

State of California



Fair Political Practices Commission

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• • Administration • •
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322-5901

• • Enforcement • •
322-6441

• • Statements of Economic Interest
322-6444

April 29, 1981

John L. Cook
City Attorney
P.O. Box 1018
Eureka, CA 95501

A-81-04-074

Dear John:

This is in response to your request for advice concerning the application of the disqualification provisions of the Political Reform Act to Coastal Planning decisions of the Eureka city council. Please accept my apology for not replying sooner.

The question you asked was whether certain Eureka city council members are prohibited by the Political Reform Act from making or participating in decisions on the Eureka local Coastal Plan (LCP) and ordinances because of their interests in business or property located within the Coastal Zone. In your letter you included a summary of the economic interests of four council members and yourself. You also enclosed a 20 page document which identifies 11 major issues and numerous sub-issues which the Eureka city council will consider in reviewing the Eureka LCP. In addition to addressing issues within the city limits, the Council will consider issues impacting county lands surrounding the city.

The question you asked encompasses so many issues that I cannot possibly give you specific advice as to who can vote on what decisions. However, I can give you advice as to the proper analysis of these issues so that you can advise the members of the city council as to the areas in which they are likely to have a conflict of interest. To that end, I am enclosing a copy of a very recent advice letter to your county counsel, Georgene Barnes, which analyzes in detail the requirements of the Political Reform Act with respect to coastal planning decisions. I hope you will find the letter helpful in providing guidelines which can be applied to your own situation.

John L. Cook
April 29, 1981
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In your letter you expressed two opinions with which I take exception. First, you suggested that the financial effect of the LCP on the interest of city officials will not be distinguishable from its effect on the public generally and concluded that each city official should be allowed to fully participate in the LCP for the City of Eureka. I cannot agree with this analysis. Although it is possible that the public generally exception might apply to some of the city council's decisions, I see no basis for drawing a blanket exception over the entire Eureka LCP. I am enclosing other materials, in addition to the Barnes letter, which discuss the public generally exception to the rule of disqualification. If, after reading these materials, you still feel that the public generally exception applies to a specific planning decision, please bring this to my attention.

Your letter further states that "the fact that officials have disclosed for the record their interests in the Coastal Zone is sufficient protection of the public interest in precluding self dealing." This point of view is contrary to both the spirit and the letter of the Political Reform Act which prescribes disqualification as well as disclosure as a prophylactic measure. Therefore, if any city council member has a financial interest which will be materially affected by a coastal planning decision, he or she is prohibited from making or participating in that decision whether or not the financial interest in question has been disclosed in the official's Statement of Economic Interests.

Thank you again for meeting with Reed and me. Please feel free to call me at (916) 322-5901 if you have further questions.

Very truly yours,



Stella Connell Levy
Counsel
Legal Division

SCL:kp
Enclosures

CITY OF EUREKA



P. O. BOX 1018 - EUREKA, CALIFORNIA 95501 6th and K STREETS - 707-443-7331

March 6, 1981

Fair Political Practices Commission
P. O. Box 807
1100 K Street
Sacramento, CA 95814

Dear Commissioners:

RE: Request for Opinion Concerning Participation of City
Officials in the Development of a Local Coastal Plan
for the City of Eureka.

The Eureka City Council has asked me to request directions from your office for future council action concerning the development and adoption of the local coastal program for the City of Eureka. Specifically can the officials mentioned in this attachment participate in and/or vote on the Eureka Local Coastal Plan and Ordinances?

The local coastal plan in the City of Eureka will consist of amendments to the Eureka General Plan and will consist of certain zoning ordinances which will implement that plan. The local coastal plan for the City of Eureka is being developed at this time by the Northcoast Regional Coastal Commission. Upon its completion, it will be submitted to the Planning Commission and to the City Council for its adoption after the requisite public hearings. The content and shape of the local coastal plan is not yet known and will not be until it is adopted. However, a work program has been developed which is attached hereto as Appendix 2. The work program identifies the issues that will be addressed in the local coastal plan. The area affected by the Eureka Coastal Plan is shown as an exhibit to that work program. Unlike the coastal plans to be adopted by the County of Humboldt or by other jurisdictions, the Eureka Coastal Plan will be presented as one comprehensive document.

Your prompt attention and reply to this request would be appreciated. Inasmuch as a majority of the Council has some interest in business or property located within the Coastal Zone, the Council has found itself unable to proceed with local coastal


Fair Political Practices Commission
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planning in the City of Eureka for fear of violating the conflicts provisions. Consequently, until your opinion is received, the City of Eureka will not be in a position to proceed with its local coastal plan.

Inasmuch as the local coastal plan and subsequent zoning implementation will be done on a city-wide basis and will affect countless properties, it is felt that any financial effect of the coastal plan on interest of city officials will not be distinguishable from its effect on the public generally. In accordance with your regulation Section 18703, it is suggested that each of the city officials should be permitted to fully participate in the local coastal planning program for the City of Eureka. In my opinion the fact that the officials have disclosed for the record their interests in the Coastal Zone is sufficient protection of the public interest in precluding self dealing. Copies of the disclosure statements on file are attached. Your opinion should reflect an awareness that local entities are required to adopt comprehensive general plans and comprehensive zoning. See Government Code Section 65000 et. seq. In adopting a comprehensive City general plan, every piece of real property in the City is affected with respect to its land use and consequently its value. Were you to rule other than as suggested, it would require the disqualification of the entire City Council and the entire City Planning Commission.

Until the local coastal plan for the City of Eureka and its implementing zoning ordinances are adopted, it is not possible at this point in time to identify what, if any, financial effect the plan will have on the properties of the individual members.

Very truly yours,



JOHN L. COOK
CITY ATTORNEY

JLC:cr
Attachments

cc: Mayor & City Council
Interim City Manager
Director of Community Development

ATTACHMENT TO CITY OF EUREKA
LCP OPINION REQUEST STATEMENT OF ECONOMIC INTERESTS

1. Councilmember William P. Dimmick lives in and owns a single family residence located at 931 Hill Street, Eureka, California which is located within the Coastal Zone. The home is financed through Humboldt Savings & Loan Association, which undoubtedly does a substantial amount of financing within the Coastal Zone.

