly a "plus" there.

175-2

Traffic is already congested on Broadway adding traffic to a mall would really make a mess of things.

175-3

As for the housing aspect, who would want to live down there? No one I've talked to would be interested. And it would be high priced high end housing. Who could afford that here? Especially if only more retail jobs come with it. There's plenty of empty houses + apartments in and around town. More is not really necessary. Especially without the higher paying industry jobs to afford them.

175-4

I realize the city would like to see something done with this land but settling for the first idea that comes down the pike is not really the best course to take. By settling on the first thing that comes down the pike could very well mean missing out on the better and best thing that could be done there. Something that brings money into the area without shipping most of it to big box headquarters. Money that could stay here + enhance

175-5

existing businesses.

I would hate to see a strip mall on our waterfront. What a waste + a terrible sight to see. Eureka can do better than that. And Eureka deserves better than that, don't we?

Please don't say yes to this project for the sake of money either. That usually doesn't turn out well. Chase after money, never turns out well. Chase after the better + best thing + the dollars will follow.

175-6

So, once again, say no to this project + idea + don't re-zone the land. Be patient + wait for the best thing.

Thank you for letting me have my say. Hope you can decipher my writing okay.

Sincerely,

Carol L. Wilton WILLIAMS

2102 "E" Street

Eureka, CA

5-832

Letter 175: Carol William

175-1 The comment expressing objection to the project and its retail component are noted. The project entitlements and approvals are discussed in Chapter III. The project's consistency with existing plans and policies is discussed in Chapter IV.I.

175-2 The comment states that the jobs created by the proposed project would not be new jobs, but would instead be jobs that had been displaced from other stores. The comment is noted. Please see Master Response 1, under "Jobs / Wages Impacts" and "National Stores vs. Local Stores."

175-3 The comment states that traffic is already congested on Broadway and the proposed project would make it worse.

The Draft EIR's analysis shows that after implementation of the identified mitigation measures, all intersections on U.S. 101 in the project area would operate acceptably (i.e., without adverse congestion).

175-4 The comment questions who would want to live at the project site and predicts that retail spaces at the site would be empty. The comment is noted. Please see Master Response 1, under "Jobs / Wages Impacts" and "National Stores vs. Local Stores."

175-5 The comment states that the City of Eureka is settling for the first development proposal for the project site. Please see Master Response 1. The proposed project is not the first development proposed for the site. Please also note that the City of Eureka, as Lead Agency under CEQA, is required to analyze the Project Applicant's proposed project.

175-6 The comment in opposition to the proposed project is noted. The EIR analyzes the potential environmental effects of the proposed project, pursuant to CEQA. The City Council will make its determination on the proposed project based on a number of variables, including but not limited to economic, environmental, social reasons.

Sidnie Olson

From: Kevin Williams [kwilliams@omindustries.com]
Sent: Saturday, January 31, 2009 11:28 AM
To: DEIRcomments
Subject: marina center eir

City of Eureka Community development dept
Att Sidnie Olson
531 K st Eureka Ca 95501

Re Marina Center draft EIR

I have reviewed the draft EIR on the marina center project. I have found the document to be in order and very thorough. I support the EIR and the project and urge you to adopt the EIR. [176-1

Kevin Williams

Letter 176: Kevin Williams

176-1 The comment in support of the Draft EIR and the proposed project is noted.

Yes you will be able to help us and you

Comment Letter 177
Page 1 of 2

Sidnie Olson

From: Tom Wolfgram [tomwolfgram@usavalues-character.com]
Sent: Tuesday, December 30, 2008 5:42 AM
To: Undisclosed
Subject: FW: Main Street should not waste a crisis!

From: Tom Wolfgram [mailto:tomwolfgram@usavalues-character.com]
Sent: Tuesday, December 30, 2008 7:39 AM
To: Undisclosed
Subject: FW: Main Street should not waste a crisis!

From the top down you want term limits and democracy returned to the people. From the bottoms up we want absolute real opportunity for all.] 177-1

USA VALUES, Inc. Phone 651-735-3018 cell 612-968-1579
7879 Somerset Ct. Fax 651-451-1498
Woodbury, MN 55125 tomwolfgram@usavalues-character.com

Main Street should not waste a crisis!

1. Grass roots **Earned or Saved Cash** to spend on goods from Main Street will be required to restore jobs, confidence and traditional values. This money exists in the mortgage payment.
2. This new money can come from "3% low risk mortgage rates" with a low cost refinance or restoration. Count on this to also restore the value of housing in the next several years. The interest rate has been reduced for everyone except those in good standing on Main Street. Where is Main Street's New Money! Trusting who?
3. We need term limits for state and federal elected officials as our **top step** to restoring several absolute values of democracy and the USA republic. We may as well use free money to make the point.
4. We need a high quality delivery of early reading skills to 100% of pre-k (age 3-6) at risk children to restore the value of K-12 public education as the **bottom step**. This first step requirement is that age 5-6 children be given an even start because, bottom line, taxpayers pay the cost of not doing these first things first and it costs an arm and a leg and the future of 25% of our citizens.
5. Recognize that the returning veterans have more capacity to fill the local gap of opportunity because they served with commitment and rigor in a confusing high tech - high power world, in the worst of conditions and stress.
6. 90% of our population understands that collectively we need to do this from the **ground up to the top** with more rigor and commitment. We have damaged ourselves with relative value processes. We have proven that anything goes is not good enough for long enough. We ignore the ethics of our leaders, let the laws delay us and let our most at risk -- cost us our future like we want an

Yes you will be able to help us and you

Comment Letter 177
Page 2 of 2

excuse.

