

November 18, 2008 Regular Meeting

BENICIA CITY COUNCIL

REGULAR MEETING AGENDA

City Council Chambers

November 18, 2008

7:00 P.M.

Times set forth for the agenda items are estimates.

Items may be heard before or after the times designated.

I. CALL TO ORDER (7:00 P.M.):

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/APPOINTMENTS/ PRESENTATIONS/ PROCLAMATIONS:

A. ANNOUNCEMENTS:

1. Announcement of action taken at Closed Session, if any.

2. Openings on Boards and Commissions:

Sky Valley Open Space Committee:

One unexpired term to September 30, 2010

Civil Service Commission

One full term to January 31, 2012

Sky Valley Open Space Committee

One full term to January 31, 2013

Planning Commission

Two full terms to January 31, 2013

Open Government Commission

One full term to January 31, 2013

Library Board of Trustees

Two full terms to January 31, 2012

3. Mayor's Office Hours:

Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's Office of City Hall from 6:00 p.m. to 7:00 p.m. No appointment is necessary. Other meeting times may be scheduled through the City Hall office at 746-4200.

B. APPOINTMENTS:

C. PRESENTATIONS:

D. PROCLAMATIONS:

1. [National Family Caregivers Month – November 2008](#)

2. [Lung Cancer Awareness Month – November 2008](#)

V. ADOPTION OF AGENDA:

VI. OPPORTUNITY FOR PUBLIC COMMENT:

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council.

State law prohibits the City Council from responding to or acting upon matters not listed on the agenda.

Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

A. WRITTEN COMMENT

B. PUBLIC COMMENT

VII. CONSENT CALENDAR (7:20 P.M.):

Items listed on the Consent Calendar are considered routine and will be enacted, approved or adopted by one motion unless a request for removal or explanation is received from a Council Member, staff or member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

A. [Approval of Minutes of November 4, 2008.](#) (City Clerk)

B. [Denial of claim against the City by Gas City Fuels and referral to insurance carrier.](#) (City Attorney)

This claim is the result of the lawsuit filed by the family of Colene Maiden. Ms. Maiden was crossing the intersection at Columbus Parkway and Rose Drive, and was struck by an automobile. She subsequently died from the injuries she sustained. The family alleges that the accident was due to construction in the area of the intersection. The family has filed a lawsuit against Gas City Fuels, the City and DeSilva Gates Construction. Gas City Fuels, as the project applicant, is required to defend and indemnify the City since that was a requirement of the permit. Their claim is based on their belief that the intersection is owned, maintained and/or controlled by the City. The Council previously denied a claim by DeSilva Gates Construction the subcontractor hired by the owner of the property.

Recommendation: Deny the claim against the City by Gas City Fuels.

C. [Denial of claim against the City by Jose Fraser and referral to insurance carrier.](#) (City Attorney)

This claim is for an illegal arrest, illegal search and seizure of growing medical marijuana, and police mistreatment. Staff has confirmed that the search and seizure, in addition to the arrest of Fraser, met the minimum requirements of the law and department policy was followed while Fraser was in police custody.

Recommendation: Deny the claim against the City by Jose Fraser.

D. [Denial of claim against the City by Shari Totten-Walch and Referral to insurance carrier.](#) (City Attorney)

This claim is due to a trip and fall in the curb or gutter in the street in front of 590 East J Street. A review of the location shows that the curb and gutter are uplifted by private tree roots. The standards for offsets are different for curbs and gutters than for a sidewalk.

Recommendation: Deny the claim against the City by Shari Totten-Walch.

E. [Approve an increase in the solid waste fee to cover an increase in County Local Enforcement Agency \(LEA\) fees.](#) (Fire Chief)

Allied Waste Services who is our contracted waste service company is requesting an increase in fees to cover the additional cost of the LEA fee. The current fee charged to customers is \$.11 and they are requesting an additional 3-cent increase to \$.14 per month.

Recommendation: Adopt the resolution to increase fees paid by residents to Allied Waste Services for fees collected to cover an increase in fees paid to Solano County for the Local Enforcement Agency (LEA). The fees will go from \$.11 to \$.14 effective December 1, 2008.

F. [Approve amendment to the lease between the City of Benicia and Benicia Main Street.](#) (Interim Economic Development Manager)

The City of Benicia owns the Southern Pacific Depot building at 90 First Street, which was leased to the nonprofit organization Benicia Main Street (BMS) in 2002 for a 10-year term. In January of this year, BMS requested rent forgiveness for all of calendar years 2008 and 2009 in order to allow it to grow a new signature event to replace the Waterfront Festival, which was the organization's largest fundraiser. At its meeting of February 19, 2008 the City Council partially approved this request and forgave the base rent payments due for the remainder of 2008, from March 15, 2008 through January 14, 2009, for a total of \$18,000. If the City Council approves this request to forgive BMS' base rent for 2009, there would be a loss of \$24,600 in revenue to the Southern Pacific Depot account. These funds are reserved exclusively for maintenance and improvements to the Depot and are not used for general City operations.

Recommendation: Approve a lease amendment that provides for rent forgiveness for Benicia Main Street at the Southern Pacific Depot for twelve months, from January 15, 2009 through January 14, 2010.

G. Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.

VIII. PUBLIC HEARINGS:

A public hearing should not exceed one hour in length. To maximize public participation, the council requests that speakers be concise and avoid repetition of the remarks of prior speakers. Instead, please simply state whether you agree with prior speakers.

IX. ACTION ITEMS (7:30 P.M.):

A. [Acceptance of the Housing Expo Report and preliminary strategies for the Housing Element Update.](#) (Community Development Director)

The Housing Element Update began in July 2008 with Council approval to contract with Lisa Wise Consulting. Since then, staff and the consultant have been working together to evaluate the existing Housing Element and the local housing supply, engage the public, inventory vacant and underutilized sites, and assess constraints to the production of housing, as required by the State. The Benicia Housing Expo began the civic engagement process for the Housing Element update. On October 3 and 4, citizens contributed their ideas for how the City should address housing needs through the year 2014. The Housing Expo report presents the outcomes of this citizen participation effort and highlights some preliminary strategies for the Housing Element update.

Recommendation: Accept a report on the Benicia Housing Expo, including preliminary strategies for the Housing Element update, and provide comment and direction for staff to incorporate into the Draft Housing Element.

B. Benicia Business Park rezoning, master plan overlay, vesting tentative map and addendum. (Community Development Director) – Continued from October 21, 2008 City Council Meeting

At its October 21 meeting, the City Council continued this item to November 18 "to allow time for additional public review of proposed project mitigation measures and conditions (including items in the Supplemental Transportation Assessment) and to allow the applicant to consider and agree to additional requirements of the Council to allow the project to be approved." The approved motion called for a facilitated workshop prior to November 18; however, Council Member availability did not allow scheduling of a workshop that all five Members could attend. On October 7, 2008, Council voted not to adopt the Environmental Impact Report (EIR) Addendum, Findings, and Statement of Overriding Considerations (for air quality impacts) for the project. If the item is not continued, Council will need to approve or deny the project (per California Government Code Section 66452.2), and resolutions are provided to allow final action. Also provided is a Health Risk Assessment for students and staff at Robert Semple Elementary School that was prepared by LSA Associates for discussion at a facilitated workshop.

Recommendation: Continue the item to allow for a facilitated public workshop (as approved by Council at its October 21, 2008 meeting and agreed to by the applicant in a letter of October 30, 2008).

X. INFORMATIONAL ITEMS (9:30 P.M.):

A. Council Member Committee Reports:

(Council Members serve on various internal and external committees on behalf of the City. Current agendas, minutes and meeting schedules, as available, from these various committees are included in the agenda packet. Oral reports by Council Members are made only by exception.)

1. Mayor's Committee Meeting. (Mayor Patterson)

Next Meeting Date: November 19, 2008

2. Association of Bay Area Governments. (ABAG) (Mayor Patterson & Vice Mayor Campbell)

Next Meeting Date: April 23, 2009

3. Audit & Finance Committee. (Vice Mayor Campbell & Council Member Schwartzman)

Next Meeting Date: December 5, 2008

4. League of California Cities. (Mayor Patterson & Council Member Schwartzman)

Next Meeting Date: November 19, 2008 – Legislative Briefings

5. School Liaison Committee. (Council Members Ioakimedes & Hughes)

Next Meeting Date: March 12, 2009

6. Sky Valley Open Space Committee. (Vice Mayor Campbell & Council Member Ioakimedes)

Next Meeting Date: February 4, 2009

7. Solano EDC Board of Directors. (Mayor Patterson & Council Member Ioakimedes)

Next Meeting Date: December 11, 2008

8. Solano Transportation Authority (STA). (Mayor Patterson & Council Member Schwartzman)

Next Meeting Date: December 10, 2008

9. Solano Water Authority/Solano County Water Agency and Delta Committee. (Mayor Patterson & Vice Mayor Campbell)

Next Meeting Date: December 11, 2008

10. Traffic, Pedestrian and Bicycle Safety Committee. (Vice Mayor Campbell & Council Member Hughes)

Next Meeting Date: To be determined

11. Tri-City and County Regional Parks and Open Space. (Vice Mayor Campbell & Council Member Hughes)

Next Meeting Date: December 8, 2008

12. Valero Community Advisory Panel (CAP). (Council Member Hughes)

Next Meeting Date: To be determined

13. Youth Action Coalition. (Council Members Ioakimedes & Schwartzman)

Next Meeting Date: December 3, 2008

14. ABAG/CAL FED Task Force/Bay Area Water Forum. (Mayor Patterson)

Next Meeting Date: November 24, 2008

XI. COUNCIL MEMBER REPORTS (9:35 P.M.):

A. [Request to agendize the discussion of the need for an ordinance regarding amending development agreement ordinance.](#) (Mayor Patterson)

Existing city ordinance permissively allows development agreements. This request is to require vesting tentative maps, master plan and/or rezoning for greater than 40 acres (per BMC 17.68.020) to execute development agreements prior to entitlements.

Recommendation: Consider agendizing for a future City Council meeting.

B. [Request to agendize the discussion of vesting tentative map application amendment.](#) (Mayor Patterson)

This item is to amend existing subject procedures to add the requirement for City Council approval of vesting tentative map application to deem application complete.

Recommendation: Consider agendizing for a future City Council meeting.

XII. ADJOURNMENT (9:45 P.M.):

Public Participation

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on non-agendized matters under public comment, and on agendized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than five minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

Should you have material you wish to enter into the record, please submit it to the City Manager.

Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Valerie Ruxton, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Meeting Procedures

All items listed on this agenda are for Council discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council.

Pursuant to Government Code Section 65009, if you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. You may also be limited by the ninety (90) day statute of limitations in which to challenge in court certain administrative decisions and orders (Code of Civil Procedure 1094.6) to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

The decision of the City Council is final as of the date of its decision unless judicial review is initiated pursuant to California Code of Civil Procedures Section 1094.5. Any such petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6.

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council.

 [IV-D-1 Proclamation.pdf](#)

 [IV-D-2 Proclamation.pdf](#)

 [VII-A Minutes.pdf](#)

 [VII-B Denial of Claim.pdf](#)

 [VII-C Denial of Claim.pdf](#)

 [VII-D Denial of Claim.pdf](#)

 [VII-E Solid Waste Fee Increase.pdf](#)

 [VII-F Main Street Lease.pdf](#)

 [IX-A Housing Element Update.pdf](#)

 [IX-B Benicia Business Park.pdf](#)

 [X-A Council Committee Reports.pdf](#)

 [XI-A Request to Agendize.pdf](#)

 [XI-B Request to Agendize.pdf](#)



PROCLAMATION

NATIONAL FAMILY CAREGIVERS MONTH

NOVEMBER 2008

WHEREAS, during this season of thanksgiving, as we pause to reflect on the many blessings that have been bestowed on us as individuals and as a city, we are especially grateful for the love of our families and friends. One of the most profound ways in which that love is expressed is through the generous support provided by family caregivers to loved ones who are chronically ill, elderly or disabled. Caregivers reflect family and community life at its best. They are among Benicia's most important natural resources; and

WHEREAS, the need for family caregivers is growing. We are blessed to live in a time when medicine and technology have helped us live longer. As a result, persons with disabilities are living longer and people over 85 are the fastest growing segment of our population; and

WHEREAS, family caregivers deserve our lasting gratitude and respect. This month, as we honor the many contributions that family caregivers make to the quality of our national life, let us resolve to work through our community, health care, religious, social, business and other organizations to offer programs and services that will provide caregivers the support and encouragement they need to carry out their vital responsibilities.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia, on behalf of the City Council, do hereby proclaim November 2008 as National Family Caregivers Month.

Elizabeth Patterson, Mayor
November 18, 2008



IV-D-1-1



PROCLAMATION

LUNG CANCER AWARENESS MONTH

NOVEMBER 2008

WHEREAS, lung cancer is the leading cause of cancer death in both men and women in the United States and the World; and

WHEREAS, more than half of newly diagnosed cases this year will be found in people who no longer smoke or have never smoked, and

WHEREAS, there is a great need for vast improvement in the rate of early detection of lung cancer to increase prompt treatment; and

WHEREAS, early detection and treatment increases the cure and survival rate among both men and women; and

WHEREAS, lung cancer kills more people annually than breast, colon, liver, melanoma and prostate cancers combined. Only 15% of individuals with lung cancer survive more than five years; and

WHEREAS, other cancer deaths have declined in recent years, lung cancer is still on the rise, more research and early detection is needed for this number one cancer killer so that it can be eradicated and a cure found quickly.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia, on behalf of the City Council, do hereby recognize the need to increase the awareness of lung cancer in our communities and hereby proclaim November 2008 as Lung Cancer Awareness Month.



Elizabeth Patterson, Mayor
November 18, 2008

IV-D-2-1

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
NOVEMBER 4, 2008

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:00 p.m. on Tuesday, November 4, 2008, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Absent: None

PLEDGE OF ALLEGIANCE:

Police Chief Spagnoli led the pledge to the flag.

FUNDAMENTAL RIGHTS:

A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Council Chambers per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Action taken at Closed Session:

Openings on Boards and Commissions:

- Sky Valley Open Space Committee:
One unexpired term to September 30, 2010
- Economic Development Board
One full term to July 31, 2012
- Human Services & Arts Board
One unexpired term to July 31, 2009
- Civil Service Commission
One full term to January 31, 2012
- Sky Valley Open Space Committee
One full term to January 31, 2013
- Planning Commission
Two full terms to January 31, 2013
- Open Government Commission
One full term to January 31, 2013
- Library Board of Trustees
Two full terms to January 31, 2012

APPOINTMENTS:

None

PRESENTATIONS:

None

PROCLAMATIONS:

None

ADOPTION OF AGENDA:

Mr. Erickson stated that there was an issue with item X-A. There an apparent inconsistency between the title and the material that it covers.

Mr. Steven Mattas, Special Council, stated that the Brown Act requires Council to advise public of the general nature of the item. The title is one item and the substance is another item. If Council wishes to engage in a discussion about expenditure limits, which is within the scope of what the public thought would be on the agenda. Council could carry the whole item forward to another meeting if it wished, and have it agendized so that it encompasses the whole scope of what Council wants to discuss.

Vice Mayor Campbell discussed the vote that was read at the 4/15/08 meeting. It reads 'additions to, and including recusal and financial disclosure.' The way the motion was listed, does not preclude from talking about any other topic Council might want to talk about.

Council Member Hughes referenced Council's discussion that took place on this item in February 2008. Contributions and expenditures were talked about separately. The expenditure item got enough votes and the contributions item did not. It is clear that it was intended to be dropped from the priority list. The issue has been discussed several times.

Mayor Patterson suggested agendizing the item as the contents that would be discussed. That way, the public could participate. There was low attendance tonight due to the election. Council ought to engage the public on this discussion.

Council Member Hughes clarified that Council had already engaged the public. Council decided to drop the contribution issue via a majority vote. Nothing has changed since then. He could understand (having a discussion on) the expenditure issue, but not the contribution issue.

Vice Mayor Campbell discussed how other cities have had two contribution limits.

Council Member Schwartzman discussed his desire not to get into a debate tonight, the lack of information in the report regarding the expenditure issue, the substance in the report not matching the title, previous votes taken on the issue, and Council's ability to talk about the expenditure issue at another meeting.

Mayor Patterson directed Mr. Mattas to work with Staff to title the item as review of voluntary campaign expenditure limits, with approaches that include examples from

Oakland (as suggested by Campbell). She would need a motion to continue this item for proper listing.

Council discussed whether Council Members were able to provide input on the specific direction to Staff, Mayor Patterson's desire for Council to work collegially on this so it could move forward, Council Member Schwartzman's suggestion that the Mayor direct Staff to talk about expenditures without adding anything else in there, Mayor Patterson's thought that it is prudent to say that there is an approach that deals with expenditures and also discusses contributions, the need to follow the two-step process, not discussing this issue unless it has enough votes, and clarification on the intent of the proposed ordinance.

Council agreed to continue this item to a future meeting.

On motion of Council Member Hughes, seconded by Council Member Ioakimedes, the Agenda was adopted as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, and Mayor Patterson

Noes: Council Member Schwartzman

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

PUBLIC COMMENT:

1. Vice Mayor Campbell – Vice Mayor Campbell discussed concerns regarding the process for the subcommittee interviews for board and commission appointments. He was not sure why Council needed to agendaize this issue again.
2. Rick Ernst – Mr. Ernst discussed the upcoming Planning Commission meeting where the adult business ordinance will be discussed. The meeting will be on 11/6/08.

CONSENT CALENDAR:

Council pulled items VII-E.

On motion of council Member Schwartzman, seconded by Council Member Hughes, the Consent Calendar was adopted as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

The Minutes of October 7, 2008 and October 21, 2008 were approved.

RESOLUTION 08-111 - A RESOLUTION APPROVING A GRANT OF EASEMENT AND MAINTENANCE AGREEMENT WITH THE STATE OF CALIFORNIA FOR A TRAIL CONNECTOR FROM THE STATE PARK ROAD BIKE/PEDESTRIAN BRIDGE PROJECT TO THE BENICIA STATE RECREATION AREA

RESOLUTION 08-112 - A RESOLUTION REQUESTING THE METROPOLITAN

TRANSPORTATION COMMISSION ALLOCATE \$271,000 IN TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN/BICYCLE FUNDING FOR THE STATE PARK ROAD BIKE/PEDESTRIAN BRIDGE PROJECT FOR FISCAL YEAR 2008/2009

RESOLUTION 08-113 - A RESOLUTION AUTHORIZING THE PURCHASE OF THREE REPLACEMENT NEUROS TURBO BLOWERS FOR THE WASTEWATER TREATMENT PLANT FROM APG-NEUROS INC. IN THE AMOUNT OF \$265,341.81

RESOLUTION 08-114 - A RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS & COMMUNITY SERVICE TO EXECUTE, ON BEHALF OF THE CITY, CONTRACT CHANGE ORDERS WITH PACIFIC COAST RECONSTRUCTION & BUILDING INC. FOR THE COMMANDING OFFICER'S QUARTERS REHABILITATION PROJECT, AFFIRMING STAFF-AUTHORIZED MODIFICATION COSTS, APPROPRIATING \$103,270 FROM THE PROJECT CONTINGENCY AND TRANSFERRING \$100,000 FROM CITY HALL NON-STRUCTURAL IMPROVEMENTS PROJECT FACILITY MAINTENANCE FUND TO THE COMMANDING OFFICER'S QUARTERS REHABILITATION PROJECT FUND

Council approved the investment report for the quarter ended June 2008.

Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.

(END OF CONSENT CALENDAR)

Council took the following actions:

Second reading and adoption of an ordinance amending Title 8 (Health and Safety) of the Municipal Code to add a new Chapter 8.46 (Foreclosed Properties):

Council Member Schwartzman discussed the need for more teeth and clarity in the ordinance.

Council and Staff discussed whether or not the suggested changes would require this item to be re-introduced as a new ordinance, the process for the proposed fines, the need to get this ordinance right, the need to close any possible loopholes, that the ordinance implements the state law provisions, how some cities have expanded on the state law provisions, registration requirements, how some cities have expanded the regulations, the process for imposing fines, and the registration process.

Council and Staff discussed reintroducing the ordinance on 11/18/08, the possibility that there could be a lot of public testimony on the item, the 11/18/08 agenda being full, the possibility of adding registration requirements and putting it back on the consent calendar, Council Member Schwartzman's offer to gather information on this and get it to Staff so they could do a concise report and reintroduce it on 11/18, and possibly adding a few other things he could do to make the ordinance stronger.

Mayor Patterson directed Staff to look at the registration and utilities issues, and bring it back for reintroduction on 11/18/08.

Public Comment:

1. Rick Ernst – Mr. Ernst discussed the current process for foreclosed properties. He also discussed trustee sales.

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, Council approved continuing this item to the 11/18/08 Council meeting, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

PUBLIC HEARINGS:

None

ACTION ITEMS:

Approval of AT&T Permit Application and Review Process for U-Verse Service (Project Lightspeed):

Dan Schiada, Public Works Director, reviewed the staff report. He reviewed the questions submitted to AT&T via email (copy on file).

Council Member Hughes and Staff discussed what discretion the City had with allowing AT&T to install cabinets, current State regulations regarding the installation of such equipment, AT&T's right to place the facilities, the need to provide the possibility for use, what staff has proposed being within the scope of Council's authority, but a prohibition would not be within Council's authority.

Council Member Ioakimedes disclosed ex parte communications. He discussed aerial facilities, above ground facilities, and current Benicia Municipal Code relating to the proposed project.

Applicant:

Will Rigney, Director of External Affairs, AT&T, discussed the benefits of the Lightspeed Initiative Project. He discussed the broadband needs of the Benicia Industrial Park. AT&T completed a comprehensive survey on the Benicia Industrial Park and conveyed results to the City, BIPA, and the Benicia Chamber of Commerce. Mr. Rigney discussed the process and highlights of the survey.

Council, Staff, and Mr. Rigney discussed communications AT&T has had with Chamber and BIPA, as well as others, and the fact that Council did not receive the map showing the locations of the 60 boxes. It was clarified that AT&T provided City Staff with the map, but the map was not forwarded to Council. Staff will ensure Council receives copies of the map in question. Council disclosed ex parte communications on this issue, the cost

of installing T1 lines, the need for a better level of comfort on zero compliance, and AT&T's customer notification process.

Public Comment:

1. Susan McKane – Ms. McKane spoke in support of the proposed permit application.
2. Mike Hogan – Mr. Hogan spoke in support of the proposed permit application.
3. Eldon Peterson – Mr. Peterson spoke in opposition to the proposed permit application. He discussed concerns regarding the cost of T1 lines in the Benicia Industrial Park, and concerns regarding the survey AT&T completed in the Benicia Industrial Park. He requested this item be continued to a future meeting so more information could be gathered.
4. Kevin Cullen – Mr. Cullen spoke in opposition to the proposed permit application. He discussed his desire for requiring AT&T to integrate the new boxes into the local landscape.
5. Rick Ernst – Mr. Ernst discussed having the local AT&T representative's contact information being supplied to the Benicia Chamber of Commerce, questions on the provisions in the contract regarding use permits, and concerns regarding DSL service in the Benicia Industrial Park. He would like this item continued for further information.

Mayor Patterson and Staff discussed the CEQA issue regarding the Historic District, the noise issue, solutions and mitigation measures that could be utilized that are not in the report, questions on under grounding the equipment, the assertion that AT&T's legal staff made regarding the application of the City's ordinance and the need for the City to have a carefully written response to that, painting the cabinets, and having a condition of the project for the demolition and removal of the cabinets in the event that technology changes.

Mayor Patterson and Staff discussed the economic development for the Benicia Industrial Park, and the need for the highest level of technology service. Mayor Patterson would like Staff to work with AT&T to come up with some strategy, and come back to Council. It might be that AT&T provides some technical assistance or some implementation for that. She would like Staff to have that conversation before this comes back. She discussed the Streamline Act, and the need to act on the encroachment permit in a timely manner. The City needs to approve the process before it formalizes the applications.

Council Member Schwartzman and Staff discussed the amount of boxes that would be going in the Historic District (no answer at this time), and the availability of local government access channels with the proposed changes. He would like more information on how we can help businesses in the Benicia Industrial Park.

Council Member Ioakimedes and Staff discussed the community's susceptibility to accommodate the new technology, and the need to be proactive to deal with this issue in the future.

Mr. Erickson discussed Staff's recommendation for approval of this process, the issue of a needs assessment and master plan for service in the Benicia Industrial Park, having that go beyond AT&T (it should apply to all service providers), and that the business park service should not tie into the proposed application.

Council Member Hughes discussed the benefits of technology, competition being good, and the need to remember that tonight is about the process, not the end game.

Vice Mayor Campbell suggested trying out ten boxes to see how it goes.

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, Council continued this item to a future meeting, on roll call by the following vote:
Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson
Noes: None

INFORMATIONAL ITEMS:

Review of Voluntary Campaign Expenditure Limits:
Continued

COUNCIL MEMBER REPORTS:

Request to agendize a discussion of First Street sidewalk cleaning during the summer months by the Public Works Department:

Due to a conflict of interest, Council Members Campbell, Ioakimedes, and Schwartzman drew cards to see who would be allowed to participate in the discussion. Vice Mayor Campbell drew the highest card. Council Members Ioakimedes and Schwartzman recused themselves.

Vice Mayor Campbell reviewed the Council report.

Public Comment:

Eldon Peterson – Mr. Peterson discussed inquires he made to various vendors on this issue. He spoke in favor of the City cleaning the sidewalks during the summer months. Main Street was looking at vendors for this issue. They will submit a report on their findings to the City in a month.

On motion of Vice Mayor Campbell, seconded by Council Member Hughes, Council approved bringing this item back for discussion at a future meeting, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, and Mayor Patterson
Noes: None
Abstain: Council Members Ioakimedes and Schwartzman

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 9:20 p.m.

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 4, 2008
CONSENT CALENDAR

DATE : October 16, 2008

TO : City Council

FROM : City Attorney

SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY GAS CITY FUELS AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by Gas City Fuels.

EXECUTIVE SUMMARY:

This claim is the result of the lawsuit filed by the family of Colene Maiden. Ms. Maiden was crossing the intersection at Columbus Parkway and Rose Drive, and was struck by an automobile. She subsequently died from the injuries she sustained. The family alleges that the accident was due to construction in the area of the intersection. The family has filed a lawsuit against Gas City Fuels, the City and DeSilva Gates Construction. Gas City Fuels, as the project applicant, is required to defend and indemnify the City since that was a requirement of the permit. Their claim is based on their belief that the intersection is owned, maintained and/or controlled by the City. The Council previously denied a claim by DeSilva Gates Construction the subcontractor hired by the owner of the property.

BUDGET INFORMATION:

The amount of the claim is unknown.

BACKGROUND:

Upon rejection of the claim, the City Clerk should issue a rejection notice using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with the proof of service by mail form (located in the forms directory). A copy of the rejection notice and proof of service by mail form should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney.

Attachment:

- Copy of Claim Filed Against the City

CLAIM AGAINST THE CITY

1 RANDAL M. BARNUM (SBN: 111287)
ELIZABETH J. BOCA (SBN: 255719)
2 LAW OFFICES OF RANDAL M. BARNUM
279 East H Street
3 Benicia, CA 94510
Phone: 707/745-3747
4 Fax No: 707/745-4580

5 Attorney for Defendant/Claimant
Gas City Fuels, LLC
6
7

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SOLANO
10 (UNLIMITED CIVIL ACTION)

11 THERESA MARICICH, JOHN
MAIDEN and JAMES MAIDEN,
12 individually; and MELISSA KIZER,
as Administrator and Personal
13 Representative of the Estate of
COLENE MAIDEN, deceased,

14 Plaintiffs,

15 vs.

16 DESILVA GATES CONSTRUCTION,
17 L.P.; CITY OF BENICIA, DIRK A.
FULTON; BECKY J. KUKKOLA;
18 ALBERT C. MONTOYA; GAS CITY
FUELS, LLC; LONGS DRUGS
19 STORES CA, INC.,

20 Defendants.
21

Case No. FCS 031343

DEFENDANT/CLAIMANT GAS CITY
FUELS, LLC'S CLAIM FOR
INDEMNITY TO GOVERNMENTAL/
PUBLIC ENTITY PURSUANT TO
GOVERNMENT CODE SECTION 910,
ET SEQ.

Action Filed: April 20, 2008
Trial Date: None

22 TO: THE CITY OF BENICIA

23 Defendant/Claimant GAS CITY FUELS, LLC hereby makes a claim against the CITY
24 OF BENICIA and makes the following statement in support of its claim:

- 25 1. Date of Service of Complaint: On or about August 3, 2008.
26 2. Defendant/Claimant's Place of Business

27 555 First Street, Suite 303
Benicia, CA 94510
28

VII-B-3

1 3. All notices or other communications concerning this claim should be sent to:
2 Randal M. Barnum
3 Law Offices of Randal M. Barnum
4 279 East H Street
5 Benicia, CA 94510
6 Telephone: (707) 745-3747
7 Facsimile: (707) 745-4580

8 4. The circumstances giving rise to this action are as follows:
9 On or about August 3, 2008, GAS CITY FUELS, LLC was served with Summons and
10 Complaint filed by Theresa Maricich, et al, in the matter of Theresa Maricich, et al v.
11 DeSilva Gates Construction, L.P., et al. A copy of that Complaint was previously served on
12 the City of Benicia and is incorporated by reference herein. The statements and allegations
13 contained in the Complaint for Damages against the governmental entity are incorporated by
14 reference herein for purpose of setting forth the circumstances of this occurrence.

15 5. GAS CITY FUELS, LLC is informed and believes and thereon alleges that the
16 intersection of Columbus Parkway and Rose Drive in the City of Benicia where the
17 Plaintiffs' decedent was struck by a vehicle is owned, maintained and/or controlled by the
18 City of Benicia.

19 6. GAS CITY FUELS, LLC contends that it is entitled to equitable indemnity,
20 total indemnity, and contribution under the principles of California law as a result of the acts
21 of the City of Benicia including its control, ownership and/or maintenance of a dangerous
22 condition. GAS CITY FUELS, LLC cannot state with specificity the damages it has
23 sustained or may sustain as a result of the conduct set forth above.

24 7. GAS CITY FUELS, LLC cannot identify the names of the public employees
25 who are responsible for or contributed to the circumstances of this litigation.

26 8. Jurisdiction over this claim rests in the Superior Court of the County of Solano.

27 Dated: October 6, 2008

Law Offices of Randal M. Barnum

28 By: 
Randal M. Barnum, Attorneys for Defendant/
Claimant GAS CITY FUELS, LLC

VII-B-4

1 PROOF OF SERVICE BY MAIL - C.C.P. 1013a, 2015.5

2 I declare that:

3 I am employed in Solano County, California. I am over the age of eighteen years and
4 not a party to the above entitled cause; my business address is 279 East H Street, Benicia,
5 California 94510. On October 6, 2008 I served the following:

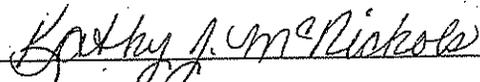
6 DEFENDANT/CLAIMANT GAS CITY FUELS, LLC'S CLAIM
7 FOR INDEMNITY TO GOVERNMENTAL/PUBLIC ENTITY
PURSUANT TO GOVERNMENT CODE SECTION 910, ET SEQ.

8 on the interested parties in said cause, by placing a copy thereof enclosed in a sealed
9 envelope with postage thereon fully prepaid, and mailed in accordance with ordinary
10 business practices, or by facsimile or personal service, as follows:

11 FIRST CLASS MAIL

12 KELLI GEORGE
13 SELMAN BREITMAN, LLP
33 NEW MONTGOMERY, SIXTH FLOOR
SAN FRANCISCO, CA 94105

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct, and that this declaration was executed on October 6, 2008 at
16 Benicia, California.
17

18 
19 _____
20 KATHY J. McNICHOLS
21
22
23
24
25
26
27
28

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
CONSENT CALENDAR

DATE : October 27, 2008
TO : City Council
FROM : City Attorney
SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY JOSE FRASER AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by Jose Fraser.

EXECUTIVE SUMMARY:

This claim is for an illegal arrest, illegal search and seizure of growing medical marijuana, and police mistreatment. Staff has confirmed that the search and seizure, in addition to the arrest of Fraser, met the minimum requirements of the law and department policy was followed while Fraser was in police custody.

STRATEGIC PLAN:

N/A – there is not a relevant Strategic Plan Goal that relates to this agenda item.

BUDGET INFORMATION:

The amount of the claim is unknown.

BACKGROUND:

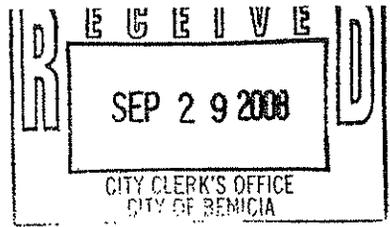
Upon rejection of the claim, the City Clerk should issue a rejection notice using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with the proof of service by mail form (located in the forms directory). A copy of the rejection notice and proof of service by mail form should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney.

Attachment:

- Copy of Claim Filed Against the City

CLAIM AGAINST THE CITY

CLAIM AGAINST THE CITY OF BENICIA



Please return to the City Clerk, 250 East L Street, Benicia, CA 94510

Complete the following, adding additional sheets as necessary.

- 1. CLAIMANT'S NAME (Print): JOSE ANDRES GIANDINOTO FRASER
- 2. CLAIMANT'S ADDRESS: 521 1/2 EAST J ST.
(Street or P.O. Box Number, City, State, Zip Code)

HOME PHONE: 707 655 5701 WORK PHONE: _____

- 3. AMOUNT OF CLAIM: \$ UNKNOWN PRESENTLY (Attach copies of bills/estimates)

If amount claimed is more than \$10,000, indicate where jurisdiction rests:
Limited Civil Case _____
Unlimited Civil Case ✓

- 4. Address to which notices are to be sent, if different from lines 1 and 2 (Print):
BENICIA POLICE DEPT.
(Name)
200 EAST L ST., BENICIA CA 945
(Street or P.O. Box Number, City, State, Zip Code)

- 5. DATE OF INCIDENT: SEPT. 21, 2008 TIME OF INCIDENT: 4:30 AM - 1:22 AM
LOCATION OF INCIDENT: 521 EAST J ST, BENICIA CA 94510

- 6. Describe the incident or accident including your reason for believing that the City is liable for your damages: SEE ATTACHED

- 7. Describe all damages which you believe you have incurred as a result of the incident:
4 MATURE MARIJUANA PLANTS 1 BAG POPPY SEED
1 BROKEN DRAWER
1 BROKEN DOOR
LASER FLASHLIGHT
ROUGHLY 100 MARIJUANA SEEDS
SEE ATTACHED PROPERTY REPORT
- 8. Names of public employee(s) causing the damages you are claiming:
UNKNOWN MEMBERS OF B.P.D. HARTIG, HASSLER

6333 \$
BAIL COST

Jose Giandinoto
Signature of Claimant 9/23/08
Date

Any person who, with intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both.

Note: YOU must file a claim in compliance with Government Code Section 911.2.