2. Councilmember Thomas J. McMurray, Jr. owns a lot at West Clark Street, Eureka, California, buildings and land at the foot of Allard Street, 1896 West Allard, Eureka, California and an office building 929 Koster Street, Eureka, California, real property at 1040 West Del Norte, Eureka, California. Councilmember McMurray also owns Amco Transmission, which is located at 1507 Fifth Street, and which is located in the Coastal Zone, and a vacant lot located in Manila, which is outside the City limits but within the Coastal Zone. It should be noted that the property at 1040 West Del Norte Street consists of commercial buildings and is approximately 70% developed. In addition, Councilmember McMurray has an ownership interest in Pacific Wholesale Materials, Inc., which engages in the sale of materials and real estate development.

3. Councilmember Bonnie B. Gool is the owner of an appraisal business located within the Coastal Zone in downtown Eureka.

4. Councilmember James Howard operates Jim Shoeshine, which is not located within the Coastal Zone, but it is within several hundred feet of the Coastal Zone. The business is located in downtown Eureka.

5. City Attorney John L. Cook lives in and owns a single family dwelling at 492 Gatliff, Eureka, California, which is located within the Coastal Zone. The residence is approximately 500 feet outside of the Eureka City limits. Mr. Cook engages in the private practice of law which is limited to real property matters and in land use and development outside the City limits. One of his clients, the Humboldt Transit Authority, is attempting to secure a lease of an existing commercial building within the City of Eureka and within the Coastal Zone. The lease should be consummated within one month.

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Introduction

The California Coastal Commission has been asked by the City of Eureka to prepare its Local Coastal Program (LCP). The following is the Issue Identification/Work Program (II/WP) for the land use plan to be presented to Eureka's City Council, and the general public for their review and recommendations. This document together with the City Council's recommendations will be presented to the North Coast Regional Coastal Commission and the State Coastal Commission for their approval. The land use plan ordinances for the LCP will be submitted simultaneously to the City and Commission for their review and adoption.

The LCP should resolve coastal issues involving the use and protection of the City's wetlands, sloughs, and gulch greenways, protection of existing agricultural lands, protection of and provision for low and moderate income housing, and provision of adequate acreage for existing and proposed coastal and non-coastal dependent industrial and commercial uses.

In addition to addressing issues within the existing city limits, the LCP will also address issues on county lands surrounding the city on its eastern and southern fringes. These areas generally encompass county lands from Eureka's southern city limit boundaries to Elk River Road and from the city limits on the east at Myrtle Avenue to Freshwater Corners (see Exhibit 1).

The portions of the plan and zoning ordinances covering the unincorporated areas will become a part of the Humboldt County LCP and will be submitted for review and adoption by the county during its consideration of the Humboldt Bay Area Plan. These areas were included in the Eureka LCP since they are included in the City's planning area covered by the General Plan and land use decisions for City lands will directly affect development of these lands.

This document is divided into two sections - the first identifies the LCP issues to be addressed in the land use plan, and the second lists the work tasks to resolve the issues. Each section includes policy groups which relate to those in the Local Coastal Program Manual.

ISSUE IDENTIFICATION

A. Public Access

Summary - Sections 30210 through 30212 require that maximum access be provided "for all people consistent with public safety needs and the need to protect public rights, rights of private property owners and natural resource areas from overuse. The Act also requires that any development occurring within the Coastal Zone shall not interfere with the public's right of access to the ocean or other natural water bodies and that any new development provide access from the nearest public roadway to the shoreline.

The coastal access component is required by Section 30500 of the Coastal Act which states:

"Each local coastal program . . . shall contain a specific public access component to assure that maximum public access to the coast and public recreation is provided."

Issues - Within the Eureka LCP planning area, there are approximately seven miles of direct bay frontage from Elk River Corners to Bracut. In addition, the planning area encompasses portions of Eureka, Ryan, Second and Third Sloughs. The main purpose of the access component for Eureka is to designate appropriate public access areas to and along these waterways.

This designation should be based on an inventory of existing and potential public access routes and areas as identified in the City's General Plan and Core Area Plan and on the public access inventory around Humboldt Bay completed by North Coast Commission staff. The General Plan designates waterfront plazas at the feet of K, F, and Truesdale Streets and at the Boat Basin and Del Norte pier. The plans also identify a neighborhood park at the foot of M Street. In addition, the Core Area Plan shows a pedestrian and a vehicular linear accessway along the waterfront from Eureka Slough to just south of the Boat Basin.

Currently, the City, with assistance from the Coastal Conservancy, is studying the feasibility of an urban waterfront project which includes portions of the proposed pedestrian and vehicular accessways, and a waterfront park. The site area stretches from J to M Streets along the waterfront north of the railroad right-of-way. Except for design criteria to ensure these accessways and areas as proposed in Phase I of the City of Eureka/State of California Coastal Conservancy Urban Waterfront Restoration Plan (November 9, 1979) do not impede on existing and potential coastal dependent uses and existing wetlands, they seem to be consistent with Coastal Act policies. Other locations in the Eureka area which should be studied for possible access are Eureka, Second and Third Sloughs and the areas south of Truesdale Street and west of Broadway.

The public access component should also address where, because of extremely sensitive environments or the existence of coastal dependent industrial or commercial development, access should be restricted. Within Eureka, there may be areas, such as wetlands, and locations of commercial fishing facilities and other coastal dependent industrial areas where provision of public access may be inappropriate. This portion of the public access component should be based on work accomplished in policy groups D. Environmental Resources, F. Commercial Fishing and Recreational Boating, and J. Industrial Development and Energy Facilities.

B. Recreation and Visitor Serving Facilities

Summary - Sections 30212.5, 30213, 30220 through 30223, and 30250(c) define the Coastal Act's policies regarding recreation and visitor serving facilities. In essence, these policies require the distribution of recreation and visitor facilities throughout a city's coastal area, the provision of lower cost visitor serving facilities and the protection of oceanfront areas for coastal recreation. They also provide for the granting of priority to projects with commercial recreational facilities, the preservation of upland areas that are necessary to support coastal recreation uses, and the location of visitor serving facilities at selected points throughout the City's coastal area.