7. From the **top down** you want term limits and democracy returned to the people. From the **bottoms up** we want absolute real opportunity for all knowing the first 6 years of learning is critical. How do we let the crisis help us get this done from **both directions**?
Chick here to get involved. We can do this. **State opt-in or opt-out in the subject field**
firststep@usavalues-character.com
There is something here for everyone as an individual
Tom Wolfgram, President of USA VALUES, Inc.

5-836

Letter 177: Tom Wolfgram

- 177-1 The comment about democracy is noted. The comment does not directly or indirectly address the proposed project or the EIR, and it would be speculative to attempt to relate the comment to specific aspects of the project, so further response is not provided.

Comment Letter 178

Kevin C. Wright
1080 A st. #3
Eureka, Ca 95501
(978) 500-6933
kcwright.srvs@gmail.com

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JAN 2 07 AM '09
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Sidnie L. Olson, AICP
Principal Planner
531 K Street
Eureka, CA 95501-1165

RE: Marina Center DEIR comments

Dear Mr. Olson,

As a Traffic Safety Commissioner for the City of Eureka, I have reviewed the DEIR for the proposed Marina Center project and respectfully submit the following comments to you. I will be focusing my comments largely on safety issues throughout the document and have broken my comments into four general sections: Bicycles, Pedestrians, Vehicles, and Transit.

Bicycles

The DEIR indicated the primary access point for bicycles will be 4th street where Highway 101 ties into the project area. A class III bike path is indicated for this entry point to encourage cyclist traffic to be concentrated here. Bicycle use of Highway 101 through Eureka is one of the most dangerous and least attractive routes for cyclists at the current time. With substantial increases projected for traffic entering and leaving the project area and crossing and turning onto and off of the Highway 4th street is expected to become even more dangerous and less desirable for riding. None of the potential safety problems at this entrance point were addressed in the DEIR.

Leaving the project area, the DEIR indicates that cyclists trying to access 7th street, a class II bike route accessing a large portion of residences, will be required to use a sidewalk traveling against traffic. This activity is dangerous for both pedestrians who may be using the sidewalk and bicyclists who will be forced to ride illegally due to design flaws within the DEIR. The DEIR does not recommend that cyclists ride in traffic or address any of the issues of a cyclist attempting to ride through the proposed intersection. Cyclists attempting to ride legally in the roadway are expected to encounter a variety of obstacles with high vehicular volumes that go unaddressed within the DEIR.

Traffic in general leading to and from the project area along Broadway and 4th, 5th, 6th, and 7th streets is projected to increase substantially. The majority of residences occur south and east of the project area and most residences are close enough to bike from. The project will be attracting people from these neighborhoods but none of the mitigations outlined in the DEIR address any of the problems bicyclists

178-1

Comment Letter 178

will encounter trying to ride with traffic or while attempting to cross traffic. The DEIR avoids conversation regarding appropriate shoulder widths, signal timing with bicycles in mind, and any signage or other markings that would indicate cyclists still belong despite encountering even greater competition with traffic.

178-1
cont.

The DEIR does not include any discussion of bicycle accident rates related to increases in traffic and potential changes in bicycle interactions within traffic due to alterations to infrastructure required by the mitigations named in the DEIR.

Pedestrians

The DEIR does not address impacts to pedestrians attempting to cross toward or away from the project area or pedestrians attempting to cross roadways at other locations against increased traffic flows caused by the project. On 4th, 5th, 6th, and 7th the DEIR notes current 30-40 second time delays allowing pedestrians to cross safely. The DEIR does not mention how these time delays will be affected and whether the number of current crossing locations will be diminished with the traffic increases projected to result from the project. Broadway in particular is known for pedestrian injuries related to crossing at unmarked locations and uncontrolled intersections. The DEIR does not address current pedestrian crossing safety issues and safety issues that will be encountered with the projected increase in traffic generated by the project.

178-2

Vehicles

The DEIR does not address the footprint of the project, the project choices, and what choices could be made that could potentially reduce the impact of the project's transportation-related impacts.

The DEIR does not address impacts related to traffic increases caused by the project and how they relate to noise, pollution, and quality of life for surrounding neighborhoods including those directly on Broadway and 4th and 5th streets.

The DEIR does not address potential traffic congestion in the parking lots of other businesses where traffic is attempting to merge back onto Highway 101. Potential added and unplanned congestion within business parking lots can lead to safety problems for drivers and pedestrians moving from their vehicles to and from the place of business.

178-3

The Levels of Service predictions within the DEIR assume that all traffic will leave the project area using Waterfront Drive. The DEIR does not state that Waterfront Drive will definitively be used as the only exit for the project and, therefore, the levels of service encountered outside the project area may be worse than projected and the mitigations that are proposed may not be enough to offset additional traffic at certain locations. Certain locations may experience an unacceptable state of traffic flow and result in greater safety issues.

The DEIR does not address the potential effects of diversion of traffic into residential areas south and east of the project area. Even minor increases in traffic may result in increased safety problems for children getting to school or playing around their residences, neighborhood recreation, attempts at

5-838

Comment Letter 178

traffic calming, etc. The DEIR does not address any of the potential impacts our neighborhoods may suffer from the increases in traffic projected due to the Marina project.

Because the DEIR uses Level of Service as the primary measure to implement mitigations, the DEIR fails to address any potential impacts from the project toward anything but traffic. Mitigations focus almost entirely on traffic flow to raise the Levels of Service where below satisfactory. The DEIR fails to note any other impacts that may cause changes to neighborhoods, affect quality of life, and decrease safety. Because of this, it is impossible for me to understand exactly what the threats to safety are that are caused by the project.