(revised 12/18/02)

SEE CITY OF GARDEN GROVE VS.
SUPERIOR COURT OF ORANGE CO (AKA KAH. DECISION)
& THE PEOPLE VS. KELLY VII-C-3

TO WHOME IT MAY CONCERN,
ON SEPT. 22, 2008 @ APROX 4:30 AM, I,
JOSE GRANDINOTO, HEARD A LOUD BANGING ON MY
WINDOW & FRONT DOOR. I WOKE UP TO SEE
FLASHLIGHTS SHINING THROUGH MY FRONT &
KITCHEN WINDOW & THE BANGING OF MY FRONT
DOOR CONTINUED. I OPENED MY FRONT WINDOW BLINDS
TO FIND TWO UNIFORMED BENICIA POLICE OFFICERS.
I ASKED THEM "WHAT'S GOING ON?" THEY REPLIED,
"THERE'S BEEN A NOISE COMPLAINT IS EVERYONE
O.K.," I TOLD THEM THAT "I APOLOGIZE FOR
THE INCONVENIENCE & THAT ME & 2 GUEST
WERE INTOXICATED & THAT WE HAD ALREADY
GONE TO SLEEP. WHEN I SAID THIS, THE POLICE
OFFICER SAID "JOSE, WE KNOW YOUR A PROP 215
CARD HOLDER & WE ARE NOT HERE FOR YOUR
MARIJUANA WE ARE JUST INVESTIGATING A
DOMESTIC DISPUTE CALL." I SAID "I THAUGHT
YOU JUST SAID YOU WERE HERE FOR A NOISE
COMPLAINT" HE SAID "WHERE IS YOUR GIRLFRIEND,
WE KNOW YOU HAVE A GIRLFREIND," I TOLD HIM,
"MY GIRLFREIND & I BROKE UP & SHE MOVED
THE LAST OF HER POSSESSIONS OUT OF HERE
OVER 3 WEEKS AGO & HAVE NOT SEEN HER
SINCE. YOU CAN CLEARLY SEE THAT WE WERE
ALL ASLEEP WHEN YOU ARRIVED & WE ARE
INTOXICATED & ARE GOING TO BED. I AGAIN
APOLOGIZE FOR ANY INCONVENIENCE THIS MAY
HAVE CAUSED YOU OR THIS NEIGHBORHOOD, BUT
YOU CAN CLEARLY SEE NOTHING IS GOING ON
& WE ARE ALL GOING BACK TO BED." THE

POLICE OFFICER THEN SAID "O.K. YOU WANNA PLAY THAT GAME. WE'LL JUST GET A SEARCH WARRANT & FORCE YOU TO COOPERATE." I TOLD HIM "SIR, I AM UNDER NO LEGAL OBLIGATION TO OPEN THIS DOOR TO YOU, MORE HAVE I COMMITTED ANY CRIME. YOU CAN CLEARLY SEE THAT ME & MY GUESTS (AT THIS TIME WE WERE ALL STANDING IN PLAIN VIEW OF THE OFFICER) ARE ALL JUST FINE & YOUR ASSISTANCE IS NOT NEEDED. I ALSO WANT TO LET YOU KNOW THAT YOU ARE BEING AUDIO & VISUALLY RECORDED & THAT I SUGGEST YOU STOP HARASSING ME & MY GUESTS & GO AWAY." AT THAT POINT I LOCKED THE FRONT DOOR SHUT ALL OF MY WINDOWS & BLINDS & ~~W~~ ATTEMPTED TO GO BACK TO SLEEP. THE POLICE KEPT SHOUTING, BANGING ON ALL OF THE WINDOWS OF THE HOUSE, & SHINING THEIR FLASHLIGHTS IN ALL OF THE WINDOWS OF THE HOUSE FOR ABOUT 1 1/2 HOURS. UPON WAKING BACK UP @ ABOUT 8:15 AM I LOOKED OUT OF THE KITCHEN WINDOW ABOVE MY SINK TO FIND ANOTHER BENICIA POLICE OFFICER CROUCHING BEHIND MY TRUCK, POINTING A 9MM PISTOL AT ME. I OPENED THAT WINDOW & SAID "SIR, THIS IS HARASSMENT & YOU NEED TO LEAVE IMMEDIATELY. YOU HAVE NO RIGHT TO BE HERE." WHEN I OPENED THE FRONT WINDOW OF MY HOUSE I SAW 3 OR 4 POLICE OFFICERS ALL AIMING SEMI-AUTOMATIC .223 CAL. ASSAULT RIFLES AT MY FACE & CHEST. THEY ~~SAID~~ ^{SCREAMED} "COME OUT

WITH YOUR HANDS UP!" I IMMEDIATELY PUT BOWTIE
OF MY HANDS UP & SAID, "I AM A REGISTERED
FIREARMS OWNER & AM GOING TO DISARM MY
WEAPONS ~~AT MY~~ LOCATED IN MY BEDROOM, SAFELY
PUT THEM AWAY, & COME OUT, PIECEBLY WITH
MY HANDS UP." UPON OPENING THE DOOR I
SAID "PLEASE DONT SHOOT ME, MY FREINDS OR
MY DOG. MY DOG IS ECITED RIGHT NOW BUT
HE MEANS NO HARM & WILL NOT BITE
ANYONE." I ASKED THEM WHAT I SHOULD DO
NEXT & THEY SAID "PLACE YOUR HANDS ON TOP
OF YOUR HEAD, ^{SCREAMED} TURN AROUN FACING AWAY &
SLOWLY WALK BACKWARDS!" AT LEAST 4 OFFICERS
CONTINUED TO POINT THIER ASSAULT RIFELS
DIRECTLY AT MY FACE WHILE I WAS PEACEABLE
& COMPLIANT. AS I WALKED TOWARDS THE POLICE
WHO WERE SHOUTING THE COMMANDS, I BEGGED THEM
NOT TO HARM MY DOG AS HE IS A RED
NOSE STAFFORDSHIRE TERRIOR WHO IS VERY DOSILE
AND WILL NOT BITE ANY ONE OR ANYTHING.
I WAS TREMBELING OF FEAR FOR MY LIFE,
IF ONE POLICEMAN ACCIDENTLY SNEEZED I
COULD HAVE BEEN KILLED. WHILE BEING DETAINNE
DETAINED @ THE BENICIA POLICE STATION
I WAS NOT GWEN A MEAL UNTILL APROX.
6:30 PM, DENIED A MEDICAL EVALUATION
DURING A MIGRANE HEADACHE, & FORCED TO
URINATE IN A MCDONALDS CUP BECAUSE NO ONE
WOULD LET ME USE A TOILET.

IN CONCLUSION TO THIS STATEMENT OF
FACTS, I WOULD LIKE TO SAY THAT I
AM APOLLED AT THE BENICIA POLICE
DEPARTMENTS ACTIONS & LACK OF RESPECT
TOWARDS MY NEIGHBORS, GUESTS, ME,
OUR CIVIL LIBERTIES & RIGHTS, & THE
CONSTITUTION OF NOT ONLY THE GREAT
STATE OF CALIFORNIA BUT ALSO THE UNITED
STATES OF AMERICA.

~~THEY ARE THE ONLY POLICE DEPARTMENT IN THE AREA THAT
WAS NOT TRAINED TO PROTECT THE PEOPLE FROM
THEIR OWN POLICE OFFICERS. I WAS ROBBED,
ARRESTED, NEGLECTED, & HUMILIATED, AS
WELL AS BEING ASSAULTED WITH LOADED
FIREARMS DRAWN ON ME & MY GUESTS,
FOR ASSERTING MY CIVIL RIGHTS.~~

~~THEY ARE THE ONLY POLICE DEPARTMENT IN THE AREA THAT
WAS NOT TRAINED TO PROTECT THE PEOPLE FROM
THEIR OWN POLICE OFFICERS. I WAS ROBBED,
ARRESTED, NEGLECTED, & HUMILIATED, AS
WELL AS BEING ASSAULTED WITH LOADED
FIREARMS DRAWN ON ME & MY GUESTS,
FOR ASSERTING MY CIVIL RIGHTS.~~

IT IS MY INTENSION TO SUE
THE CITY OF BENICIA FOR HIRING SUCH
INCOMPITENT HUMANS AS PROTECTORS
& SERVENTS OF THE CITIZENS OF BENICIA.
CITIZENS DO NOT SERVE POLICE.

POLICE SERVE US. WITH BEHAVIOR LIKE
THAT, ITS NO WONDER 2 PEOPLE HAVE
BEEN KILLED BY ~~THE~~ THE BENICIA POLICE
DEPARTMENT WITHIN THE PAST 9 MONTHS.

I WILL BE SUING FOR NOT ONLY THE \$ MONETARY
LOSSES WHICH I HAVE INCURERED, BUT ALSO THE
TRAMATIC EXPERIENCE & PUBLIC HUMILIATION.

**AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
CONSENT CALENDAR**

DATE : October 24, 2008
TO : City Council
FROM : City Attorney
SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY SHARI
TOTTEN-WALCH AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by Shari Totten-Walch.

EXECUTIVE SUMMARY:

This claim is due to a trip and fall in the curb or gutter in the street in front of 590 East J Street. A review of the location shows that the curb and gutter are uplifted by private tree roots. The standards for offsets are different for curbs and gutters than for a sidewalk. Based on this information, the city is not liable for the injuries sustained.

STRATEGIC PLAN:

N/A – there is not a relevant Strategic Plan Goal that relates to this agenda item.

BUDGET INFORMATION:

The amount of the claim is \$8,000.00.

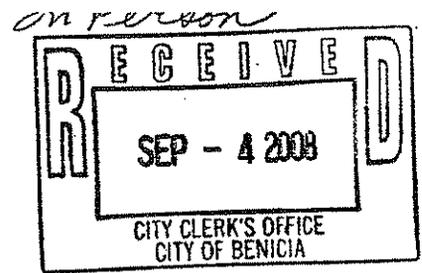
BACKGROUND:

Upon rejection of the claim, the City Clerk should issue a rejection notice using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with the proof of service by mail form (located in the forms directory). A copy of the rejection notice and proof of service by mail form should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney.

Attachment:

- Copy of Claim Filed Against the City

CLAIM AGAINST THE CITY



CLAIM AGAINST THE CITY OF BENICIA

Please return to the City Clerk, 250 East L Street, Benicia, CA 94510

Complete the following, adding additional sheets as necessary.

- 1. CLAIMANT'S NAME (Print): SHARI E TOTTEN-WALCH
- 2. CLAIMANT'S ADDRESS: 50 OAKSTONE WAY AMERICAN CANYON CA 94503
(Street or P.O. Box Number, City, State, Zip Code)
- HOME PHONE: (707) 642-3117 WORK PHONE: (707) 642-3117
- 3. AMOUNT OF CLAIM: \$ 8,000 (Attach copies of bills/estimates)

If amount claimed is more than \$10,000, indicate where jurisdiction rests:

Limited Civil Case _____
Unlimited Civil Case _____

- 4. Address to which notices are to be sent, if different from lines 1 and 2 (Print):

(Name)

(Street or P.O. Box Number, City, State, Zip Code)

- 5. DATE OF INCIDENT: 3/10/08 TIME OF INCIDENT: 1⁰⁰ pm

LOCATION OF INCIDENT: 590 EAST J STREET

- 6. Describe the incident or accident including your reason for believing that the City is liable for your damages: I TRIPPED OVER THE BUCKLE IN THE STREET AND FELL ON THE UNEVEN STREET. IF THE STREET WAS LEVEL, I WOULD NOT HAVE FALLEN.
- 7. Describe all damages which you believe you have incurred as a result of the incident: BROKEN ELBOW AND DAMAGE TO MY LEFT SHOULDER RUMATOR CYP.
- 8. Names of public employee(s) causing the damages you are claiming:

Shari E. Totten-Walch 9-3-08
Signature of Claimant Date

Any person who, with intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both.

Note: YOU must file a claim in compliance with Government Code Section 911.2.

(revised 12/18/02)

**AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
CONSENT CALENDAR**

DATE : October 16, 2008

TO : City Manager

FROM : Fire Chief/Solid Waste Management

SUBJECT : **APPROVE AN INCREASE IN THE SOLID WASTE FEE TO COVER AN INCREASE IN COUNTY LOCAL ENFORCEMENT AGENCY FEES**

RECOMMENDATION:

Adopt the resolution to increase fees paid by residents to Allied Waste Services for fees collected to cover an increase in fees paid to Solano County for the Local Enforcement Agency (LEA). The fees will go from \$.11 to \$.14 effective December 1, 2008.

EXECUTIVE SUMMARY:

Allied Waste Services who is our contracted waste service company is requesting an increase in fees to cover the additional cost of the LEA fee. The current fee charged to customers is \$.11 and they are requesting an additional 3-cent increase to \$.14 per month.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 1.00 Protect Community and Environmental Health and Safety
 - Strategy 1.30: Protect neighborhoods from risks to health and safety

BUDGET INFORMATION:

This will have no budget impact.

BACKGROUND:

California State Law requires all jurisdictions to have a Local Enforcement Agency (LEA) to monitor landfills and solid waste collection. Solano County is the LEA for Benicia and all cities within the county. On May 6, 2008, the Solano County Board of Supervisors approved an increase in fees for environmental health programs that includes fees collected and paid to the County for the LEA. These fees are also known as

“tipping” fees. The fee is charged for solid waste deposited from Solano County and local communities into local landfills.

Staff, therefore, recommends the increase in solid waste fees an additional 3-cents to cover the additional fees charges for the LEA from \$.11 to \$.14.

cc: City Attorney

Attachments:

- Proposed Resolution
- Letter and attachments dated October 2, 2008 from Allied Waste

RESOLUTION

RESOLUTION NO. 08-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
AUTHORIZING AN INCREASE IN FEES COLLECTED BY ALLIED WASTE
SERVICES FOR THE SOLANO COUNTY LOCAL ENFORCEMENT AGENCY (LEA)**

WHEREAS, California State Law requires an enforcement agency to monitor solid waste landfills and collection programs through a Local Enforcement Agency (LEA); and

WHEREAS, Solano County is the LEA for the City of Benicia and fees are collected by the County to cover the costs of this mandated program; and

WHEREAS, the Solano County Board of Supervisors increased the fees charged to local communities for this program at their regular scheduled and noticed meeting May 6, 2008; and

WHEREAS, there has been an average increase of costs to Allied Waste Services of a 3-cents per customer per month.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia hereby approves a rate increase on solid waste bills to Benicia customers from Allied Waste Services. This increase is in response to an additional fee for LEA services provided by Solano County. The fee will increase from \$.11 a month per customer to \$.14.

On a motion of Council Member, seconded by Council Member ,
the above Resolution was introduced and passed by the City Council of the City of Benicia at a
regular meeting of said Council held on the 18th day of November, 2008, and adopted by the
following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

LETTERS AND ATTACHMENTS FROM ALLIED



October 2, 2008

Mr. Gene Gantt
Solid Waste and Recycling Manager
250 East L Street
Benicia, CA 94510

Dear Gene:

On May 6, 2008, the Solano County Board of Supervisors approved an increase in fees for the environmental health programs in the fiscal year 2008-2009 effective July 6, 2008. Currently, residents pay \$.11 per month. This fee is listed as the LEA fee on invoices. We would like to request this fee be raised to \$.14 per month to cover the increase.

Per our franchise agreement, page 4, 4b. Changed Circumstances, this increase constitutes as a change in circumstances.

We would like to implement this increase effective Dec.1 which is the city's next bill cycle. We are not requesting any retroactive payments.

I have attached the letter from the Board of Supervisors and our analysis for the fee increase.

Please let me know if you have any questions. I can be reached at (925) 671-5804.

Sincerely,


SUSAN HURL
Municipal Business Manager

**ALLIED WASTE OF CONTRA COSTA COUNTY
ANALYSIS OF SOLANO COUNTY LEA FEE INCREASE**

FOR THE YEAR 2008	RATE PER TON (1)	BENICIA TONS	CALCULATED LEA PAYMENT	NUMBER OF RESIDENTIAL CUSTOMERS (2)	RATE NEEDED PER CUSTOMER
			A	B	A / B
JANUARY	\$ 0.76	1,782	\$ 1,354.55	8,133	\$ 0.17
FEBRUARY	\$ 0.76	1,594	\$ 1,211.10	8,133	\$ 0.15
MARCH	\$ 0.76	1,555	\$ 1,182.02	8,133	\$ 0.15
APRIL	\$ 0.76	1,603	\$ 1,218.34	8,133	\$ 0.15
MAY	\$ 0.76	1,608	\$ 1,045.22	8,133	\$ 0.13
JUNE	\$ 0.76	1,714	\$ 1,114.30	8,133	\$ 0.14
JULY	\$ 0.76	1,538	\$ 1,169.17	8,133	\$ 0.14
AUGUST	\$ 0.76	1,430	\$ 1,086.85	8,133	\$ 0.13
AVERAGE		1,603	\$ 1,172.69	8,133	\$ 0.14

Note (1): Using Solano County LEA rate per ton of \$0.76 effective July 7, 2008 to get average

Note (2): Number of Resi Customers calculated by using average number of customers from Dec 2007 & Jun 2008



SOLANO COUNTY
Department of Resource Management
Environmental Health Services Division
675 Texas Street, Suite 5500
Fairfield, CA 94533
www.solanocounty.com

Telephone No: (707) 784-6765
Fax: (707) 784-4805

Birgitta Corsello, Director
Cliff Covey, Asst Director

June 19, 2008

Mr. Scott Holt, Division Controller
Allied Waste Systems of Contra Costa
441 North Buchanan Circle
Pacheco, CA 94553

RE: Revised Solid Waste Fees Disposal Facilities Fee

Dear Mr. Holt:

As per the requirements contained in Public Resources Code, Section 43213, the Solano County Board of Supervisors adopted Resolution No. 2008-111 (attached) to revise the fee schedule for Resource Management – Environmental Health Division. The purpose of this letter is to inform you that on May 6, 2008, the Board of Supervisors approved an increase in fees for the environmental health programs in the fiscal year 2008-2009; Effective July 6, 2008 the solid waste disposal facilities fees will be increased to \$0.76 per disposal ton (attached).

Please submit revised payments of the disposed tonnages starting in the month of July 2008 by the 25th of each month. Your cooperation is appreciated.

Sincerely,

Handwritten signature of Terry Schmidtbauer in black ink.

Terry Schmidtbauer, REHS
Environmental Health Manager

- Attachments: a) Cover of Agenda Submittal to Solano County Supervisors
b) Solano County B of S Resolution No. 2008-111
c) Environmental Health Fee Schedule – Program 44 Solid Waste

Building & Safety
David W Cliche
Chief
Building Official

Planning Services
Mike Yankovich
Program Manager

Environmental
Health
Terry Schmidtbauer
Program Manager

Fiscal Services
Daniel Bellem
Staff Analyst

Public Works-
Engineering
Paul Wiese
Engineering Manager

Public Works-
Operations
Steve Hilas
Operations Manager

VII-E-8

APPROVED★

MAY 06 2008



AGENDA SUBMITTAL TO SOLANO COUNTY BOARD OF SUPERVISORS

BY *M. Chirba* deputy
CLERK OF THE BOARD
★ *as amended.*

ITEM TITLE Conduct public hearing on new and revised user fee schedules and consider adoption of fees by separate resolutions, amending Chapter 11 of the County Code, which modifies and establishes various fees for various departments and authorizes enactment of fees by Resolution, effective July 6, 2008 for all departments		BOARD MEETING DATE <i>May 6, 2008</i>	AGENDA NUMBER 24
Dept:	County Administrator's Office	Supervisorial District Number	
Contact:	George Untal	All	
Extension:	6111		
Published Notice Required?		Yes <input checked="" type="checkbox"/> <u> X </u>	No <input type="checkbox"/> <u> </u>
Public Hearing Required?		Yes <input checked="" type="checkbox"/> <u> X </u>	No <input type="checkbox"/> <u> </u>

DEPARTMENTAL RECOMMENDATION:

★ Adopted departmental recommendation with the exception of the Senior Cat 8 years & older adoption rate

It is recommended that the Board of Supervisors:

- a. Conduct a public hearing on the proposed new and revised user fee schedules for the following departments:

- | | |
|-----------------------------------------------|----------------|
| 1) Agricultural Commissioner | Exhibit I |
| 2) Assessor/Recorder | Exhibit II |
| 3) Resource Management – Environmental Health | Exhibit III-A |
| 4) Resource Management – Planning Services | Exhibit III-B |
| 5) Resource Management – Building and Safety | Exhibit III-C |
| 6) Health and Social Services | Exhibit IV |
| 7) Treasurer-Tax Collector-County Clerk | Exhibit V |
| 8) Resource Management - Public Works | Exhibit VI |
| 9) Registrar of Voters | Exhibit VII |
| 10) Public Defender | Exhibit XII |
| 11) Sheriff | Exhibit XIII |
| 12) Library | Exhibit XV-A/B |
| 13) General Services – Animal Care | Exhibit XVI-A |
| 14) General Services – Nut Tree Airport | Exhibit XVI-C |
| 15) Auditor-Controller | Exhibit XVII |

- b. After closing the noticed/published hearing, consider adoption of fees by separate resolutions, amending Chapter 11 of the County Code, which modifies and establishes various fees for the departments listed above and authorizes enactment of fees by Resolution, effective July 6, 2008 for all departments.

Resolution No. 2008-111

RESOLUTION OF THE SOLANO COUNTY BOARD OF SUPERVISORS ADOPTING
REVISED FEE SCHEDULE FOR RESOURCE MANAGEMENT
ENVIRONMENTAL HEALTH DIVISION

WHEREAS, the laws of the State of California and the provisions of the Solano County Code authorized the Solano County Board of Supervisors to establish and adjust fees that the County Resource Management Environmental Health Division proposes.

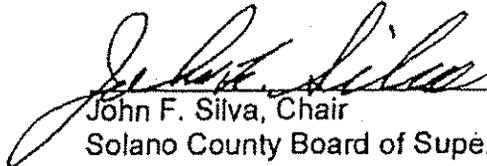
NOW, THEREFORE, IT IS RESOLVED that the Solano County Board of Supervisors adopts the fees set forth in attached Exhibit III-A to Solano County Code Section 11-110.2, to be effective on July 6, 2008.

On the motion of Supervisor Kondylis, and second of Supervisor Reagan, the Solano County Board of Supervisors adopted this resolution at a meeting on May 6, 2008, by the following vote:

AYES: SUPERVISORS: Kondylis, Reagan, Spering,
Vasquez, and Chair Silva

NOES: SUPERVISORS: None

EXCLUDED: SUPERVISORS: None


John F. Silva, Chair
Solano County Board of Supervisors

ATTEST:

MICHAEL D. JOHNSON, Clerk
Solano County Board of Supervisors

By: Patricia Srittenden
Patricia Srittenden, Chief Deputy Clerk

COUNTY OF SOLANO
COST AND RECOMMENDED FEE SCHEDULE
FY2008/09

RESOURCE MANAGEMENT - ENVIRONMENTAL HEALTH DIVISION
EXHIBIT III-A

Fee Code	Category	Estimated No of Units 2008/09	Current Fee Per Unit	Actual Cost per Unit	Recommended Fee/Unit 2008/09	Fee Authority	Description/ Exception
422	Garbage collection permit fee	4	\$230.00	\$240.00	\$240	H&S Code	Permit
401							
402							
403	refuse or tallow swill hauling vehicle	97	\$155.00	\$161.74	\$162	H&S Code	Permit
434	Class I Facility	0	\$7,624.00	\$7,955.48	\$7,955	H&S Code	Permit
435	Drilling Mud Disposal Facility	1	\$7,624.00	\$7,955.48	\$7,955	H&S Code	Permit
436	Solid Waste Disposal Facilities per ton LEA fee *	2	\$0.65	\$0.76	0.76	H&S Code	Permit
442	Composting/Chipping and Grinding Facility (not operated w/ local landfill)	2	\$2,070.00	\$2,160.00	\$2,160	H&S Code	Permit
479	Closed Solid Waste Facility	3	\$1,934.00	\$2,018.09	\$2,018	H&S Code	Permit
445	Garbage transfer station	0	\$5,801.00	\$6,053.22	\$6,053	H&S Code	Permit
461	Septage Disposal Site	0	\$4,144.00	\$4,324.17	\$4,324	H&S Code	Permit
462	Biosolid Landspreading Site Registration	0	\$944.00	\$985.04	\$985	H&S Code	Permit
	Biosolid site inspection (per hour) after 100 hours per site field + office time	0	\$115.00	\$120.00	\$120	H&S Code	Permit
463	Biosolid Landspreading Notification	3	\$11,500.00	\$12,000.00	\$12,000	H&S Code	Permit
NP44	Biosolids Research and Education Fee	1,000	\$13.00	\$13.57	\$14	Solano County Code, Chapter 25, section 25-402(a)8	Research fee
496	Closed Class I facility	2	\$1,221.00	\$1,274.09	\$1,274	H&S Code	Permit
446	Waste disposal plan check fee (Other than Class III)		\$512.00	\$534.26	\$534	H&S Code	Permit
424	Garbage Service Exemption initial review fee	10	\$115.00	\$120.00	\$120	H&S Code	Permit
425	Garbage Service Exemption renewal review fee	160	\$58.00	\$60.52	\$61	H&S Code	Permit
PROGRAM 46 SMALL WATER SYSTEMS							
510	State small water system	7	\$334.00	\$348.52	\$349	H&S Code	Permit
666	Private well water sampling (Plus \$15.00 each add'l sample)	0	\$221.00	\$230.81	\$231	H&S Code	
681	Private well general inspection w/sample (R/E Transaction)	0	\$336.00	\$350.81	\$351	H&S Code	
WATER WELL FEES							
644	Monitoring or Cathodic protection well (construction permit)	49	\$423.00	\$441.39	\$441	H&S Code	Permit
	-each additional well after 2	30	\$142.00	\$148.17	\$148	H&S Code	Permit
688	Well Destruction Permit	14	\$423.00	\$441.39	\$441	H&S Code	Permit
	-each additional well	18	\$142.00	\$148.17	\$148	H&S Code	Permit
669	Well Construction Permit	50	\$548.00	\$569.74	\$570	H&S Code	Permit
	- each additional well	0	\$423.00	\$441.39	\$441	H&S Code	Permit
	- destruction at the same time	0	\$142.00	\$148.17	\$148	H&S Code	Permit
691	Well Repair	0	\$230.00	\$240.00	\$240	H&S Code	Permit
688	Boring permit (Per project site, 5 borings maximum)	105	\$231.00	\$241.04	\$241	H&S Code	Permit
PROGRAM 48 MISCELLANEOUS FEES							
4891	Business License Review	45	\$69.00	\$72.00	\$72	H&S Code	
4892	File Review hourly rate	0	\$115.00	\$120.00	\$120	H&S Code	

**AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
CONSENT CALENDAR**

DATE : November 4, 2008
TO : City Manager
FROM : Interim Economic Development Manager
SUBJECT : **APPROVE AMENDMENT TO THE LEASE BETWEEN THE CITY OF BENICIA AND BENICIA MAIN STREET**

RECOMMENDATION:

Approve a lease amendment that provides for rent forgiveness for Benicia Main Street at the Southern Pacific Depot for twelve months, from January 15, 2009 through January 14, 2010.

EXECUTIVE SUMMARY:

The City of Benicia owns the Southern Pacific Depot building at 90 First Street, which was leased to the nonprofit organization Benicia Main Street (BMS) in 2002 for a 10-year term. In January of this year, BMS requested rent forgiveness for all of calendar years 2008 and 2009 in order to allow it to grow a new signature event to replace the Waterfront Festival, which was the organization's largest fundraiser. At its meeting of February 19, 2008 the City Council partially approved this request and forgave the base rent payments due for the remainder of 2008, from March 15, 2008 through January 14, 2009, for a total of \$18,000.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 3.00: Strengthen Downtown
- Goal 7.00: Building Community Collaboration

Approving a lease amendment that provides rent forgiveness for BMS will allow BMS additional time to grow a new signature event, the Benicia Fine Art & Jazz Festival, which will contribute toward strengthening the downtown. This action is also supportive of Strategic Goal 7.00, Building Community Collaboration.

BUDGET INFORMATION:

If the City Council approves this request to forgive BMS' base rent for 2009, there would be a loss of \$24,600 in revenue to the Southern Pacific Depot account. These funds are reserved exclusively for maintenance and improvements to the Depot and are not used for general City operations.

BACKGROUND:

BMS' current base rent is \$1,800 per month. Under the lease, this amount will increase to \$2,100, effective March 15, 2009. BMS has requested forgiveness of the monthly rent for the full twelve months of 2009. BMS canceled the annual Waterfront Festival, its largest fundraiser, in 2007, and replaced it in July of this year with its inaugural Benicia Fine Art & Jazz Festival. While this event attracted over 6,000 people from the Bay Area, and BMS plans to stage it again in 2009, BMS was able to only cover its expenses and fell far short of replacing the net income it formerly received from the Waterfront Festival. It seems clear that the Fine Art & Jazz Festival will need more than one year to become an established fund raising event that BMS believes it has the potential to achieve in the future. As a result, BMS is again requesting that the City agree to amend its Depot lease to relieve the organization of its obligation to pay base rent for 2009, totaling \$24,600.

This proposed amendment does not apply to the percentage rents paid by BMS. The lease requires BMS to pay to the City 50% of all sales of Depot-related merchandise (which will be an estimated \$700 in 2008) and 60% of any rental fees for the Freight Room (which has yet to be renovated as a meeting room). These provisions will remain in effect.

Attachments:

- Letter from Benicia Main Street dated October 28, 2008
- Proposed Lease Amendment

LETTER FROM BENICIA MAIN STREET



A California

Main Street City...

... fostering a unified
community effort to
downtown revitalization,
emphasis on historic
preservation, enhancing
the waterfront orienta-
tion, and creating a
quality mix of retail,
commercial, residential,
and recreational uses.

90 First Street
Benicia, CA 94510
(707) 745-9791
Fax (707) 745-1630

October 28, 2008

Mr. Jim Erickson
City Manager
City of Benicia
250 East L Street
Benicia, CA 94510

Dear Jim

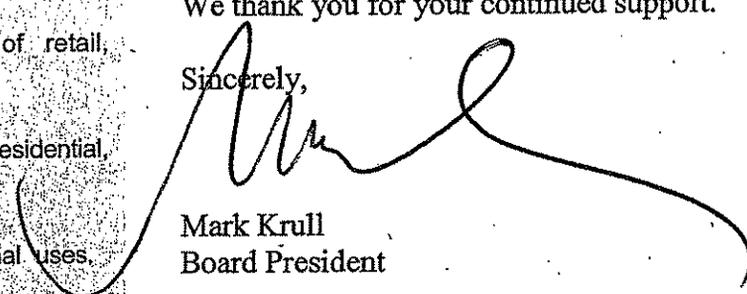
Over the last year, Benicia Main Street has made tremendous strides in continuing the long-standing success of our organization. With a dedicated staff in place many projects that enhance the economic development of our Downtown have come to fruition. The Benicia Main Street Board of Directors would like to thank you and the City for the support and assistance in achieving these goals.

July of 2008 marked our inaugural Benicia Fine Art & Jazz Festival. The creation of this event (replacing the Waterfront Festival) enabled Benicia Main Street to produce a family-friendly event that showcased our community. By changing the focus to a juried fine art show and music event that featured the nation's and Bay Area's finest Jazz musicians, the festival was able to attract a highly desirable demographic. Although the two-day event was a huge success attracting over 6,000 people from around the Bay Area, the cost of such a first rate event was costly, therefore we were only able to break even. While we are confident in setting a standard that will prove to be lucrative in the long run, we are financially strained in the short term.

Benicia Main Street respectfully requests that an additional twelve months rent forgiveness be allowed such that Benicia Main Street can continue its operation and its mission for the Downtown district.

We thank you for your continued support.

Sincerely,


Mark Krull
Board President

VII-F-4

BMS LEASE AMENDMENT

**AMENDMENT TO BENICIA SOUTHERN PACIFIC DEPOT BUILDING
LEASE**

Lessee: Benicia First Corporation dba Benicia Main Street

Address: 90 First Street, Benicia, California

APN(s): 0080-200-07-0

The Parties hereby agree that the Lease dated February 7, 2002 ("Lease") by and between the CITY OF BENICIA, a municipal corporation, hereinafter referred to as "City", and Lessee, is hereby amended as follows to clarify the terms and conditions of the Lease.

I. Paragraph 3 of the Lease is amended to read as follows:

B. Second Minimum Rent Payment and Period:

The minimum rent for the third through the seventh year of this lease is \$21,600.00 per year payable in 12 equal monthly payments of \$1,800.00 per month due on the first day of each month through March 14, 2009. There shall be no minimum rent for the period of March 15, 2008 through March 14, 2009.

C. Third Minimum rent Payment and Period:

The minimum rent for the eighth through the tenth year of this lease is \$25,200 per year payable in 12 equal monthly payments of \$2,100.00 per month due on the first day of each month. There shall be no minimum rent for the period of March 15, 2009 through January 14, 2010.

II. Except as expressly modified herein, all other terms and covenants set forth in the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment to Lease on _____, 2008.

ATTEST:

CITY OF BENICIA:

Lisa Wolfe, City Clerk

James R. Erickson, City Manager

APPROVED AS TO FORM:

LESSEE:

Heather McLaughlin, City Attorney

Mark Krull, Board President

Nancy Martinez, Executive Director

**AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
ACTION ITEMS**

DATE : November 4, 2008
TO : City Manager
FROM : Community Development Director
SUBJECT : **ACCEPTANCE OF THE HOUSING EXPO REPORT AND
PRELIMINARY STRATEGIES FOR THE HOUSING ELEMENT
UPDATE**

RECOMMENDATION:

Accept a report on the Benicia Housing Expo, including preliminary strategies for the Housing Element update, and provide comment and direction for staff to incorporate into the Draft Housing Element.

EXECUTIVE SUMMARY:

The Housing Element Update began in July 2008 with Council approval to contract with Lisa Wise Consulting. Since then, staff and the consultant have been working together to evaluate the existing Housing Element and the local housing supply, engage the public, inventory vacant and underutilized sites, and assess constraints to the production of housing, as required by the State. The Benicia Housing Expo began the civic engagement process for the Housing Element update. On October 3 and 4, citizens contributed their ideas for how the City should address housing needs through the year 2014. The Housing Expo report presents the outcomes of this citizen participation effort and highlights some preliminary strategies for the Housing Element update.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 4.00: Preserve and Enhance City Assets and Infrastructure.
 - Strategy 4.30: Maintain and enhance Benicia's historic character.
- Goal 5.00: Enhance Community Appearance
 - Strategy 5.10: Promote quality design in new construction and remodeling.
- Goal 7.00: Build Community Collaboration

Updating the Housing Element relates to Strategic Goal 4.00, as housing is one of the most fundamental resources in the city. The Housing Element will support historic preservation efforts (Strategy 4.30) and ensure that new construction will be located and designed in such a

way as to enhance the city’s appearance (Strategic Goal 5.00). The update effort requires significant “community collaboration” (Strategic Goal 7.00).

BUDGET INFORMATION:

This project was budgeted with \$60,000 of General Fund monies for FY 2008-09.

BACKGROUND:

Mandated by the State, the Housing Element spells out City goals, policies and programs to address the community’s housing needs. The Housing Element is required to be updated by June 30, 2009.

Each city in the Bay Area is responsible for a share of the region’s total housing need by income level, as determined by the State and the Association of Bay Area Governments (ABAG) – in Benicia’s case based on the Solano County 2006 median income of \$61,533 (see table). While the State decides how much housing must be planned for, the City Council determines where and how new housing may occur in Benicia.

State/ABAG Benicia Housing Requirement 2007-14

Income Level	Required Units	Income Range
Very Low (<50% of Median Household Income)	147	< \$30,766.50
Low (50% - 80%)	99	\$30,766.51- \$49,226.40
Moderate (80% - 120%)	108	\$49,226.41- \$73,839.60
Above Moderate (120%<)	178	> \$73,839.60
Total	532	

A common misconception is that the City must build 532 new units by 2014; instead, the City must show that its policies and zoning can accommodate these units. The Draft Housing Element will show vacant and opportunity sites where housing could be provided, but it is not possible yet to pinpoint on a map exactly where new lower-income units will be proposed. Locations for additional housing (either market rate or affordable homes) must be approved by the Planning Commission and City Council in public meetings, first as part of the Housing Element update and again during project review.

The act of updating the Housing Element addresses the fundamental question, “*Where should we grow?*” This is a responsible approach to ensuring that Benicia’s housing supply can support its population so that multiple generations have a place to call home in Benicia, and so that employers and employees can live here should they prefer to do so.

City staff and the consultant team organized a venue to begin this community dialogue, which occurred on October 3 and 4, 2008 with the Housing Expo at the Veteran’s Hall. To raise public awareness about the event, staff undertook a comprehensive effort that included:

- postcards to every street address in Benicia;
- posting on the City website and at local shops and restaurants;

- Benicia Herald, Inside Benicia and Channel 27 ads and Herald and Times-Herald coverage; and
- announcements at City Council, Planning Commission, and Historic Preservation Review Commission meetings.

About 50 people attended the Expo. Day one included an introduction to the Housing Element, with a panel of experts from the Benicia Housing Authority, Community Action Coalition, and State Department of Housing and Community Development. The second day provided participants with seven different activities to learn about and comment on strategies for providing housing in Benicia (see attached Event Guide).

The following list describes the highlights of the Expo and presents some preliminary strategies to include in the updated Housing Element.

Expo Outcomes

The following points identify the main comments or topics of discussion during the Expo.

- Affordable housing is important to the community.
- The housing allocation (532 units) is a challenge due to the limited amount of vacant land available.
- Existing shopping centers and the City-owned East E Street lot could provide opportunities for revitalization and housing.
- Infill sites should be selected based on proximity to transit, goods, and services to address the needs of seniors and disabled persons.
- The City should look for opportunities in neighborhoods north of I-780.
- Standards for new construction should incorporate sustainable design features.
- Small-scale housing with traditional design is generally preferable.
- Reduce costs and streamline the review process for second units.
- Revitalize some existing lower-income housing.
- Consider changes to the zoning ordinance to promote infill development.
- Obtaining funding for housing assistance in Benicia is difficult.
- Housing development downtown should be sensitive to Benicia's historic character.

Preliminary Strategies

Ideas from the Housing Expo suggest some strategies for the Housing Element update, including:

- Feasibility study of redevelopment of Solano Square and other opportunity sites for mixed-use development with commercial and residential uses.
- Consider rezoning parcels for higher-density multi-family development at 20 dwelling units per acre.
- Revise standards, such as parking requirements for second units, to make infill development more feasible.

- Amend the General Commercial (CG) zone district to allow additional housing types other than just live/work.
- Amend the zoning ordinance to comply with State law promoting emergency and transitional housing.
- Encourage more affordable housing for seniors and disabled persons through accessibility and proximity to services.
- Investigate mechanisms to improve or replace the mobile home park on East Military Street.
- Promote green building and energy efficiency through incentive, weatherization and conservation programs.
- Emphasize efficient land use patterns and quality in design that conserve resources, promote walkability, and retain traditional neighborhood character.

The consultants will present these strategies to the Council along with a preview of some of the changes to the existing Housing Element (including those in response to new State legislation).

Upon receiving Council comments, the consultant team will prepare the Draft Housing Element by January 2009, with subsequent environmental review and Planning Commission and Council hearings. Following adoption, the Housing Element requires State Housing and Community Development review by June 30, 2009 in order to receive certification.