Issues - Currently, visitor serving facilities, i.e., parking lots, motels, hotels, recreational vehicle parks, campgrounds and restaurants are located in Old Town including sites adjacent to the waterfront, and along Highway 101. By inventorying and mapping these existing facilities and by projecting future demand, it should be determined if additional facilities are needed in Eureka.

The City, through its General Plan, Core Area Plan, and Redevelopment Plan, has designated locations for visitor serving facilities. An area of particular concern is along the waterfront which is designated for waterfront commercial uses. In conjunction with work proposed under policy group F. Commercial Fishing and Recreational Boating, it should be determined what portions of the waterfront should be locations for visitor serving uses, i.e., hotels, motels, restaurants, and shopping, eating, and amusement areas, and what portions should be for coastal dependent use, such as commercial fishing facilities.

C. Housing

Summary - Section 30213 requires that low and moderate income housing be protected, encouraged, and where feasible, provided in accordance with the state housing requirements.

Issues - Eureka's three existing land use plans address housing in the East Bridge District, Old Town, and west of Broadway. The General Plan adopted in 1976, is a general guideline for development in the City and designates the Bridge District and portions of Old Town for a mixture of residential and commercial uses. The Redevelopment Plan, adopted in 1973, implements the Core Area Plan, is more detailed than the General Plan and is more consistent with the zoning ordinances.

In the Bridge District, especially, there are conflicts between the designations in the General Plan and the Redevelopment Plan. East of the Samoa Bridge, the General Plan designates the area bounded by the railroad tracks on the north and Eureka Slough and Highway 101 as commercial residential. The Redevelopment Plan designates the area south of the railroad tracks and east of the Bridge to Y Street as either limited industrial or service commercial. From Y Street to Eureka Slough, the area is planned for multi-family residential use. North of the tracks and east of the Bridge, the General Plan designates the area for waterfront

commercial uses, however, the Redevelopment Plan sets aside the area from the Bridge to T Street for general industrial purposes, and from T Street to Eureka Slough as multi-family residential mixed with waterfront commercial and open space.

It appears the Redevelopment Plan prevails over the General Plan for two reasons. One, the Redevelopment Plan is more detailed, hence, the designations are more precise and two, the plan is more consistent with the zoning ordinances.

In addition to the inconsistency of the plans in the Bridge District and also in small areas west of Broadway, existing residential land uses do not conform with the designations. The areas which are designated for non-residential use currently provide housing for low and moderate income households. If the land uses are to be changed, then according to the Coastal Act, the City must continue to protect the low and moderate income housing opportunities. The Commission's guidelines require that, when low and moderate income housing units are demolished, as may be the case in these neighborhoods, they should be replaced one-to-one within or in close proximity to the Coastal Zone. Related to this issue, areas where existing low and moderate income housing should be protected and where additional units, if any, would be provided, should be designated.

The City of Eureka should be recognized for its provision of low and moderate income housing, such as the Salvation Army senior housing project, and rehabilitation and provision of units in Old Town, both areas which are within the Coastal Zone. The City has also provided and is proposing several projects outside the Zone which should further meet the housing needs of Eureka residents.

These programs are implementing the Eureka Residential Assistance Program, adopted by the City Council in May, 1976, which lists specific construction and rehabilitation programs to implement the housing policies of the City. By referring to the LCP checklist for housing, the listing seems to include all of the essential information except for the time frames for implementation and the number of units approved but not yet constructed. Since the assistance program, in conjunction with the General Plan, Housing Element and Redevelopment Plan, adequately inventories housing stock, present and projected need for low and moderate income housing and potential methods for providing housing, these tasks will not be included in the work program, however, the existing data will be incorporated into the land use plan.

D. Environmental Resources

This group combines Coastal Act policies on Water and Marine Resources, Dredging, Filling and Shoreline Structures, and Environmentally Sensitive Habitat areas.

Summaries for each of the Coastal Act policies are as follows:

Water and Marine Resources - Sections 30230, 30231, and 30236 of the Coastal Act require the maintenance and restoration of marine resources and coastal water quality, as well as the control of discharges and runoff into the ocean. These sections also require the prevention of groundwater depletion and

interference with surface flow, and the encouragement of water reclamation. The maintenance of riparian buffers and the limitation of dams or alteration of streams are also Coastal Act requirements.

Diking, Dredging, Filling, and Shoreline Structures - Sections 30233 and 30235 of the Coastal Act limit the diking, dredging, or filling of all coastal waters to very specific circumstances. These would be permitted for the maintenance of previously dredged navigational channels, in wetland areas for entrance channels to new or expanded boating facilities, for burying cables, for inspection of piers and other public services, for mineral extraction, for nature study and restoration. The placement of excess material from earth-moving operations must be planned to avoid disruption to marine and wildlife habitats.

Environmentally Sensitive Habitat Areas - Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas be protected from any significant disruption and that only uses dependent on the resources be allowed in these areas. Development adjacent to such habitat areas, parks, or recreation areas must be sited and designed to prevent impacts that would downgrade the areas.

Issues - Sensitive water and marine resource within the City include Humboldt Bay, the Bay's marshes and wetlands, including those located in the west of Broadway industrial area and east from the Samoa Bridge to the northern city limits, farmed wetlands, freshwater marshes, rookeries, and gulch greenways. In addition, existing environmentally sensitive habitat areas include critical habitat areas on Indian, Woodley, and Daby Island, and the slopes of the gulch greenways. Although these areas are identified in existing City documents, more specific mapping is required for the level of land use planning required by the Coastal Act.

This planning effort should involve identifying the environmentally sensitive habitat areas; developing a specific marsh filling and restoration program consistent with the Commission's draft interpretive guidelines for development of wetlands, identification of areas currently planned for industrial purposes but where potential development will be in conflict with Coastal Act wetland policies, identification of land use related impacts on the Bay's water quality such as runoff from parking lots and other paved areas, identification of buffer areas for protection of sensitive water and marine resources and other critical habitats, defining criteria to determine if gulch greenways are suitable for development, developing appropriate measures for the use and protection of riparian vegetation within these gulch greenways and identification of habitat values of gulches and adjacent wetlands.