↑
178-3
cont.

Transit

The DEIR does not address access problems for people with disabilities and the general ridership resulting from transit service not being required within the project area.

178-4

Planning

The DEIR does not address how mitigations may limit the possibility of future infrastructural changes. In the future, if the City of Eureka deems infrastructural changes necessary for the safety of its residents it may not be able to address these changes without upsetting traffic flow issues caused by this project and the designs of its proposed mitigations named within the DEIR.

178-5

The DEIR does not address impacts to the FHSA Pedestrian Safety Audit or other planning projects currently in place that will help to shape the future of the City.

178-6

The DEIR identifies the need for major infrastructure improvements on Broadway by the year 2025 to handle the projected 33% overall increase in traffic volume but does not address how the project will mitigate for its contributions to the congestion problems it will add to at that time.

178-7

Sincerely,



Kevin C. Wright

Letter 178: Kevin Wright

- 178-1 The comment expresses concern for bicycle access to the proposed project, as well as bicyclists' safety. Please see response to comment 33-3, which concludes that the proposed project would complete a portion of the Class I bike trail along Waterfront Drive, and would provide for secured bike parking at the site. Otherwise, the project would have no significant impact on existing bike routes such as the Class II bike lanes on Sixth and Seventh Streets.
- 178-2 The comment expresses concerns related to pedestrian safety and access. Please see the response to comment 33-3, which concludes that the proposed project would improve pedestrian safety and circulation. Please also see response to comment 5-5, which indicates that some intersections on Broadway did not meet signal warrants, and therefore pedestrian signals would not be installed.
- 178-3 The comment states that the Draft EIR does not address the footprint of the project and project choices in relation to transportation-related impacts and makes several statements questioning the traffic impact methodology and analysis.

To the contrary, the transportation analysis made assumptions on trip generation and distribution based on standard methodology and correspondence with Caltrans. Alternatives to the proposed project that may include smaller project "footprints" are analyzed in Draft EIR Chapter VI.

The comment states that the Draft EIR does not address impacts to noise, pollution, and quality of life related to transportation impacts on surrounding neighborhoods. To the contrary, the Draft EIR includes chapters devoted to air quality and noise impacts. The comment also relates to potential traffic congestion in the parking lots of other businesses where traffic is attempting to merge back onto U.S. 101. Please see responses to comments 16-294 and 16-299 regarding traffic on Broadway.

Mitigation Measure O-8a does require the closure of access to Broadway at the project driveways at Fourth and Sixth Streets (although inbound traffic would be permitted at all times). As stated on Draft EIR page IV.O-54, "this mitigation measure shall be completed before the intersections exceed the acceptable LOS, which in this case is estimated to occur when southbound through volumes on Broadway at 14th Street average at least 1,700 vehicles per hour during the p.m. peak hour." That is the assurance that project traffic would be diverted off Broadway in the future. For traffic exiting the project at either Second or Third Streets and Broadway, the expectation is that drivers that would otherwise prefer to exit onto Broadway and Fourth and Sixth Streets would not backtrack north to either Second or Third Streets onsite because the travel time to do so is significantly longer than using Waterfront Drive to proceed south or east south of the project site. Therefore, the levels of service are considered to be valid and the most accurate estimates of future operations. The diversion of traffic into surrounding

neighborhoods is minimal to none as can be seen in Appendix H. Appendix H contains information on project traffic on almost all streets within Eureka.

The amount of traffic from Marina Center added to existing residential neighborhood traffic south and east of Marina Center is expected to be insignificant as shown in Appendix H. Neighborhood quality of life is typically affected by high levels of through traffic and commercial traffic, where daily traffic volumes exceed 2,000 to 3,000 vehicles daily. Marina Center is expected to add almost no additional traffic to neighborhood streets south and east of Marina Center, and even traffic added to collectors and arterials off of Broadway is expected to be less than 200 vehicles daily. Therefore, no significant impacts are forecasted for neighborhood quality of life, accident rates and neighborhood traffic conditions as a result of the project.

Regarding air quality and noise impacts, the Draft EIR includes separate chapters discusses these categories. Traffic safety is discussed in the Transportation chapter.

- 178-4 The comment states that the Draft EIR does not address access problems for the mobility-impaired.

The onsite design of private streets, circulation aisles within parking areas, sidewalks and other areas open to the public would conform to the Americans with Disability Act (ADA) requirements as a matter of law. Project mitigation offsite such as modified signals and new signals are all required to conform to ADA design and operating standards such as curb ramps, accessible pushbuttons for pedestrian signal actuation, etc.

Specific routing of bus service is provided at the discretion of the Humboldt Transit Authority. The Project Applicant shall work with the Eureka Transit Authority to reinstate the bus stop at Koster and Washington Streets and improve the bus stops in front of the Wharfinger Building and at Seventh and California Streets, including paying their fair share to enhance the amenities of the stop (i.e., shelter, bench, and signage).

As explained on page O.IV-46 of the Draft EIR, the increased demand for public transit service at the project site can be accommodated and would remain within reasonable walking distance from the Marina Center. Again, the project's impacts on public transit service would remain less than significant, and no further mitigation is needed.

- 178-5 The comment states that the Draft EIR does not address how mitigation measures could foreclose the possibility of future infrastructure changes.

It is beyond both the scope of this EIR and the ability of the Lead Agency or anyone else to first speculate the extent of possible needed future infrastructure changes determined by not yet formulated studies, development proposals, or other factors; then to speculate the conflicts that would be created by those changes; and finally to speculate which conflicts are specifically related to the proposed project's mitigation measures.