Attachments:

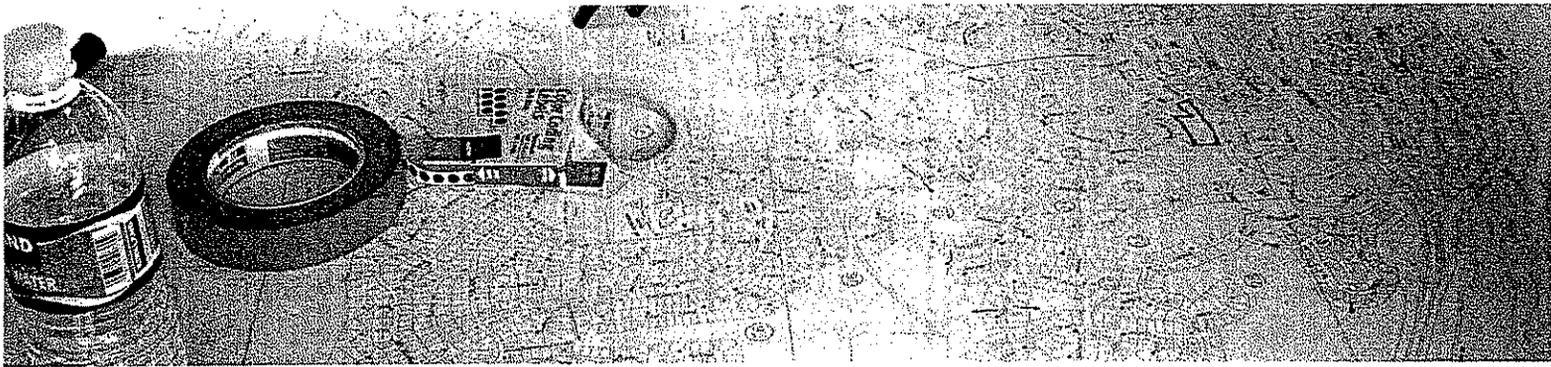
- Benicia Housing Expo Report, November 2008
- Housing Expo Event Guide

BENICIA HOUSING EXPO REPORT

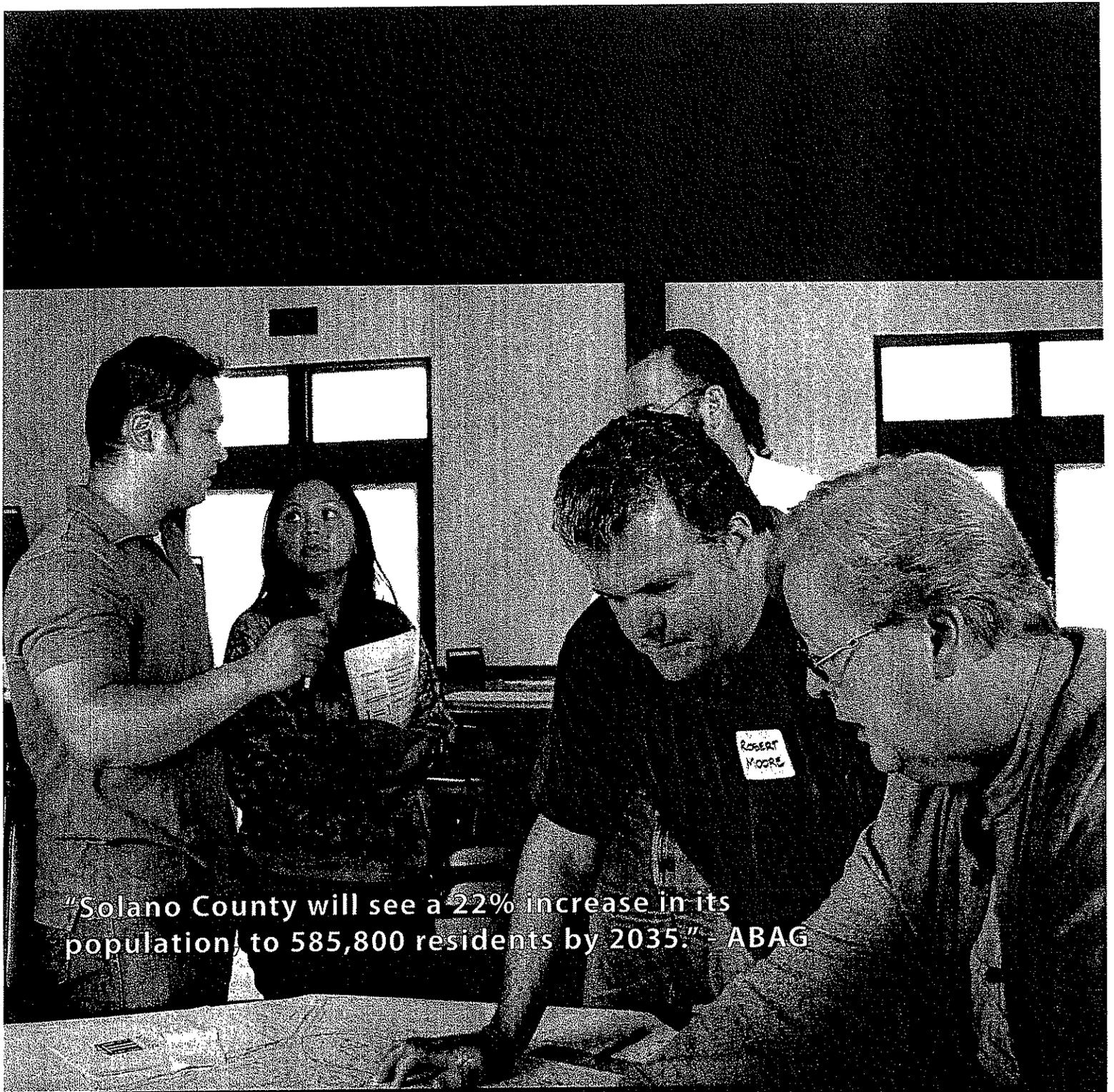


Benicia Housing Expo

October 3rd & 4th, 2008



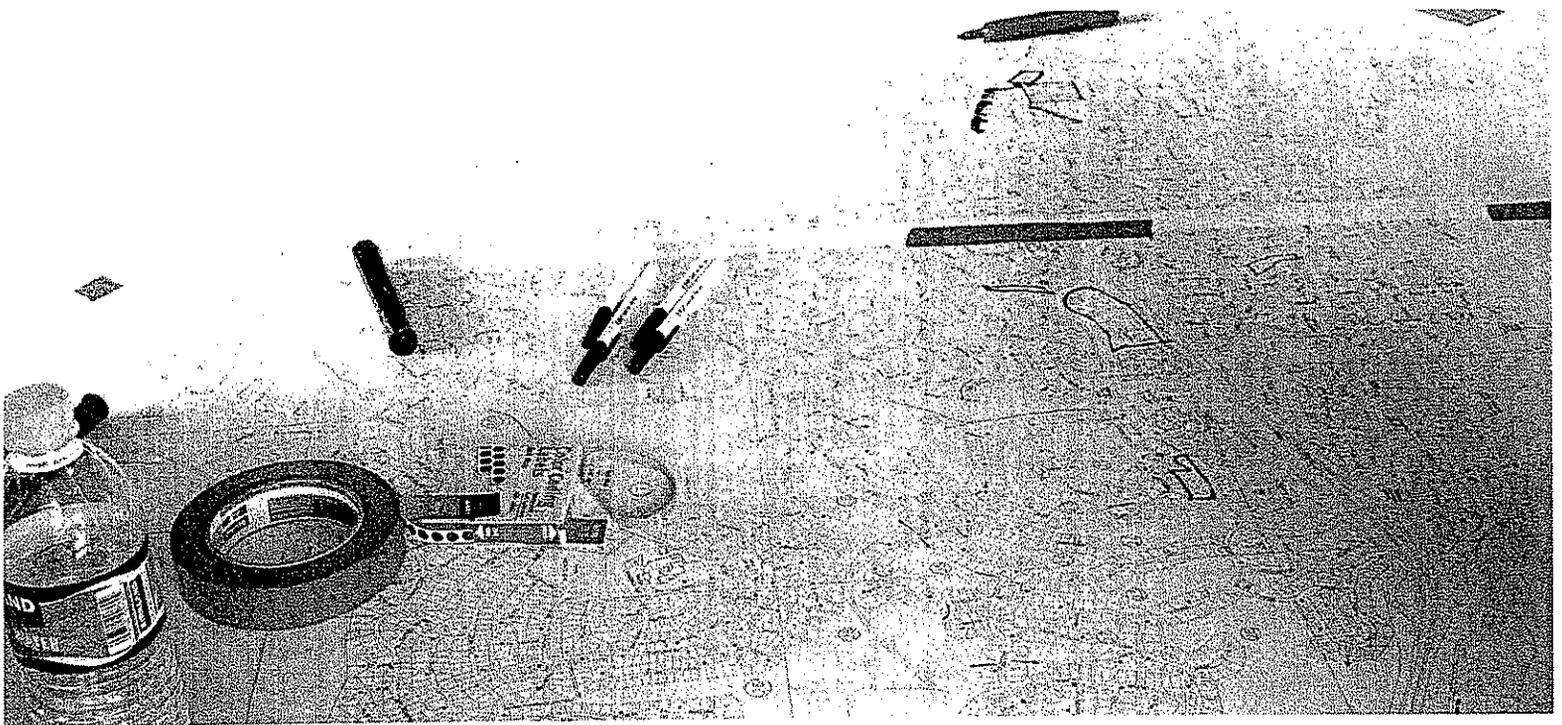
PREPARED BY
LISA WISE CONSULTING, INC
FOR THE CITY OF BENICIA
NOVEMBER 4, 2008



"Solano County will see a 22% increase in its population to 585,800 residents by 2035." - ABAG

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Vacant Land/Opportunity Sites Tour	45



Executive Summary

The Housing Expo was held to receive community input on local housing goals and the Housing Element update process and its requirements. The Housing Element is a component of the City's General Plan, and under state law must be updated every 8 years. The Element identifies demographic trends, projects housing needs, evaluates housing resources, analyzes constraints to housing production, and sets forth policies and programs to meet local objectives. Public participation is not only a required portion of the update process, but is also crucial for understanding the community's goals and preferences.

The City encouraged residents to get involved for the following reasons:

1. Assist in creating a new and updated Housing Element
2. Identify housing concerns and suggest solutions
3. Help decide where and how new housing will occur
4. Inform the staff and consultants what housing types are acceptable in Benicia
5. Help address greenhouse gas emissions by selecting the right areas to locate new housing
6. Participation is key to understanding and achieving community goals
7. The plan is more likely to be implemented with broad community support
8. To visit affordable housing
9. Housing is a basic need
10. Your voice matters!

In order to encourage residents to participate, the City used multiple outreach outlets, including:

- Announcements at City Council, Planning Commission, and Historic Preservation Review Commission Meetings.
- Postcards mailed to all residents
- Flyers posted throughout City Hall, local coffee shops, and cafes
- An advertisement placed in Benicia Magazine
- An advertisement placed in Benicia Herald
- Announcements placed on the Planning Division's website
- TV advertisement uploaded to the local government access channel
- Participated in a news story by the Times Herald

The Expo

The expo offered multiple methods to solicit civic participation and contribution. A summary of activities that were offered during both days are listed below and on the following page.

Friday, October 3, 2008

The morning session on October 3rd, 2008, introduced the subject of the Housing Element as whole - and included a panel of local, regional, and State representatives available to discuss and answer questions from the audience. City Staff and consultants from Lisa Wise Consulting were also in attendance.

Panelists included:

Paul McDougall, Housing Policy Manager, State Department of Housing and Community Development
Julie Peterson, Director, Benicia Housing Authority
Mary Frances Kelly Poh, Community Action Coalition

Members of the City Staff included:

Charlie Knox, Community Development Director
Lisa Porras, Senior Planner

Members of Lisa Wise Consulting included:

Lisa Wise, President
Amy Sinsheimer, Senior Associate
Michael Austin, Associate

Panel members, City Staff, and the consultants presented background information and addressed many comments. The majority of questions centered around the following:

- ~ How much need is there for affordable housing?
- ~ What are the funding sources for providing financial assistance to individual households?
- ~ What is the process for families obtaining low-income housing?
- ~ Where are potential areas that could accommodate housing?

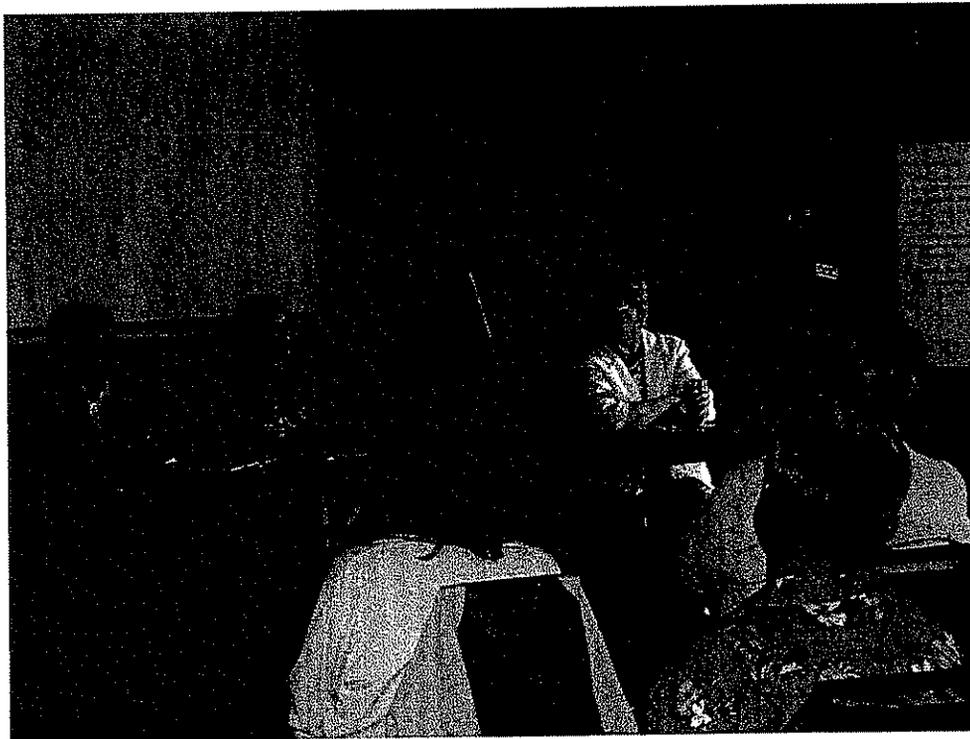
Saturday, October 4, 2008

The second day provided residents with the opportunity to participate in a variety of activities that were designed to inform and facilitate discussion of housing issues in the community. Activities included:

1. Map It! Exercise: Where should future housing and change occur? Where are sites that provide the opportunity for infill, revitalization, or neighborhood retrofit?
2. Vacant/Opportunity Sites Tour: An opportunity for residents to tour vacant/opportunity sites and comment on what type of housing could be placed there.
3. Visual Preference Survey: Comment and provide feedback on housing styles, densities, heights, and landscaping that could be appropriate for Benicia.
4. Affordable Housing Tour: An opportunity for residents to tour and comment on existing affordable housing developments within the City.
5. Goals, Policies, & Programs Development Exercise: Review and comment on existing goals, policies, and programs, as well as discuss issues and ideas which could lead to the creation of new goals, policies, and programs for the next Housing Element.
- 6: Idea Gallery: A forum for additional comments or feedback from participants.
- 7: Vision Exercise: If the future of Benicia could be written, how would it be drafted?

There were no participants for the Vision Exercise.

Results for each exercise are located in subsequent chapters.



Housing Expo Panelists (from left to right):

Paul McDougall from the State Department of Housing and Community Development, Julie Peterson from the Benicia Housing Authority, and Mary Frances Kelly Poh from the Community Action Coalition

Expo Outcomes

The following points identify the main comments or topics of discussion received from the community during the Expo:

- Affordable housing is important to the community.
- The housing allocation (532 units) is a challenge due to the limited amount of vacant land available.
- Existing shopping centers and the City-owned East E Street lot could provide opportunities for revitalization and housing.
- Infill sites should be selected based on proximity to transit, goods, and services to address the needs of seniors and disabled persons.
- The City should look for opportunities in neighborhoods north of I-780.
- Standards for new construction should incorporate sustainable design features.
- Small-scale housing with traditional design is generally preferable.
- Reduce costs and streamline the review process for second units.
- Revitalize some existing lower-income housing.
- Consider changes to the zoning ordinance to promote infill development.
- Obtaining funding for housing assistance in Benicia is difficult.
- Housing development downtown should be sensitive to Benicia's historic character.

Preliminary Strategies

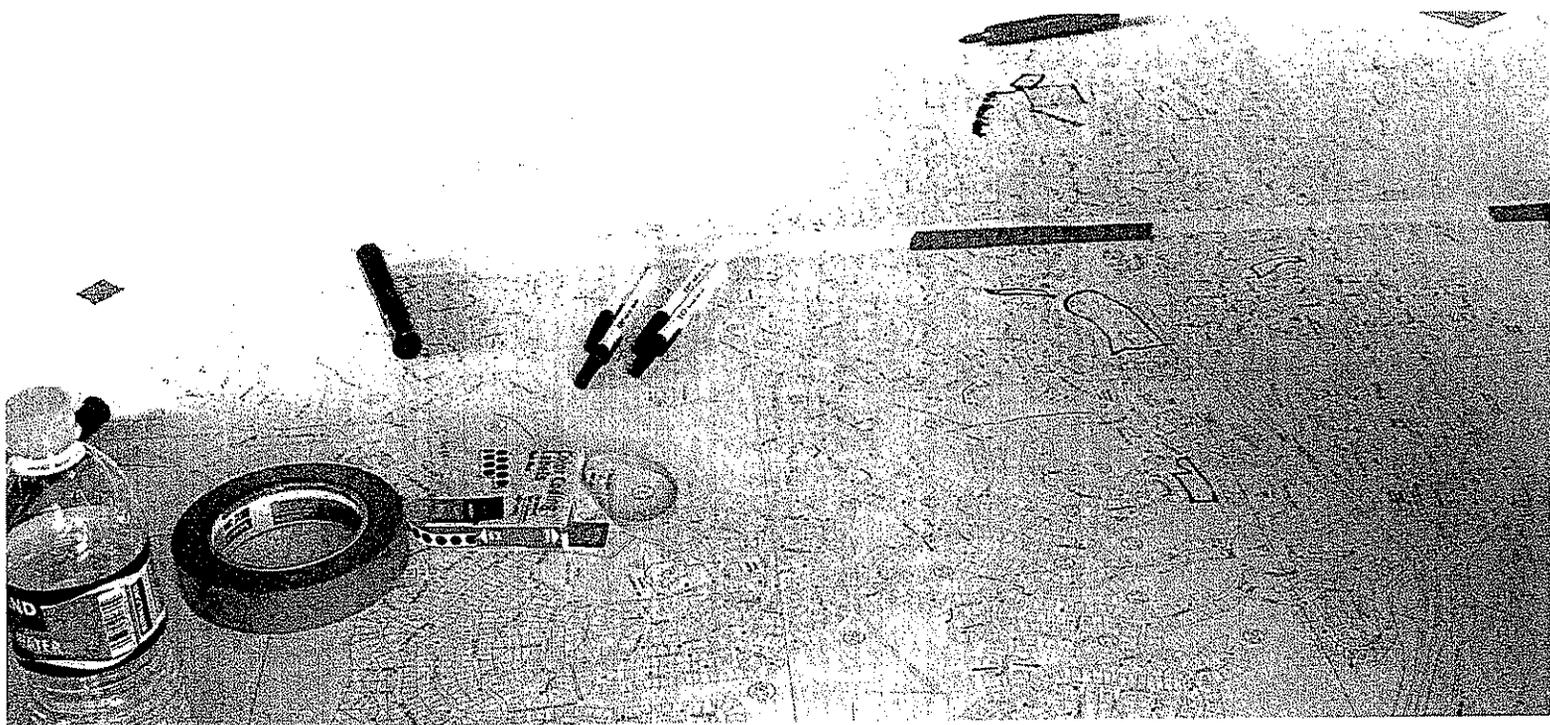
Ideas from the Housing Expo suggest some strategies for the Housing Element update, including:

- Feasibility study of redevelopment of Solano Square and other opportunity sites for mixed-use development with commercial and residential uses.
- Consider rezoning parcels for higher-density multi-family development at 20 dwelling units per acre.
- Revise standards, such as parking requirements for second units, to make infill development more feasible.
- Amend the General Commercial (CG) zone district to allow additional housing types other than just live/work.
- Amend the zoning ordinance to comply with State law promoting emergency and transitional housing.
- Encourage more affordable housing for seniors and disabled persons through accessibility and proximity to services.
- Investigate mechanisms to improve or replace the mobile home park on East Military Street.
- Promote green building and energy efficiency through incentive, weatherization and conservation programs.
- Emphasize efficient land use patterns and quality in design that conserve resources, promote walkability, and retain traditional neighborhood character.

Results

Over 50 residents participated in the Housing Expo, which took place over a two-day period. An estimated 20 residents participated on Friday, and 25 residents participated on Saturday. The consultants will present these strategies to the Council along with a preview of some of the changes to the existing Housing Element (including those in response to new State legislation).

Upon receiving Council comments, the consultant team will prepare the Draft Housing Element by January 2009, with subsequent environmental review and Planning Commission and Council hearings. Following adoption, the Housing Element requires State Housing and Community Development review by June 30, 2009 in order to receive certification.



Map It! Exercise

In this exercise residents were asked to suggest where future housing and change should occur. A large map and markers provided residents with tools for identifying housing sites that were vacant, underutilized, or in need of revitalization. Suggestions included:

- Incorporating mixed-use developments for elderly and disabled at Solano Square and the Southhampton Center.
- Revitalizing mobile home parks with compact housing.
- Incorporating housing into the Seeno project.
- Develop City parking lot on East E Street.
- Incorporating infill in the Mills site.
- Incorporating housing on the Yuba site.
- Compact housing options in Southhampton.
- Small scale infill along 1st Street in downtown.

Notes and comments from the exercise are located on the next page.

Summary of Map III Comments (not listed in any order)

East of 1st street would be a good location for affordable housing. However, some people on the East side feel they've received more than their fair share. One participant thought that too much affordable housing would mean that the East side is rundown, has unkempt yards, and a high level of crime.

What about rezoning the Seaside development to allow residential uses?

Many commented that the mobile home park on Military Road and the one on State would be a problem and eyesore. Can it be replaced with nice looking single and multi-family housing?

Better design is helpful for more successful affordable housing projects.

Better management is also helpful. Hearingstone was criticized as an example. One participant disagreed that better development design leads to more successful projects. One from Vallejo that looks really nice but has a lot of crime.

Asked whether affordable housing should be spread out or concentrated. Many would like to spread it out. One woman was concerned that there are many empty apartments in the East side because parents have to work so much and that they tend to go away and find other places.

What about the City buying houses that are in foreclosure and rehabilitating them?

Could the City place a skate park at the end of 1st Street by the water?

Please build more Senior Housing, include elevators, ramped entry, and a walking path to the street.

McKay Way is a good example of duplexes and triplexes that are affordable. All are for sale.

Solano Square Safeway screams 1970s yuck.

The City-owned E Street parking lot - could be a good site. We keep this space that is not used. Like it as it is.

Yuba Site

If the Yuba site was developed for affordable housing - could a dog park be included?

Amport owns this site.

Amport has sued in the past when the site across the street from a multi-family development.

There are above ground pipelines on the Yuba site.

More affordable housing should go in South Hampton. Would need a walkway to the street.

Several comments were made to spread affordable housing in other parts of the city. 2839 Freeway.

Don't build any more buildings over 2 stories on 1st Street. Make it a 2 story building.

If any increases in density are allowed downtown, then those are the places to build.

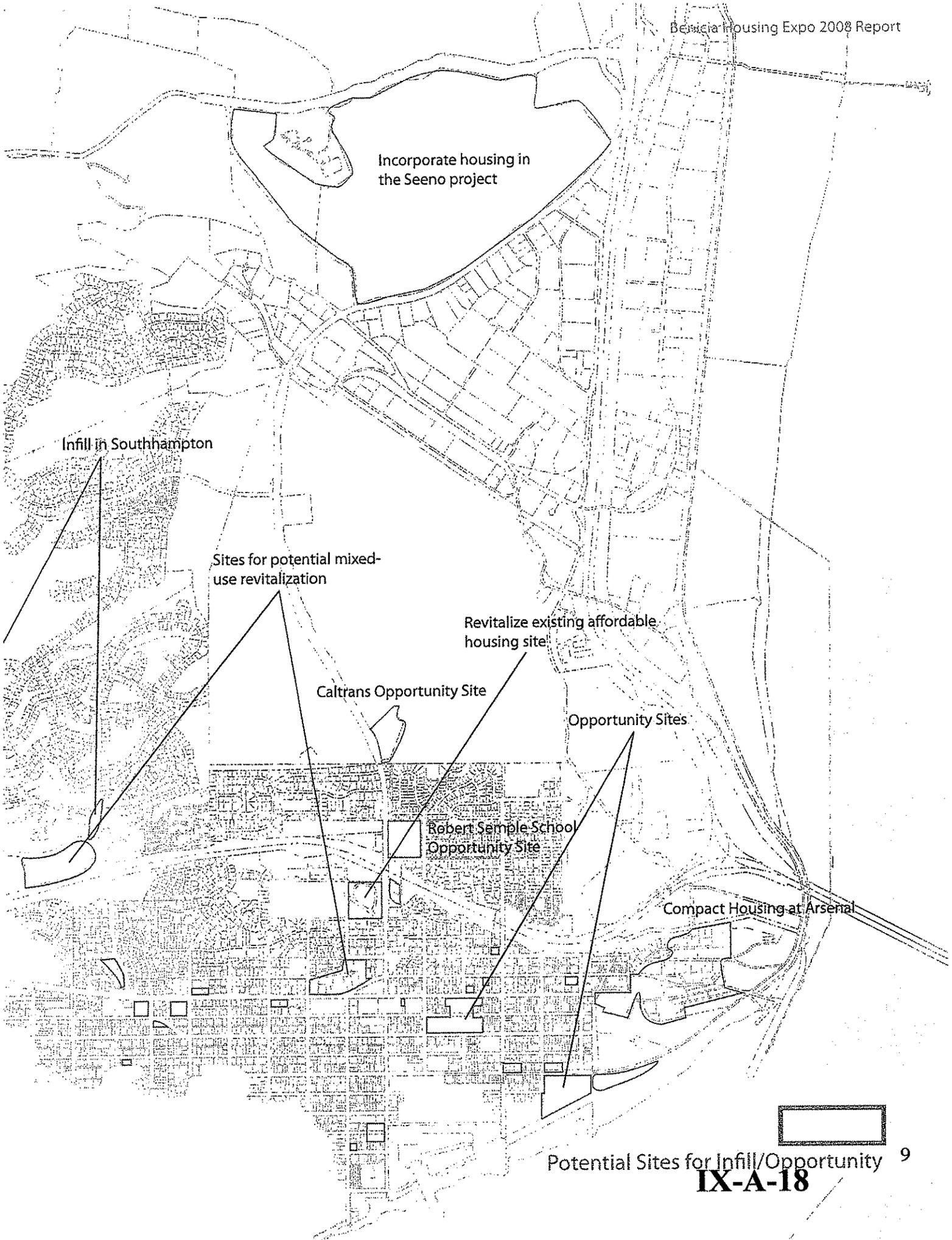
Some think the City should keep the height limit at 3 stories.

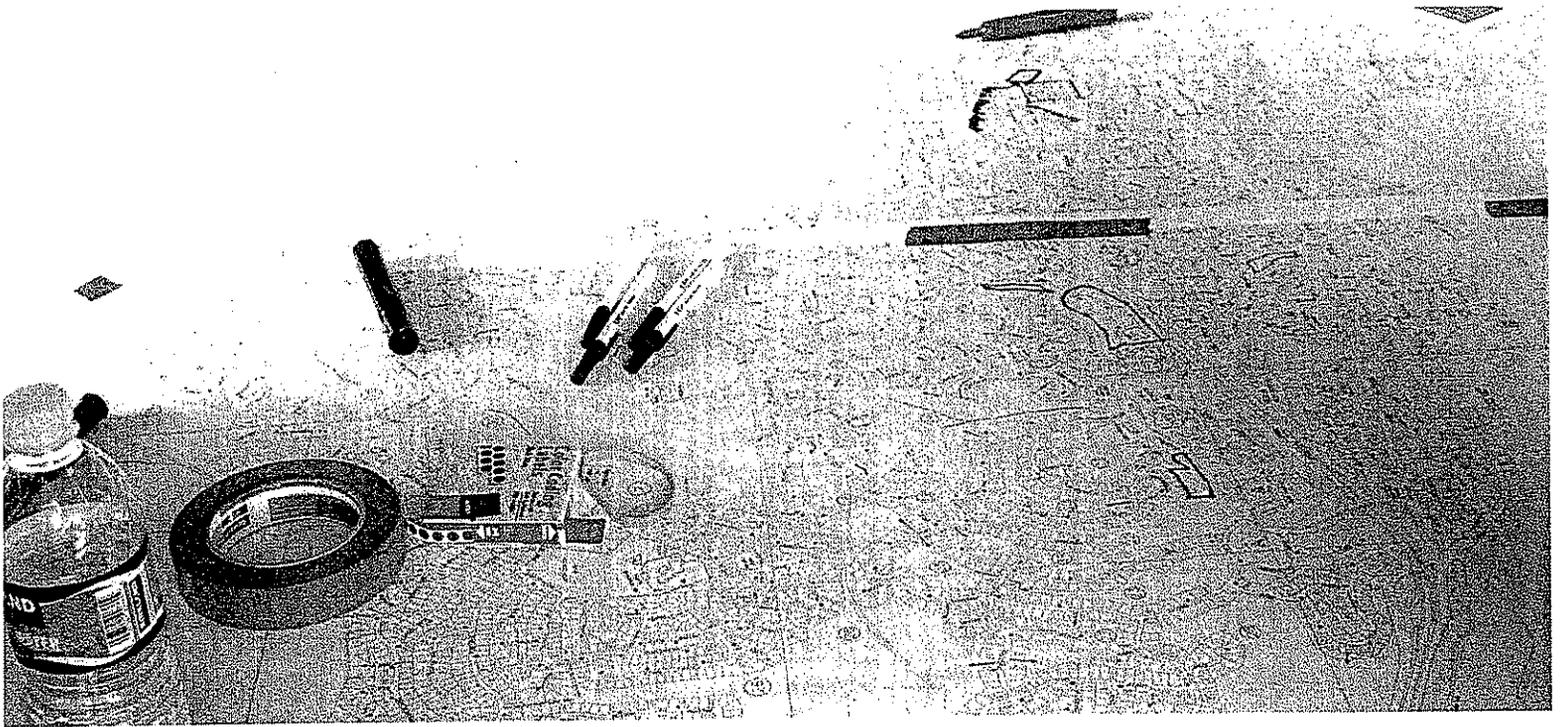
Some think some higher buildings could work in the Area.

Best to suggest potential sites where the affordable housing developers would have the best values.

One person really likes the Bayview housing project.







Vacant Land/Opportunity Sites Tour

In this exercise, participants were asked to tour and provide feedback on either vacant or “opportunity” sites. Opportunity sites in this case means sites that are already developed or underutilized sites. These sites could be rebuilt to include a mix of uses, new amenities, and improve the neighborhood.

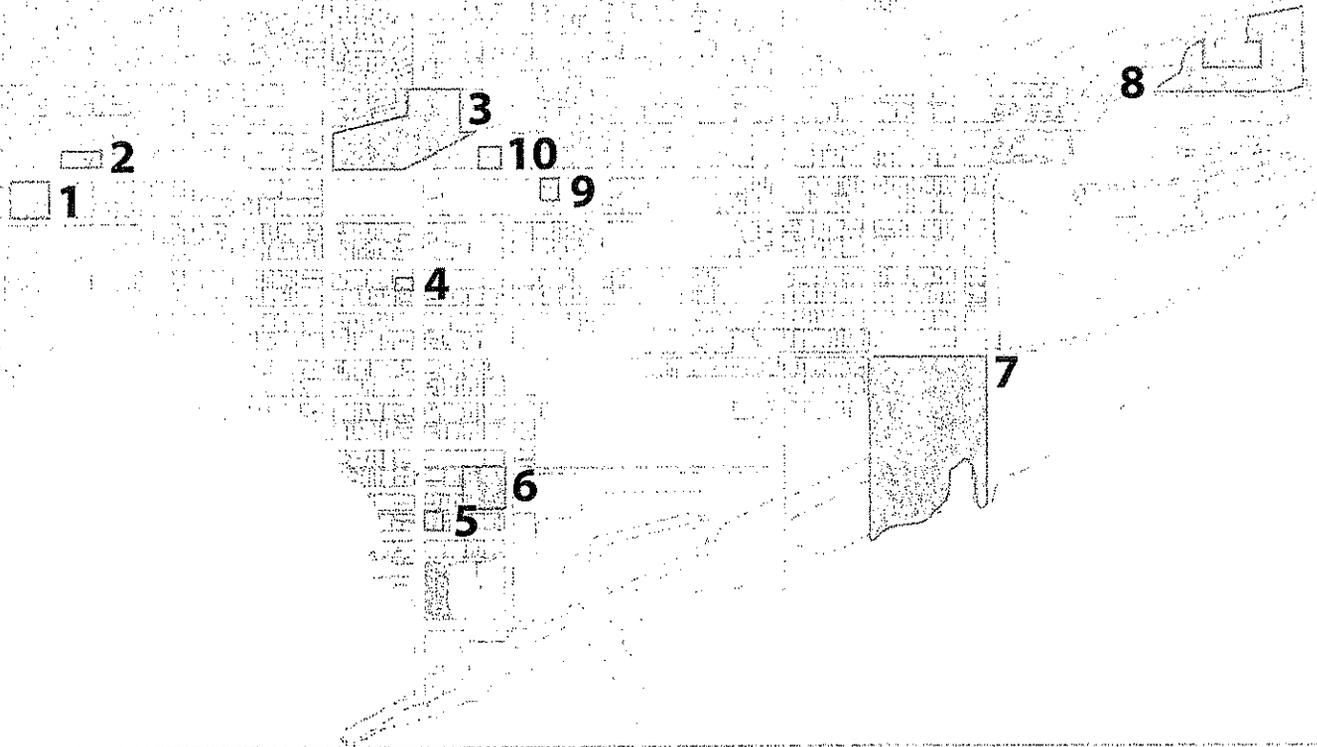
Questions included:

- Would housing be appropriate here?
- What type of housing could be located here (Apartments, Townhouses/Condos, Live/Work Lofts, Senior Housing, Homeless Shelter/Transitional Housing)?
- Is the site suitable for compact housing?
- Space for comments was also made available.

Findings

Only five participants completed the vacant land/opportunity sites tour. Overall, the results were fairly mixed. The participants identified apartments and townhomes/condos as the most appropriate form of housing for the majority of the sites. Mixed-use activity at Solano Square was also favored by some. One person indicated that affordable housing would not be appropriate at the majority of the sites.

Comments and results of the sites tour are located on the following pages.