The Environmental Resources component should also identify and map existing and potential docks, pilings, seawalls or revetments along Eureka's shoreline. City officials have indicated there are plans for upgrading and possibly expanding existing docks and piers.

Also, current draft tidelands settlements between the State Lands Commission and the City of Eureka may allow fill, such as docks, piers, and pilings, out to the existing bulkhead. Placement of this potential fill should be coordinated with the property owners, City of Eureka, and the Commission.

The component should incorporate the Preliminary Hazardous Areas Map (4) included in the technical background report to the General Plan on Natural Resources and Open Space and the USGS map of Flood Prone Areas in Eureka in place of mapping flood hazard areas.

E. Commercial Fishing and Recreational Boating

Summary - Sections 30224, 30234, and 30255, require the encouragement of commercial and recreational boating through provision of new boating facilities, harbor of refuge, and through the limitation of non-water dependent land uses that congest access corridors and preclude boating support facilities. These policies also state that commercial fishing and recreational boating harbor space shall not be reduced and that proposed recreational boating facilities shall not interfere with the needs of the commercial fishing industry. Coastal dependent developments shall have priority over other developments on or near the shoreline.

Issues - Currently, there is a mixture of coastal and non-coastal dependent uses along Eureka's waterfront. Furthermore, the current Waterfront Commercial land use designation allows for commercial uses which are clearly not dependent on a waterfront location for their existence. However, the General Plan includes policies for relocating the non-water dependent uses to other industrial areas, and protecting and enhancing commercial fishing and recreational boating facilities.

The land use plan should identify existing coastal dependent uses such as existing docks, boat launch facilities, piers, marinas, and commercial fishing support facilities. The plan should also determine unmet demand for commercial fishing and recreational boat launching facilities and berthing spaces, and specify where these additional facilities should be located.

In coordination with work under policy group B., Recreation and Visitor Serving Facilities, it should also be determined where Eureka's fishing facilities should be located in relation to the planned boardwalk and Waterfront Drive, and where non-coastal dependent commercial use could be accommodated along the waterfront.

F. Hazards

Summary - Section 30250 of the Coastal Act seeks to control risks to life and property in areas of high geologic, flood, and fire hazard. New development must be monitored so that it neither creates nor contributes to erosion or geologic instability with a major aim of preserving natural land forms along bluffs and cliffs.

Issues - Two major issues include developing a program to repair and maintain Jacobs Avenue dike and developing criteria and standards for guiding development on areas subject to liquefaction.

The condition of Jacobs Avenue dike has not been determined, however, it is a subject of concern of the property owners along Jacobs Avenue. It is also a concern of the Commission, since several permit applications for development have been granted and the dike may be subject to failure. City officials and the property owners agree the dike should be repaired,

but disagree on whose responsibility it should be. Consequently, little progress has been made towards improving the dike, and businesses continue to expand on and develop the parcels along Jacobs Avenue. The LCP should determine its condition and identify necessary maintenance and improvement procedures in order to advise the City and property owners of Commission staff recommendations concerning the dike.

Although liquefaction is addressed in the technical background report to the General Plan's Human Safety element, specific measures should be developed to establish appropriate criteria to guide land use and development decisions on lands subject to this hazard. It is believed the Ground Failure Hazard Zones B map in the background report adequately identifies liquefaction hazard areas and can be used as a basis for identifying these areas.

G. Agriculture

Summary - The Act requires that prime agricultural land shall remain in production and provides that conflicts between agricultural and urban land uses shall be minimized by specific methods. In addition, these policies provide that all other lands suited for agricultural use shall not be converted unless agricultural use is not feasible or such conversion would preserve prime agricultural land or aid in concentrating development without conflicting with surrounding agricultural use.

Issues - Currently, there is development pressure on agricultural lands on the eastern and southern edges of the City. Although the lands are General Plan designated for agricultural use and City policies encourage their retention, the City has allowed commercial development on some of these lands, since non-agricultural uses are permitted in the zoning ordinances. Coastal Act agricultural policies require that the maximum amount of agricultural land be maintained in agricultural production and that where conversion to urban uses and land divisions occur, the lands are on the periphery of urban development, the viability of the lands have been and are severely limited by conflicts with urban uses and that conversions and land divisions would complete a logical and stable neighborhood and would establish a stable limit to urban development. City policies should be reviewed and revised as necessary in light of these policies. Also, if needed, appropriate buffer areas should be designated.

The Land Use Plan should include a stable urban rural boundary, establish minimum parcel sizes and designate permitted uses on agricultural land, to ensure the retention of these lands.

H. Coastal Visual Resources and Special Communities

Summary - Sections 30251 and 30253 of the Coastal Act require that scenic and visual qualities of the coastal areas be protected as resources of public importance. Any new development should be sited to protect views and minimize alteration of natural land forms. In addition, any new development shall protect special communities because of their unique characteristics.

Issues - The Scenic Route element to the General Plan suggests establishing scenic vista points at the Boat Basin, Woodley Island Marina, Carson Mansion, and on Indian Island adjacent to Route 255. Those that have been established should be mapped and the feasibility of developing the remaining should be determined.

The City of Eureka's design for and restoration of Old Town is and will continue to provide and enhance access to the waterfront and provide recreational opportunities to tourists and local residents. Therefore, the design plans for this area adequately address coastal issues and will not be included in the land use plan.

I. Public Works

Summary - Coastal Act Section 30254 limits expansion and new public works facilities to those necessary to accommodate new development or uses permitted by the Coastal Act. Special districts must not be formed or expanded which would attract new developments incompatible with Coastal Act policies. Where choices are limited for public works facilities, priority must be given to coastal dependent land uses, essential public services, public recreation, commercial recreation, visitor serving land uses, and basic industries vital to the economic health of the region, state, and nation.

Issues - Issues include determining whether the alignment for Waterfront Drive, as proposed in the Core Area Plan is still current and the City's preferred route, coordinating with the City and the City's consultant in determining a location for the wastewater treatment plant, and determining the allowable land uses within the proposed Eureka Freeway right-of-way.