- 178-6 The comment states that the Draft EIR does not address impacts to the FHSA Pedestrian Safety Audit or other planning projects would help shape the future of the city. Regarding pedestrian safe, please see responses to comments 33-3 and 5-5, which conclude that the proposed project would improve pedestrian safety and circulation even though some intersections on Broadway did not meet signal warrants, and therefore pedestrian signals would not be installed. It is beyond the scope of this Draft EIR to discuss city-wide pedestrian improvements that would shape the future of the city.
- 178-7 The comment states that the Draft EIR does not address how the proposed project would mitigate for its contributions to cumulative traffic increases in the year 2025. Please see response to comment 16-217, which states that the Project Applicant cannot be obligated to pay more than its fair share for mitigation of cumulative impacts in 2025. As noted in the EIR at page IV.O-54, there is no program in place or funding otherwise identified to ensure completion of the mitigation measures within the time period necessary to avoid the 2025 cumulative impacts. Consequently, these impacts are identified as significant and unavoidable. Nonetheless, the City of Eureka can seek funding from future projects or develop regional fee programs that may ultimately address this shortfall and ensure that the unacceptable levels of service are avoided. Until then, however, these cumulative impacts would remain significant and unavoidable.

Comment Letter 179

Comment Letter 179



January 29, 2009

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

**RE: Marina Center DEIR:
 Comments on the DEIR**

Dear Sidnie:

I have reviewed the Draft EIR for the Marina Center project. I believe the DEIR is inadequate for the following reasons.

1. The DEIR states that the Applicant's primary objectives include, among other elements: "Restore the Balloon Tract to productive use" (p III-16). A subsidiary objective listed under this primary objective is to "remediate contaminated soil to safe levels for project uses" (emphasis added). In the Land Use section, the DEIR notes that the project "must disturb the wetlands to remediate the site" (p. IV.I-13). The applicant's objective is to remediate the site for project uses, not to simply remediate the site. This distinction is important. The applicant is not proposing to remediate the site and restore the wetlands as an objective. The applicant is proposing to develop the site and remediate it in the course of this development. This issue is significant for Coastal Act purposes. 179-1
2. The DEIR notes that an ESA biologist made a reconnaissance level survey in May 2006 (p IVD.1). This survey should be more specifically defined as follows: how many days were spent on-site, how many hours of each day that was spent on-site, was the entire site walked, in what fashion was the survey made (transects, meanders, etc.), were notes taken of the site, was a plant list or list of wildlife seen prepared, etc. 179-2
3. Within the Biology Resources chapter (p IVD.1+), the DEIR makes numerous references to reports or other materials prepared by the Huffman Broadway Group (HBG) and three such reports are listed at the beginning of the section. In numerous cases, though, the DEIR conclusions depend upon conclusions reached by HBG without discussion whether the DEIR 179-3

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biologist reviewed these conclusions, e.g "protocol-level special-status rare plant surveys were conducted by the Huffman Broadway Group (HBG)" while apparently none were completed by ESA during its May 2006 "reconnaissance level survey" (pp IVD.1). However, HBG is not listed in the report as one of the preparers of the DEIR. The relationship between the DEIR preparers and HBG should be fully explained and the extent to which ESA biologists relied upon and peer-reviewed the HBG material fully defined. 179-3 cont.

4. Similarly, the DEIR should be clear with regards to whether the applicant had an opportunity to review and comment upon the Administrative draft EIR and, if so, to that extent were those comments incorporated in the present DEIR. 179-4

5. If HBG is not a preparer of the EIR, then the extent to which HBG written materials were incorporated into the text of the DEIR should be specifically defined. Where HBG written materials were incorporated, those materials should be referenced in more detail than a simple listing of three possible sources at the beginning of the section and, if directly quoted, these materials placed in quotations. Further, the extent to which those statements were confirmed by ESA biologists should be detailed. For example, the DEIR notes that "a list of all wildlife species either observed on the project site or that might possibly use the site was prepared through habitat reconnaissance, field observation and review of literature sources... (p. IVD-3) and HBG survey results are then described. Does ESA feel these surveys reveal "all wildlife species that might possibly use the site"? If so, those conclusions should be detailed such that the DEIR reviewers understand that the DEIR is not simply parroting the applicant's biologists. At issue here is whether ESA prepared an independent document as required under CEQA. 179-5

6. Similarly, Appendix D contains the special status species reported or known to occur in the vicinity "based on the knowledge of the Huffman Broadway Group investigators" (p IV.D-5). Is that knowledge considered sufficient and complete by ESA biologists? Were the methods employed by HBG consistent with ESA understanding of standard protocols in similar cases? 179-6

7. The DEIR concludes that no special status plants were found on-site after surveys on two days in April 2007 by a "qualified botanist" (p IV.D-5). Is this an HBG botanist? If so, the qualifications of the individual should be described and ESA should verify and describe its independent conclusions regarding the methods and results. 179-7

8. The DEIR concludes that rare plants could not occur on-site due to the presence (presumably widespread?) of disturbed soils. Rare plants in 179-8

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Comment Letter 179

5-844

- California are known from many disturbed soils and this conclusion should be retracted or justified on an individual species basis. ↑179-8
cont.