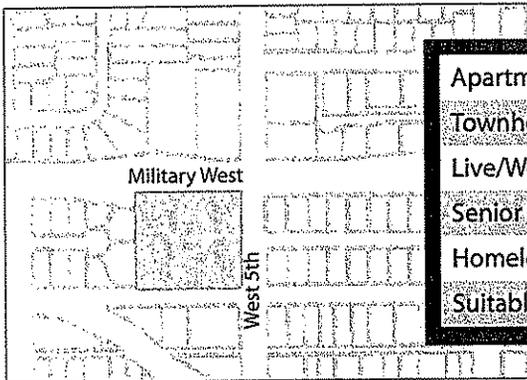
Map of vacant and opportunity sites on the tour

Summary of Preferred Residential Infill

	Apartments	Townhouses/Condos	Live/Work Lofts	Senior Housing	Homeless Shelter/Transitional Housing	Suitable for Compact Housing?
1115 West 5th	x	x	-	-	-	no
Military West Vacant Sites	x	x	-	x	-	no
Solano Square	x	x	-	-	-	no
Site Across from St. Pauls on 1st	x	-	x	-	-	no
Downtown Core	x	x	x	-	-	no
City Parking Lot	x	x	-	x	x	no
Yuba Site	-	-	x	x	x	yes
Lower Arsenal	-	x	x	-	-	yes
Property East of City Hall	x	-	-	x	-	no
Senior Center	-	-	-	x	-	no

x - Marked on survey

1 1115 West 5th - Single Family Residential Opportunity Site

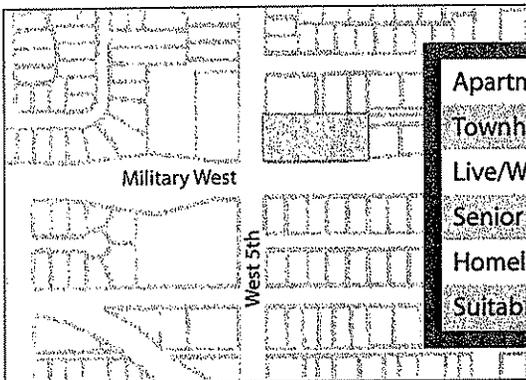


Apartments	X	Do you think this site is appropriate for housing? Yes: 2 Not Sure: 0 No: 3
Townhouses/Condos	X	
Live/Work Lofts	-	
Senior Housing	-	
Homeless Shelter/Transitional Housing	-	
Suitable for Compact Housing?	no	

Additional Comments

- "Hard site to develop"
- "Housing such as Bay Ridge (affordable housing project) or Hearthstone Village (affordable housing project) would be best"
- "No low-income housing"

2 Military West Vacant Sites - Single Family Residential

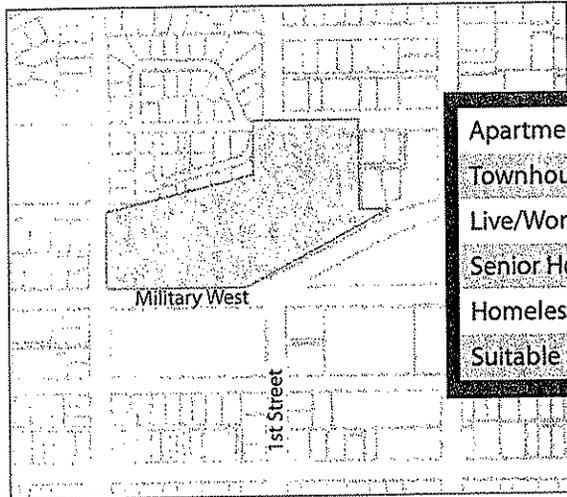


Apartments	X	Do you think this site is appropriate for housing? Yes: 2 Not Sure: 0 No: 2
Townhouses/Condos	X	
Live/Work Lofts	-	
Senior Housing	X	
Homeless Shelter/Transitional Housing	-	
Suitable for Compact Housing?	no	

Additional Comments

- "Housing like Hearthstone Village"
- "Not sure where access is to site"
- "No low-income housing"

3 Solano Square - Opportunity Site

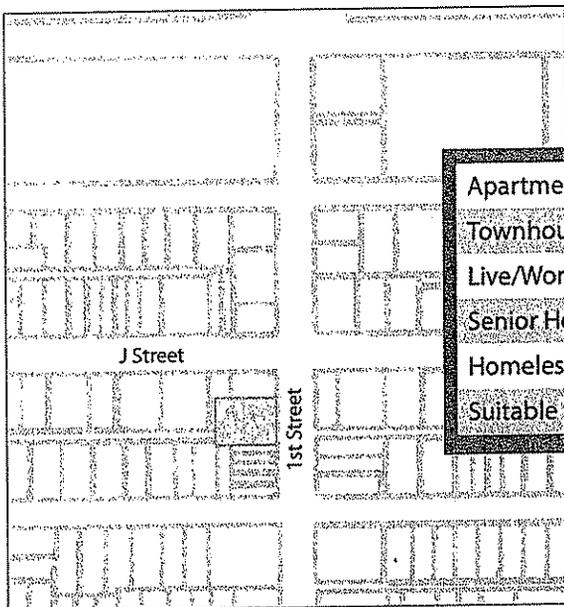


Apartments	X	Do you think this site is appropriate for housing? Yes: 1 Not Sure: 0 No: 2
Townhouses/Condos	X	
Live/Work Lofts	-	
Senior Housing	-	
Homeless Shelter/Transitional Housing	-	
Suitable for Compact Housing?	no	

Additional Comments

- "Mixed retail/housing"
- "Difficult project – but would, as mixed use, be excellent and better use of site than existing single story retail"
- "This is an interesting idea. A mixed use of businesses and apartments could bring the buildings up to a scale to fit in better and a good anchor to City core"
- "No low-income housing"

4 Site Across from St. Pauls Church on 1st - Opportunity Site

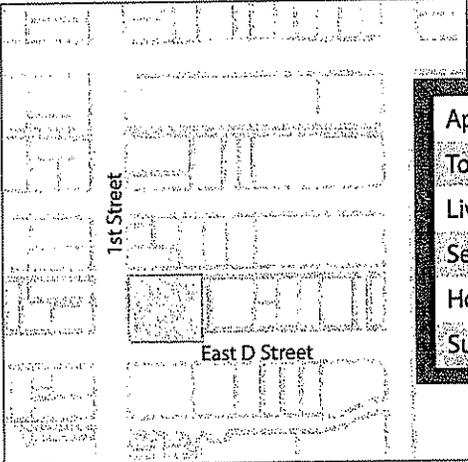


Apartments	X	Do you think this site is appropriate for housing? Yes: 4 Not Sure: 0 No: 1
Townhouses/Condos	X	
Live/Work Lofts	X	
Senior Housing	-	
Homeless Shelter/Transitional Housing	-	
Suitable for Compact Housing?	no	

Additional Comments

- "Mixed Use"
- "Compact housing would probably work with 4 units on top of parking garage"
- "No low-income housing"

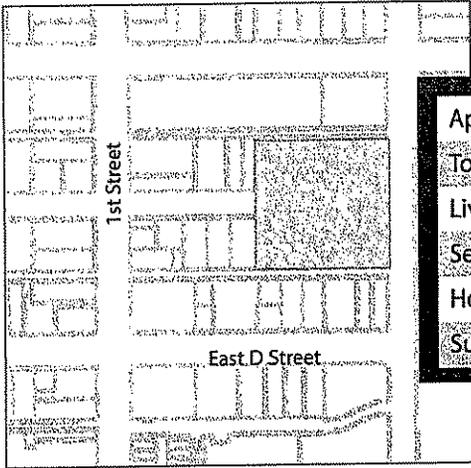
5 Downtown Core - Vacant Town Core



Apartments	X	Do you think this site is appropriate for housing? Yes: 2 Not Sure: 0 No: 1
Townhouses/Condos	X	
Live/Work Lofts	X	
Senior Housing	-	
Homeless Shelter/Transitional Housing	-	
Suitable for Compact Housing?	no	

Additional Comments
 "Mixed Use, Retail/Residential"
 "No low-income housing"

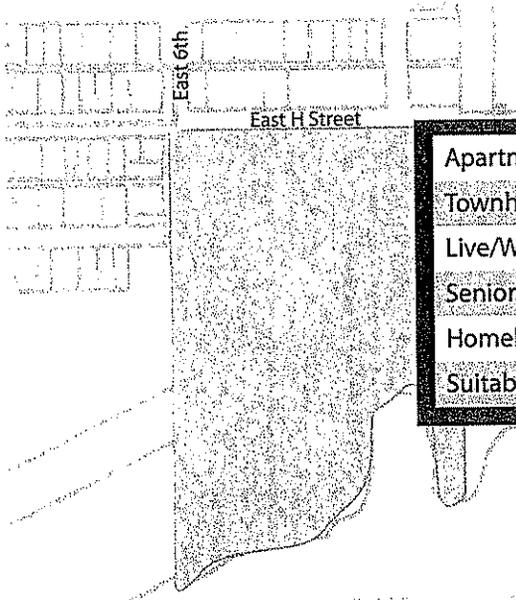
6 City Parking Lot - Vacant Town Core



Apartments	X	Do you think this site is appropriate for housing? Yes: 4 Not Sure: 0 No: 1
Townhouses/Condos	X	
Live/Work Lofts	-	
Senior Housing	X	
Homeless Shelter/Transitional Housing	X	
Suitable for Compact Housing?	no	

Additional Comments
 "Could this be used also for some City services?"
 "Great site. Much potential here for an underutilized site now"
 "No low-income housing"

7 Yuba Site - Opportunity Site



Apartments	-
Townhouses/Condos	-
Live/Work Lofts	x
Senior Housing	x
Homeless Shelter/Transitional Housing	x
Suitable for Compact Housing?	yes

Do you think this site is appropriate for housing?

Yes: 2
 Not Sure: 1
 No: 2

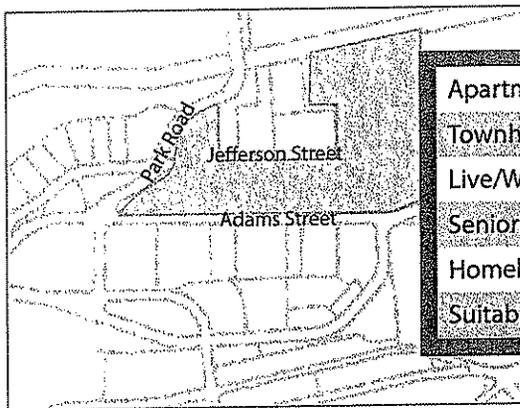
Additional Comments

"Seems too industrial – hard to imagine housing adjacent to sewage treatment plant"

"Could use a parking garage with housing on top"

"No low-income housing"

8 Lower Arsenal - Opportunity Site



Apartments	-
Townhouses/Condos	x
Live/Work Lofts	x
Senior Housing	-
Homeless Shelter/Transitional Housing	-
Suitable for Compact Housing?	yes

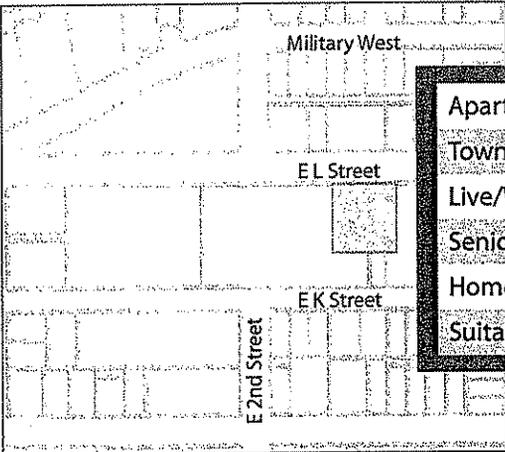
Do you think this site is appropriate for housing?

Yes: 3
 Not Sure: 1
 No: 2

Additional Comments

N/A

9 Property East of City Hall - Vacant Opportunity Site

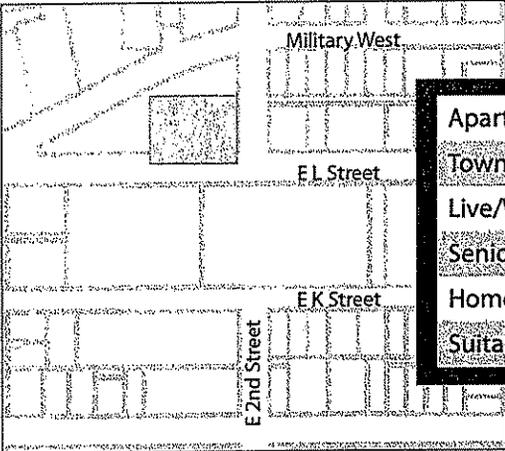


Apartments	X
Townhouses/Condos	-
Live/Work Lofts	-
Senior Housing	X
Homeless Shelter/Transitional Housing	-
Suitable for Compact Housing?	no

Do you think this site is appropriate for housing?	
Yes:	3
Not Sure:	1
No:	1

Additional Comments
 "Compact development in town center"
 "No low-income housing"

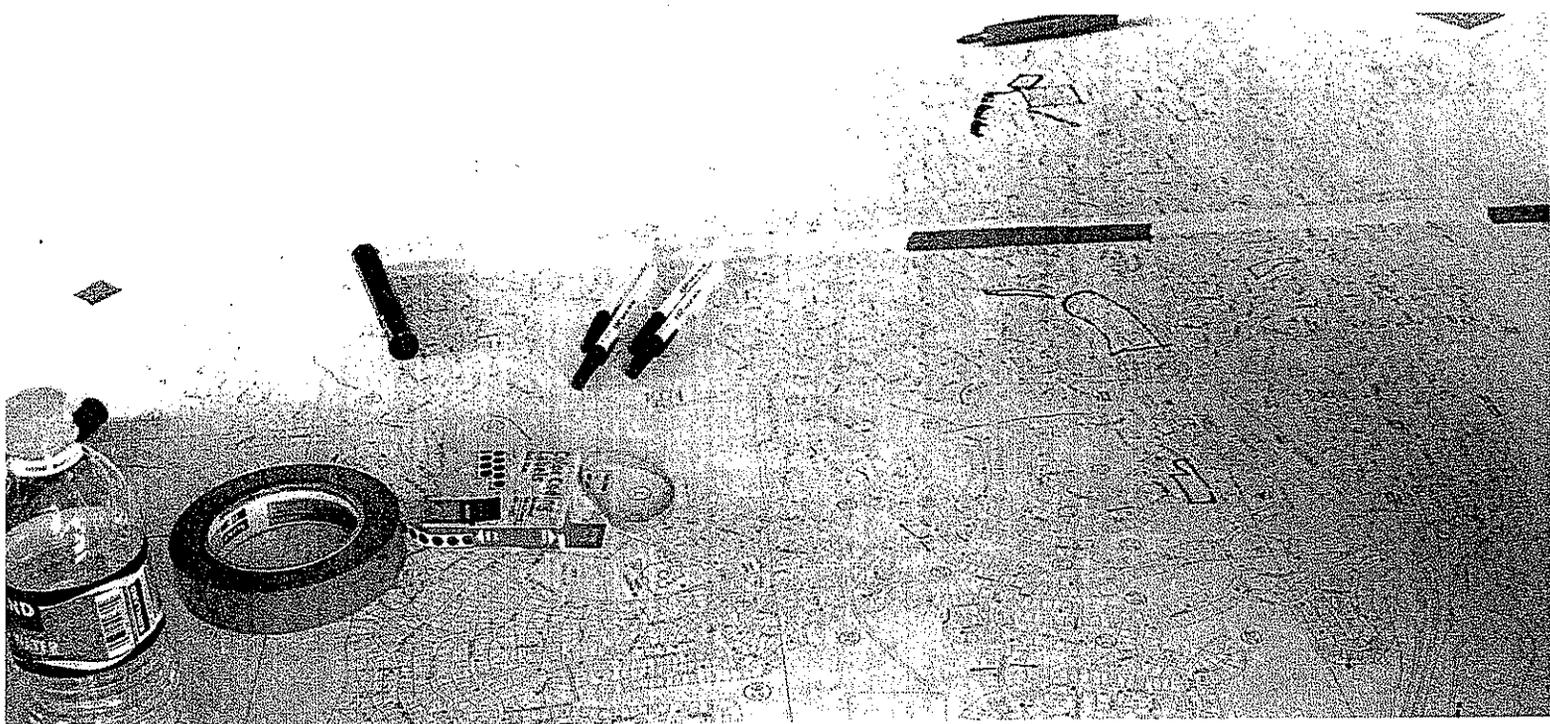
10 Senior Center - Opportunity Site



Apartments	-
Townhouses/Condos	-
Live/Work Lofts	-
Senior Housing	X
Homeless Shelter/Transitional Housing	-
Suitable for Compact Housing?	no

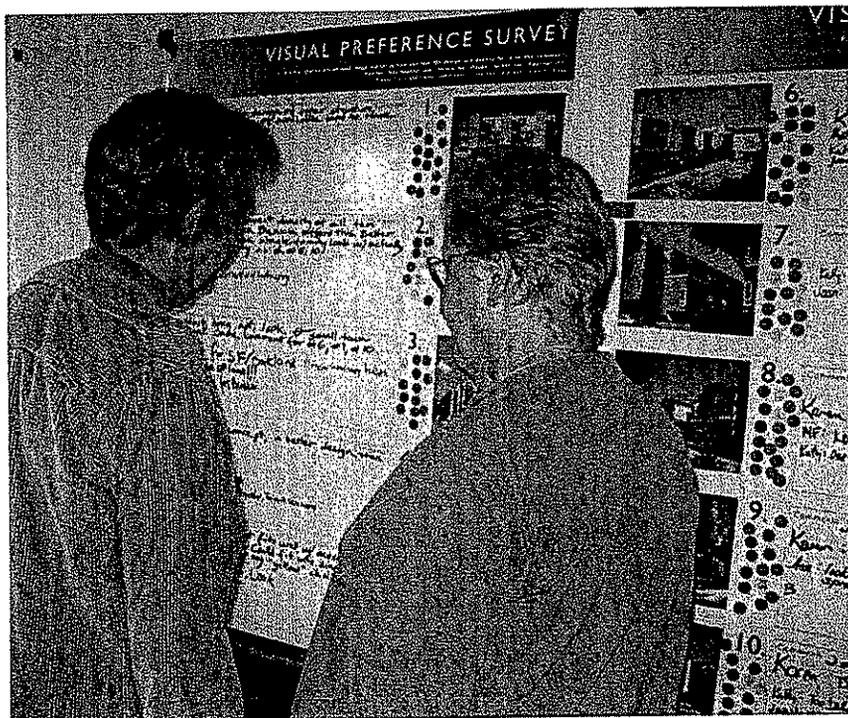
Do you think this site is appropriate for housing?	
Yes:	2
Not Sure:	0
No:	1

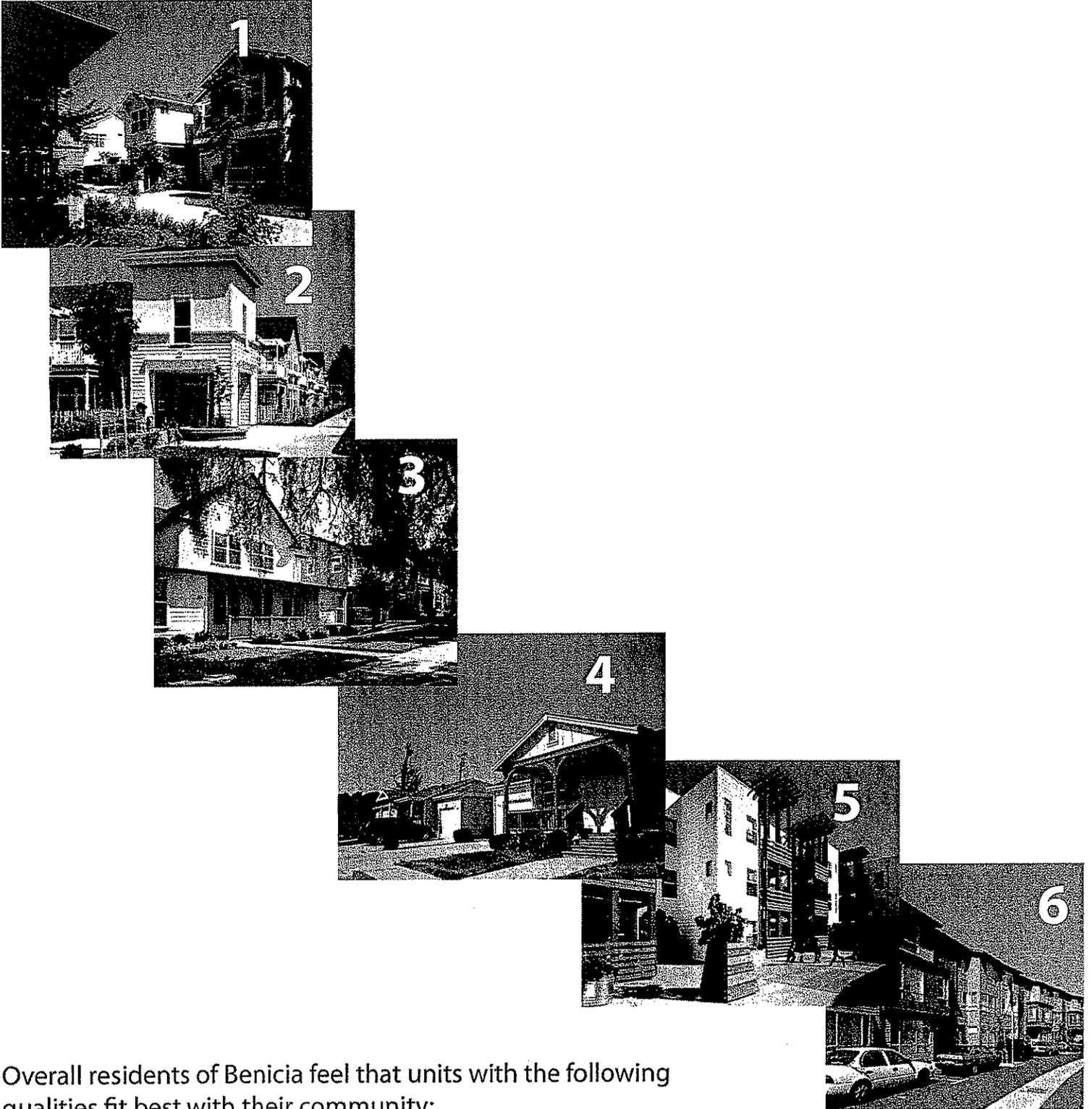
Additional Comments
 "Incorporate senior housing"
 "No low-income housing"



Visual Preference Survey

A visual preference survey was used to solicit feedback from participants on what type of designs, densities, landscaping, and amenities are preferred or found to be acceptable. Participants were asked to place colored dots next to images, indicating that the building is "Appropriate (Green)", "Not Sure (Yellow)", or "Not Appropriate (Red)" for Benicia. Participants could also write in comments next to each image.



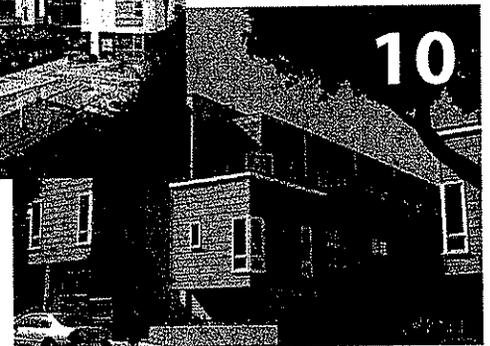
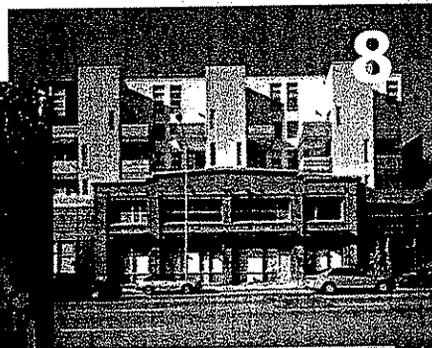


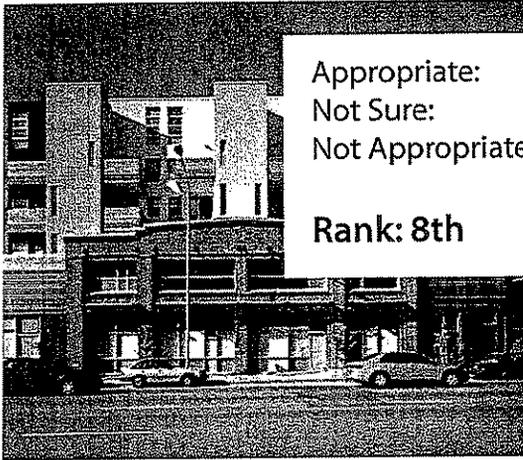
Overall residents of Benicia feel that units with the following qualities fit best with their community:

- Units that are designed to appear as condos or large single-family residences
- Units that are two stories in height
- Units that are surrounded by landscaping and shade

Written comments suggest that residents felt that some images were not appropriate for Benicia because:

- Units appear too dense in height and scale
- Units are in need of more landscaping
- Unit design does not fit with local character



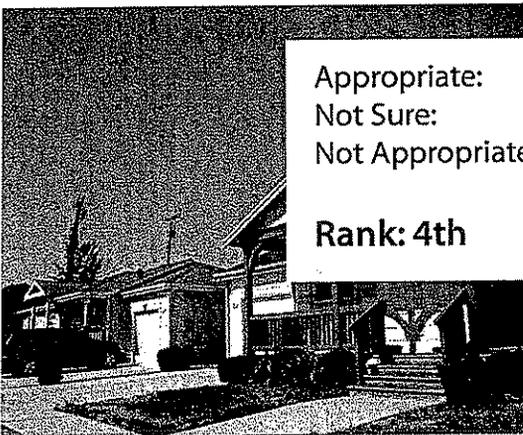


Appropriate: 4
 Not Sure: 1
 Not Appropriate: 15

Rank: 8th

Image 1

It just don't like design of upper structure, but great use of available land to be utilized use.
 It's primarily
 Two big and boxy for Benicia
 Too big, too boxy, looks like 1970's
 Made big and boxy, but I like idea of housing over existing building

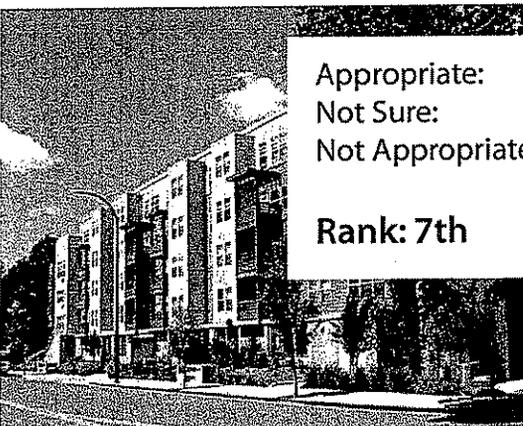


Appropriate: 7
 Not Sure: 7
 Not Appropriate: 2

Rank: 4th

Image 2

Looks like the lowest density of all ten samples. Can Benicia afford this. Better probably to use single-family look with actually high density as in #8, #10.
 Not bad
 Ok, would be a lot better with landscaping
 Maybe better to be a little denser or two stories, but has a place for handicapped/elderly



Appropriate: 4
 Not Sure: 2
 Not Appropriate: 10

Rank: 7th

Image 3

Stark, boxy apt. look. Zero small town appeal. Same comment for #6, #7, #10.
 Great for SF/Oakland
 Great for help
 Good use of land
 Horrible huge box

Image 4

"For apt. concept, a better design than #3, #6, #7, #10"
 "Ugly"
 "Actually not a bad design"
 "Another box, too dense, too close together, too much sameness"

Appropriate: 4
 Not Sure: 3
 Not Appropriate: 10

Rank: 6th

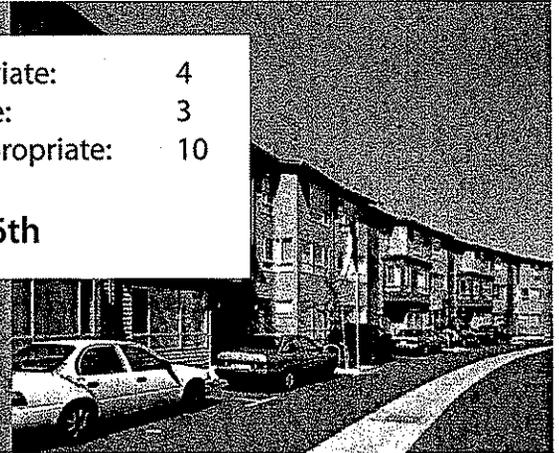


Image 5

"Condo look that fits well with much already in town"
 "Could fit into single family settings. Best of my 'yellow' choices"
 "Nice condo look"
 "Better. Looks a little 'fairly historic'"

Appropriate: 15
 Not Sure: 3
 Not Appropriate: 1

Rank: 2nd

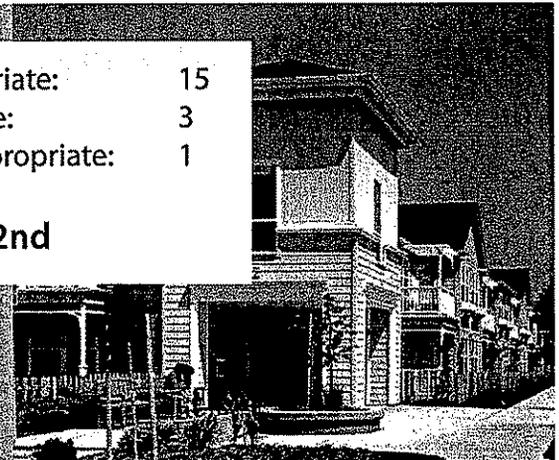
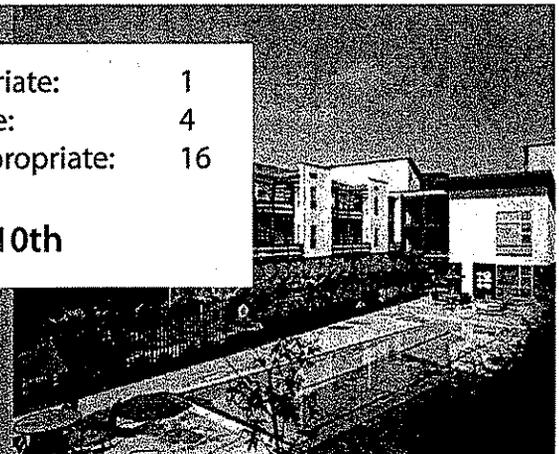


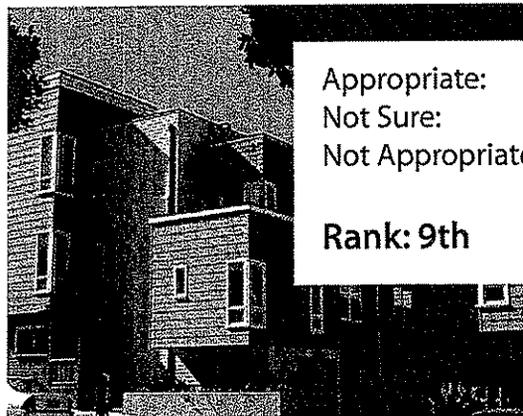
Image 6

"See comments #3"
 "Could not be any worse"
 "The 'urban' arch. Look doesn't fit well in Benicia"
 "No. Looks like apartment complex. Horrible mix of 'Modern' style with 'old' balconies and horizontal siding"
 "Above comment well-put"

Appropriate: 1
 Not Sure: 4
 Not Appropriate: 16

Rank: 10th



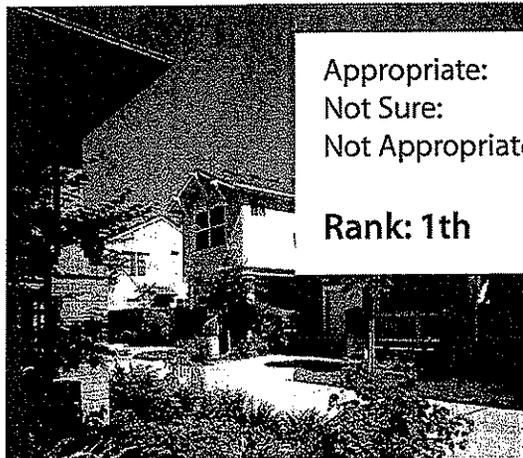


Appropriate: 1
Not Sure: 5
Not Appropriate: 13

Rank: 9th

Image 7

See comment #2
Ugly
Another box - ugly windows
Mishmash of materials - D sign a mess

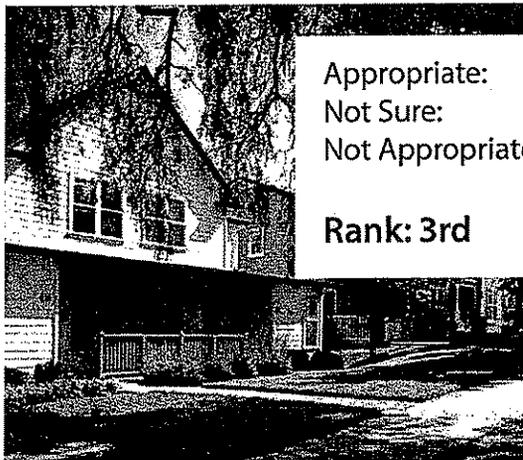


Appropriate: 19
Not Sure: 3
Not Appropriate: 1

Rank: 1th

Image 8

See comment #2
Very pretty. Should go right into existing neighborhoods
"Lovely - fit into our community"
"One of the best - fits character of the community - downtown"



Appropriate: 12
Not Sure: 2
Not Appropriate: 4

Rank: 3rd

Image 9

See comment #2
Looks like Benicia
Looks like Benicia unable to accept progress - stuck in the past - sprawling
Grand keywork - too duplicitous

Image 10

“See comment #3”
 “Beyond ugly”
 “Too tall”
 “Too cramped”

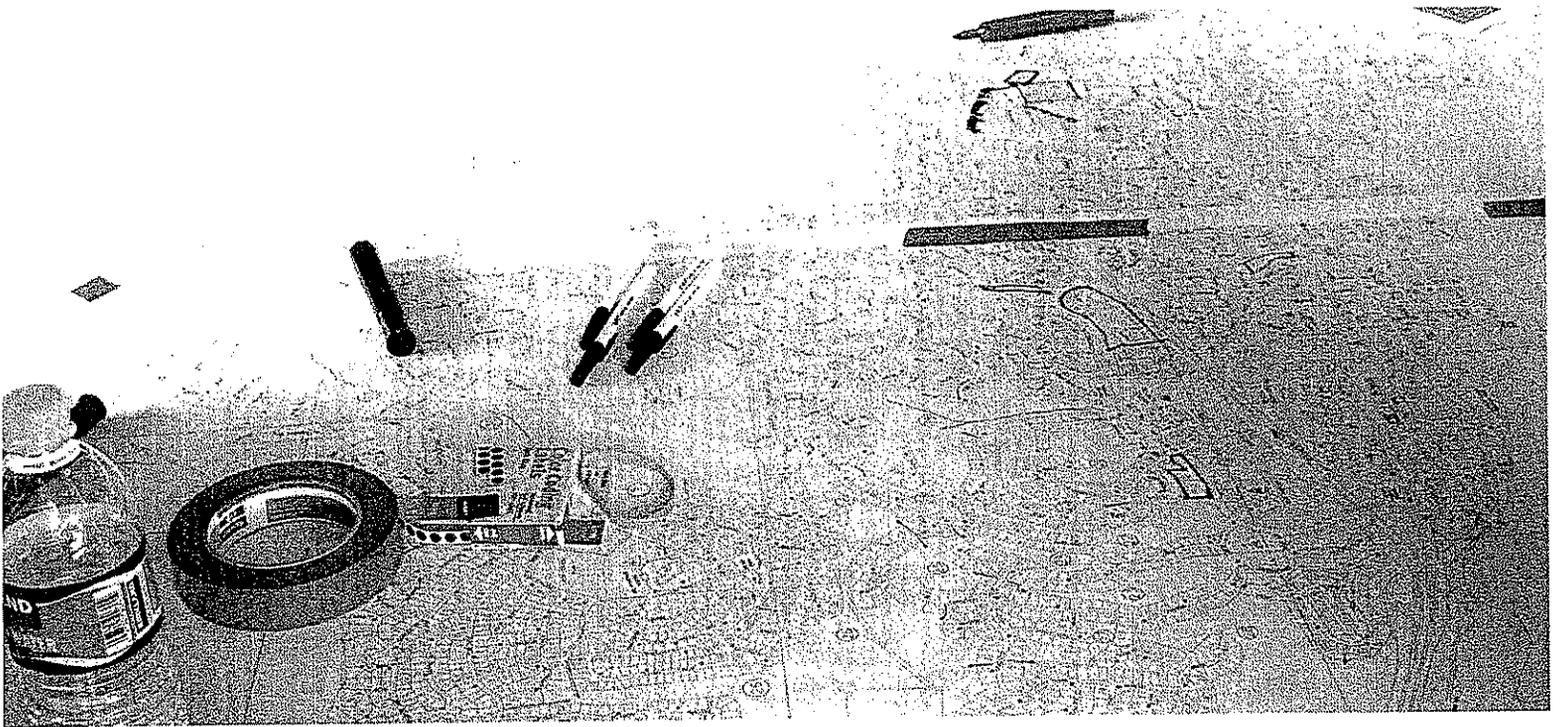
Appropriate: 4
 Not Sure: 4
 Not Appropriate: 12

Rank: 5th



Summary of Visual Preference Survey Results

	Appropriate	Not Sure	Not Appropriate
Image 01	4	1	15
Image 02	7	7	2
Image 03	4	2	10
Image 04	4	3	10
Image 05	15	3	1
Image 06	1	4	16
Image 07	1	5	13
Image 08	19	3	1
Image 09	12	2	4
Image 10	4	4	12



Affordable Housing Tour

In this exercise residents were asked to tour and provide feedback on eight existing affordable housing projects in the City. Residents were asked to rate the project based on the following questions.

- A. Do the buildings fit with the character (design and architecture) of the surrounding neighborhood?
- B. Is the scale appropriate to the surroundings?
- C. Is there sufficient parking?
- D. Is there access to neighborhood services (groceries, restaurants, other commercial)?

Findings

Several residents participated in the housing tour. Of the projects surveyed, Bay Ridge, Clipper Bay, and Hearthstone produced the most positive feedback. Participants felt that these units were appropriate in scale, design, and landscaping and were close to goods and services. Casa de Vilarrasa had the highest number of negative comments, ranging from concern over building scale to design theme.

Comments and results of the tour are located on the following pages.

Bay Ridge



- A. Yes (2), Not Sure (0), No (0)
- B. Yes (2), Not Sure (0), No (0)
- C. Yes (2), Not Sure (0), No (0)
- D. Yes (2), Not Sure (0), No (0)

Additional Comments

"Good design and good access to services"

"Excellent project"

"More appealing because the scale and massing have good details"

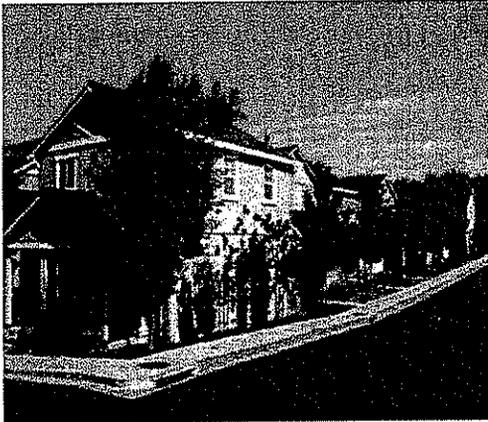
"Separate structures make it fit near single-family homes"

"Parking in back is good detail"

"Nicely landscaped"

- A. Do the buildings fit with the character (design and architecture) of the surrounding neighborhood?
- B. Is the scale appropriate to the surroundings?
- C. Is there sufficient parking?
- D. Is there access to neighborhood services (groceries, restaurants, other commercial)?