The potential freeway will extend from the proposed Elk River interchange to where it will cross Broadway, approximately at the intersection with Washington Street. From this point, the freeway will be out of the Coastal Zone until it crosses Myrtle Avenue. According to Caltrans personnel, no funds are available for the proposed freeway in the State Transportation Improvement Program which lists expenditures through the 1983-84 fiscal year. Therefore, if the freeway is constructed at a future date, it is highly unlikely that construction would begin prior to 1983. Because of the freeway's questionable status, it should be determined whether the land uses, as identified on the General Plan land use map are the most appropriate for the areas within the proposed right-of-way.

J. Industrial Development and Energy Facilities

Summary - Sections 30250(b), 30260 through 30264, and 30232 of the Coastal Act contain provisions regulating the development, location, expansion, and continued operation of tanker facilities, terminals, offshore and onshore oil and gas facilities, refineries and power plants, as well as other coastal dependent industrial development. The Act also provides that coastal dependent developments shall have priority over other developments on or near the shoreline, and that where feasible, new hazardous industrial development shall be located away from existing developed areas.

Issues - The majority of existing industrial land in Eureka is located west of Broadway. However, this is also the location of the pocket marshes where existing Coastal Act policies restrict development for general industrial purposes, and where City policies encourage filling and developing these wetlands. In addition, the waterfront west of Broadway may be a location for coastal dependent industrial uses, such as potential Outer Continental Shelf (OCS) related oil and gas facilities.

The land use plan should adequately address these issues by identifying the existing industrial areas, by determining the unmet coastal and non-coastal dependent needs and by identifying the wetlands based on the identification of environmentally sensitive habitat areas under policy group D. Environmental Resources. The plan should also determine if suitable sites are available on acreages without wetlands. If wetlands must be filled to ensure adequate land area for the coastal and non-coastal dependent uses, then a restoration program should be proposed to mitigate for the fill.

With possible expansion of oil and gas facilities along Eureka's waterfront, work on the land use plan should also include review of the oil spill contingency plan developed by the Oil Spill Cooperative. This review should ensure that any planned expansion or consolidation of oil and gas facilities be covered by the plan.

K. Locating and Planning New Development

Summary - Sections 30250 and 30253(3) and (4) provide that new development should be located within, contiguous to, or in close proximity to existing centers. They also limit land divisions outside developed areas, maintain access to the coast by providing better non-auto transit and parking opportunities, require that new development should not overtax recreation facilities and it shall minimize energy consumption and vehicle miles travelled. Section 30244 requires reasonable mitigation measures where development will adversely impact archaeological or paleontological resources.

Issues - Development issues in the Eureka area center on designating an appropriate amount of a) coastal dependent industrial and commercial uses such as commercial fishing and CCS related development; b) general industrial uses, especially in the industrial areas west of Broadway and in the Bridge District; c) appropriate sites for low and moderate income housing; d) identified environmentally sensitive habitat areas and related buffers; e) agricultural areas; f) water related recreation; and g) public works facilities such as the potential wastewater treatment plant.

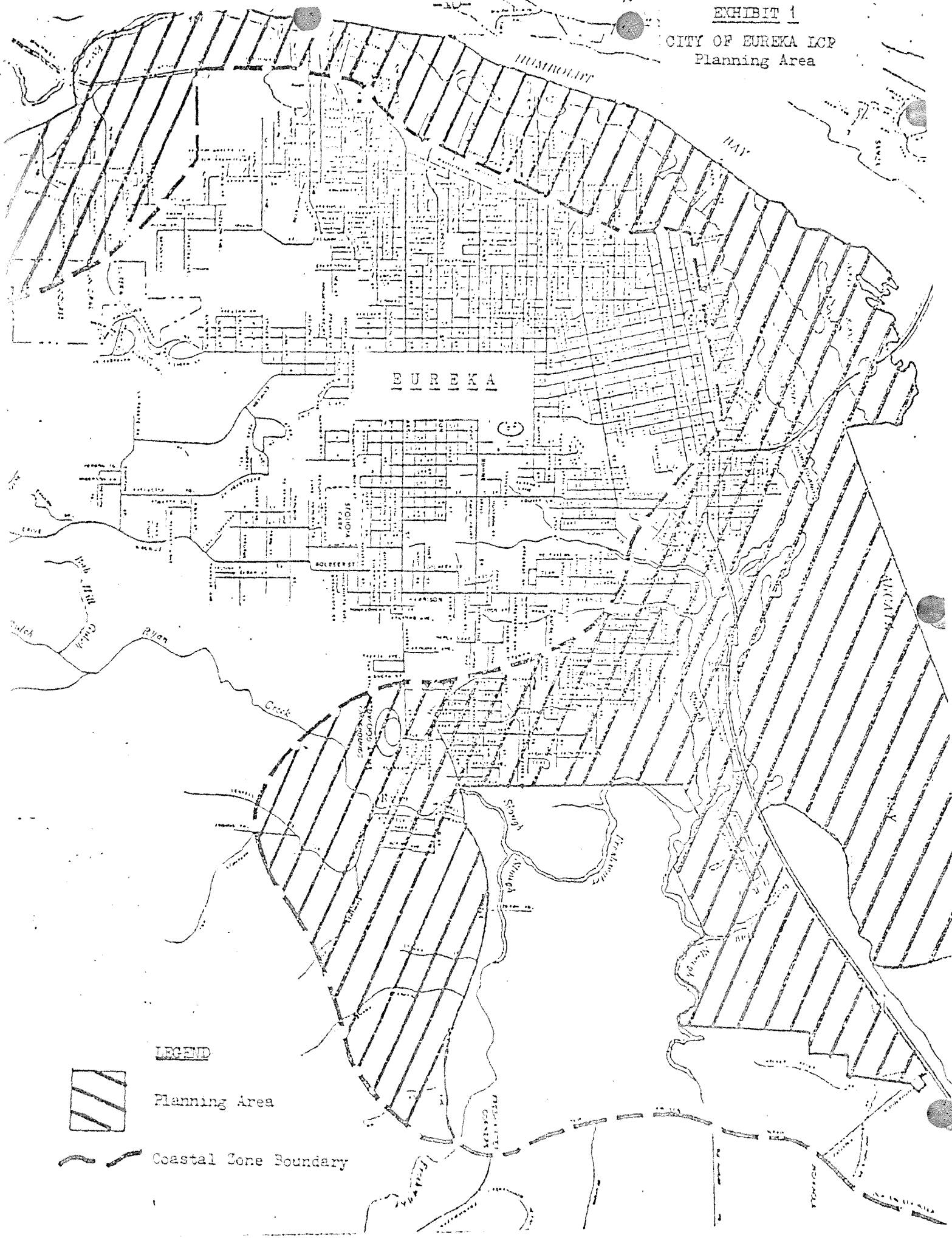
One of the major goals of the land use plan will be to establish a stable urban rural boundary to reduce development pressure on the currently unurbanized agricultural lands. This boundary will demark the furthest extent of urban services, such as sewer and water systems, and urban development. In conjunction with establishing the boundary, rural land division criteria should be developed to further encourage retention of existing agricultural lands.