- 9. The DEIR conclusions regarding special status animal species all appear to derive from work done by HBG biologists. In each case, ESA should make an independent determination regarding the methods and conclusions reached for each species. 179-9

- 10. The DEIR compares the HBG and Zentner and Zentner wetland delineations and concludes that both are similar and reach approximately 8.7 acres (see below for an additional comment on this figure). However, the DEIR notes that HBG modified its delineation in both 2006 and 2007 to reach that number but the only explanation for that change is an apparent expansion in the extent of hydrophytic vegetation. If hydrophytic vegetation is spreading to such an extent, then it is likely that there is a greater extent of wetlands, as defined by the Coastal Commission on-site today. At least, a more detailed rationale for the changes in the HBG delineations should be provided and an ESA-derived review of those changes to ensure that the decision makers and reviewers have an adequate understanding of the extent of wetlands on-site. 179-10

- 11. Table IV.D “Wetland Functions and Values” is based on a New England Division document. Humboldt Bay and Bay edge wetlands are likely to be somewhat different than New England wetlands. Does ESA commonly use this document to evaluate wetlands? If not, why was this used? 179-11

- 12. Table IV.D-1. The conclusion that both types of wetlands have no or limited functional value for floodflow alteration, sediment retention, nutrient removal, production export, or sediment stabilization is deeply flawed and actually contrary to the New England Division methodology as well as more commonly used wetland evaluation methods, e.g. WET, HGM, etc. These wetlands are, for the most part, well-vegetated with minor areas of rip-rapping. The fact that this vegetation is mostly non-native does not affect the ratings given for these functions. For example, the shoreline is stabilized whether it’s covered with non-native or native cordgrass. These conclusions need to be corrected and the numerous subsequent references to the low values of the wetlands modified. 179-12

- 13. The discussion of the Coastal Commission’s regulations in the Biological Resources section is inadequate. A fuller description, especially regarding the Commission wetland policies, needs to be provided. This is not a section that provides a discussion of the effect of these but the audience should be made aware of the specific language in the Act the prohibits wetlands fill except for certain uses. At least the specific language contained in the Land Use section at p. IV.I-14 should be included here. 179-13

- 14. Similarly, the discussion of the Coastal Commission’s regulations in the Land Use section is inadequate. A fuller description, especially regarding the Commission wetland policies, needs to be provided as noted above. 179-14

- 15. The discussion of the local coastal zoning regulations in the Biological Resources is also inadequate and should more fully describe these regulations. In each of these cases, it is not sufficient to simply note that these regulations exist; the reader must be able to understand from the text of the DEIR the implications of these regulations. 179-15

- 16. Project Impacts-special status plants. The points made above regarding disturbed soils and HBG work/ESA reviews are applicable here. Also did the plant survey occur in 2005 or 2006? 179-16

- 17. The DEIR concludes that the project would result in “improved foraging opportunities” for the birds observed or believed to be in the vicinity (p IV.D-15). This conclusions seems far-fetched given that a significant majority of the site is proposed for development while the site is currently undeveloped. An undeveloped site, even one strewn with non-native plants, provides abundant foraging opportunities for a variety of birds. Confining the wetlands to a small area with a reduced extent of uplands may improve foraging for a certain suite of birds but other birds will not find improved foraging habitat. The DEIR should provide detailed analysis of which species will benefit and why and which species will suffer and why. 179-17

- 18. The DEIR concludes that there is no “sensitive natural community” found at the project site. This conclusion is apparently reached through reference to the low functional value of the wetlands and repeated statements that the wetlands on-site are not “sensitive”. This conclusion appears to counter much local, regional and State practice. There have been numerous instances where post-industrial wetlands have been evaluated in the Humboldt Bay Area (Broadway Mall, PALCO marshes, South Broadway wetlands, etc). In those cases, the wetlands have all been understood to be all or part of a “sensitive natural community”. Additionally, a quick Google search of “sensitive natural community CEQA” turns up many references to CEQA documents where wetlands are understood to be “sensitive natural communities”. The DEIR should more explicitly describe why these wetlands are so unique as to escape this description and provide a full justification for this conclusion. 179-18

- 19. Similarly, the above comments on Table IV.D-1 and its conclusions should be re-addressed in light of the DEIR statements here. 179-19

Comment Letter 179

- 20. Impact D-3: The DEIR states that 5.54 acres of wetlands as delineated under the Coastal Act would be filled while earlier in the DEIR (see note above) the Coastal Act wetlands were determined to be about 8.7 acres. 179-20
- 21. Impact D-5. The DEIR inadequately describes the City's Coastal Zone policies. By not fully enumerating those policies (a point noted above also), the reader is left with the impression that wetland fill is acceptable as long as mitigation is provided. This would be an innovative reading of these policies. The policies should be provided in full and the more typical interpretation of these policies provided for comparison. Otherwise, decision-makers and readers are left with a mistaken impression and an inadequate understanding of the project's impacts. 179-21
- 22. The Land Use discussion on Coastal Act and coastal zoning regulations seeks to use balancing provisions from a number of non-regulatory entities to justify the wetland fill. For an adequate document, the EIR should compare the proposed project's actions with those permitted with other project in similar conditions. Specifically, has the Coastal Commission approved wetland fill for this type of project? What have been the Coastal Commission staff's perspectives on this issue? These and an analysis by ESA should be included in the EIR. 179-22

Thanks you very much for this opportunity,



John Zentner

5-845

Letter 179: John Zentner

- 179-1 The comment regarding the purpose of the remediation is noted. Regulatory agencies cannot approve specific remediation plans for a particular site without first knowing what intensity and types of uses are planned to take place at the project site—different uses require different levels of cleanup. Even if the primary objective of the proposed project were simply to remediate the hazardous materials on the site, a future use must be planned to determine appropriate remediation levels.