Hearthstone



- A. Yes (2), Not Sure (0), No (0)
- B. Yes (2), Not Sure (0), No (0)
- C. Yes (2), Not Sure (0), No (0)
- D. Yes (2), Not Sure (1), No (0)

Additional Comments

"Nice design, tight site"

"Long walk or drive to neighborhood services"

"Not particularly special – a very small part of a much larger development"

"Mixed character"

"Parking located in garages"

"¼ mile to shopping center – bus stop is close"

"Landscaping appropriate"

- A. Do the buildings fit with the character (design and architecture) of the surrounding neighborhood?
- B. Is the scale appropriate to the surroundings?
- C. Is there sufficient parking?
- D. Is there access to neighborhood services (groceries, restaurants, other commercial)?

Clipper Bay

- A. Yes (1), Not Sure (0), No (0)
- B. Yes (1), Not Sure (0), No (0)
- C. Yes (1), Not Sure (0), No (0)
- D. Yes (1), Not Sure (0), No (0)

Additional Comments

"There is some access to neighborhood services"
"Bus stop, fast food, health club, convenience store"



A. Do the buildings fit with the character (design and architecture) of the surrounding neighborhood?

B. Is the scale appropriate to the surroundings?

C. Is there sufficient parking?

D. Is there access to neighborhood services (groceries, restaurants, other commercial)?

Habitat for Humanity

- A. Yes (1), Not Sure (0), No (1)
- B. Yes (0), Not Sure (1), No (1)
- C. Yes (2), Not Sure (0), No (0)
- D. Yes (2), Not Sure (0), No (0)

Additional Comments

"Seems too small compared to surrounding buildings"
"Denser development would be better for location this close to downtown core"
"Seems a bit small compared to surroundings"
"Near restaurants, and other commercial sites"
"Bus stop at corner – good"
"Very minimal landscaping"



A. Do the buildings fit with the character (design and architecture) of the surrounding neighborhood?

B. Is the scale appropriate to the surroundings?

C. Is there sufficient parking?

D. Is there access to neighborhood services (groceries, restaurants, other commercial)?

Burgess Point



- A. Yes (2), Not Sure (0), No (1)
- B. Yes (2), Not Sure (0), No (1)
- C. Yes (2), Not Sure (0), No (1)
- D. Yes (0), Not Sure (0), No (3)

Additional Comments

"Needs trash cans"
"Needs to be more particular about residents"
"Needs to be re-painted"
"Long walk to neighborhood services"
"Excellent design, except for the exterior metal stairs, which detract from the quality of the buildings"
"Landscaping is good"
"Nice development"
"Would need a car to get to neighborhood services
Exterior stairs don't fit with architecture – makes it look institutional"
"Good landscaping"

- A. Do the buildings fit with the character (design and architecture) of the surrounding neighborhood?
- B. Is the scale appropriate to the surroundings?
- C. Is there sufficient parking?
- D. Is there access to neighborhood services (groceries, restaurants, other commercial)?

Capital Heights



- A. Yes (1), Not Sure (2), No (0)
- B. Yes (3), Not Sure (0), No (0)
- C. Yes (0), Not Sure (1), No (2)
- D. Yes (0), Not Sure (0), No (3)

Additional Comments

"Needs trash cans"
"Needs a physical make-over"
"Very dated in need of maintenance, so they now seem out-of-step with neighborhood"
"It appears that quite a bit of on-street parking is used"
"Long walk to neighborhood services"
"Poor landscaping"
"Dated"
"Not appealing – dated with flat roofs – needs upgrading"
"Parking is located mostly on the street"
"Long walk to neighborhood services"
"No landscaping in upper units"
"Having duplex units is better than one big mass"

- A. Do the buildings fit with the character (design and architecture) of the surrounding neighborhood?
- B. Is the scale appropriate to the surroundings?
- C. Is there sufficient parking?
- D. Is there access to neighborhood services (groceries, restaurants, other commercial)?

Clos Duvall

- A. Yes (1), Not Sure (1), No (0)
- B. Yes (2), Not Sure (0), No (0)
- C. Yes (0), Not Sure (2), No (0)
- D. Yes (0), Not Sure (1), No (1)

Additional Comments

- "Lower quality design"
- "Nothing special"
- "Would have to drive to neighborhood services"
- "Massing it too dense compared to neighborhoods"
- "Most cars parked on street even though there are garages and driveways"
- "One convenience store was nearby"
- "Houses cul-de-sac very crowded – looks crammed on the site"
- "Poor site design"
- "Not appealing home designs"
- "Lack of yards/green space"



A. Do the buildings fit with the character (design and architecture) of the surrounding neighborhood?

B. Is the scale appropriate to the surroundings?

C. Is there sufficient parking?

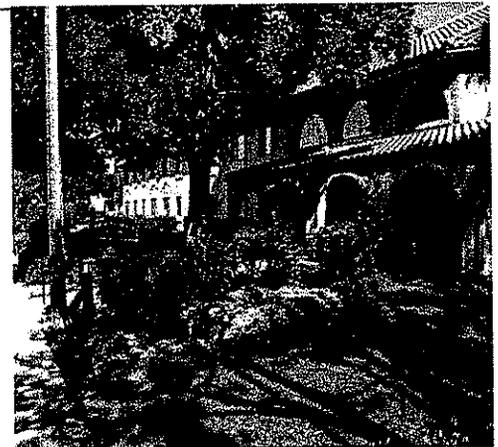
D. Is there access to neighborhood services (groceries, restaurants, other commercial)?

Casa de Vilarrasa

- A. Yes (0), Not Sure (0), No (2)
- B. Yes (0), Not Sure (0), No (2)
- C. Yes (0), Not Sure (2), No (0)
- D. Yes (0), Not Sure (0), No (2)

Additional Comments

- "Too much contiguous building structure"
- "Scale would be better if broken into smaller masses"
- "Not close to neighborhood services"
- "Compared with Bay Ridge apartments, for example, Casa de Vilarrasa looks very cheaply designed – doesn't integrate as well"
- "Needs breakdown of mass/scale"
- "Height ok, better if it were smaller massing"
- "The lot is not close to the individual units"
- "Long way to goods and services"
- "Pseudo Spanish design doesn't fit with city image"
- "Much too large"

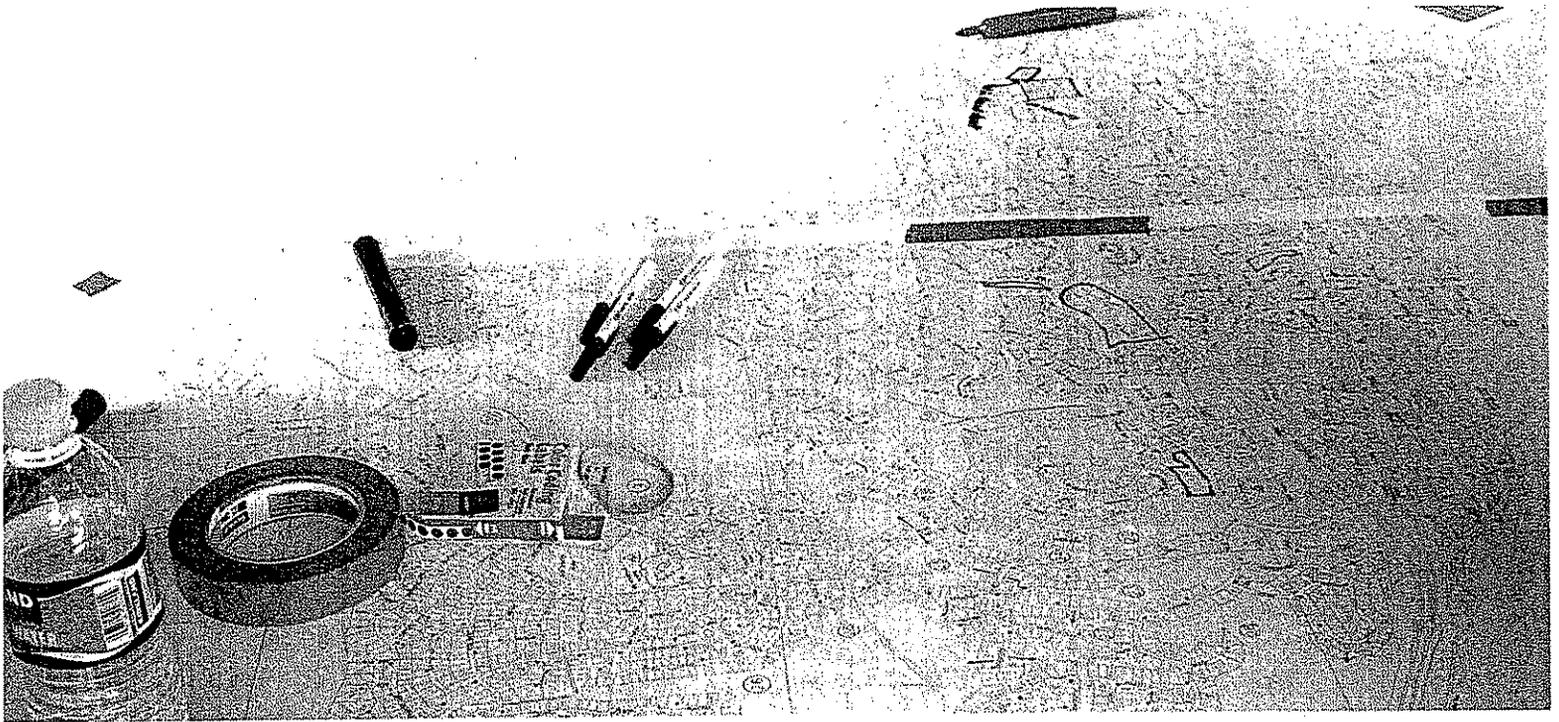


A. Do the buildings fit with the character (design and architecture) of the surrounding neighborhood?

B. Is the scale appropriate to the surroundings?

C. Is there sufficient parking?

D. Is there access to neighborhood services (groceries, restaurants, other commercial)?



Goals, Policies, & Programs Activity

The purpose of this exercise was to gather input to develop new goals, policies and programs for the next Benicia Housing Element. The goals, policies and programs from the current Housing Element Update were presented. The activity included an open discussion/brainstorming session with prompts from the facilitators regarding new legislation, community preferences, potential changes to existing zoning/standards, and constraints to construction of affordable housing. Community input will be incorporated when drafting the goals, policies and programs for the Housing Element Update.

Findings

- Characteristics of appropriate sites and processes for constructing transitional housing were discussed.
- Examples of existing transitional housing were mentioned, such as Imani House and Adobe.
- Siting housing in the Arsenal was discussed. Issues of density, type of housing, and design were discussed as important concerns.
- Participants discussed the idea of increasing allowed height limits. There was agreement that an across-the-board increase either in Benicia as a whole, or in a citywide zone was not favorable. The idea of an overlay or allowing height increases in certain specific areas (e.g. the Arsenal) was more palatable to some of the participants.
- Participants felt that required improvements and associated costs deter people from constructing second units.

A summary of the group discussion is located on the next page.



Notes: Goals, Policies, Programs

Topic Area: Homeless Shelters and Transitional Housing relating to SB2.

SB2 is a recently passed bill that requires that emergency shelters and transitional housing be allowed by-right in at least one zone in a jurisdiction or cities must identify potential sites for these types of facilities.

Community Action Coalition (CAC) identified and proposed a 12 unit transitional housing project at a site last year. The project didn't go through. Participants favored the location within commercial areas. The zone that this proposed site was located in could potentially be a zone that allows emergency shelters and transitional housing.

CAC does not know of an operator willing to run an emergency shelter in Benicia.

Existing facilities – participants agreed that these are both good neighbors and acceptable in the community.

There is currently one transitional housing facility for women with disabled and mental health issues – Imani House.

There is also a drug and alcohol treatment program called Adobe on Military West between L and K Streets. They are good neighbors.

Topic Areas: Housing in the Arsenal

"Yes, good for mixed use."

"What about incentives from the City for more intensive industrial uses to move out of the arsenal (to Seeno) leaving space for housing/more appropriate commercial uses?"

Topic Areas: Increase Height Limits

"Depends on where in town."

"Maybe higher would work better in the Arsenal."

"Historic context - "not higher than St. Paul's Church steeple."

"If more stories, consider senior access."

Topic Area: Second Units

Good option but many costs associated with improvements required by Public Works (utility requirements).

Second units are currently not allowed on top of garages - should allow.

Reduce minimum lot size from 6,000 sf.

High infrastructure costs. E.g. – requiring a second unit water meter.

Additional General Comments

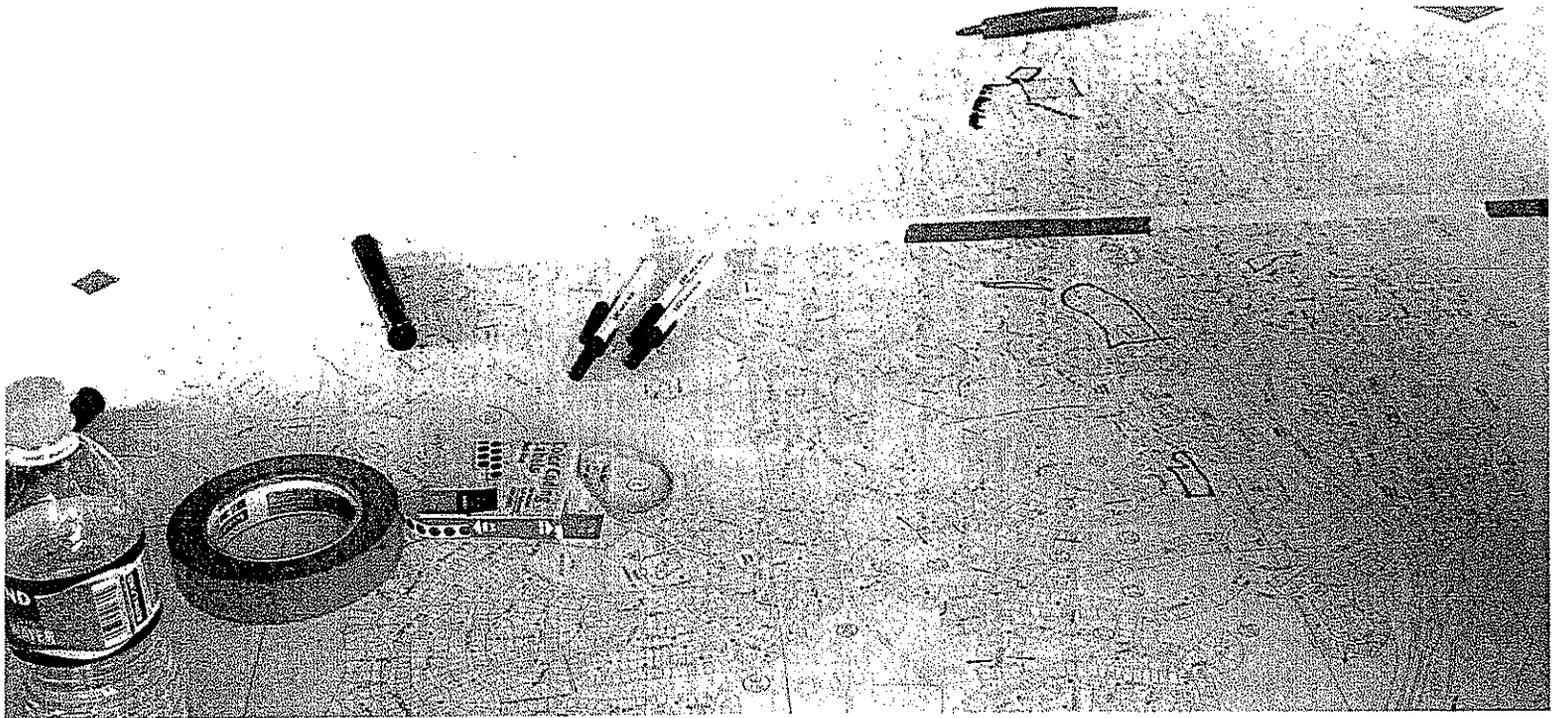
Don't see a lot of ways to build zero lot lines - minimum square footage is a constraint.

Historical standards are too restrictive.

The approval process takes too long.

Regulations, people, historic standards - need to be more family-friendly.

Assess parking usage - revisit parking standards.



IDEA GALLERY

In this exercise, attendees provided any additional comments that they wished to express. Overall, comments from residents included:

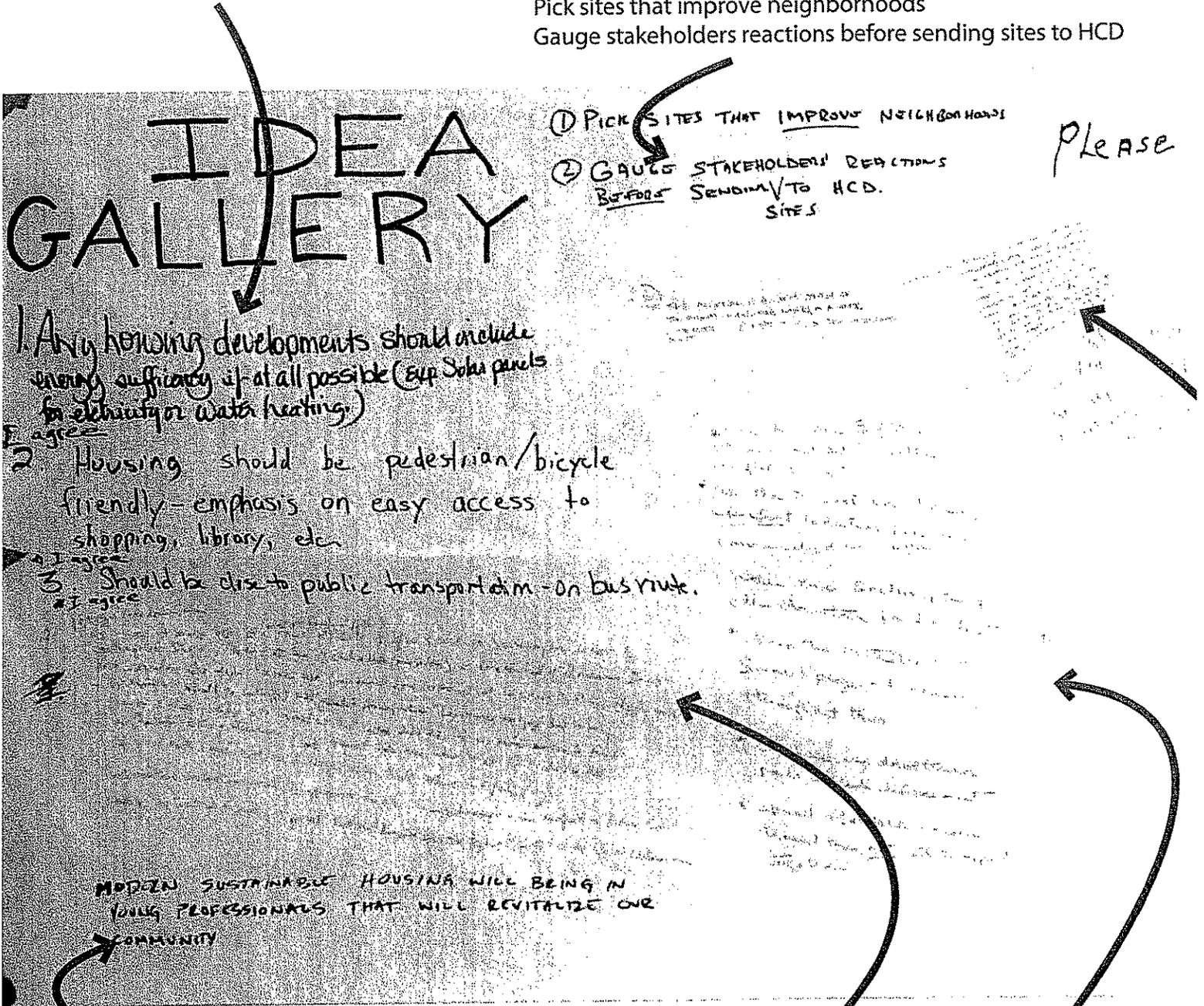
- Include energy efficiency.
- Close access to goods, services, and transportation.
- Pick sites that improve neighborhoods.
- Gauge stakeholders reactions before sending sites to HCD.
- Modern sustainable housing will bring in young professionals.
- Mixed use activity in the Southhampton area.
- Use infill sites and revitalize shopping center.
- Incorporate dynamic parking standards.
- Use compact multifamily where appropriate.
- Arsenal could be good for mixed use.
- Structures should be no more than 3 stories.
- Keep industrial in Seeno and housing in town.
- Spread affordable housing around town.
- Please remember nondrivers.
- Incorporate more green technology.
- Smaller unit sizes, smaller scale for housing.
- Seeno should incorporate a campus-style design.
- Consider more community gardens.
- Seeno should incorporate a multitude of housing options.
- Senior housing could be located in downtown.
- More youth services.
- Arsenal could be a good space for housing, commercial, industrial, and public activity.
- Arsenal could also have a range of architectural styles that typically conflict if located downtown.

Notes from this exercise are located on the next page.

Summary of Gallery Comments

- Include energy efficiency
- Housing should be pedestrian bicycle friendly
- Close access to goods, services, and transportation

- Pick sites that improve neighborhoods
- Gauge stakeholders reactions before sending sites to HCD



Modern sustainable housing will bring in young professionals that will revitalize our community

- Mixed use activity in the Southhampton area
- Use infill sites and revitalize shopping center
- Incorporate dynamic parking standards
- Use compact multifamily where appropriate

- Arsenal could be good for mixed use
- Structures should be no more than 3 stories
- Keep industrial in Seeno and housing in town
- Clean up parks **IX-A-47**
- Spread affordable housing around town

Consider more community gardens
Seeno should incorporate a multitude of housing options
Senior housing could be located in downtown
More youth services

Please remember nondrivers

Remember Nondrivers.

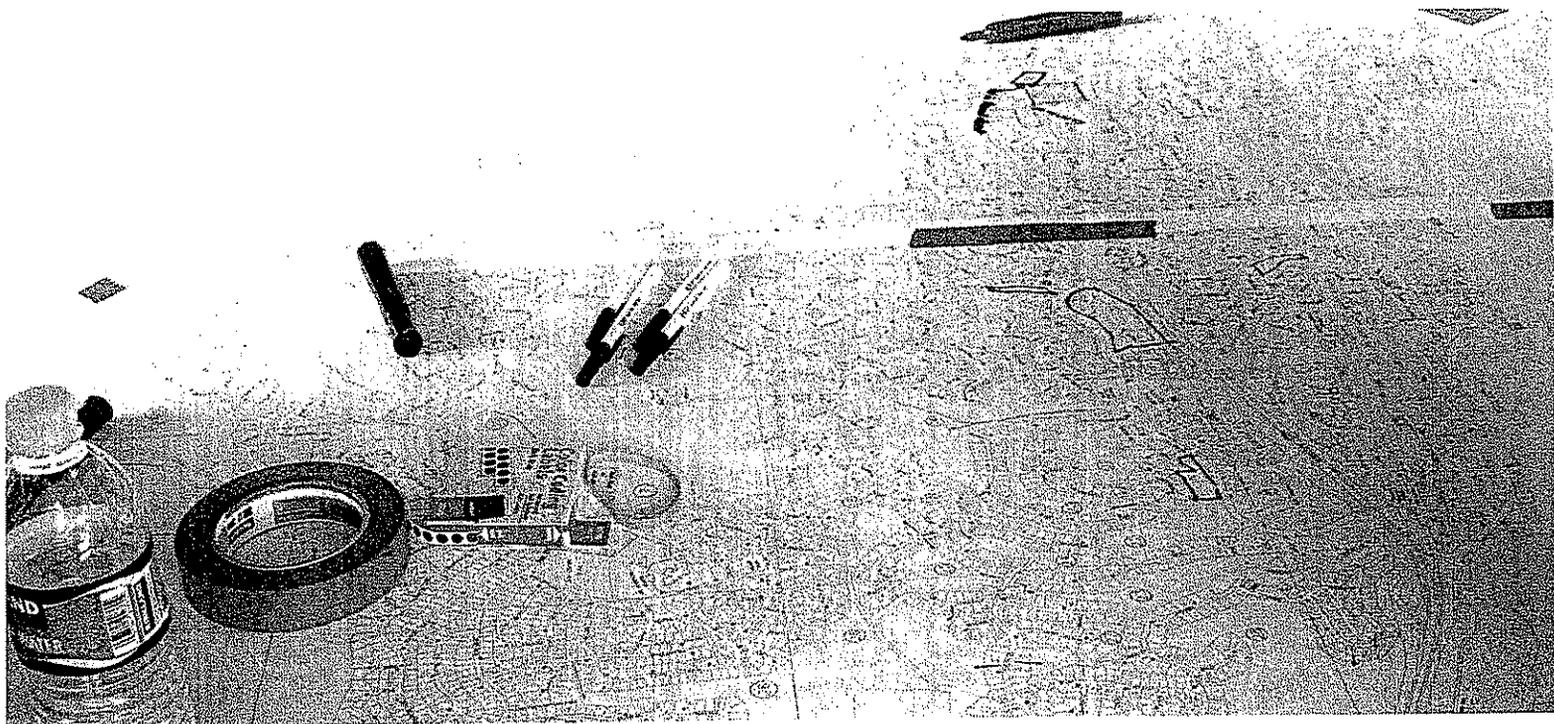
- If you introduce more housing with virtually no yards, you need to consider having more community gardens - both decorative + edible
- Since the economic downturn of our economy, has it been reconsidered that there are a lot more low income homeowners + the need for housing is greatly increased?
- We feel the Seeno project will go through - it is a matter of time. Because of this in relation to housing, it can be put near this Shopping center + new police station that will be needed. City should make sure is zoned for shops. Needs more like food stores, as above.
- I feel that the new Seeno project is a good place for multi-use, as above.
- Will revitalize that part of Benicia. There will have to be a bus line and senior low income in the downtown in all areas, for obvious reasons.
- Senior low income in the downtown in all areas, for obvious reasons.
- senior center, library, grocery store, pharmacy.
- We do not need un-supervised youth "hangouts" so more youth services would be needed.

If Seeno could be campus style, then it may be appropriate for housing above commercial space.

- Mostly I'd like 3 story or less, but there are places where higher buildings may be appropriate.
- I'd like to see more duplexes + small apartment units through out city. (very sacred in west side, south of military)
- Make sure new housing is designed w/ Solar in mind, how in way building is designed + post-nated, + built.
- There is a bit of space in Sutter + Franklin for duplexes

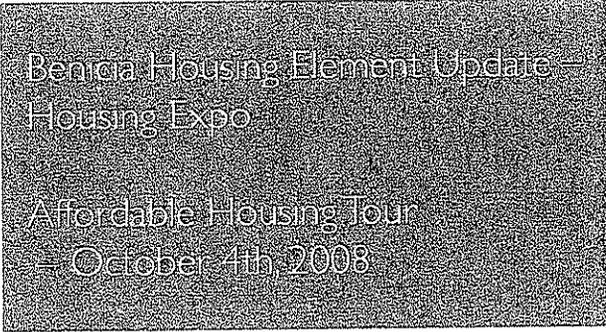
Incorporate more green technology
Smaller unit sizes, smaller scale for housing
Seeno should incorporate a campus-style design

Arsenal could be a good space for housing, commercial, industrial, and public activity
Arsenal could also have a range of architectural styles that typically conflict if located downtown.



Appendices

Affordable Housing Sites Tour
Vacant Land/Opportunity Sites Tour



CIRCLE PROJECT:

CAPITAL HEIGHTS	CASA DE VILARRASA	BAY RIDGE	BURGESS POINT
HEARTHSTONE	CLIPPER BAY	CLOS DUVALL	HABITAT FOR HUMMANITY

A. DO THE BUILDINGS FIT WITH THE CHARACTER (DESIGN AND ARCHITECTURE) OF THE SURROUNDING NEIGHBORHOOD?

YES	NOT SURE	No
-----	----------	----

B. IS THE SCALE APPROPRIATE TO THE SURROUNDINGS?

YES	NOT SURE	No
-----	----------	----

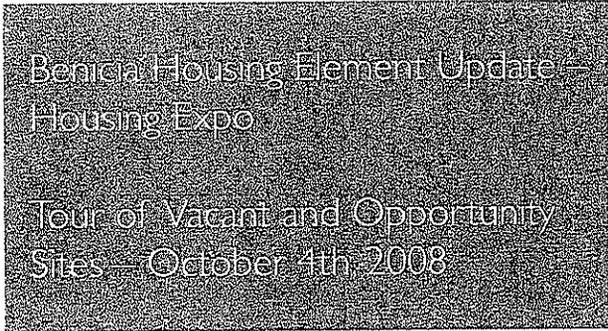
C. IS THERE SUFFICIENT PARKING?

YES	NOT SURE	No
-----	----------	----

D. IS THERE ACCESS TO NEIGHBORHOOD SERVICES? (GROCERIES, RESTAURANTS, OTHER COMMERCIAL)

YES	NOT SURE	No
-----	----------	----

ADDITIONAL COMMENTS



CIRCLE SITE:

1. 1115 WEST 5TH
2. MILITARY WEST VACANT SITES
3. SOLANO SQUARE (POTENTIAL REDEVELOPMENT)
4. SITE ACROSS FROM ST. PAULS ON 1ST
5. DOWNTOWN CORE (SECOND & THIRD STORY RESIDENTIAL/RESIDENTIAL IN THE REAR)
6. CITY PARKING LOT
7. YUBA SITE
8. LOWER ARSENAL (POTENTIAL REDEVELOPMENT)
9. PROPERTY EAST OF CITY HALL
10. SENIOR CENTER

A. DO YOU THINK THE SITE IS APPROPRIATE FOR HOUSING?

(CHARACTER OF NEIGHBORHOOD, PROXIMITY TO TRANSIT AND SERVICES)

YES	NOT SURE	NO
-----	----------	----

B. DO YOU THINK A PARTICULAR TYPE OF HOUSING WOULD BE ESPECIALLY SUITED TO THIS SITE?

(CHECK MORE THAN ONE, IF APPROPRIATE)

- APARTMENTS
- TOWNHOUSES/CONDOS
- LIVE/WORK LOFTS
- SENIOR HOUSING
- HOMELESS SHELTER/TRANSITIONAL HOUSING

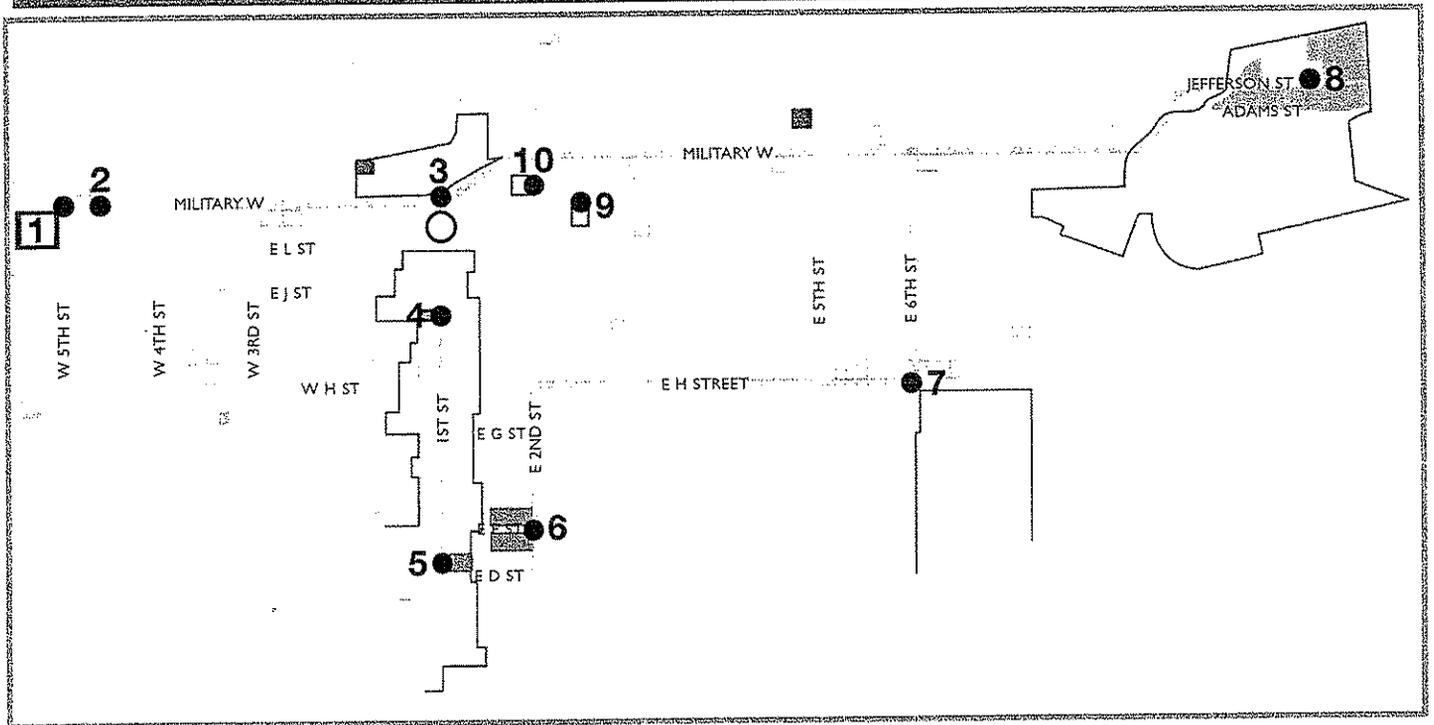
C. IS THIS SITE SUITABLE FOR COMPACT HOUSING?

ADDITIONAL COMMENTS

TOUR OF VACANT AND OPPORTUNITY SITES
LOCATION MAP

THE FOLLOWING SITES ARE LOCATED WITHIN THIS MAP

- | | |
|--------------------------------------|-------------------------------|
| 1. 1115 WEST 5TH | 6. CITY PARKING LOT |
| 2. MILITARY WEST VACANT SITES | 7. YUBA SITE |
| 3. SOLANO SQUARE | 8. LOWER ARSENAL |
| 4. SITE ACROSS FROM ST. PAULS ON 1ST | 9. PROPERTY EAST OF CITY HALL |
| 5. TOWN CORE | 10. SENIOR CENTER |





HOUSING EXPO EVENT GUIDE

1150 First Street

October 3 and 4, 2008



CITY OF BENICIA - COMMUNITY DEVELOPMENT DEPARTMENT

HOUSING ELEMENT

Housing Expo Event Guide

It's time to update the City's 1999-2006 Housing Plan.

Mandated by the State, the "Housing Element" is a plan that spells out Benicia's goals, policies, and programs to address the community's housing needs.

The plan is updated on a cyclical basis, roughly every 5 to 7 years, consistent with population forecasts. Although the State directs plan production and contents, cities decide where and how new housing will occur.

Housing is a need shared by everyone. Ensuring that housing is attainable

for people with varied incomes has a direct effect on our quality of life and economic development. A healthy supply of housing helps achieve a jobs/housing balance by providing options for workers to live in the city rather than commute should they prefer to do so. This is one of the basic building blocks of sustainable communities.

Where we decide to grow will be more important than ever as cities across the state work to address land use patterns in response to the Global Warming Solutions Act of 2006.

The Housing Element is an opportunity to address

growth by selectively concentrating new development near existing infrastructure, transit options, and everyday needs.

Growth and change will occur. We have the opportunity to plan for it so Benicia can benefit from it.

We hope you join the conversation!



Bay Ridge at Rose Drive.

Get Involved!

The top 10 reasons to participate:

1. Assist in creating a new and updated Housing Element.
2. Identify housing concerns and suggest solutions.
3. Help decide where and how new housing will occur.
4. Tell us what housing types are acceptable in Benicia.
5. Help address greenhouse gas emissions by selecting the right areas to locate new housing.
6. Participation is key to understanding and achieving community goals.
7. The plan is more likely to be implemented with broad community support.
8. To visit affordable housing.
9. Housing is a basic need.
10. Your voice matters!

Inside:

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October 4—Closing Presentation	3
October 21—Outcomes Report	3
Project Schedule, Contact Info, and Participation	4

Unit Count and Affordability:

2007-2014 Housing Allocation

Median Income	\$61,533	
Affordable Categories	Units	Income Range
Very Low (<50%)	147	<\$30,766
Low (50%-80%)	99	\$30,766-\$49,226
Moderate (80%-120%)	108	\$49,226-\$73,839
Above Moderate (120%<)	178	>\$73,839
Total	532	

IX-A-55

Day One—Morning Session

10:00 AM

Welcome, Introductions & Overview

Join us for coffee and bagels as staff and consultants present an overview of the Housing Element and set the context for the update.

10:15 AM - 12:00 PM

Housing 101

This session covers Housing Element basics. Topics presented include: Housing Element purpose and objectives, contents of a Housing Element, State requirements and new legislation, and the update process. In addition, the



DOWNTOWN BENICIA

Regional Housing Needs Allocation will be presented along with a discussion about how affordable housing gets produced.

This presentation will be followed by a

panel discussion with representatives from the State Department of Housing and Community Development, City staff, technical consultants, and local housing experts. This session concludes with Q & A with the audience.