The plan should also designate buffers adjacent to agricultural and environmentally sensitive habitat lands, as identified under policy groups D. and G. Environmental Resources and Agriculture, to protect them from adverse impacts usually associated with urban development. These impacts include, but are not limited to, runoff problems, noise, possible filling of wetlands, destabilization of slopes within gulch greenways, and stock damage vandalism and other impacts to agricultural lands.

Other issues to be addressed include inventorying archaeological and paleontological resources and developing policy language for their protection. Policies should be developed which specify reasonable mitigation measures in cases when these resources may be disturbed.

During development of the land use plan, the generated information from the previous policy groups should be consolidated and any internal inconsistencies should be resolved. The plan should also bring the City's land use plans and maps into conformance with the Coastal Act for Eureka's coastal areas.

EXHIBIT 1
CITY OF EUREKA LCP
Planning Area



LEGEND



Planning Area



Coastal Zone Boundary

WORK PROGRAM
Land Use Plan

I. INTRODUCTION

The following work program is divided into eleven policy group plan elements and each element is divided into four sections (1. Inventory, 2. Goals and Criteria, 3. Problems and Opportunities, and 4. Land Use Plan). Work under each section will be done simultaneously and presented in four documents ("Inventory", "Goals and Criteria", "Problems and Opportunities", "Plan Alternatives"). See Exhibit A. These documents will be presented to the city council for its review and council action (i.e. approval, approval with recommendations, no approval).

Following city council action on these documents, staff will prepare a draft land use plan, zoning ordinances document and maps based on city council recommendations, public and agency input and Coastal Act policies. This document will be submitted to the City and public for their review and city council adoption. This adoption can include recommended changes to the regional coastal commission for its review. After the regional commission's approval, the plan and zoning ordinances are submitted to the state commission for its adoption. After this adoption and the City's agreement to any changes, the City will then assume administration of the plan and zoning ordinances which includes permit authority for the coastal zone area.

II. POLICY GROUP PLANNING ELEMENTS

A. Public Access

1. Inventory

- a. Map existing access areas based on the north coast commission's access inventory.
- b. Map public accessways and points in Eureka's current planning documents.
- c. Map the north coast commission's existing offers of dedication for public access.
- d. Inventory and map existing vehicular, pedestrian circulation and parking.

2. Goals and Criteria

- a. Establish definitive criteria for designating public access in the coastal zone.

3. Problems and Opportunities

- a. Determine if existing and planned public access conforms to the adopted goals and criteria for same.

4. Land Use Plan

- a. Prepare alternative public access plans and analyze attributes and detriments of each for city council evaluation.
- b. Finalize public access plan based on the city council's recommendations, public and agency input, and Coastal Act policies.

B. Recreation and Visitor Service Facilities

1. Inventory

- a. From existing documents, inventory and map existing recreation and visitor serving facilities.

2. Goals and Criteria

- a. Establish definitive goals and criteria for determining the demand for recreation and visitor serving facilities.

3. Problems and Opportunities

- a. Determine if existing recreation and visitor serving facilities meet the goals and criteria for same in the coastal zone.

4. Land Use Plan

- a. Prepare alternate recreation and visitor serving facility plans and analyze attributes and detriments of each for city council evaluation.
- b. Finalize recreation and visitor serving facility plan based on the city council's recommendation, public and agency input and Coastal Act policies.

C. Housing

1. Inventory

- a. From existing documents prepare an inventory of existing low and moderate income housing units.

2. Goals and Criteria

- a. Establish definitive goals and criteria for determining the demand for low and moderate income housing in the coastal zone.

3. Problems and Opportunities

- a. Establish whether the existing low and moderate income housing in the coastal zone meets the goals and criteria for same.

4. Land Use Plan

- a. Prepare alternate low and moderate income housing plans and analyze their attributes and detriments for city council evaluation.
- b. Finalize low and moderate income housing plan based on the city council's recommendation, public and agency input, and Coastal Act policies.

D. Environmental Resources

1. Inventory

- a. Based on available information, map existing saltwater and freshwater wetlands and marshes including farmed wetlands, riparian habitats, sloughs, gulch greenways, rookeries, wild-life refuges and other environmentally sensitive areas, and existing and potential shoreline structures.
- b. Field inventory and map existing gulch greenways and environmentally sensitive habitat areas.
- c. Identify and map existing buffer areas surrounding existing environmentally sensitive habitat areas.
- d. Inventory and map fragile environments which may warrant restriction of public access.

2. Goals and Criteria

- a. Develop goals and criteria for determining which environmental resources may not be developed and which may be developed, subject to mitigation.
- b. Establish criteria for determining if buffers around environmentally sensitive habitat areas are necessary.

3. Problems and Opportunities

- a. Determine if existing environmental resources meet the criteria for development with mitigation or if they should remain undeveloped.

4. Land Use Plan

- a. Prepare alternate environmental resource plans and analyze their attributes and detriments for city council evaluation.
- b. Finalize environmental resource plan based on the city council's recommendations, public and agency input and Coastal Act policies.

E. Commercial Fishing and Recreational Boating

1. Inventory

- a. From existing data map existing commercial fishing and recreational boating facilities.

2. Goals and Criteria

- a. Establish goals and criteria for determining the demand for commercial facilities including aquaculture support facilities, recreational boat launching facilities, and berthing spaces.