In June 2009, after the City circulated the Draft EIR for public review, Environmental Resources Management (ERM) prepared a Supplemental Interim Remedial Action Plan (SIRAP), which is added to the Marina Center EIR as Appendix S. The SIRAP is intended to address existing site contamination concerns of the Project Applicant and the California Regional Water Quality Control Board, and it is designed to be implemented with or without the build-out of the buildings and related improvements and infrastructure proposed in the project. The Project Applicant has proposed to implement the SIRAP in conjunction with onsite wetland restoration as Phase 1 of the proposed project and incorporating pertinent mitigation measures in the EIR, which are already described in the Chapters III and IV.G of the Draft EIR. Therefore, while this EIR addresses both this initial phase of the project as well as subsequent phases, the SIRAP has independent utility and can proceed on its own in advance of the City's approval of any entitlements necessary for the proposed project itself.

Please see Master Response 4 and Appendix S for further details on site remediation planning. Also note that the No Project Alternative could include a remediation component, although future uses of the project site would eventually have to be determined.

- 179-2 The comment states that the reconnaissance survey by the ESA biologist should be more specifically defined as follows: how many days were spent onsite, how many hours of each day that was spent onsite, was the entire site walked, in what fashion was the survey made (transects, meanders, etc.), were notes taken of the site, was a plant list or list of wildlife seen prepared, etc.

Mark Fogiel was the lead biologist for ESA. In addition to the activities outlined in response to comment 179-3, Mr. Fogiel spent one day conducting a general field reconnaissance of the site and verifying the findings of the HBG biological assessment.

- 179-3 The comment requests clarification of the relationship and work completed among the biology and EIR consultants. Mark Fogiel, an ESA botanist, was the primary biological analyst for ESA. Several other ESA biologists contributed to the environmental review and EIR section. In addition, Mr. Fogiel's work went through an internal quality control protocol under a senior ESA biologist. It is not unusual for a consulting biologist assigned an EIR section to be presented with the work of other consultants on the same

project, some of whom may be working for the project proponent, some for the Lead Agency. In this case, the process then proceeds to a peer-review of these reports to the point where they may be deemed adequate for citation. For example, the reconnaissance survey conducted by ESA in May 2006 was specifically to reconcile acreage differences in the wetland delineation reports. ESA found no deficiencies in the HBG delineation, which preceded the Zentner and Zentner delineation.

ESA then prepared an EIR chapter consistent with ESA's professional practice standards, using the other consultants' reports as technical documents for citation or inclusion in appendices. Ultimately an EIR is the responsibility of the Lead Agency (the City of Eureka). Under CEQA, lead agencies can employ a number of methods for preparing an EIR, including the method used here of contracting with ESA and incorporating information from other sources (including the Project Applicant's consultants), so long as the Lead Agency conducts its own review and analysis and the EIR reflects the agency's independent judgment. (Pub. Res. Code, Section 21082.1(c); CEQA Guidelines Sections 15084(d),(e).) Here, the City of Eureka has employed ESA and City staff to conduct its own review and analysis, and the EIR reflects the City of Eureka's independent judgment.

ESA deems the conclusions made in the Biological Resources section of the Draft EIR professionally sound and defensible, consistent with CEQA's "reasonable" standard under CEQA Guidelines Section 15151, and its full disclosure and good faith effort standard in Guidelines Section 15204 (a).

- 179-4 Please see response to comment 31-12 regarding the authorship of the Draft EIR. The Project Applicant has reviewed the Draft EIR, but the final text, significance determinations, analysis, and conclusions represent those of the City of Eureka, not the Project Applicant. Please also see response to comment 179-3 regarding the biological consultants.
- 179-5 Please see response to comment 179-2 and -3, which details the work completed by the consultants.
- 179-6 Please see response to comment 179-2 and -33, which details the work completed by the consultants.
- 179-7 Please see response to comment 179-2 and -3, which details the work completed by the consultants.
- 179-8 Please see response to comment 13-1, which details the surveys and findings concerning rare plants.
- 179-9 Please see response to comment 179-3, which details the work completed by the consultants.

179-10 The comment states that the Draft EIR compares the HBG and Zentner and Zentner wetland delineations and concludes that both are similar and reach approximately 8.7 acres (see below for an additional comment on this figure). The comment notes that the Draft EIR states that HBG modified its delineation in both 2006 and 2007 to reach that number but the only explanation for that change is an apparent expansion in the extent of hydrophytic vegetation. The comment argues that if hydrophytic vegetation is spreading to such an extent, then it is likely that there is a greater extent of wetlands, as defined by the Coastal Commission onsite today. The comment requests a more detailed rationale for the changes in the HBG delineations be provided and an ESA-derived review of those changes to ensure that the decision makers and reviewers have an adequate understanding of the extent of wetlands onsite.

The modification of the wetland delineation as described in the comment is primarily related to the finding by HBG based on additional site study that *Phragmites australis*, which exhibits rhizomatous growth in either non-wetland or wetland conditions, had expanded from the edges of the previously delineated wetlands during the study period. This expansion into areas not previously occupied by the *Phragmites* resulted from the species having a competitive advantage subsequent to mowing of the site as required by the City for reasons of fire protection and nuisance abatement. Minor expansion around the margins of other wetlands previously identified also was found to occur. This was most likely due to the removal of competition of non-hydrophyte species or trash and debris subsequent to site mowing and trash and debris removal. Based on soil moisture data collected by HBG during the rainy season and as reported in the delineation report, it does not appear as though there are additional remaining suitable habitats for further expansion of the species or for wetlands predominated by *Phragmites* or other hydrophytes to form. Wetland delineations have been conducted according to both the Coastal Commission and Corps guidelines, and reflect the most accurate and current information on present site conditions.