- Charlie Knox, Community Development Director, City of Benicia
- Lisa Porras, Project Manager, Planner, City of Benicia
- Lisa Wise, Principal, Lisa Wise Consulting, Inc.
- Paul McDougall, Housing Policy Manager, State Department of Housing & Community Development
- Mary Frances Kelly Poh, Community Action Coalition
- Julie Peterson, Benicia Housing Authority (invited)
- Robert Moore, Affordable Housing Affiliation (invited)

Day One—Afternoon Sessions

1:15 - 2:45 PM

Housing Strategies

Participate in a candid discussion with representatives from the State, consultant team, and the City. What are the challenges facing Benicia? What options should be explored? These experts can answer questions and discuss issues in more depth in this setting.

5:00 - 6:00 PM

Open House & Refreshments

Drop in to learn about the highlights of the day, what was learned from the State, and the choices before Benicia.

Learn about the next

day's activities and how you can help shape the housing goals and policies for Benicia through the year 2014.

"Solano County will see a 22% increase in its population, to 585,800 residents by 2035." –

ABAG

Did You Know?

The State's primary objectives are to:

1. Increase housing supply and mix of housing types, and ensure housing is affordable.
2. Promote a balance between the number of jobs and housing units.
3. Encourage efficient development patterns and urban infill.

In 2002, the Bay Area's regional agencies developed the following policies:

Support existing communities.

Create compact communities with a diversity of housing, jobs, services.

Increase housing choices.

Improve housing affordability.

Increase transportation efficiency and choices.



House in a downtown neighborhood, west of First Street.

Protect natural habitat, open space, and agricultural land.

Improve social & economic equity.

Promote economic & fiscal health.

Conserve resources, promote sustainability, improve environmental quality.

Protect public health and safety.

Day Two—Morning & Afternoon Session

10:00 AM - 3:00 PM

Affordable Housing Tour

(All Day) This is an activity you can choose to do on your own. Put on your comfortable walking shoes and explore existing affordable housing throughout Benicia. Maps and brief survey/rating sheet are provided.

Vacant/Opportunity Sites Tour

(All Day) This is another on your own activity. Staff will provide you with maps and a list of potential sites where new development or neighborhood retrofit could take place. We want your feedback.

Goal, Policy, & Program

Development

(10:00 - 11:00 am, and 1:00 - 2:00 pm)

Participate in a group setting to receive an overview of current policies and programs. Tell us how these might be improved.

Visual Preference Survey

(All Day) Comment and critique development patterns and housing types. Tell us what housing types are preferred in Benicia.

Idea Gallery

(All Day) Express yourself. You can write it here.

Map it!

(11:00 am - 12:00 pm, and 2:00 pm - 3:00 pm) Where should housing be placed? What criteria should we use to place our future growth and which neighborhoods can be improved?

Vision Exercise

(All Day) What is your vision for Benicia 10-20 years from now? How do you envision the future of your city?

Day Two—Open House Closing Presentation & Preliminary Outcomes

3:00 PM - 4:00 PM

Stop by to view an exhibit of the Housing Expo results.

Where were the preferred locations for new growth and housing? How did people respond to the Visual Preference survey? What were the most desired housing types? Visit the Idea Gallery and see what your neighbors think. See

how Benicians envision their city 10-20 years from now.

Staff and consultants will give an overview of the Expo's preliminary results, explain the next steps and tell you how you can stay involved and help shape Benicia's

Although the Housing Element is a State mandate, Benicia will decide how and where new housing will occur.

new and updated Housing Element through the year 2014.

Refreshments will be served.

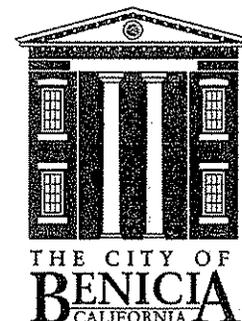
Save the Date! Reporting the Outcomes

Tuesday, October 21, 2008

The City Council and Planning Commissioners will receive a report detailing the outcomes of the Housing Expo. What was discovered? How will these results guide the development of a new Housing Element for the City? The report will be posted online and made available at the First Street Library. Come to the meeting and let city deci-

sion makers hear your thoughts about the report. Remember, the outcomes of the Housing Expo provides the foundation for the Housing Element.

Everyone is invited and encouraged to attend. The City Council will convene at 7:00 PM inside Council Chambers, City Hall located at 250 East L Street in Benicia.



**CITY OF BENICIA - COMMUNITY
DEVELOPMENT DEPARTMENT**

250 East L Street
Benicia, CA 94510

Phone: 707.746.4280
Fax: 707.747.8121
Send Email to: lporras@ci.benicia.ca.us

*Serving and enhancing our community
with care, commitment, and pride.*

We're on the web!
www.ci.benicia.ca.us

Project Schedule

Housing Expo: October 3 and 4, 2008

Housing Expo Outcomes and Report to the City Council: October, 21, 2008

Draft Housing Element: November-December 2008

Adoption Hearings: March through May, 2009

State Review and Certification: June 2009

Project Information, Links, Contacts

For project information, including up-to-date posting of reports, maps, announcements, meetings, and the State review process please visit the Community Development Department homepage on the city's website.

Links

City of Benicia
www.ci.benicia.ca.us
Association of Bay Area Governments
www.abag.ca.gov
State Department of Housing and Community Development
www.hcd.ca.gov

Community Development Department

Charlie Knox, Director
Planning Division
Damon Golubics, Principal Planner
Lisa Porras, Senior Planner, Project Manager
Mike Marcus, Associate Planner

Technical Consultants

Lisa Wise, Principal, Lisa Wise Consulting, Inc.
Amy Sinsheimer, Senior Associate, Lisa Wise Consulting, Inc.
Mike Austin, Associate, Lisa Wise Consulting, Inc.

City Council

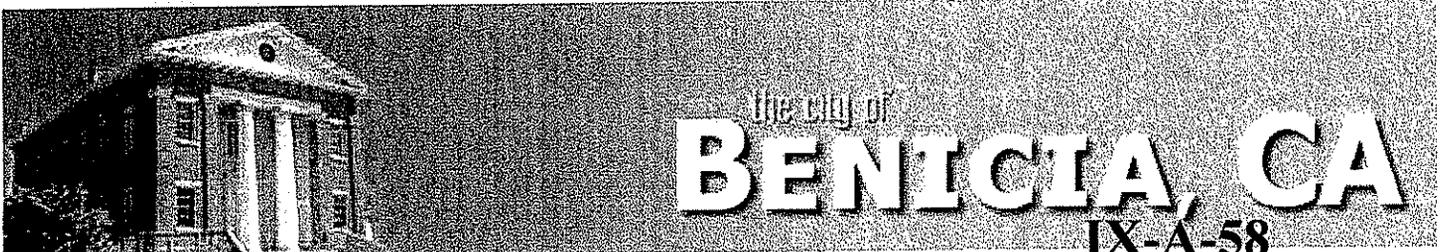
Elizabeth Patterson, Mayor
Tom Campbell, Vice Mayor
Mark Hughes, Council Member
Mike Ioakimedes, Council Member
Alan Schwartzman, Council Member

Planning Commission

Fred Railsback, Chair
Dan Healy, Vice Chair
Richard Bortolazzo, Commissioner
Rick Ernst, Commissioner
Rod Sherry, Commissioner
Lee Syracuse, Commissioner
Brad Thomas, Commissioner

City Manager

Jim Erickson



**AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
ACTION ITEMS**

DATE : November 5, 2008

TO : City Council

FROM : City Manager
Community Development Director

SUBJECT : **BENICIA BUSINESS PARK REZONING, MASTER PLAN
OVERLAY, VESTING TENTATIVE MAP AND ADDENDUM**

RECOMMENDATION:

Continue the item to allow for a facilitated public workshop (as approved by Council at its October 21, 2008 meeting and agreed to by the applicant in a letter of October 30, 2008).

EXECUTIVE SUMMARY:

At its October 21 meeting, the City Council continued this item to November 18 “to allow time for additional public review of proposed project mitigation measures and conditions (including items in the Supplemental Transportation Assessment) and to allow the applicant to consider and agree to additional requirements of the Council to allow the project to be approved.” The continuance included the City Manager’s recommendation to hold a facilitated workshop prior to action on the project or environmental documentation; however, Council Member availability has not yet allowed scheduling of a workshop that all Members can attend.

On October 7, 2008, Council voted not to adopt the Environmental Impact Report (EIR) Addendum, Findings, and Statement of Overriding Considerations (for air quality impacts) for the project. If the item is not continued, Council will need to approve or deny the project (per California Government Code Section 66452.2), and resolutions are provided to allow final action. Also provided is a Health Risk Assessment for students and staff at Robert Semple Elementary School that was prepared by LSA Associates for discussion at a facilitated workshop.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 1.00 Protect Community and Environmental Health and Safety
- Goal 2.00 Strengthen the Economy
 - Strategy 2.30 Facilitate and encourage sustainable development

- Goal 4.00 Preserve and Enhance City Assets and Infrastructure
 - Strategy 4.10 Provide a balanced street system to serve automobiles, pedestrians, bicycles and transit
 - Strategy 4.40 Improve and maintain facilities and infrastructures
- Goal 5.00 Enhance Community Appearance
 - Strategy 5.10 Promote quality design in new construction and remodeling

This project would increase the City's tax base, provide new jobs, and develop the site consistent with the General Plan, including by providing campus design, Low-impact Development, LEED-ND features, LEED-certified buildings, a transit facility, and clean-fuel transit.

BUDGET INFORMATION:

The project would be required to contribute its fair share for City services, including funding and installation of all on-site infrastructure and necessary off-site utility connections; paying development and traffic impact fees; and providing sites and funding for fire, police, and public works facilities and operations.

ENVIRONMENTAL REVIEW:

The City Council certified the project EIR in February 2008 but directed that "the Hillside/Upland Preservation alternative be evaluated in an Initial Study that conforms to the law; analyzes, in particular, the following issues: Leadership Energy and Environmental Design (LEED), AB 32, I-780 traffic, sustainability and urban decay; and considers appropriate mitigations for the environmental impacts."

The applicant submitted project revisions in March 2008 and suggested that an EIR addendum be considered instead of a supplemental EIR. Per City direction to provide appropriate documentation, LSA prepared the April 2008 Draft EIR Addendum, which finds that because project revisions do not create new significant impacts or increase the severity of impacts identified in the EIR, a supplemental EIR is not required (per CEQA Guidelines Section 15164).

The Draft Addendum determines that project revisions have reduced the need for wetland protection measures (BIO-2b) and eliminated formerly significant impacts:

- LU-1, which indicated the project would substantially conflict with General Plan environmental protection policies;
- TRANS-22, which would have required a project contribution to widening I-780;
- VIS-1, 2 and 3, which described adverse affects on scenic vistas; and
- CULT-1, which described an impact to cultural resources on-site.

Although the Draft Addendum concludes that the revised project would be partially consistent with most of the measures identified by the California Environmental Protection Agency to reduce greenhouse gas emissions in commercial and industrial development in compliance with AB 32, it finds that the project still has a significant and

unavoidable impact to regional air pollution based on the 80 pounds/day emissions threshold for ozone precursors and particulate matter set by the Bay Area Air Quality Management District. No project the size of the proposed Benicia Business Park can reasonably be expected to meet this level. The Air District has identified only one multi-building nonresidential proposal in recent years that is not expected to exceed 80-pounds/day. It consists of five buildings on 23 acres at Sierra Point in Brisbane, with 540,000 sq. ft. of office/research and development space, 15,000 sq. ft. of retail, and 1800 parking spaces. Like the proposed Benicia Business Park, the Sierra Point project is subject to numerous conditions aimed at reducing greenhouse gas emissions, including LEED certification.

Per Council direction of June 3, 2008, a Supplemental Transportation Assessment was prepared to analyze intersections potentially impacted by the revised project. The September 30, 2008 assessment includes analysis of midday traffic impacts along East 2nd Street and traffic and safety issues near Semple School. It confirms that a number of traffic-related EIR mitigation measures established prior to project revision would be reduced or eliminated; however, it also projects that side-street traffic at the East 2nd/Riverhill Drive and East 2nd/Seaview Drive intersections would experience delays during peak periods. Accordingly, median improvements would be necessary to allow drivers from the side streets to make left turns safely. The assessment also identifies midday congestion at East 2nd/Military East, which could be resolved through signal timing and/or lane configuration changes.

In preparation for a facilitated workshop, City staff requested LSA to prepare a Health Risk Assessment for Robert Semple Elementary School. The assessment, which is based on common scientific methodology, concludes that, "it is highly unlikely that present or future students and teachers at the school site would be exposed to any health risks above that of the average California or Bay area resident."

SUMMARY:

The purpose of a facilitated workshop would be to define remaining project issues and determine whether they can be resolved with the project as currently designed. Council deliberation at prior meetings suggests the primary remaining issues are whether the project would negatively affect the health of students and staff at Semple School, and whether everything feasible has been required to minimize air pollution and greenhouse gas emissions related to the project.

The following table highlights project conditions proposed to address other areas of Council concern discussed since May 2008.

Subject	Condition	Description
Urban decay	11	A new analysis is required prior to first final map.
21st-Century businesses	13	Applicant must work with the City to attract high quality business including cleantech and zero waste/emission companies.
Site design	23	Site-specific plans for each phase must conform with LEED-ND, Low-impact Development standards, and campus design.
Green building	79	All buildings must be LEED certified.
Grading of commercial area	98b	Council approval is required of a new grading plan for the western hill that better conforms to existing topography and minimizes cuts and fills.
Oversight	103f	Full-time contract employee, plus 24-hour security personnel who must inform the City immediately of any work activity occurring outside hours allowed by City regulations.
Transit facility	176	The project must provide a transit center.

In addition to all of the project conditions, the applicant offered at the October 7 meeting to provide clean-fuel vehicles for the shuttle to downtown and agreed to the idea of a citizen panel to advise Council regarding development of the site. The applicant also has offered to provide safety, air quality, and noise related improvements at Semple School and the I-780 pedestrian undercrossing (see attached letter of October 30, 2008 to the Benicia Unified School District).

CONCLUSION:

A facilitated workshop would provide a forum for determining if remaining project issues, primarily related to air quality and traffic impacts, can be resolved with the current project design.

The workshop format could be a 2-to-3-hour facilitated discussion between the City Council, the applicant and the public. The expected outcome would be information to guide action on the project at a future City Council meeting.

Suggested ground rules for the workshop are:

- The applicant and Council Members will have microphones and may speak when recognized by the facilitator
- Citizens interested in speaking will raise their hand, and the facilitator will pass them a microphone
- Only the person with the microphone may speak – interruption by others is not allowed
- Commenters should be prepared to speak only once or twice, as the facilitator will seek involvement by all interested participants
- Only one commenter may speak on behalf of a group; others from the group may speak on their personal behalf
- No personal attacks of any kind or inappropriate language are allowed

- Public comments may only identify project issues and whether/how they can be resolved
- Repetition is allowed only to the extent of indicating agreement with a prior commenter
- Disagreement with a prior speaker is not allowed
- The facilitator may stop a speaker in the interest of time (for example, if issues are being repeated)
- Any issue resolution offered by the applicant may be considered binding by the City Council

Attachments:

- Resolution to Reject the Environmental Documentation (CEQA Findings, Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program, and EIR Addendum)
- Resolution to Deny the Project
- Resolution to Approve the Environmental Documentation
- Resolution to Approve the Project
- Public comment since the October 21, 2008 Council Meeting Packet, including correspondence from applicant
- Health Risk Assessment for Semple School

The project revisions and Draft Addendum that were included in the May 6, 2008 City Council packet, the September 30, 2008 Supplemental Transportation Assessment, the CEQA Findings, Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program, and public comment from prior Council hearings are available via the City website or the Community Development Department.

RESOLUTION TO REJECT THE ENVIRONMENTAL DOCUMENTATION

- (A) CEQA-required Findings and Statement of Overriding
Considerations**
- (B) Mitigation Monitoring and Reporting Program
EIR Addendum *(by reference)***

RESOLUTION NO. 08-___

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
REJECTING THE ADDENDUM TO THE BENICIA BUSINESS PARK FINAL
ENVIRONMENTAL IMPACT REPORT (EIR), PROPOSED FINDINGS
RELATED TO THE PROJECT, STATEMENT OF OVERRIDING
CONSIDERATIONS, AND THE MITIGATION MONITORING AND
REPORTING PROGRAM**

WHEREAS, On October 6, 2004, Discovery Builders submitted an application for Vesting Tentative Map, Master Plan Overlay and Rezoning for the Benicia Business Park project; and

WHEREAS, the proposed project is located in northeastern Benicia and consists of 527.8 acres of undeveloped land bounded on the south and east by East 2nd Street. The western boundary is an irregular property line that generally parallels the alignments of West Channel Road and Industrial Way. The northern property line is also irregular and is bounded in part by the City of Benicia Water Treatment Plant and Lake Herman Road; and

WHEREAS, the City Council certified the Environmental Impact Report (EIR) for the project on February 19, 2008; however, Council also determined that the project as proposed could not be approved due to inconsistency with the City's General Plan; and

WHEREAS, the applicant submitted a revised Vesting Tentative Map, Master Plan Overlay and Rezoning application March 20, 2008, and a proposed EIR Addendum and letter regarding traffic impacts on March 26, 2008; and

WHEREAS, the revised project includes:

- Rezoning of the site to apply the Master Plan Overlay designation and adjust the General Commercial and Limited Industrial zoning district boundaries;
- Subdivision of the site into 80 lots ranging from 1.5 to 5.4 acres;
- Development of approximately 150 acres of limited industrial and 35 acres of commercial land uses, with approximately 2.35 million square feet of industrial building space and 857,000 square feet of commercial uses – projected to result in the direct creation of 4,535 jobs;
- Open space totaling 312 acres, including buffers to preserve drainages, topographic features and the rural character of Lake Herman Road;
- Utilities and infrastructure, including 30 acres of roads; and
- Two 1,000,000-gallon tanks to supply water for the project; and

WHEREAS, the Planning Commission at a regular meeting held on April 10, 2008, conducted a public hearing, and considered testimony and documents regarding the revised project, and recommended denial of the project based on insufficient information to eliminate inconsistencies with the General Plan regarding impacts on geologic

resources, urban decay downtown, overall community health, and bicycle and pedestrian circulation; and

WHEREAS, a majority of Planning Commissioners expressed a desire for more time to review the project, in part because environmental documentation for the revised project was not yet available; and

WHEREAS, the Draft EIR Addendum, published April 29, 2008, concludes that the revisions to the project have resolved the prior General Plan inconsistencies that created a significant impact per CEQA; and

WHEREAS, at the June 3, 2008 City Council meeting the City Council directed that a comprehensive traffic study be conducted between the August 25 and the October 7, 2008 Council meeting to consider review traffic on East 2nd Street including south of I-780 and Robert Semple School; and

WHEREAS, at its regular meetings of May 6, 2008, May 20, 2008, June 3, 2008, October 7, 2008, October 21, 2008, and November 7, 2008, the City Council conducted a public hearing, and considered testimony and documents regarding the revised project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia hereby finds, based upon the evidence presented to it both orally and in writing, at the hearings that:

1. Public comments and the traffic study raised issues that should have been further evaluated in the proposed addendum.
2. The proposed addendum does not adequately analyze the proposed project because the proposed project is substantially changed from the project and alternatives evaluated in the EIR. The proposed project was not evaluated in the EIR either as the project or as one of the alternatives. Combining several of the alternatives and reducing the industrial portion of the project has resulted in a project whose impacts were not evaluated in sufficient detail including traffic impacts and the economic and urban decay issues that may result from the revised project.
3. The benefits of the proposed project outlined in the Statement of Overriding Considerations do not sufficiently outweigh the unavoidable significant negative environmental impacts of the project, based on, but not limited to, the following reasons:
 - a. The air pollution from increased traffic, particularly near Robert Semple School is unacceptable pursuant to the General Plan Goal 4.9, Ensure Clean Air for Benicia Residents.
 - b. The changes to East Second Street needed to accommodate project-related traffic would be inconsistent with the small town

character of Benicia expressed in General Plan Goal 2.1, Preserve Benicia as a small-sized city.

- c. The retail and commercial concentration that will occur near I-680 would create urban decay in conflict with the General Plan Goal 2.12, Strengthen the Downtown as the City's central commercial zone.
- d. The cul-de-sac arrangement in the proposed project may impact Benicia's ability to meet the greenhouse gas reduction demands of Assembly Bill 32.

4. Substantial changes have been made to the proposed project from the original project which involve new significant environmental effects as noted in these findings or a substantial increase in the severity of the previously identified effects such as impacts to animals and their habitat corridors.

5. The City Council has not been presented with a draft revenue sharing agreement and so cannot determine if the proposed condition #207 adequately addresses the fiscal impacts of the project or if it implements the mitigation measures regarding the provision of police and fire facilities and services. The fiscal impacts of the project have not been studied and it is unclear whether the reduced development on the project site will still allow the project to be "cost neutral."

6. The proposed addendum improperly relied on studies not yet completed such as the updated traffic analysis and urban decay analysis. The City Council cannot evaluate the impacts of the proposed project, which are different than the project analyzed in the EIR, without these two studies. Although the supplemental traffic study has been completed, it has shown there are impacts that must be mitigated from the CEQA standpoint that were not addressed in the certified EIR or the addendum. Similarly and especially since the economic analysis of the project was completed in 2006, the urban decay analysis could result in mitigation measures that should be included in the mitigation monitoring program and conditions of approval for the proposed project.

7. An analysis of the reduction of industrial uses needs to be done to see if the reduction results in changes to the economic impact of the project and the sizing of public facilities, such as water and sewer, needed to serve the project.

8. The modification of the industrial areas from the original project may result in more intrusion of humans and domesticated animals into the wildlife areas in the new habitat corridors.

9. The project remains inconsistent with the General Plan in grading and traffic impacts. Delaying the revision of the grading plan until the first phase of the project does not allow potential impacts from grading such as reduced building sites or

increased proximity to, or intrusion into, habitat corridors to be evaluated. General Plan Policy 2.20.1 states "Maintain at least Level of Service D on all city roads, street segments, and intersections." The supplemental traffic study indicates a Level of Service F at some times.

10. The proposed project because of its size and location near a school would create a significant, unmitigable air quality impact that cannot be outweighed by any benefit to the City and its citizens from development of the proposed project.

BE IT FURTHER RESOLVED that because of the findings made above, the City Council rejects the addendum to the Benicia Business Park Final EIR, proposed findings related to the project, the statement of overriding considerations and the mitigation monitoring and reporting program.

* * * * *

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of November, 2008 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

**RESOLUTION
TO DENY THE PROJECT**

RESOLUTION NO. 08-___

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
DENYING THE VESTING TENTATIVE MAP, MASTER PLAN OVERLAY,
AND REZONING FOR THE BENICIA BUSINESS PARK PROJECT**

WHEREAS, On October 6, 2004, Discovery Builders submitted an application for Vesting Tentative Map, Master Plan Overlay and Rezoning for the Benicia Business Park project; and

WHEREAS, the proposed project is located in northeastern Benicia and consists of 527.8 acres of undeveloped land bounded on the south and east by East 2nd Street. The western boundary is an irregular property line that generally parallels the alignments of West Channel Road and Industrial Way. The northern property line is also irregular and is bounded in part by the City of Benicia Water Treatment Plant and Lake Herman Road; and

WHEREAS, the City Council certified the Environmental Impact Report (EIR) for the project on February 19, 2008; however, Council also determined that the project as proposed could not be approved due to inconsistency with the City's General Plan; and

WHEREAS, the applicant submitted a revised Vesting Tentative Map, Master Plan Overlay and Rezoning application March 20, 2008, and a proposed EIR Addendum and letter regarding traffic impacts on March 26, 2008; and

WHEREAS, the revised project includes:

- Rezoning of the site to apply the Master Plan Overlay designation and adjust the General Commercial and Limited Industrial zoning district boundaries;
- Subdivision of the site into 80 lots ranging from 1.5 to 5.4 acres;
- Development of approximately 150 acres of limited industrial and 35 acres of commercial land uses, with approximately 2.35 million square feet of industrial building space and 857,000 square feet of commercial uses – projected to result in the direct creation of 4,535 jobs;
- Open space totaling 312 acres, including buffers to preserve drainages, topographic features and the rural character of Lake Herman Road;
- Utilities and infrastructure, including 30 acres of roads; and
- Two 1,000,000-gallon tanks to supply water for the project; and

WHEREAS, the Planning Commission at a regular meeting held on April 10, 2008, conducted a public hearing, and considered testimony and documents regarding the revised project, and recommended denial of the project based on insufficient information to eliminate inconsistencies with the General Plan regarding impacts on geologic resources, urban decay downtown, overall community health, and bicycle and pedestrian circulation; and

WHEREAS, a majority of Planning Commissioners expressed a desire for more time to review the project, in part because environmental documentation for the revised project was not yet available; and

WHEREAS, the Draft EIR Addendum, published April 29, 2008, concludes that the revisions to the project have resolved the prior General Plan inconsistencies that created a significant impact per CEQA; and

WHEREAS, at the June 3, 2008 City Council meeting the City Council directed that a comprehensive traffic study be conducted between the August 25 and the October 7, 2008 Council meeting to consider review traffic on East 2nd Street including south of I-780 and Robert Semple School; and

WHEREAS, at its regular meetings of May 6, 2008, May 20, 2008, June 3, 2008, October 7, 2008, October 21, 2008, and November 18, 2008, the City Council conducted a public hearing, and considered testimony and documents regarding the revised project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia hereby finds, based upon the evidence presented to it both orally and in writing, at the hearings that:

1. Public comments and the traffic study raised issues that should have been further evaluated in the proposed addendum.
2. The proposed addendum does not adequately analyze the proposed project because the proposed project is substantially changed from the project and alternatives evaluated in the EIR. The proposed project was not evaluated in the EIR either as the project or as one of the alternatives. Combining several of the alternatives and reducing the industrial portion of the project has resulted in a project whose impacts were not evaluated in sufficient detail including traffic impacts and the economic and urban decay issues that may result from the reduced industrial portion of the project.
3. Substantial changes have been made to the proposed project from the original project which involve new significant environmental effects as noted in these findings or a substantial increase in the severity of the previously identified effects such as impacts to animals and their habitat corridors.
4. The City Council has not been presented with a draft revenue sharing agreement and so cannot determine if the proposed condition #207 adequately addresses the fiscal impacts of the project or if it implements the mitigation measures regarding the provision of police and fire facilities and services. The fiscal impacts of the project have not been studied and it is unclear whether the reduced development on the project site will still allow the project to be "cost neutral."
5. The proposed addendum improperly relied on studies not yet been completed such as the updated traffic analysis and urban decay analysis. The City

Council cannot evaluate the impacts of the proposed project, which are different than the project analyzed in the EIR, without these two studies. Although the supplemental traffic study has been completed, it has shown there are impacts that must be mitigated from the CEQA standpoint that were not addressed in the certified EIR or the addendum. Failure to provide the updated traffic analysis could result in building oversized traffic mitigations that would have a negative impact on the environment or could result in inadequate measures for new and increased traffic impacts at some intersections. Similarly and especially since the economic analysis of the project was completed in 2006, the urban decay analysis could result in mitigation measures that should be included in the mitigation monitoring program and conditions of approval for the proposed project.

6. An analysis of the reduction of industrial uses needs to be done to see if the reduction results in changes to the economic impact of the project and the sizing of public facilities, such as water and sewer, needed to serve the project.

7. The modification of the industrial areas from the original project may result in more intrusion of humans and domesticated animals into the wildlife areas in the new habitat corridors.

8. The project remains inconsistent with the General Plan in grading and traffic impacts. Delaying the revision of the grading plan until the first phase of the project does not allow potential impacts from grading such as reduced building sites or increased proximity to, or intrusion into, habitat corridors to be evaluated. General Plan Policy 2.20.1 states "Maintain at least Level of Service D on all city roads, street segments, and intersections." The supplemental traffic study indicates a Level of Service F at some times.

9. The proposed project because of its size and location near a school would create a significant, unmitigable air quality impact that cannot be outweighed by any benefit to the City and its citizens from development of the proposed project.

10. Proposed Vesting Tentative Map

The proposed map is not consistent with the applicable provisions of Benicia Municipal Code Title 16 (Subdivisions) and City of Benicia General Plan goals, policies and programs; and

a. The site is not physically suitable for the type of development, as the majority of the site terrain will be severely graded, and the site terrain constrains development of the proposed project; and

b. The site is not physically suitable for the proposed density of development, as the proposed development does not conform to the existing topography of the site; and

c. The design of the subdivision and proposed improvements will cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, as the revised project plans would create a substantial or potentially substantial adverse change in any of the physical conditions within the area of the project and there are insufficient mitigation measures prescribed in the project EIR and addendum that when implemented will reduce such impacts to less-than-significant levels.

11. Rezoning/Master Plan Overlay

The proposed Master Plan Overlay does not conform to the General Plan, as the revised development plan remains inconsistent with multiple applicable General Plan goals, policies and programs, as enumerated in the EIR, the record and this resolution, especially as it pertains to protection of hillsides and wildlife habitat, and as the project can not be adequately, reasonably and conveniently served by public services, utilities and public facilities.

BE IT FURTHER RESOLVED that because of the findings made above, the City Council takes no action on the addendum to the Benicia Business Park Final EIR, proposed findings related to the project, the statement of overriding considerations and the mitigation monitoring and reporting program.

BE IT FURTHER RESOLVED that because of the findings made above, the City Council denies the vesting tentative map, master plan overlay and rezoning for the project.

* * * * *

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of November, 2008 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

RESOLUTION TO APPROVE THE ENVIRONMENTAL DOCUMENTATION

- (A) CEQA-required Findings and Statement of Overriding
Considerations**
- (B) Mitigation Monitoring and Reporting Program
EIR Addendum *(by reference)***

RESOLUTION NO. 08-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ADOPTING THE ADDENDUM TO THE BENICIA BUSINESS PARK FINAL ENVIRONMENTAL IMPACT REPORT (EIR), ADOPTING FINDINGS RELATED TO THE PROJECT, AND A STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVING THE MITIGATION MONITORING AND REPORTING PROGRAM FOR THE PROJECT

WHEREAS, on February 19, 2008 the City Council adopted Resolution No. 08-13, certifying that: the Final EIR for the Benicia Business Park Project was completed in compliance with the California Environmental Quality Act (CEQA), the *CEQA Guidelines*, and the City of Benicia Environmental Review Guidelines; that the Final EIR identified and adequately evaluated all potentially significant environmental effects and identified all appropriate mitigation measures needed to address identified environmental impacts; that the Final EIR adequately addressed all agency, organization, and public comments received on the Draft EIR; and that the Final EIR reflected the City's independent judgment and analysis; and

WHEREAS, Discovery Builders, the sponsor of the Benicia Business Park Project, revised the project analyzed in the Final EIR after certification of the Final EIR; and

WHEREAS, in compliance with *CEQA Guidelines* Sections 15164 and 15162, an Addendum to the Final EIR (incorporated herein by reference as Exhibit "C") was published on April 29, 2008, for the revised project, which found that: changes were made to the project analyzed in the certified Final EIR but that these changes did not involve new significant environmental effects or a substantial increase in severity of previously identified significant effects; that substantial changes did not occur with respect to the circumstances under which the project will be undertaken; and that new information of substantial importance was not introduced; and

WHEREAS, the City Council held a public hearing on May 6, 2008, May 20, 2008, and June 3, 2008 to review and consider the public comments and testimony on the EIR and Addendum; and

WHEREAS, the public hearing was closed on June 3, 2008 except for traffic issues; and

WHEREAS, the City Council held the continued public hearing on October 7, 2008 to consider the updated traffic study and related public comment; and

WHEREAS, the City Council has considered the staff reports and public comment both oral and written from the May 6, 2008, May 20, 2008, June 3, 2008, October 7, 2008, October 7, 2008, and November 18, 2008 City Council meetings.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Benicia finds that the Addendum along with the certified EIR has been prepared in accordance with all applicable provisions of CEQA, including *CEQA Guidelines* Sections 15162 and 15164 and reflects the independent judgment and analysis of the City.

BE IT FURTHER RESOLVED that the City Council hereby adopts the Addendum.

BE IT FURTHER RESOLVED that the City Council hereby adopts the written findings and statements of fact for the project for each of the potentially significant effects identified in the EIR, and that based on those findings and facts, the City Council hereby determines that potentially significant environmental effects related to the Benicia Business Park project have been eliminated or reduced to a level of insignificance, with the exception of the significant unavoidable impact to regional air quality associated with emission of ozone precursors.

BE IT FURTHER RESOLVED that the City Council finds that the impact to regional air quality associated with emission of ozone precursors is a significant and unavoidable impact which, despite implementation of all available and reasonable mitigation measures, cannot be mitigated to a level less than significant, and therefore, the City Council adopts a Statement of Overriding Considerations for the project.

BE IT FURTHER RESOLVED that the City Council approves and adopts the EIR Mitigation Monitoring and Reporting Program for the project for the purpose of ensuring that all potentially significant impacts identified in the EIR are mitigated to less than significant levels.

* * * * *

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of November, 2008 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

**RESOLUTION
TO APPROVE THE PROJECT**

- (A) Project Findings
- (B) Conditions of Project Approval

RESOLUTION NO. 08-___

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
APPROVING A VESTING TENTATIVE MAP, MASTER PLAN OVERLAY,
AND REZONING FOR THE BENICIA BUSINESS PARK PROJECT, WITH
CONDITIONS**

WHEREAS, On October 6, 2004, Discovery Builders submitted an application for Vesting Tentative Map, Master Plan Overlay and Rezoning for the Benicia Business Park project; and

WHEREAS, the proposed project is located in northeastern Benicia and consists of 527.8 acres of undeveloped land bounded on the south and east by East 2nd Street. The western boundary is an irregular property line that generally parallels the alignments of West Channel Road and Industrial Way. The northern property line is also irregular and is bounded in part by the City of Benicia Water Treatment Plant and Lake Herman Road; and

WHEREAS, the City Council certified the Environmental Impact Report (EIR) for the project on February 19, 2008; however, Council also determined that the project as proposed could not be approved due to inconsistency with the City's General Plan; and

WHEREAS, the applicant submitted a revised Vesting Tentative Map, Master Plan Overlay and Rezoning application March 20, 2008, and a proposed EIR Addendum and letter regarding traffic impacts on March 26, 2008; and

WHEREAS, the revised project includes:

- Rezoning of the site to apply the Master Plan Overlay designation and adjust the General Commercial and Limited Industrial zoning district boundaries;
- Subdivision of the site into 80 lots ranging from 1.5 to 5.4 acres;
- Development of approximately 150 acres of limited industrial and 35 acres of commercial land uses, with approximately 2.35 million square feet of industrial building space and 857,000 square feet of commercial uses – projected to result in the direct creation of 4,535 jobs;
- Open space totaling 312 acres, including buffers to preserve drainages, topographic features and the rural character of Lake Herman Road;
- Utilities and infrastructure, including 30 acres of roads; and
- Two 1,000,000-gallon tanks to supply water for the project; and

WHEREAS, the Planning Commission at a regular meeting on April 10, 2008, conducted a public hearing, and considered testimony and documents regarding the revised project, and recommended denial of the project based on insufficient information to eliminate inconsistencies with the General Plan regarding impacts on geologic resources, urban decay downtown, overall community health, and bicycle and pedestrian circulation; and

WHEREAS, a majority of Planning Commissioners expressed a desire for more time to review the project, in part because environmental documentation for the revised project was not yet available; and

WHEREAS, the Draft EIR Addendum, published April 29, 2008, concludes that the revisions to the project have resolved the prior General Plan inconsistencies that created a significant impact per CEQA; and

WHEREAS, at its regular meetings of May 6, 2008, May 20, 2008, and June 3, 2008, the City Council conducted a public hearing, and considered testimony and documents regarding the revised project; and

WHEREAS, on June 3, 2008 the City Council closed the public hearing except for traffic issues to allow a traffic study to be completed; and

WHEREAS, the City Council held a continued public hearing on October 7, 2008 to receive comment on the updated traffic study; and

WHEREAS, the City Council considered relevant testimony and documents regarding the revised project including information in the staff reports for the project at the various City Council meetings, including on October 21, 2008, and November 18, 2008; and

WHEREAS, on November 18, 2008, the City Council approved by separate Resolution the requisite CEQA Documentation for the project, consisting of: (A) EIR Addendum (by reference), (B) CEQA-required Findings, (C) Statement of Overriding Considerations for Air Quality Impact due to Ozone Precursors, and (D) Mitigation Monitoring and Reporting Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia hereby approves the Vesting Tentative Map, Master Plan Overlay and Rezoning for the Benicia Business Park project, based on the attached Findings (Exhibit "A") and subject to the attached Project Conditions (Exhibit "B").

* * * * *

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of November, 2008 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

EXHIBIT "A"
FINDINGS IN SUPPORT OF APPROVAL
FOR THE BENICIA BUSINESS PARK PROJECT

The City Council of the City of Benicia makes the following findings based upon the testimony and documents in the public record including the staff reports for the May 6, May 20, June 3 and October 7, 2008 City Council meetings for this project.

Vesting Tentative Map

- a) The proposed map is consistent with the applicable provisions of Benicia Municipal Code Title 16 (Subdivisions) and City of Benicia General Plan goals, policies and programs; and
- b) The site is physically suitable for the type of development, as the majority of the site terrain will be maintained in its current state, and the site contains no known constraints to development of the proposed project; and
- c) The site is physically suitable for the proposed density of development, as the proposed development generally conforms to the existing topography of the site, contains no known easements that would constrain the proposed development and can therefore support the proposed density of development; and
- d) The design of the subdivision and proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, as the revised project plans would not create a substantial or potentially substantial adverse change in any of the physical conditions within the area of the project due to March 2008 revisions to project design and mitigation measures prescribed in the project Environmental Impact Report (EIR) that when implemented will reduce such impacts to less-than-significant levels; and
- e) The design of the subdivision and the type of improvements will not cause serious public health problems since all building, fire and engineering codes and standards enforced by the City of Benicia can and will be met as part of the proposed project; and
- f) The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision, since no known easements traverse the project site.