3. Problems and Opportunities

- a. Determine whether the existing commercial fishing and recreational boating facilities conform to the goals and criteria for same.

4. Land Use Plan

- a. Prepare alternate commercial fishing and recreational boating facilities plans and analyze their attributes and detriments for city council evaluation.
- b. Finalize commercial fishing and recreational boating plan based on the city council's recommendations, public and agency input and Coastal Act policies.

F. Hazards

1. Inventory

- a. Identify and map known geologic hazards.

2. Goals and Criteria

- a. Develop definitive criteria for determining areas of geologic hazards which require development prohibitions beyond those that already exist.

3. Problems and Opportunities

- a. Determine if any unidentified areas of high geologic hazard exist.

4. Land Use Plan

- a. Develop alternate plans for previously unidentified geologic hazards areas and analyze their attributes and detriments for city council evaluation.
- b. Finalize hazards plan based on city council recommendations, public and agency input, and Coastal Act policies.

G. Agriculture

1. Inventory

- a. From existing data map existing agricultural lands indicating which are prime and non-prime.
- b. Identify existing agricultural buffer areas.

2. Goals and Criteria

- a. Develop definitive goals and criteria for establishing a stable urban rural boundary.
- b. Determine the need for rural land division criteria for city areas located in the urban rural boundary if any.
- c. Establish criteria for determining if buffers around agricultural areas are needed.

3. Problems and Opportunities

- a. Determine if the location of an urban rural boundary is required by measuring the existing conditions against the adopted goals and criteria.

4. Land Use Plan

- a. Prepare alternate agriculture land use plan concepts and analyze their attributes and detriments for city council evaluation.
- b. Finalize agriculture land use plan based on city council recommendations, public and agency input, and Coastal Act policies.

H. Coastal Visual Resources

1. Inventory

- a. Map existing coastal visual resources.

2. Goals and Criteria

- a. Develop definitive goals and criteria for determining need for and location and protection of coastal visual resources.

3. Problems and Opportunities

- a. Identify unmet needs (if any) for provision of coastal visual resources, appropriateness of existing visual resources.

4. Land Use Plan

- a. Prepare alternate coastal visual resources plans and analyze their attributes and detriments for city council evaluation.
- b. Finalize coastal visual resources plan based on city council recommendations, public and agency input and Coastal Act policies.

I. Public Works

1. Inventory

- a. Identify and map existing and proposed public works projects including utility systems.

2. Goals and Criteria

- a. Develop definitive goals and criteria for determining if existing and proposed public works are consistent with Coastal Act policies and if other public works projects are required.

3. Problems and Opportunities

- a. Determine if proposed public works projects meet Coastal Act policies and if others are required.

4. Land Use Plan

- a. Prepare alternate public works plans and analyze their attributes and detriments for city council evaluation.
- b. Finalize public works plan based on city council recommendations, public and agency input, and Coastal Act policies.

J. Industrial Development and Energy Facilities

1. Inventory

- a. From available data identify and map existing and proposed coastal and non-coastal dependent industrial uses.

2. Goals and Criteria

- a. Establish goals and criteria to determine the demand for coastal and non-coastal dependent industrial uses and for determining what coastal dependent industrial uses are.

3. Problems and Opportunities

- a. Determine the demand for coastal and non-coastal dependent uses including space for potential CCS related oil and gas facilities.
- b. Determine if existing industries should be relocated.
- c. Determine if existing or potential oil and gas facilities should be consolidated.

4. Land Use Plan

- a. Prepare alternate industrial development and energy facilities plans and analyze attributes and detriments of each for city council evaluation.
- b. Finalize industrial development and energy facilities plan based on city council recommendations, public and agency input, and Coastal Act policies.

K. Special Considerations for Locating and Planning New Development

1. Inventory

- a. Inventory and map known archaeological and paleontological resources in cooperation with the City, County Archaeological Commission, and the California Department of Parks and Recreation Historic Preservation Officer.

2. Goals and Criteria

- a. Based on land use data generated in the previous policy groups, develop goals and criteria to determine if proposed development will adversely impact archaeological or paleontological resources.

3. Problems and Opportunities

- a. Identify any adverse impacts on archaeological and paleontological resources.