179-11 The comment states that Table IV.D “Wetland Functions and Values” is based on a New England Division document, and that Humboldt Bay and Bay edge wetlands are likely to be somewhat different from New England wetlands. The comment asks whether ESA commonly uses this document to evaluate wetlands, and if not, why this was used.

There is no methodology for the identification and description of wetland functions and associated values that is officially adopted or approved for use by federal or state regulatory agencies in California. However a qualitative preliminary function and value assessment contained within the Biological Assessment and Draft EIR is intended to provide information at a basic level regarding the presence or absence of certain functions and associated values of identified wetlands within their current environmental configuration at the project site, and to provide a preliminary indication as to whether these functions and associated values would be created or would continue to occur within the configuration of wetlands anticipated to be restored subsequent to project site development and estuarine wetland restoration activities. The New England method was

selected for this purpose as it can be used as a non-region specific descriptive tool (e.g., a checklist) to ascertain which functions may be performed by a wetland system and if any associated values resulting from performance of the identified functions are present, but without quantification as to the extent functions are performed or comparison to the extent (quality) such functions are performed within other wetland systems in the project area. This methodology served the purposes of a preliminary investigation of whether wetland functions and associated values are present within the project site for the Biological Assessment and Draft EIR. While ESA does not commonly apply the New England method specifically in its wetland evaluations, it supports its use in this case given the clear need to consider wetland values and functions in the impact assessment and policy consistency context.

- 179-12 The comment states that the conclusion that both types of wetlands have no or limited functional value for floodflow alteration, sediment retention, nutrient removal, production export, or sediment stabilization is deeply flawed and actually contrary to the New England Division methodology as well as more commonly used wetland evaluation methods, e.g. WET, HGM, etc. The comment further states that these wetlands are, for the most part, well-vegetated with minor areas of rip-rapping, and that the fact that this vegetation is mostly non-native does not affect the ratings given for these functions. The comment states that the shoreline is stabilized whether it's covered with non-native or native cordgrass, and that these conclusions need to be corrected and the numerous subsequent references to the low values of the wetlands modified.

Most of the existing scattered palustrine wetlands that would be impacted are formed in depressions created by industrial use of the project site in imported soils impacted by environmental contamination, and are limited compared to functions provided by natural wetlands. For instance, some of the wetlands at the project site were contained within currently serviceable roadways in need of maintenance to repair large potholes containing regulated wetlands, and on October 2, 2006, HBG submitted a Nationwide 3 (Maintenance) Pre-Construction Notification for the Balloon Tract Road Maintenance Project to conduct these repairs. Another example of the degraded nature of these wetlands is the area of the former locomotive turntable facility where wetlands have developed even though this area is strewn with trash and environmentally contaminated sumpage. Although palustrine and estuarine emergent wetlands at the project site perform the wetland functions mentioned in the comment (floodflow alteration, sediment retention, nutrient removal, production export, sediment stabilization), these functions are limited at the project site as found in the preliminary functional assessment shown in Table IV.D.1 of the Draft EIR and included in the HBG Biological Assessment report at pages 16 through 23. The limits on functions within the existing estuarine wetlands stem from such things as a narrow, steep-sided, relatively unvegetated and in some locations rip-rapped channel and lack of connectivity to natural tidal marsh areas. Functions within palustrine emergent wetlands are limited as shallow wetlands with short hydroperiods on imported soil, non-native vegetation and soil contamination. The Biological Assessment and Draft EIR are clear though that in some of the wetlands at the project site the wetland

functions are not limited, except by contamination. Overall, however, these artificial, man-made, disturbed, and degraded wetlands do not perform to the level expected from naturally-occurring wetlands or wetlands proposed to be created with the reserve area.

- 179-13 The comment requests a fuller description of the Coastal Commission wetland policies, arguing that the audience should be made aware of the specific language in the Act that prohibits wetlands fill except for certain uses, and that at least the specific language contained in the Land Use section should be included here.

Please see the specific subject policies which are printed in full within the Land Use and Planning section of the Draft EIR. A detailed review of the project as it relates to policies of the Coastal Act, specifically Coastal Act Section 30233 is discussed in the Land Use and Planning section on pages IV.I-13 through IV.I-15.

Please also see Master Response 5, which discusses in more depth wetland fill policy issues pertinent to the coastal zone.

- 179-14 The comment stating that the Coastal Commission regulation discussion in the Draft EIR is inadequate is noted. Please see response to comment 3-31, as well as Master Response 5, which include additional discussion.

- 179-15 The comment stating that the Local Coastal zoning regulation discussion in the Draft EIR is inadequate is noted. Please see response to comment 3-31, as well as Master Response 3, which discuss uses in the coastal zone and the Local Coastal Program.

- 179-16 The comment discusses project Impacts-special status plants. Please see response to comment 179-18 regarding natural communities at the project site. Plant surveys were conducted in 2006 and 2009. Please also see response to comment 13-1.

- 179-17 The comment rejects the assertion on Draft EIR page IV.D-19 that the project would result in improved foraging opportunities for birds. The central point here is that the restored wetland would be closer to a natural feature – more stable, diverse, and robust. Enhancement of wetlands along these lines, and with these outcomes, is part of restoration ecology for many years, and affirmed by the resource agencies and conservation groups alike. Also, the new wetlands would not be contaminated.