Rezoning/Master Plan Overlay

- g) The proposed Master Plan conforms to the General Plan, as the revised development plan is now consistent with applicable General Plan goals, policies and programs; and

- h) The proposed Master Plan complies with the land use and development regulations of the base zoning districts and does not significantly alter the regulations since specific design guidelines are prescribed for all future commercial and industrial projects to be constructed within the development site; and
- i) The project can be adequately, reasonably and conveniently served by public services, utilities and public facilities, as new public services, utilities and public facilities will be required and constructed as part any development of the phased project.

EXHIBIT "B"
CONDITIONS OF APPROVAL
FOR THE BENICIA BUSINESS PARK PROJECT

General

1. This approval is of no force and effect unless and until the City Council adopts a Mitigation Monitoring and Reporting Program and EIR Addendum for the project.
2. The plans and maps submitted for approval and development of the site must substantially comply with the plans prepared by Gates and Associates Landscape Architects and Morton and Pitalo, Inc., dated March 27, 2008 on file in the Community Development Department consisting of Sheets L-1, L-2, L-3 and Sheets labeled "Vesting Tentative Map," "Preliminary Drainage Plan," Preliminary Sewer and Water Plan," "Phasing Plan," "Master Plan," subject to the conditions contained in this resolution.
3. This approval expires two years from the effective date of adoption of a City Council Resolution of approval of the Vesting Tentative Map and Rezoning, unless made permanent by the issuance of building permits for the first phase and recordation of a final map that includes all necessary improvements for the first phase and parcel extents for subsequent phases, or unless an extension of time is requested and approved by the City Council prior to the expiration of the two years.
4. This project must adhere to all applicable ordinances, plans, and specifications of the City of Benicia in effect at the time the Vesting Tentative Map was submitted and must obtain any and all permits required by other government agencies having jurisdiction over the project. Any alteration of the approved plans, including substitution of materials, must be requested in writing and approved by the Community Development Department prior to changes being made in the field. Depending on the degree of the any proposed alteration of the approved plans, the Community Development Director must determine whether such change must be reviewed by the Planning Commission. Minor changes must be reviewed and approved by the Community Development Director, and substantial and significant changes to the project must be reviewed and approved by the Planning Commission. Minor changes are defined as technical errors or minor omissions that do not significantly change the original project approval. Substantial and significant changes to the project involve relocation of roads, sidewalks, buildings, changes in landscaping design and materials, changes in the proposed grading of the site, proposed changes in public services to the site, and any changes to the commercial or industrial design guidelines applicable to the project.
5. Prior to filing of a Final Map, the applicant must submit draft Covenants, Conditions and Restrictions (CC&Rs) for the project, which are subject to the approval by the Community Development Director and the City Attorney. The CC&Rs must address landscape maintenance of each newly created lot, maintenance of the proposed open space areas, and all other areas of concern as it pertains to this development as

directed by the City of Benicia. The CC&Rs must be recorded with the final subdivision map.

6. ~~No Adult Business as defined by the Benicia Municipal Code is allowed in the Benicia Business Park project.~~ Any non-flex use office use proposed in the Limited Industrial - IL portion of the project site may be permitted with Use Permit reviewed and approval by the Planning Commission. The Use Permit request must include detailed parking data and analysis that clearly shows that the proposed development will have adequate on-site parking, and any additional traffic impacts associated with the office development will be mitigated and not substantially or significantly impact surrounding development sites or existing businesses.
7. All mitigations measures set forth in the Environmental Impact Report and Addendum *as modified by these conditions of approval* (is the italics necessary) are hereby incorporated by reference and made conditions of this approval.
8. Americans with Disabilities Act (ADA) compliant access must be provided throughout all areas of the project. This includes public and private areas of the Benicia Business Park.
9. Thirty (30) days prior to any grading or demolition onsite, the applicant must notify all tenants and property owners within a 300' radius of any particular project phase the intended date of construction. The notice must contain a contact number and contact person at Discovery Builders or its agent, and a contact number and contact person with the construction company or its agent for the public to contact with complaints or concerns. The notice must include allowed construction hours. The notice must include the contact number for the Solano County Environmental Health Department vector control and the appropriate City representative. The notice must remind the public to patrol their foundations and foundation vents and openings to secure them against vectors.
10. A 4' x 8' painted sign must be posted onsite prior to initiation of onsite work, including clearing and grubbing, and must remain onsite through the duration of such work. This sign must contain the contact number and contact person at the Discovery Builders or its agent, and ~~a contact number and contact person with the construction company~~ and the City for the public to contact with complaints or concerns.
11. ~~Prior to acceptance by the City, the proposed EIR Addendum will require analysis of data regarding changes to the project to support its conclusions.~~ The applicant must also provide an updated traffic and Urban Decay analysis for review and consideration by the City prior to approval of the first any final map for the project.
12. No more than 10% of the area zoned General Commercial – CG shall be used for Eating and Drinking Establishment use unless a Planning Commission Use Permit is first obtained. Pedestrian access through the commercial area to the Eating and Drinking Establishments must be maintained.

13. ~~The project, if approved, includes all written commitments made by the applicant as specified in all written documents submitted as part of the application as contained in the project file. The applicant must work with the Economic Development Manager to attract high quality business including cleantech and zero waste/emission companies.~~
14. Prior to issuance of a building permit, the applicant must file a Final Map in conformance with the Subdivision Map Act and local ordinances that covers all lots in each ~~that~~ phase of the project.
15. Prior to issuance of a building permit, the applicant must enter into a bonded subdivision improvement agreement for the installation of the public improvements and grading necessary to accommodate the related portion of this the project. Plans for these improvements must be designed by a Registered Civil Engineer and in conformance with the City's Engineering Design Standards. Improvements must include ~~brick patterned sidewalk~~, a looped water system, public sewer extension, and storm drainage improvements incorporating storm water run-off best management practices and conforming to the Hydrology Report prepared for this project dated February 18, 2004 on file with the Community Development Department. The applicant must complete all work encompassed by the subdivision improvement agreement for that phase prior to issuance of a Certificate of Occupancy.
16. The grading plan must be prepared by a registered civil engineer and comply with the requirements of a soils report prepared for this project and the City's Grading Ordinance. An erosion control plan must be incorporated into the grading plan. Also included must be a Storm Water Pollution Prevention Plan incorporating best management practices and complying with the City's Storm Water Ordinance.
17. Prior to issuance of a building permit for a particular building within a phase of the project or individual building to be constructed within the project site, the applicant must pay all school, traffic impact and other applicable development fees for that permit.
18. Prior to final map approval, a geotechnical report must be prepared by a registered geotechnical engineer, and all recommendations of the report must be incorporated into the final engineering design for each structure onsite to avoid potential geologic impacts.
19. Prior to issuance of a building permit, the applicant must grant to the City easements on the Final Map necessary to accommodate this that phase of the project, including water, sewer, and access easements.
20. The site must be provided with Fire apparatus access roads and water/hydrants to meet California Fire Code Article 9. All improvement or development plans require Fire Department approval.

21. A Property Owner Association and/or Community Facilities District must be established by the developer to install and maintain private and public access, and storm water drainage, and open space and common areas. The documents governing the Property Owner Association and/or Community Facilities District must be approved by the City Attorney prior to recordation of the first Final Map.
22. The applicant or permittee must defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the City Council, Planning Commission, Historic Preservation Review Commission, Community Development Director or any other committee, agency, or department of the City concerning a development, CEQA approval, subdivision map, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless must be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

Site Plans

23. Site plans within the Benicia Business Park must be coordinated with adjoining projects within the Benicia Business Park to take advantage of similar perimeter landscape themes, common access, or similar features. Particular care and coordination must be considered as it pertains to bioswale features, LEED standards and other design guidelines ~~for a particular project~~. Prior to the first building permit in each phase, the applicant must provide a site-specific plan with building footprints, landscaping, and architectural design that conforms with applicable LEED-ND guidelines, Low-impact Development standards, and campus design (open spaces between buildings, shaded outdoor gathering spaces, and paths that connect buildings, open space and trails).
24. Water quality features such as bioswales and bio-retention basins must be integrated in a cohesive and logical manner and take advantage of site topography, orientation and visibility.
25. Pervious paving must be used in-lieu of impervious paving wherever possible. Paving must be reduced to the minimum necessary to accomplish site circulation and parking needs.
26. Recycled products for driveway and parking lot base material must be used, whenever possible.
27. Building setbacks and coverage must comply with the limitations specified in Benicia Municipal Code Section 17.32.030.

28. Buildings must be located and oriented to provide a strong visual and functional relationship with the site, adjacent sites, and nearby thoroughfares whenever feasible. Where feasible, accessory facilities such as mechanical equipment, trash collection, storage areas, and vehicle service areas must be located away from portions of the site visible from public roadways or adjacent properties with dissimilar improvements.
29. Underground utilities must be installed in accordance with Benicia Municipal Code Section 17.70.230.
30. ~~An ultra-high bandwidth broadband fiber network~~ Telecommunications infrastructure using best-available technology must be installed ~~that serves all lots and businesses for each phase of the project.~~

Circulation, Parking and Loading

31. Pedestrian access to primary building entrances must be separated from auto access by walkways to the extent possible. Visitor parking must be located near the entrance of the building and must be removed from loading areas and truck parking areas to the extent feasible.
32. ~~Driveway access along streets must be kept to the minimum width essential for proper industrial traffic circulation. Driveways must be aligned with existing or planned driveways on the opposite side of the street or oriented to existing or future street median breaks. Where possible, driveways must be located to avoid arterial streets, close proximity to street corners or adjacent driveways and areas with restricted visibility.~~
33. In order to minimize interference with street circulation, a minimum driveway length of twenty feet ~~must be~~ required between the property line and the first parking stall.
34. Parking lots or stalls that require backing directly into public streets are prohibited by Benicia Municipal Code Section 17.74.130. All new parking areas must facilitate forward movement into public streets unless a variance is granted by the Planning Commission.
35. Parking and loading facilities must be sufficient to serve each business without the need to park on adjacent streets. Each project must comply with the number and configuration of spaces required by Benicia Municipal Code Chapter 17.74.
36. Per Benicia Municipal Code Section 17.70.190 E., parking lot design must include landscape planters, sidewalks, or other separators at the end of parking bays. All parking, loading and driveway areas must be separated from landscaped areas by concrete curbs.
37. Parking and loading areas must be designed so that they do not interfere with each other or with other site activities.

38. Access to loading facilities must eliminate the need for trucks to back into or out of street rights-of-way.
39. Provision must be made for adequate access and circulation of emergency vehicles.
40. Pursuant to Benicia Municipal Code Section 17.74.020 K., a deviation from parking standards may be approved by the Planning Commission if there will be ample on-street parking. The deviation may be sought if any site within the industrial-zoned portion of the Benicia Business Park is used for offices. Conflict with BMC 17.74.130 must be resolved either by public dedication of the parking elsewhere within the development site or other means approved by the City Attorney prior to issuance of building permits.

Landscape Design

41. Trees, shrubs and groundcover, including native species to the maximum extent possible, must be used to provide variety and to reduce the apparent mass of large, blank facades. Earth berms may be used to reduce the apparent mass and height of a building.
42. Landscaping and berms must reinforce circulation patterns and screen and shade large visible paved surfaces such as loading areas.
43. The visual impact of parking lots and other large circulation areas must be minimized through the use of planting, earth mounds, and/or low fencing along the street frontage. Views through the site must be maintained for orientation and security.
44. Project landscape design, materials and treatment must comply with specifications of Benicia Zoning Ordinance Section 17.70.190 and the Benicia Business Park Master Landscape Plan. In the event of a conflict Benicia Zoning Ordinance Section 17.70.190 must prevail.
45. Street trees must be provided along all public and private streets with a minimum of one tree installed for each thirty feet of frontage. One dominant tree must be selected for each street. The final landscape plan for the Benicia Business Park project must reflect this requirement.
46. Plant, shrub and tree species must be appropriate to Benicia's climate and must require minimal water and care. New trees must be uniform in appearance and wind tolerant.
47. Disturbed slopes must be hydroseeded with native vegetation.
48. Live plant material must be used for all ground cover areas. Wood chip mulch must be used for weed retardation.

49. Automatic irrigation must be provided. Where drought-resistant landscape materials are planted, only temporary irrigation is required until landscaping is established.

50. Landscaping must be provided around the perimeter of each building lot.

Fencing and Screening

51. All exterior mechanical equipment, utility meters and valves, refuse storage and containers, and above ground storage tanks must be located and screened in a manner compatible with the design of the project and nearby development, in accordance with Benicia Municipal Code Sections 17.70.210 and 17.70.220.

52. Telecommunications equipment must be installed in conformance with Benicia Municipal Code Section 17.70.250.

53. Outdoor storage and display of merchandise, materials or equipment must be located and screened in accordance with Benicia Municipal Code Section 17.70.200.

54. In accordance with Benicia Municipal Code Section 17.28.030 M., the maximum height of a commercial fence or wall ~~must be~~ is 8 feet.

55. In accordance with Section 17.32.030 J., the maximum height of an industrial fence or wall must be 12 feet.

56. New fencing along public rights-of-way must be softened with landscaping.

57. Fencing must not impair traffic safety by obscuring views.

58. Fencing must be designed for compatibility with nearby building and landscape materials. It must have a high design quality and must be constructed of highly durable materials. Use of wood and masonry is encouraged. Chain link and barb-wire fencing must not be installed along street frontages.

Exterior Lighting

59. Exterior lighting type, brightness, height and fixture design must be appropriate to the building design, its function and location. ~~Lighting must be adequate but not overly bright. Lighting fixtures must be properly scaled to the pedestrians, and automobiles and trucks.~~

60. Light bulbs or tubes must not be exposed. Generally, exterior lighting must shine downwards and be non-glare. Lights must not glare into adjacent streets or neighboring properties outside the Benicia Business Park.

61. Security lighting must be indirect or diffused and shielded or directed away from a residential district, in accordance with Benicia Municipal Code Section 17.70.240 D.

62. Outdoor parking area lighting must comply with Benicia Municipal Code Section 17.74.170.

Architecture

63. The architectural design of new buildings and major exterior additions must be compatible with neighboring buildings within the Benicia Business Park. Size, bulk, materials and colors must have a complementary relationship to other buildings in the vicinity. Primary buildings in close proximity on the same property must have harmonious proportions and similar architectural styles. Nearby accessory buildings must be of compatible design and treatment.

64. Due to their potential impact upon the character of Benicia as a whole, particular attention must be given to the architectural design quality of buildings that will be highly visible from entry gateways to the city: I-680, East Second Street and Lake Herman Road.

65. Variety in roof shapes and form is encouraged to add diversity, enhance scale, and complement the features of nearby buildings. Where parapet walls are used, they must be treated as an integral part of the building design.

66. Exterior design features including materials, texture, color and trim detailing must be included on all building elevations to an extent that maintains overall design continuity.

67. The apparent mass of large buildings must be reduced by introducing variations in wall setbacks and heights, additions of windows and other openings, variety in materials or finishes, and similar methods. Monotonous building forms must be avoided by using various methods to help create interest and reduce scale. Examples include the staggering of vertical walls, recessing openings, providing upper-level roof overhangs, using deep score lines at construction joints, contrasting compatible building materials, and using horizontal bands of compatible colors.

68. The appearance of large structures must be reduced in following ways:

- a. Vary the planes of the exterior walls in depth and/or direction. Wall planes must not run in one continuous direction without an offset.
- b. Vary the height of the buildings so that it appears to be divided into distinct massing elements.
- c. Articulate the different parts of a building's facade by use of color, arrangement of facade elements, or change of materials.
- d. Create horizontal emphasis through the use of trim.

- e. Use landscaping and architectural detailing at the ground level to lessen the impact of an otherwise bulky building.
- 69. Mixing of unrelated architectural styles, materials and details must be avoided within a single building.
- 70. All roof-mounted equipment, including air-conditioners, large vents, blowers or any other mechanical device, must be screened from public view by roof elements, an outside parapet wall, an equipment well, or alternate architectural screening and devices that fit the building design.
- 71. Mirrors or highly reflective glass must not cover more than 20 percent of a building surface visible from a street, unless it meets the glare performance requirement specified in Benicia Municipal Code Section 17.70.240 D.
- 72. Exterior siding materials must be masonry, plaster, wood, metal, or an approved alternate material. Metal clad buildings must have baked-on enamel exterior finishes or equal.
- 73. The size of windows and doors must relate to the size of the wall in which they appear. Monotonous repetition must be avoided in the location, size and shape of windows and small doors. Variety must be provided to large, flat, uninterrupted expanses of exterior walls by the variety, size, proportions, and rhythm of window and door openings. Recessed openings help provide contrast by creating shade patterns and by adding depth to flat planes.
- 74. Mixed-use buildings containing non-industrial uses must highlight the public entry to the structure to create a sense of human scale and to emphasize a primary entry feature.
- 75. Exterior walls must incorporate compatible finishes and colors. Very bright, very light and very dark colors must be limited to accents rather than occur as primary wall colors.
- 76. Utility doors, fire doors, loading docks and other potentially unsightly service features must be designed to blend with the building's architecture.
- 77. Commercial structures must include significant wall articulation, multi-plane and treated pitched roofs, and regular or traditional window rhythm.
- 78. Large blank and/or flat wall surfaces, unpainted concrete block walls, highly reflective surfaces, metal or plastic siding on the main façade, square "boxlike" appearance, mixtures of unrelated styles must be prohibited.

Sustainable Design

79. All buildings must be LEED certified and construction must adhere whenever possible to the following LEED guidelines, as established in the project application:
- a. Design efficient use of space and air distribution with the goal of minimizing conditioned areas.
 - b. Design building orientation and shading to minimize solar gain and maximize daylight harvesting.
 - c. Provide high efficiency HVAC systems with non-HCFC refrigerants.
 - d. Provide natural ventilation.
 - e. Provide waterless urinals.
 - f. Include materials which minimize embodied energy.
 - g. Design efficient detailing to minimize the amount of waste material.
 - h. Include low VOC, low CPC and formaldehyde free materials, finishes, paints and materials.
 - i. Capture and filter gray water for irrigation purposes.
 - j. Include photo-sensors and localized lighting controls to reduce the amount of artificial light needed within indoor spaces.
 - k. Provide motion detectors in accessory function areas.
 - l. Use recycled and recycled-content building materials; post consumer and post-industrial.
 - m. Provide photovoltaic cells to produce a portion of the electrical needs.
 - n. Divert and recycle construction waste from going to the landfill.
 - o. Capture and direct stormwater to landscape areas prior to release.
 - p. Secure purchase agreements with serving utility for green power sources.
 - q. Utilize sustainable harvested lumber per the Forest Stewardship Council (FSC Label).
 - r. Utilize fly ash or slag concrete mix design.

- s. Minimize light trespass and reduce sky glow to increase night sky access.

Signs

80. All signs must comply with Benicia Municipal Code Section 17.78.
81. Every structure and commercial complex proposal must include a signage plan that includes provisions for sign placement, sign scale in relationship with the building, and sign readability. All signs must be compatible with building and site design relative to color, material, and placement.
82. Monument signs are the preferred alternative for business identification whenever possible. Where several tenants occupy the same site, individual wall mounted signs may be allowed in combination with a monument sign identifying the development and address.
83. Backlit individually cut letter signs must be utilized wherever feasible.
84. Each development site must be appropriately signed to provide directions to loading and receiving areas, visitor parking and other special areas.

Specific Landscaping and Open Space Requirements

85. A licensed landscape architect must prepare landscape and irrigation plans for all landscaped areas including designated open space areas and the public service facilities. The Community Development Department must review and approve landscape and irrigation plans prior to issuance of any site-specific building permit. The final landscape plans must include:
 - A plant legend including common and botanical plant name, quantity, size, spacing, method of planting, and similar landscape design information.
 - Shrubs at least five (5) gallons and trees (exclusive of specimen trees) fifteen (15) gallon (3/4" to 1" trunk caliper) in size; approximately one third of all trees planted on the site must be specimen size (minimum 2" trunk caliper) located at all major focal points.
 - Deep root barriers for all trees within eight (8) feet of pavement. Trees must not be planted within 10 feet of sewer or water lines.

The final landscape plan must be approved by Community Development staff prior to issuance of a building permit for this site.

86. All required landscaping and related improvements must be completed prior to the issuance of a Certificate of Occupancy for each lot.
87. Appropriate care and maintenance of all required landscaping onsite including open space areas and public areas such as the Police/Fire facility and in the adjacent right-of-way ~~are shall be~~ the responsibility of the ~~project sponsor~~ Property Owner

Association/Community Facilities District to maintain in perpetuity. The landscape improvements required by the City to be installed by the project sponsor must be maintained through a Property Owner Association/Community Facilities District ~~private maintenance association or similar entity~~. The City Attorney, the Director of Public Works ~~City Engineer~~ and the Community Development Director prior to acceptance of any final map must approve the funding mechanism for maintenance of the required landscape improvements. The mechanism must be in place prior to or concurrently with acceptance of any final map. Standard of maintenance must be determined by the City and included in the Covenants, Conditions and Restrictions for the project.

88. Prior to site development, a tree report prepared by a consulting arborist must identify trees that will be preserved. The report must include measures to protect the preserved trees, and identify the location, size, and health of these trees. The project sponsor must apply for a Tree Permit for the removal of any protected trees that includes a tree replacement program.
89. The project sponsor must provide the following within and adjacent to each phase of the project:
- A 10' wide concrete Bikeway/Sidewalk or Class II bike lanes along Lake Herman Rd between A Blvd. and I-680.
 - A 10' wide concrete Bikeway/Sidewalk between East 2nd St and Lake Herman Road in the project site.
 - A 10' wide concrete Bikeway/Sidewalk along A Blvd. from Industrial to Lake Herman Road.
 - A 10' wide concrete Bikeway/Sidewalk along Park Rd. from A Blvd. to East 2nd Street.
 - A 10' wide concrete Bikeway/Sidewalk along East 2nd St. from Industrial Way to Lake Herman Road.
 - A Class II Bikeway along Lake Herman Rd. between Industrial Way and A Blvd.
90. The project sponsor must install and maintain public access trails in the project open space and connecting to surrounding areas (per EIR Addendum Recommended Measure GREEN-1) to meet the recreation demands of site employees and visitors and/or contribute an amount commensurate to installation and maintenance of such amenities to the City for provision of recreational opportunities.

Public Works

- 91.____ The project applicant must comply with all the mitigation measures listed in the certified EIR and Addendum and they must be considered as Conditions of Approval for this project. Prior to approval of a final map, phasing of the project and timing of project improvements may be modified by the City Council at the request of the applicant based on the recommendation of the Director of Public Works/City Engineer. The project applicant must provide to the Director of Public Works/City Engineer the necessary documentation in the form of updates to the traffic studies;

updates to the sewer, water, drainage master plans; and/or other information as required by the Director of Public Works/City Engineer to make their recommendation to the City Council on the affected Conditions of Approval and/or mitigation measures for this project.

92. The project applicant must comply with all the applicable provisions of the Benicia Municipal Code (BMC), the Benicia General Plan, the 1992 Benicia Engineering Standard Plans and Design Criteria and any recent updates relating to public health and safety issues, any applicable policy or specific plan, and these Conditions of Approval. Any failure by the applicant to comply with all applicable provisions of the Benicia General Plan, any applicable City policy or specific plan, and these Conditions of Approval may result in the revocation of the project approval permits (including but not limited to encroachment, grading, building, zoning).
93. The project applicant must comply with all regulatory and resource agency requirements imposed upon this project. Any requirements that require substantial or material amendments or deviations from the approved project or these Conditions of Approval as determined by the City may require the project applicant to resubmit the project (or affected portions) to the City Council for consideration at a duly noticed public hearing with the applicant responsible for paying new application fees in accordance with the BMC.
94. The project applicant must obtain the necessary permits from all applicable State and Federal regulatory and resource agencies prior to receiving approval from the City on any grading, encroachment or building permit within that certain phase on this project and prior to commencement of any work on that certain phase on this project.
95. No work must commence on this project until the project applicant receives a grading, encroachment, and/or building permit from the City and pays all applicable fees, bonds, security deposits, charges, assessments, and development impact fees in accordance with the BMC. This project will not receive any fee credits on sewer, water and traffic impact fees for improvements required by EIR mitigation measures.
96. The project applicant must ~~apply for and procure~~ obtain approval from the Benicia City Council to form a new Property Owner Association/Community Facilities District, backed by a financial instrument to be described in the subdivision improvement agreement for each phase, for the purpose of providing and guaranteeing a funding mechanism to pay for the full costs of ongoing maintenance for improvements located within and adjacent to this project, including but not limited to:
- a. Landscaping/irrigation improvements within the common lot parcels, along both sides and within the medians of each public street (including East 2nd St., Lake Herman Road & Industrial Way), around the perimeter of the fire substation and corporation yard lots and within other areas to be landscaped as required by the City.
 - b. Drainage system improvements within the common lot parcels including the detention basins, inlet/outlet facilities, open swales and other drainage

features. This does not include the underground drainage pipeline systems located within the street rights-of-way.

- c. ~~Open space areas within the common lot parcels, street rights-of-way, and public conservation easements for areas and other locations to be left in a natural state as required by the City.~~
- d. Ongoing inspection and maintenance of sedimentation basins, detention basins, drainage swales, inlets/outlets, slopes, debris benches and v-ditches.
- e. Ongoing weed abatement program.

It is the responsibility of the project applicant to complete the necessary reports and legal documentation to establish the Property Owners Association or other mechanism with approval required by the City Attorney and Community Development Director prior to the filing of the first final map for this project. The standards for ongoing maintenance levels must be determined by the City and included in the CC&R's for this project and this maintenance district.

97. The project applicant must ~~only~~ submit final map applications for each phase defined on the phasing plan for this project. No final map applications will be allowed to create partially phased areas or establish parcels in a later phase that would be out of sequence with the phasing plan submitted with this project. If the applicant wishes to create parcels for a later phase, then all the conditions triggered by that phase must be implemented.

98. Prior to approval and recordation of the final map for the *first phase* of this project, the applicant must:

- a. ~~Submit specific updated~~ master plan studies regarding sewer (~~updated~~), water, and drainage systems to serve *all phases* of this project showing proposed onsite and offsite improvements necessary to mitigate the impacts (additional flows, runoff, etc.) from this project. Approval of these ~~specific updated~~ master plans is required as part of this *first phase* and before submittal of the specific improvement plans for each system.
- b. Submit a complete set of overall "rough" grading plans accompanied by a soils/geotechnical report and a storm water pollution prevention program (SWPPP) utilizing best management practices (BMP's) for the "rough" grading work required for *all phases* of this project. ~~The applicant City must complete require~~ the "rough" grading work for the *first phase* and the drainage area to the north of A Blvd. ~~to be completed with the first phase. The applicant must a~~Also submit a complete set of "finish" grading plans (~~as necessary~~) accompanied by a soils/geotechnical report, erosion control plans and SWPPP for the grading required for the *first phase* of this project. Prior to approval of "rough" grading plans for the western portion of the commercial area, the applicant must obtain approval from the City Council, upon the recommendation of the Community Development Director, of a redesigned grading plan for this area that better conforms to the existing topography and minimizes cuts and fills.
- c. Submit a complete water system analysis plan for *all phases* of this project to establish the operational and design parameters to create a separate zoned

water system required for *all phases* of this project including, but not limited to, determining the number, size and elevation requirements for the new reservoirs and pump stations; developing the overall looped layout of the distribution system; establishing the appropriate water pressures; and accommodating the water quality issues. Approval of this system analysis is required as part of the *first phase*. Once approved, submit water system improvement plans for improvements required for the *first phase* of this project, which includes the installation of the distribution system, onsite storage and pumping facilities, and the connection to the main service line from the city water treatment plant. ~~The City must require the applicant~~ must ~~to fully fund and install these water system improvements prior to the issuance of the first building permit for this project.~~

- d. Submit a complete set of improvement plans for the offsite stand-alone sewer system improvements required for *all phases* of this project including, but not limited to the connection points, gravity lines, offsite lift station and offsite force main as referenced in the EIR mitigation measures, ~~shown on the mitigated Preliminary Sewer and Water Plan dated March 20, 2008, included in the Brown and Caldwell Benicia Business Park Sewer Collection System Analysis dated October 16, 2006 and shown as Alternate Route B (Bayshore Road) in the Stetson Engineers Analysis dated September 27, 2006, as stipulated in Mitigation Measure UTIL-4).~~ The ~~City must require the applicant~~ must ~~to fully fund and install all of these offsite improvements designed for cumulative development in the Benicia Business Park and all phases of this development and to complete them with this first phase.~~ Also submit a complete set of sewer system improvement plans for the onsite collection system and the connections to offsite lines required within the *first phase* of this project and sized to accommodate all other development in the Benicia Business Park that will utilize this portion of the collection system in the future.
- e. Submit a complete set of drainage system improvement plans accompanied by a hydraulic study for the improvements required on *all phases* of this project to ensure that no increased and/or new concentrated stormwater runoff will be present downstream of any portion of this project. The plan needs to clearly show the proposed drainage system improvements including, but not limited to, detention basins, swales, pipeline systems, and their relationship to existing upstream and downstream systems and the flow rates and capacities given for pre and post project conditions. The plan must show how drainage from the City's Water Treatment Plant site and proposed water storage reservoirs are ~~addressed in the event of an overflow or catastrophic event~~ per Mitigation Measures GEO-3a and GEO 5. Approval of this design will be required as part of this *first phase*. Once approved, the applicant must submit drainage system improvement plans for the site-specific pipeline and bio-swale improvements required for the *first phase* of this project. All detention facilities, improvements within the common lot areas, and offsite improvements required to mitigate the overall stormwater flows for *the phase* must be installed as part of the "rough" grading improvements. The site-

specific pipeline and bio-swale systems to serve each phase must be installed as part of the "finish" grading for that phase.

- f. Submit a complete set of street improvement plans for the improvements required to be completed for the *first phase* of this project which must include:
 - i. East 2nd Street widening improvements from Lake Herman Road to the Channel Road Bridge to provide for a minimum 70-foot curb-to-curb width with 4-thru lanes, separate left and right turn lanes, raised median islands, paved shoulders, 4-foot wide concrete sidewalk on the north side and 10-foot wide concrete bike/ped path on the north south side (each separated from the curb by a 6-foot minimum width parkway), transit facilities and access connections to internal bikeway and public accessways.
 - ii. Lake Herman Road improvements between A Boulevard and the northbound 680 freeway ramps including modifications to the intersections to mitigate the additional traffic to be generated by *all phases* of this project. Improvements must include 2 to 4 thru lanes, separate left and right turn lanes, raised median islands, striped bike lanes, sidewalks on both sides (separated by a 6-foot minimum width parkway) and access connections to internal bikeway and public accessways.
 - iii. New internal street improvements (A Blvd. and the extension of Park Rd.) for the *first phase* of this project to provide for a minimum 48-foot curb-to-curb width with 2-thru lanes, striped two-way turn medians, 10-foot wide concrete bike/ped paths on both sides (separated by a 6-foot minimum width parkway) and transit facilities.
 - iv. New street lighting with decorative pole standards (as specified in Mitigation Measure VIS-4a) along both sides of each new internal street (*first phase*), within the raised median along both sides of E. 2nd St. and along both sides of Lake Herman Road (between A Boulevard and the northbound 680 freeway ramps).
 - v. New traffic signal installations and intersection modifications at East 2nd St./Park Rd., East 2nd St./Lake Herman Rd., and Lake Herman Rd./680 freeway northbound and southbound ramps in accordance with the mitigation measures in the EIR.
 - vi. New intersection improvements incorporating a roundabout design or other alternate traffic control design as approved by the Director of Public Works/City Engineer for Lake Herman Rd./A Blvd and A Blvd./Park Rd. internal road extension.
- g. Submit a complete set of landscape/irrigation plans for those improvements required for the first phase of this project which must include:
 - i. Landscaped medians along East 2nd St. (between Channel Road Bridge and Lake Herman Road).
 - ii. Landscaped parkway strips along ~~both the north~~ sides of East 2nd St. (same limits between Industrial Way and Lake Herman Road).
 - iii. Perimeter landscaped areas along edges of new onsite roadways and along East 2nd St. (same limits between Industrial Way and Lake Herman Road).

- iv. Landscaped areas within common areas, bike paths, accessways as approved by the Community Development Director.
- h. Submit a complete set of bikeway and public accessways plans for those improvements required for the first phase of this project which must include:
 - i. Class I bikeway (10-foot wide concrete bike/ped path) bikelanes along the north both sides of East 2nd St. (between the Channel Road Bridge and Lake Herman Road.
 - ii. Class II bikelanes along both sides of Lake Herman Road (between Reservoir Road and East 2nd St. I-680 and the westerly limits of the commercial area).
 - iii. Class I bikeways and offstreet accessways within the *first phase* showing connections to the surrounding sidewalks, pathways and accessways.
- i. Include all necessary easements and dedications on the final map to accommodate the onsite public improvements necessary for this project and provide all necessary easement/right-of-way documents to accommodate the offsite public improvements necessary for this project including, but not limited to, street, utilities, water, sewer, drainage, public accessways (bikes, peds, etc.), open space, and landscape/irrigation improvements.
- j. Enter into a subdivision improvement agreement with the City incorporating the requirements for the *first phase* of this project including the installation of the public improvements outlined above; payment of all necessary plan check and inspection fees; payment of a \$10,000 non-refundable cleanup deposit; posting all necessary bonds and securities; and providing the proper indemnification and hold harmless guarantees.
- k. The project applicant shall submit a Transportation Demand Management (TDM) plan to reduce the amount of vehicle use (especially single-occupant vehicle); to encourage the use of alternative modes of travel such as transit, walking and bicycling; and to reduce the demand for travel during the AM, PM and midday peak periods of traffic. The TDM plan shall include at a minimum the following programs that must be implemented and funded by the project applicant prior to the recordation of the final map for the second phase of the proposed project:
 - Shared-use parking.
 - Carpool and vanpool ride match program.
 - Free shuttle service established to serve the project site, the Benicia Industrial Park and Downtown Benicia.
 - Transit center constructed on the project site with bus/shuttle transit stops provided with shelters, bus bulbs, info kiosks, bike racks, park-and-ride facilities and other transit support facilities.
 - Traffic calming measures employed throughout the site
 - Employee financial incentive program to NOT drive.

99. Prior to approval and recordation of the final map for the *second phase* of this project, the applicant must:

- a. Submit a complete set of overall “rough” grading plans accompanied by a soils/geotechnical report and a storm water pollution prevention program (SWPPP) utilizing best management practices (BMP’s) for the “rough” grading work required for *second and third phases* of this project. The applicant City must complete require the “rough” grading work for the *second and third phases* and the drainage area to the north of A Blvd. ~~to be completed with the *second phase*.~~ The applicant must aAlso a complete set of “finish” grading plans (as necessary) accompanied by a soils/geotechnical report, erosion control plans and storm water pollution prevention plans for the grading required for the *second phase* of this project.
- ~~b.c.~~ Submit a complete set of water system improvement plans for the onsite distribution system improvements required for the *second phase* of this project.
- ~~e.d.~~ Submit a complete set of sewer system improvement plans for the onsite collection system and the connections to offsite lines required for the *second phase* of this project.
- ~~d.e.~~ Submit drainage system improvement plans for the site-specific pipeline and bio-swale improvements required for the *second and third phases* of this project. All detention facilities, improvements within the common lot areas, and off-site improvements required to mitigate the overall stormwater flows for the *second and third phases* must be installed as part of the “rough” grading improvements *second phase*. The site specific pipeline and bio-swale systems to serve each phase must be installed as part of the “finish” grading for that phase *second and third phases*.
- ~~e.f.~~ Submit a complete set of street improvement plans for the improvements required for the *second phase* of this project which must include:
- i. Construction of the new Industrial Way connection (East 2nd St. to A Blvd.) to provide for a minimum 70-foot wide curb-to-curb width with 2- 4-thru lanes and raised median islands, separate left and right turn lanes, 10-foot wide concrete bike/ped paths on the west both sides and 4-foot wide concrete sidewalk on the east side (each separated from the curb by a 6-foot minimum width parkway), transit facilities and access connections to internal bikeway and public accessways.
 - ii. ~~Construction of the new Industrial Way connection (A Blvd. to Lake Herman Rd.) to provide for a minimum 48-foot wide curb to curb width with 2 thru lanes, striped two-way turn medians, 4-foot wide concrete sidewalks on the east side and 10-foot wide concrete bike/ped path on the west side (each separated by a 6-foot minimum width parkway) and access connections to internal bikeway and public accessways.~~
 - iii. Demolition of the ~~entire necessary~~ length of Reservoir Road including but not limited to the removal of all pavement, structures, drainage facilities, and base material to return the roadway area to a natural condition in accordance with the approved “rough” grading plan for this project.
 - iv. ~~Lake Herman Road widening improvements between Reservoir Road and the westerly city limits to provide for safe shoulders and new~~

- ~~Class II striped bikelanes while maintaining the roadway's 2-lane rural curvilinear alignment.~~
- v. The applicant may chose to defer the installation of items 99(e)ii, 99(e)iii and 99(e)iv, until the *fourth phase* of this project by repaving (including necessary reconstruction of all substandard roadbase) shall repave the entire length of Reservoir Road between A Blvd. and Lake Herman Road (including necessary reconstruction of all substandard road base) to the satisfaction of the Director of Public Works/City Engineer so that the roadway to-remains in operation until the new Industrial Way connection is completed before the first certificate of occupancy on the *fourth phase* of this project.
 - vi. Provisions for a 60-foot right-of-way with grading improvements to accommodate a future roadway and bikeway connection to Channel Road (12% maximum grade) near the vicinity of Lot 64 in Lot A.
 - vii. Construction of remaining portions of A Blvd., to provide for a minimum 48-foot curb-to-curb width with 2-thru lanes, striped two-way turn median, 10-foot wide concrete bike/ped paths on both sides (separated from the curb by a 6-foot minimum width parkway) and transit facilities.
 - viii. New internal street improvements for the *second phase* of this project to provide for a minimum 48-foot curb-to-curb width with 2-thru lanes, a striped two-way turn median, sidewalks on both sides (separated from the curb by a 6-foot minimum width parkway) and transit facilities.
 - ix. New street lighting with decorative pole standards as specified in Mitigation Measure VIS-4a along both sides of each new internal street (*second phase*) and along both sides of the new Industrial Way connection (between E. 2nd St. and Lake Herman Road).
 - x. New traffic signal and intersection installations and/or modifications at East 2nd St./Industrial Way, East 2nd St./Rose Dr., Park Rd./Industrial Way, Park Rd./Bayshore Rd., Industrial Way/680 freeway northbound and southbound ramps, and Bayshore Rd./680 freeway northbound and southbound ramps in accordance with the mitigation measures in the EIR.
 - xi. New intersection improvements incorporating a roundabout design or other alternate traffic control design as approved by the Director of Public Works/City Engineer for Lake Herman Rd./Industrial Way and at A Blvd./Industrial Way.
 - xii. New pedestrian, school crossing and traffic safety improvements for enhancements for the intersection of East 2nd St. between Riverhill Dr. and Seaview Dr. /Hillcrest Ave. as approved by the Director of Public Works/City Engineer to include (1) installation of , including a high-visibility crosswalks at East 2nd/Riverhill Dr. and East 2nd/Hillcrest Av.; (2) installation of radar speed signs coupled with school-zone signage to alert drivers of their speed as they approach a school zone; (3) installation of dual alternating-flash yellow "wig-wag" warning treatment with flashing lights to alert drivers to slow down before

entering the school zone; (4) ensure the continued presence of the crossing guards at East 2nd/Riverhill Dr. and East 2nd/Hillcrest Ave. through a secure funding arrangement with the school district; and (5) installation of raised landscaped/irrigated median islands along this corridor as a traffic calming measure to reduce vehicle speeds and increase safety .