4. Land Use Plan

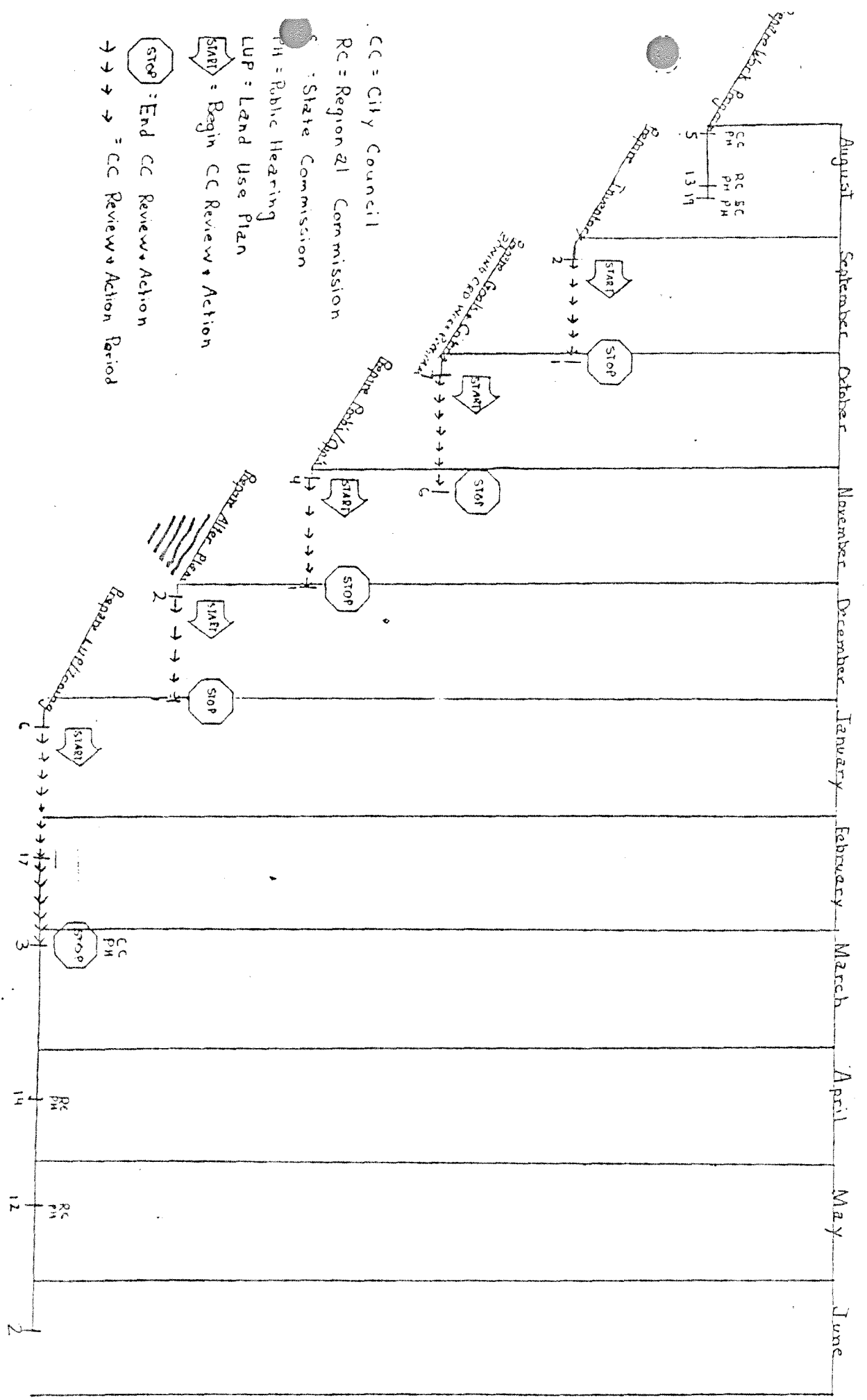
- a. Prepare alternate special considerations plans and analyze attributes and detriments of each for city council evaluation.
- b. Finalize special considerations plan based on city council recommendations, public and agency input, and Coastal Act policies.

III. FINAL PLAN DOCUMENT

The final land use plan document will include the following:

- a. A final land use map on a scale of 1" = 500' based on information gathered in the previous policy groups.
- b. A land use plan incorporating documentation and policy framework.

Exhibit A Eureka LUP Time Schedule



DRAFTIntroduction

The land use plan for the City of Eureka will identify specific land use policies to be applied to the various land use designations within the city. These policies and land use designations will provide a framework for implementing the land use plan in conformance with the requirements of the California Coastal Act of 1976. The different policies will need to be incorporated and various legal and administrative procedures added to the zoning ordinance to comply with the commission's Post Certification Rules and Regulations and other guidelines adopted by the commission. The work to be done in Phase III is listed below:

I. Zoning Districts

This category will involve four tasks which are important to the formation of the new zoning ordinance. This will include preparing a zoning map, revising the existing zoning ordinance, proposing new ordinance language to implement the policies contained in the land use plan, and preparing a definition section of the ordinance that contains various definitions consistent with those found in the Coastal Act.

- A. Zoning Map - The first task will be to prepare a new zoning map consistent with the land use plan map. This map would show the various zones within the city limits as well as the public access trails. Overlays would be prepared for public facilities, utilities, riparian, wetland and other buffers, and hazard areas.
- B. Revise Ordinances - The second task in this category will be to revise where necessary the wording in the existing zoning ordinance. This would involve changing the intent section of each zoning designation to be consistent with the wording contained in the certified land use plan for each land use designation, and changing the permitted uses currently allowed in each zoning designation. Alterations of the existing development standards may be necessary as a result of policies and/or recommendations contained in the Land Use Plan.
- C. New Zoning Designations - The third task will, where necessary, require the formation of new zoning designations consistent with the certified land use plan. These new zoning designations would be required where it is necessary to implement policies contained in the land use plan. A description of any new land use designations would be found in the land use plan, but a formal intent section would need to be written for the zoning ordinance that conforms to the land use plan intent. Densities, intensities, and development standards may need to be developed as a result of policies and/or recommendations contained in the Land Use Plan.
- D. Definitions - A glossary or definition section will need to be included in the ordinance(s) that is consistent with Coastal Act definitions. Examples of terms to be defined include, wetland, development, aggrieved person, etc.

II. Procedures Following Certification

This category would require inclusion of the Post Certification Rules and Regulations procedures into the ordinance(s). The Post Certification Rules and Regulations specify requirements for notice to the public for future developments requiring a coastal development permit, procedures for processing a coastal development permit, and describe the appeal area and appeal procedures.

- A. Public Notice - This task will involve incorporating the public notice procedures contained in the Post Certification Rules and Regulations prior to local actions on permits as well as public notice procedures following final actions of local governments on permits. There are approximately seven pages describing these procedures and requirements and it could be incorporated as an entire section within the ordinance.
- B. Procedures for Processing a Coastal Development Permit - This task is closely related to the previous task in that proper notice of pending or finalized permits is a critical part of the procedures necessary for the processing of a coastal development permit. However, the procedures involved in processing a coastal development permit include many other requirements and guidelines for such things as appeal procedures for the applicant as well as the aggrieved person.
- C. Appeal Area Map - This will require the reproduction or drafting of a map that delineates the appeal areas as described in the Post Certification Rules and Regulations and maps prepared by the State Commission.

III. Identification of Categorical Exemptions

Identify developments that are allowed by right and ministerial, for Commission consideration of categorical exclusions.

IV. Other Zoning/Regulatory Ordinances

This category would require the implementation of any recommended land use plan policies that would need to be included in the ordinance(s). This would include the policy groups addressed in the land use plan, and the tasks necessary to implement any recommended policies contained in the Land Use Plan.

V. Other Implementation Measures

This would include additional programs to implement the intent of the Land Use Plan and zoning ordinances. Examples may include a marsh restoration and enhancement program, construction of the waterfront esplanade, funding for an access signing program, development of bikeways, funding for beginning an ICP regulatory program including operation costs, etc.