The disturbed grassland and other upland areas of the project site provide foraging habitat for common, widespread species such as rock pigeon, black phoebe, common raven, American robin, European starling, and ruby-crowned kinglet. These species are either not declining or are introduced, and are generally distributed across California and the western United States.

The Project Applicant proposes an 8.98-acre muted tidal wetland restoration area that, when combined with a 2.91 acre upland buffer habitat, would constitute an 11.89-acre open space wetland reserve. The 11.89-acre area would be protected from future

development by a conservation easement in accordance with California Civil Code Sections 815-816.

The mitigation measures include 2.91 acres of upland buffer habitat. The 2.91-acre upland buffer habitat would be planted with native trees and shrubs, and would provide foraging habitat for most of the bird species that utilize the currently undeveloped site.

The existing wetlands consist of 7.61 acres of seasonal wetlands that have formed on contaminated soils and 1.06 acres of muted tidal habitat within a remnant of Clark Slough, for a total of 8.67 acres of wetlands. After implementation of the project, Clark Slough would be restored with a surrounding estuarine/palustrine area of greater quality and biological significance.

The proposed wetland restoration project would provide at least a 1:1 replacement of wetland acreage on the project site that would be higher in quality than the existing scattered palustrine wetlands currently present. Factors that would improve wetland quality include increasing the acreage of estuarine wetlands within Clark Slough, removing most of the riprap currently lining the banks of the slough, and enlarging the muted tidal area. Enlarging the muted tidal area would improve water quality and nutrient recruitment. Removing the riprap currently lining the banks of Clark Slough would provide for a more natural slope between wetlands and uplands, thus improving the quality of high tide refugia for bird species such as the Virginia rail by increasing the available vegetative cover. Enlarging the tidal area would also greatly expand both the size and quality of foraging habitat for nearby nesting sensitive bird species such as black-crowned night-herons, snowy egrets, great egrets, and great blue herons. Increasing the size of wetlands on the project site would increase filtration of sediments and toxicants and improve fish and shellfish habitat.

As a result of implementing the proposed wetland restoration, biodiversity should increase on the project site. Common bird species should continue to utilize the proposed upland buffer habitat, and other more wetland-dependent species would take advantage of the newly available higher-quality larger wetlands. Current waterbird habitat consists of seasonally flooded shallow depressions and a deep, muted tidal channel. Both open water and mudflat habitat would increase, and the open water habitat would be of a medium depth more appropriate for long-legged wading bird species. Examples of previously unrecorded species that may utilize the restored site include American wigeon, green-winged teal, northern pintail, whimbrel, American avocet, and black-necked stilt.

179-18 The comment questions the assertion that there are no sensitive natural communities onsite, i.e. that all the extant wetland should be considered under this heading.

The threshold for significance proposed in Appendix G of the CEQA Guidelines asks the question of whether the project would have a “substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife

Service?” The comment seems to suggest that any wetland, however degraded or unnatural or useless to sensitive species, should nonetheless be treated as a “sensitive natural community” because it is a wetland.

But whatever definition is assigned “sensitive natural community” in other EIRs, to read this threshold so broadly would provide no meaning to the phrase. There must be some characteristic of the natural area that makes it unique in order to satisfy this threshold. As the term connotes, the area should be part of a “community,” which in biological terms means some combination of plants, animals, and habitats that are part of a functioning ecosystem. It should be natural, in that it should function and occur as a product of nature, and should not have been produced artificially. And finally, it should be sensitive – that is, susceptible to variations in the environment and physical condition of the natural community.

With the possible exception of the Clark Slough remnant – which is proposed to be restored – the site does not contain any of the attributes of a “sensitive natural community.” Neither the plant nor the animal species under existing conditions at the project site are especially rare; there is relatively little potentially suitable habitat for special-status species on the project site; and much of the existing vegetation is non-native and invasive. Most of the existing scattered palustrine wetlands that would be impacted are formed in depressions created by past industrial use of the project site in imported, contaminated soils. The underlying soils within all existing wetlands at the project site would be subject to soil remediation as part of the site cleanup, and wetlands created under the mitigation/restoration plan would therefore be of higher quality than those currently existing at the project site.

Consequently, the project would have no “significant adverse effect” on any sensitive natural community, and no further mitigation or analysis is warranted.

179-19 The comment questions the conclusions stated in Table IV.I of the Draft EIR. Table IV.1 represents the best professional judgment of the analyst

179-20 The comment requests clarity regarding the number of acres of wetlands to be filled on the project site. Please see response to comment 1-2, which states that the proposed project would result in the permanent filling of 6.15 acres of wetlands and the temporary filling of 1.45 acres of wetlands. The project would create approximately 6.46 acres of new wetlands, resulting in a net increase of wetland acreage on the site. Please also see response to comment 3-8.

179-21 The comment states that the Draft EIR inadequately discusses the City’s coastal zone policies. Please see Master Response 3, which provides an overview of the framework of the Local Coastal Program and uses permitted in the coastal zone pursuant to applicable zoning regulations from the LCP.

179-22 The comment states that the Draft EIR should compare the proposed project with other projects in its assessment of the project's conformity with the Coastal Act and coastal zoning regulations.

It is beyond the scope of this Draft EIR to first describe other projects in the coastal zone, then analyze those projects' adherence to and/or conflict with Coastal Act and local zoning provisions, and finally to compare the proposed project with the actions of the other proposed developments in an attempt to infer conclusions. Each project's adherence to or conflict with Coastal Act policies and coastal zoning is analyzed based on the characteristics of each project and site, not the characteristics or sites of other projects. Also please see Master Responses 3 and 5, which discuss the Local Coastal Program and the Coastal Act.

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