- xiii. New improvements safety enhancements for the intersections of East 2nd/Seaview and East 2nd/Riverhill as approved by the Director of Public Works/City Engineer to include the installation of including left turn prohibitions and/or median modifications (e.g., signage or median improvements) to properly manage safely address side street traffic congestion during the peak AM, PM and midday hours of traffic.
- xiv. New improvements for the intersection of East 2nd/Military East as approved by the Director of Public Works/City Engineer including to include updates to the signal timing and phasing to accommodate eastbound and westbound split phasing, lead/lag eastbound left turn operation, and lead/lag southbound right turn overlap operation. _____ to address the future traffic congestion during the peak midday hour.

f.g. Submit a complete set of landscape/irrigation plans for those improvements required for the *second phase* of this project which must include:

- i. Landscaped medians along the new Industrial Way connection (East 2nd St. to A Blvd.) to provide additional landscaping in compliance with Mitigation Measure VIS-1.
- ii. Landscaped parkway strips along both sides of the new Industrial Way connection (East 2nd St. to Lake Herman Rd.).
- iii. Perimeter landscape areas along edges of new onsite roadways and along the new Industrial Way connection between East 2nd St. and Lake Herman Rd.
- iv. Landscaped areas within common areas, bike paths, accessways as approved Community Development Director.

g.h. Submit a complete set of bikeway and public accessways plans for those improvements required for the *second phase* of this project which must include:

- i. Class I bikeway (10 foot wide concrete bike/ped path) alongside the new Industrial Way connection between East 2nd St. and Lake Herman Rd. located a minimum distance of six (6') ten (10) feet behind the new Industrial Way west curb line. May defer the installation of this bikeway until fourth phase of this project if Reservoir Road is repaved per Condition No. 99(e)v.
- ii. Class I bikeway and offstreet accessway connections between the existing sewer access roadway westerly of Channel Rd. to connect with the new sidewalks and bikelanes on East 2nd St. and to Channel Rd.
- iii. Class I bikeways and offstreet accessways within the *second phase* showing connections to the surrounding sidewalks, pathways and accessways.

- h.i. Include all necessary easements and dedications on the final map to accommodate the onsite public improvements necessary for this project and provide all necessary easement/right-of-way documents to accommodate the offsite public improvements necessary for this project including, but not limited to, street, utilities, water, sewer, drainage, public accessways (bikes, peds, etc.), open space, and landscape/irrigation improvements.
- i.j. Enter into a subdivision improvement agreement with the City incorporating the requirements for the *second phase* of this project including the installation of the public improvements outlined above; payment of all necessary plan check and inspection fees; payment of a \$10,000 ~~non~~-refundable cleanup deposit; posting all necessary bonds and securities; and providing the proper indemnification and hold harmless guarantees.

100. Prior to approval and recordation of the final map for the each *succeeding phase* of the project, the applicant must:

- a) Submit a complete set of “rough” and “finish” grading plans (as necessary) accompanied by a soils/geotechnical report, erosion control plans and storm water pollution prevention plans for that phase.
- b) Submit a complete set of water and sewer system improvement plans for that phase.
- c) Submit a complete set of drainage system plans accompanied by a hydraulic study for that phase.
- d) Submit a complete set of street improvement plans including, but not limited to, street pavement, sidewalks, bikeways, street lights, traffic signals, median islands, transit facilities and landscape/irrigation improvements for that phase.
- e) Enter into a subdivision improvement agreement with the City incorporating the requirements for that phase including the installation of the necessary public improvements; payment of all necessary plan check and inspection fees; payment of a \$10,000 ~~non~~-refundable cleanup deposit; posting all necessary bonds and securities; and providing the proper indemnification and hold harmless guarantees.
- f) Submit a set of improvement plans for the following improvements that must be required as part of the *fourth phase* of this project:
 - i. New traffic signal and intersection modifications at the intersections of ~~East 2nd St./Rose Dr.~~ and East 2nd St./780 freeway eastbound and westbound ramps in accordance with the mitigation measures in the EIR.
 - ii. Installation of additional onsite storage and pumping facilities and connection to the main service line from the city water treatment plant with connections to the distribution systems required for the remaining phases of this project.
 - iii. Construction of the new Industrial Way connection (A Blvd. to Lake Herman Rd.) to provide for a minimum 48-foot wide curb-to-curb width with 2-thru lanes, striped two-way turn medians, 4-foot wide concrete sidewalk on the ~~west-east~~ side and 10-foot wide concrete bike/ped path on the ~~east-west~~ side (each ~~concrete~~-separated from the

- curb by a 6-foot minimum width parkway) and access connections to internal bikeway and public accessways.
- iv. Demolition of the entire remaining length of Reservoir Road including, but not limited to, the removal of all pavement, structures, drainage facilities, and base material to return the roadway area to a natural condition in accordance with the approved “rough” grading plan for this project. ~~Lake Herman Road widening improvements between Reservoir Road and the westerly city limits to provide for safe musters and new Class II striped bikelanes while maintaining the roadway’s 2-lane rural curvilinear alignment.~~
 - v. ~~Lake Herman Road widening improvements between Reservoir Road the westerly limits of the commercial area and the westerly city project limits to provide for safe shoulders and new Class II striped bikelanes while maintaining the roadway’s 2-lane rural curvilinear alignment.~~
 - vi. ~~Class I bikeway alongside the new Industrial Way connection between East 2nd St. and Lake Herman Rd. located a minimum distance of ten (10) feet behind the new Industrial Way curb line.~~
 - vii. As part of the improvement plan submittals, an updated traffic study shall be prepared to evaluate the service levels at the intersection of E 2nd St./Military East and if operating at a level worse than LOS D, then new improvements will be required to reconfigure the intersection to include two exclusive eastbound left-turn lanes with the widening of the north leg to accommodate two receiving lanes.

101. Prior to the issuance of a grading, encroachment and/or building permit for the applicable phase of the project:

- a) The grading, erosion control and storm water pollution prevention plans must have been reviewed and approved by the Director of Public Works/City Engineer.
- b) The water and sewer system improvement plans must have been reviewed and approved by the Director of Public Works/City Engineer.
- c) The drainage system plans and hydraulic study must have been reviewed and approved by the Director of Public Works/City Engineer.
- d) The street improvement plans must have been reviewed and approved by the Director of Public Works/City Engineer.
- e) The landscape/irrigation plans must have been reviewed and approved by the Community Development Director.
- f) The project applicant must file a “Notice of Intent” with the Regional Water Quality Control Board and must prepare a Storm Water Pollution Prevention Plan with Monitoring Program for review and approval by the Director of Public Works/City Engineer.
- g) All water system improvements for the first-initial phase (reservoir, pump station, distribution system with hydrants) must be completed, tested and operational prior to the issuance of the first building permit so that adequate water supply with minimum fire flow requirements is provided before any structure is under construction. All water system improvements for each

subsequent phase must be completed prior to the issuance of the first building permit for that phase.

102. Prior to the issuance of a certificate of occupancy for the first building on the applicable phase of the project (per BMC Section 16.36.100):

- a) All public improvements (except for water system improvements with earlier completion times per Condition #101g) required for that phase must be completed and accepted by the City Council.
- b) The “as built” plans and final soils/geotechnical reports must be submitted and approved by the Director of Public Works/City Engineer for all improvements and grading required for that phase.
- c) All landscape/irrigation improvements must be completed and accepted by the Community Development Director.
- d) All damaged pavement, sidewalk, curb, landscaping, utilities or other public improvements within, ~~or~~ adjacent to or serving that phase of the project must be repaired by the applicant to the satisfaction of the Director of Public Works/City Engineer
- e) All necessary easement/right-of-way documents required for that phase must be executed and recorded at the County.
- f) All necessary legal documentation establishing the Property Owner Association for ongoing maintenance of all open space, drainage systems and landscape/irrigation improvements must be executed and recorded at the County.
- g) All building improvements must be completed and accepted by the Building Official on the initial building permit.

103. Other Public Works Conditions also required for this project: ~~must include:~~

- a) Connections to any existing public storm drain, sewer or water line will must require prior approval by the Director of Public Works/City Engineer and will only be considered after the project applicant provides an engineering analysis for the City’s review on both the capacity and condition of the existing public system to accept the impacts from the system proposed for this project. Any deficiencies or capacity constraints must be corrected by the project applicant before any connection is approved.
- b) Project applicant must ~~be required to~~ underground all existing overhead utilities along the frontages of the project limits including East 2nd St., Reservoir Rd. and Lake Herman Road in accordance with the requirements of ~~the Benicia Municipal Code~~ BMC Section 16.36.020 (G). The timing of the undergrounding of overhead utilities must be in conjunction with the street improvements required for each phase of this project.
- c) Sight distances at all street intersections and at the driveways intersecting public streets must conform to the standards established by the Institute of Transportation Engineers and as approved by the Director of Public Works and City Engineer.
- d) Project applicant must obtain written approval from all applicable agencies or utility companies before any existing easement or right-of-way may be considered for vacation abandonment.

- e) All water, sewer, drainage, street and other public infrastructure required to serve each phase of development must be completed by no later than 24 months from the approval of the final map for the initial year of development of that phase (per BMC Section 16.36.100) and prior to the issuance of the first certificate occupancy for that phase except when earlier completion times are required by applicable provisions of the Benicia Municipal Code (BMC), Benicia Engineering Standard Plans and Design Criteria, any City policy or specific plan, mitigation measures for this project and these Conditions of Approval.
- f) The project applicant must pay the City for the cost to hire a full-time professional engineer selected by the City with expertise in flood control and stormwater quality/management techniques to review the significant grading and drainage plans, the SWPPP, the proposed pre- and post-construction best management practices (BMP's) and to perform inspections during implementation. The project may receive a credit toward a portion of the inspection fees beyond the cost for standard City inspection as approved by the Director of Public Works/City Engineer. The applicant also must provide 24-hour security personnel at the site, who must inform the Public Works Department immediately of any activity occurring outside hours allowed by City regulations.
- g) The project applicant must assign a project construction manager and prepare a construction management plan for review and approval by the Director of Public Works/City Engineer prior to the issuance of any permit for this project. This plan must include, but not be limited to, truck route requirements, scheduling/time restrictions for trucks and construction traffic, working hour restrictions, noise mitigation measures, street sweeping, provisions for worker parking, staging areas, storage areas and a process for responding to and tracking complaints.
- h) All construction traffic for this project must access the site from the 680 freeway at the Lake Herman Road or Bayshore/Industrial Road interchanges and must only travel along Bayshore Road, Park Road, Industrial Way, East 2nd St. (north of Industrial Way) and Lake Herman Road (east of A Boulevard) to the project site. Any violations of this restriction must be cause for the issuance of a stop work order on applicable permits issued for this project.
- ~~h~~i) During construction of the project, the applicant must make periodic improvements to area roadways impacted by the construction traffic including pothole repairs, street section repairs, cleanup of debris and other street section damages as determined by the Director of Public Works/City Engineer. Upon completion of each phase of construction, the project applicant must pay the City for the cost to hire a street pavement expert selected by the City to assess the condition of the area streets impacted by construction and to determine the appropriate mitigation measures and/or impact fee to be assessed to the project applicant with the final determination to be made by the Director of Public Works/City Engineer in accordance the mitigation measures included in the EIR.

- h) During construction of the project, the applicant must implement the necessary controls to minimize the air quality impacts including, but not limited to, dust control/watering all active areas twice a day (minimum), covering all dirt/rock hauling trucks, sweep area streets twice a day (minimum), covering dirt/rock stockpiles, installing erosion control measures and other mitigation measures as stipulated in the EIR.
- i) The project applicant must ensure that the entire project site has been fully characterized by the appropriate regulatory agencies for the presence of military ordnance and hazardous materials prior to the start of any earthwork and site development activities. The project applicant ~~will~~ must be responsible for any remediation action required in accordance with the mitigation measures included in the EIR.
- j) The project applicant must ensure that the City's existing water main transmission pipelines within and adjacent to the site are properly located and clearly marked prior to the start of any earthwork and site development activities in accordance with the mitigation measures included in the EIR.
- k) ~~The project applicant must be responsible for the cost to extend Benicia Transit to the project site including all capital costs (buses, shelters, turnouts, signage, etc.) and one year in operating costs with the timing for implementation as determined by the City.~~
- l) The project applicant must provide a 7-acre minimum site for a future City corporation yard in Phase 2 of the project at the southeast corner of Industrial Way and A Boulevard in accordance with the mitigation measures included in the EIR, and graded with a slope greater than 1% and no more than 5% must be designed so that existing water transmission mains are not impacted and will not require relocation.

~~The project applicant must receive no credits on the required city impact fees (including traffic, sewer, water) for this project on improvements the project applicant is required to install to mitigate the impacts from this project as identified in the mitigation measures in the EIR and listed in these Conditions of Approval. The city impact fees are required to pay for those additional citywide improvements required to mitigate the impacts from cumulative development, including this project.~~

Fire Requirements

- 104. Additional fire protection requirements may be indicated on the final building plans when submitted.
- 105. No portion of any structures shall be more than 150 feet from an approved access roadway. Where a fire apparatus access roadway is required, a minimum of 20'-0" clear width and 13'-6" vertical clearance must be provided. All private access roadways in excess of 150 feet in length must be constructed with a maximum grade of 16% with a traffic index of 4, and provide an approved turn around area.
- 106. Unless otherwise waived by the Fire Marshall, a fire alarm system installed in accordance with the Uniform Fire Code, Section 1007, will be required for each

structure. A permit for the installation of the system must be secured from the Fire and Life Safety Division prior to work commencing.

107. Portable fire extinguishers must be provided for each structure. Fire Extinguisher size and locations to be approved by the Fire Department.
108. The water system for fire protection must provide a minimum of 1,750 gallons per minute flow determined by the Fire Marshall with a minimum residual main pressure of 20 psi for a two-hour duration. Fire flow test data must be provided by the Fire Department, at the expense of the developer, prior to the issuance of a building permits. Additional fire flow test data reports may be required during the course of construction and/or prior to final acceptance of the project.
109. Standard fire hydrants must be installed for this project. All fire hydrants must be operable and accessible by means of an approved paved road per Uniform Fire Code, Sections 901 and 902, prior to any combustible construction occurring on site. Hydrants must be installed in accordance with City Engineering Standards. All fire hydrants must be located as approved by the Fire Department.
110. Structures must be equipped with an automatic fire sprinkler system in accordance with the Benicia Municipal Code and the Uniform Building Code. A permit for the installation of the system must be obtained from the Fire and Life Safety Division prior to work commencing. Private fire protection water systems must be supplied through an approved back flow device per City Engineering Standards. The location of the back flow device and the fire department connections must be approved by Community Development, Public Works and the Fire Department.
111. Structures must be provided with a non-combustible or fire retardant roof in accordance with Benicia Municipal Code.
112. Smoke detectors must be installed in accordance with City Ordinance and the Uniform Building Code.
113. Tenant improvement plans must be submitted to the Fire and Life Safety Division for approval prior to construction.
114. Structures must be in compliance with the applicable sections of the California Fire Code and California Building Code, Titles 19 and 24.
115. Water plans for any water system supplying fire protection must be attached with the building plans for review and must include the location of all appliances, components and layout of the system prior to the issuance of a building permit. Private fire protection water systems must be supplied through an approved back flow device per City Engineering Standards. The location of the back flow device and the fire department connections must be approved by Community Development, Public Works and the Fire Departments.

EIR Mitigation Measures

116. Mitigation Measure GEO-1: Prior to the issuance of any site-specific grading or building permit a final design-level geotechnical investigation report must be prepared and submitted to the City of Benicia Planning and Building Department for review and confirmation that the proposed project fully complies with the California Building Code (Seismic Zone 4). The report must determine the project site's geotechnical conditions and address potential seismic hazards such as seismic shaking. The report must recommend foundation techniques appropriate to minimize seismic damage. In addition, the geotechnical investigation must conform to the California Division of Mines and Geology (CDMG) recommendations presented in the Guidelines for Evaluating Seismic Hazards in California, CDMG Special Publication 117. All subsequent parcel-specific development and building plans must comply with the California Building Code (Seismic Zone 4) requirements, or requirements superseding California Building Code requirements. In addition, future development plans must comply with the requirements of the final design-level geotechnical investigation report unless superseded by a parcel-specific design-level geotechnical investigation report. All mitigation measures, design criteria, and specifications set forth in the geotechnical reports must be followed.
117. Mitigation Measure GEO-2a: Prior to the issuance of a site-specific grading permit, a final design-level geotechnical investigation, to be prepared by licensed professionals and approved by the City of Benicia Planning and Building divisions, must include measures to ensure potential damages related to expansive soils are minimized. Mitigation options may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, to design and construction of improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.
118. Mitigation Measure GEO-2b: Prior to the issuance of any site-specific building permit, designs of all common landscaped areas must be reviewed and approved by the City of Benicia Community Development Department. The designs of all common landscaped areas must incorporate low water-need plantings to minimize the potential for damage associated to pavements, utilities, and structures from expansive soils. The use of similar landscaping must be encouraged at individual parcels by providing information to new tenants regarding the relationship between irrigation and subsequent property damage. A document which describes the potential for damage from expansive soils from over-irrigation and includes solutions such as drought-tolerant plant material and drip irrigation systems must be prepared by the applicant and provided to all occupants of the proposed commercial and industrial facilities.
119. Mitigation Measure GEO-3a: Prior to the issuance of any site-specific grading or building permit, a final design-level geotechnical investigation, to be prepared by

licensed professionals, and approved by the City of Benicia Public Works Department, must include measures to ensure potential damages related to long-term deformation and deep cuts and fills are minimized or eliminated by adoption of best industry practices as related to these conditions. In addition, the geotechnical investigation must make a determination as to the effect such work may have on the stability of materials underlying the proposed 1,000,000-gallon water tanks and the offsite water tank and other facilities of the City of Benicia Water Treatment Plant. The applicant must incorporate all recommendations of the final geotechnical investigation report regarding mitigation of potential effects associated with cut and fill into the project design.

120. Mitigation Measure GEO-3b: Prior to the issuance of any site-specific grading or building permit, the applicant must establish a self-perpetuating slope maintenance program (to be managed by a project site Business Owners Association or similar entity), to be reviewed and approved by the City of Benicia Public Works Department. The self-perpetuating slope maintenance program must include annual inspections of slopes, debris benches, and v-ditches. Any accumulation of slope detritus on the benches or in the v-ditches must be promptly removed. The association would also be responsible for repair of any slope failures that may occur on the cut slopes of the project site. An annual report documenting the inspection and any remedial action conducted must be submitted to the Planning and Building Divisions of the Community Development Department and the Engineering Division of the Public Works Department for review and approval. Approval by the City of Benicia City Engineer is required with respect to the Grading and Erosion control requirements of the City of Benicia Municipal Code Section 15.28.040 – Hazards (or its successor).
121. Mitigation Measure GEO-4a: Prior to the issuance of any site-specific grading or building permit, a final design-level geotechnical investigation report must be prepared and submitted to the City of Benicia Planning and Building divisions for review and confirmation that the proposed project fully complies with the California Building Code (Seismic Zone 4). The applicant must incorporate all recommendations of the final geotechnical investigation report regarding mitigation of slope instability into the project design.
122. Mitigation Measure GEO-4b: All grading plans, cut and fill slopes, compaction procedures, and retaining structures must be designed by a licensed professional engineer and inspected during construction by a licensed professional engineer (or representative) or Certified Engineering Geologist (or representative). All designs must be submitted to, and approved by, the City of Benicia prior to implementation.
123. Mitigation Measure GEO-4c: The 40-scale grading plans, when prepared, must be reviewed by a registered professional engineer, to ensure that the detailed plans conform to the intent of the preliminary geotechnical report.
124. Mitigation Measure GEO-5: The project must be designed so that the proposed development will accommodate the potential flooding associated with accidental or

earthquake-induced release of water from the Water Treatment Plant or water tank reservoirs. Prior to issuance of a building or grading permit, the project sponsor must retain a hydrologist to review final project grading and drainage plans to ensure that flooding would not endanger human health or property on the project site. The hydrologist's findings must be reviewed and approved by the City of Benicia Public Works Department.

125. Mitigation Measure HYDRO-1: As a condition of approval of the final grading and drainage plans for the project, a final detailed design-level hydraulic analysis must be submitted to the City of Benicia detailing that implementation of the proposed drainage plans will conform to the following standards or include the following components:

- 1) The project sponsor must pay the cost of the City to hire a professional engineer with expertise in flood control and stormwater quality/management techniques to review the significant grading and drainage plans, the SWPPP, and proposed post construction BMPs and implementation, and to perform inspections.
- 2) The project must result in no increase peak in runoff rates from any subareas and no increase in combined peak runoff volumes from subareas draining to the same downstream conveyance component (i.e. reductions in one subarea can offset increases in another subarea, if they drain to the same downstream conveyance, so long as total peak flows are not in excess of current flow levels). The final drainage plan for the project must be prepared by a licensed professional engineer.
- 3) Include drainage components that are designed in compliance with City of Benicia standards. The grading and drainage plans must be reviewed for compliance with these requirements by the City of Benicia Department of Public Works. Any improvements deemed necessary by the City must be part of the conditions of approval.
 - i. The sponsor must establish a self-perpetuating drainage system maintenance program (to be managed by a project site Business Owners Association or similar entity), that includes annual inspections of sedimentation basins, drainage ditches, and drainage inlets. Any accumulation of sediment or other debris must be promptly removed. An annual report documenting the inspection and any remedial action conducted must be submitted to the City of Benicia Department of Public Works for review.

126. Mitigation Measure HYDRO-2: The sponsor must prepare a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction and life of the project. The SWPPP would act as the overall program document designed to provide measures to mitigate potential water quality impacts associated with implementation of the proposed project. The SWPPP must include:

- 1) *Specific and detailed Best Management Practices (BMPs) designed to mitigate construction-related pollutants.* These controls must include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g. fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP must specify properly designed centralized storage areas that keep these

materials out of the rain. To educate on-site personnel and maintain awareness of the importance of storm water quality protection, site supervisors must conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list must be specified in the SWPPP. The SWPPP must specify a monitoring program to be implemented by the construction site supervisor, and must include both dry and wet weather inspections. City of Benicia personnel must conduct regular inspections to ensure compliance with the SWPPP. If grading must be conducted during the rainy season, the primary BMPs selected must focus on erosion control (keeping sediment on the site). End-of-pipe sediment control measures (e.g. basins and traps) must be used only as secondary measures. If hydro-seeding is selected as the primary soil stabilization method, then hydroseeded areas must be seeded by September 1 and irrigated to ensure that adequate root development has occurred prior to October 1. Entry and egress from the construction site must be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities must be designed to be accessible and functional both during dry and wet conditions.

- 2) *Measures designed to mitigate post construction-related pollutants.* The SWPPP must include measures designed to mitigate potential water quality degradation of runoff from all portions of the completed development. The specific BMPs that would be required of a project can be found in San Francisco Bay Regional Water Quality Control Board Staff Recommendations for New and Redevelopment Controls for Storm Water Programs. The selection of required BMPs for a specific project is based on the size of the development and the sensitivity of the area. In general, areas near surface waters (i.e. creeks, lakes, or the Bay) are considered sensitive areas by the RWQCB. Passive, low-maintenance BMPs (e.g. grassy swales, porous pavements) are preferred over higher maintenance BMPs (e.g. sedimentation basins, fossil filters). The funding for long-term maintenance needs must be provided by the project sponsor (the City will not assume maintenance responsibilities for these features). Design of stormwater management features in open space areas must also incorporate recommendations in *Start at the Source: Design Guidance Manual for Stormwater Quality Protection* (Bay Area Stormwater Management Agencies Association, 1999). In addition, some of the individual industrial businesses (depending on the type of activity) that operate within the project site may be subject to regulation under the General Industrial Activities Storm Water Permit administered by the RWQCB. These businesses would be required to file a Notice of Intent (NOI) to comply with General Permit, conduct site inspections, collect runoff samples, and file annual reports.

127. Mitigation Measure HYDRO-3: Implement Mitigation Measures HYDRO-1 and HYDRO-2.

128. Mitigation Measure HAZ-1: The contractor overseeing grading and project site development must prepare and implement a spill prevention plan for potentially hazardous materials to be used during site development activities. The plan must be prepared and submitted to the City for review and approval by the Planning

and Building Divisions of the Community Development Department and the Engineering Division of the Public Works Department prior to the issuance of a grading permit. The plan must designate an on-site employee responsible for plan implementation and include types and quantities of hazardous materials, anticipated equipment needs and maintenance, temporary hazardous materials storage areas, emergency response procedures for hazardous materials releases (including the provision for spill kits), and procedures for contacting regulatory agencies in the event of a hazardous materials release. The plan must specify that all equipment be inspected for leaks immediately prior to construction and regularly inspected thereafter, and must prohibit equipment cleaning and repair (other than emergency repairs) within the project site. The spill prevention plan may be included as part of a Storm Water Pollution Prevention Plan and implementation of Best Management Practices (see Mitigation Measure HYDRO-2).

129. Mitigation Measure HAZ-2a: The project sponsor must ensure that a lead-based paint and asbestos survey (including the analysis of suspect materials, as appropriate) is prepared by a qualified environmental professional for all buildings to be demolished. This survey must be submitted to the City prior to the issuance of any demolition permit. If asbestos-containing materials are determined to be present, the materials must be abated prior to demolition by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District (BAAQMD). If lead-based paint is identified, the paint must be removed by a qualified lead abatement contractor. Specifications developed for the demolition activities must include the proper packaging, manifesting, and transport of demolition wastes by trained workers to a permitted facility for disposal, in accordance with local, State, and Federal requirements.

130. Mitigation Measure HAZ-2b: The project sponsor must ensure that a health and safety plan is prepared and implemented by a qualified environmental professional for all workers involved in building removal or demolition activities. The purpose of the health and safety plan must be to mitigate potential exposure of workers to asbestos, lead-based paint, or other hazardous building materials, if present. The plan must specify training and certification requirements, air monitoring requirements, personal protective equipment for workers, engineering controls and work practices, housekeeping procedures, hygiene facilities, medical surveillance requirements, project monitoring/supervision, required permits, and other items for protection of workers involved in demolition activities, and public health protection as required by local, State, and Federal requirements. The health and safety plan must be included in the demolition specifications prepared as part of Mitigation Measure HAZ-2a.

131. Mitigation Measure HAZ-2c: Containers of potentially hazardous materials identified during the site reconnaissance visits must be removed prior to site development activities. Prior to removal, the containers must be examined by a qualified environmental professional, and if the containers are found to contain

material, samples of the material must be collected by environmental personnel for purpose of profiling the material prior to transport. Analysis of samples must be conducted by a California-certified laboratory, under chain-of-custody procedures. Once the contents of the containers have been profiled, the container with its contents must be removed from the site by an environmental professional and transported to an appropriate facility for recycling or disposal, as appropriate, in accordance with local, State, and Federal requirements for hazardous waste management. The project sponsor must ensure that documentation regarding the removal of any containers of hazardous materials from the project site is reviewed by the City of Benicia Planning and Building divisions, prior to issuance of a grading permit.

132. Mitigation Measure HAZ-2d: Other hazardous materials and wastes generated during demolition activities, such as fluorescent light tubes and computer displays, must be managed and disposed of by the demolition contractor in accordance with the applicable hazardous waste regulations. The demolition specifications (see Mitigation Measure HAZ-2a) must include provisions for appropriate off-site disposal of these materials in accordance with applicable regulations.
133. Mitigation Measure HAZ-3a: The contractor must prepare and implement a fire prevention and preparedness plan during site development activities. The plan must be prepared prior to the start of earth working activities at the site and must be reviewed and approved by the City of Benicia Fire Department prior to issuance of a building permit. The plan must designate an on-site employee responsible for plan implementation and include potential fire hazards; on-site fire prevention measures during construction (e.g. parking of vehicles away from flammable materials, availability of fire extinguishers, preventing idling of vehicles, use of spark arrestors on heavy equipment); emergency response procedures for fires, including evacuation routes and places of safe refuge; and, procedures for contacting emergency responders in the event of a fire. Workers involved in site development activities must receive training in these procedures at the start of site development activities. The fire prevention and preparedness plan may be prepared as part of other required plans.
134. Mitigation Measure HAZ-3b: The project sponsor must comply with requirements for maintaining fire breaks, and other fire protection regulations of the Uniform Fire Code.
135. Mitigation Measure HAZ-4a: The project sponsor must ensure that the entire project site has been fully characterized for the presence of ordnance and explosives (OE) and hazardous materials prior to the start of earthwork activities and site development activities (in accordance with General Plan policies 4.7.3 and 4.7.5). The site characterization may be based on previous investigations completed and/or new investigations completed by a qualified environmental professional. Past land uses of the property with potential hazardous materials or OE uses must be considered in characterizing the site. The site characterization

must occur under the oversight of a regulatory agency (e.g. SCEHS or DTSC), and must demonstrate that the site will not pose an unacceptable human health or safety risk to construction workers or future site occupants based on the proposed land use (e.g., Cal/EPA California Human Health Screening Levels for hazardous materials for commercial/industrial uses, or risk-based Benicia Screening Levels for soil). Criteria for determining whether the site poses an unacceptable human health or safety risk must be approved by the regulatory oversight agency. A report documenting characterization of the site must be prepared by a qualified environmental professional and submitted to the regulatory oversight agency and City prior to acquiring a site grading permit. Any remediation actions required to achieve the health and safety criteria above must also be overseen by the selected agency, and must be completed prior to site development by a qualified environmental professional. Specific remedies would depend on the extent and magnitude of contamination and requirements of the regulatory agency. Requirements of the regulatory oversight agency for site remediation must also be adhered to, including preparation of a health and safety plan, an assessment of health impacts associated with excavation activities, identification of standards that may be exceeded by any remedial actions (including dust levels), management of wastes removed, and risk of public upset must there be an accident during site remediation activities. Site remediation activities must be completed and certified by the regulatory oversight agency prior to application for a site grading permit (in accordance with General Plan Policy 4.7.7).

136. Mitigation Measure HAZ-4b: If any known or suspected ordnance or explosives are encountered during earthwork activities on-site, construction in that area must be immediately halted and all personnel must vacate the area. The contractor must then contact the 911 emergency system to report the emergency and request assistance. Ordnance and explosives discovery procedures must be documented by the contractor prior to the start of earthwork activities, posted in the work area, and discussed with all on-site personnel prior to work on the site. (These procedures may be developed as part of other required plans, see mitigation measures discussed above). The local responding agency (e.g. Benicia Police Department or Fire Department) must contact the Sacramento District of the Army Corps of Engineers and Department of Toxic Substances Control to assist in removal of any identified OE, and to determine if further action is needed prior to the time that site development work resumes in the area. Work must not resume in the affected area until the area it is deemed safe to do so by the local responding agency, and/or the Sacramento District of the Army Corps of Engineers and Department of Toxic Substances Control.

137. Mitigation Measure HAZ-4c: If contaminated soil is encountered or suspected during site development activities (through soil discoloration or odor), all work must halt in the immediate area and personnel must immediately vacate the area and notify Solano County Environmental Health Services (SCEHS). Soil samples must be collected by a qualified environmental professional (e.g. registered geologist, professional engineer) prior to further work in the area. The samples must be submitted for laboratory analysis by a State-certified laboratory under

chain-of-custody procedures. The analytical methods must be selected by the environmental professional based on the suspected contamination and consideration of historical land uses of the site and any previous analyses completed for soil samples collected in the areas, if applicable. The analytical results must be provided to SCEHS and reviewed by a qualified environmental professional. The professional must provide recommendations, as applicable, regarding soil management, worker health and safety training, and regulatory agency notifications, in accordance with local, State, and Federal requirements. Work must not resume in this area(s) until these recommendations have been implemented under the oversight of SCEHS.

138. Mitigation Measure HAZ-4d: The contractor involved in site grading and site development activities must ensure that underground pipelines (e.g. the water pipelines associated with the Benicia Water Treatment Plant) or other underground or aboveground utilities within the project site are identified and clearly marked prior to earthworking activities to avoid unexpected contact with these utilities. Emergency procedures that can be implemented in the event utilities are ruptured must be developed by the contractor; these procedures must be reviewed and approved by the City Engineering Division of the Public Works Department, prior to implementation. On-site workers must be trained in how to implement these procedures. (These procedures may be developed as part of other plans required by the mitigation measures discussed above).

139. Mitigation Measure BIO-1: Prior to site development, a tree report must be prepared by an arborist or biologist to identify the location, size, and health of trees on the site, and the trees that would be preserved and removed during construction of the project. The report must also specify measures to protect all preserved trees during construction, including through the creation of Tree Protection Zones. The sponsor must apply for a Tree Permit for the removal of all protected trees. As part of the Tree Permit, an arborist or biologist must develop a tree replacement program in accordance with the City's tree ordinance. Two 15-gallon trees are generally required for the replacement of each mature tree that is removed. In some cases, one or two 24-inch box trees, or a mature tree is required for the replacement of one mature tree. Mitigation for the removal of protected red willow trees along the stream channels and wetlands must be implemented in conjunction with the wetland mitigation measures as described in Mitigation Measure BIO-2a.

140. Mitigation Measure BIO-2a: The project sponsor must obtain the appropriate Federal and State permits authorizing fill of wetlands or waters and must provide copies of the permits to the City prior to issuance of a grading permit. All work in jurisdictional areas and non-jurisdictional waters of the State must be in compliance with all terms and conditions of the permits.

141. Mitigation Measure BIO-2b: The project sponsor must implement the wetland mitigation and monitoring plan prepared by Sycamore Associates as modified to reflect wetlands impacts that would occur as part of the mitigated project. The

revised wetlands mitigation and monitoring plan shall be implemented as mitigation for impacts to jurisdictional wetlands and waters of the United States, and implement the recommendations and revisions to the original mitigation plan in the subsequent mitigation feasibility report prepared by WRA (as modified to reflect the mitigated project). The mitigation plan and recommendations of the feasibility report are incorporated into this mitigation measure by reference and together are referred to as the mitigation plans. The plan details the mitigation design, wetland planting design, maintenance and monitoring requirements, reporting requirements, and success criteria. This plan must be approved by the U.S. Army Corps of Engineers (USACE) and the City prior to implementation. As detailed in the mitigation plans, created wetlands must be monitored for a minimum of 5 years. Annual monitoring of each site must include: 1) observation of existing and developing problems and recommendations for remedial actions; 2) an assessment of creation of wetland habitats; 3) a formal wetland delineation in year 5; 4) notation of invasive exotic species; 5) measurement of willow survival; and 6) photo-documentation. Monitoring visits must be made in the winter and spring of each year and quantitative data must be collected in the spring. Annual reports must be submitted each fall to the Corps and the City for review. At the end of the 5-year monitoring period, the Corps and the City must review the reports and determine if the success criteria have been met. If the success criteria have not been achieved at the end of the 5-year monitoring period, remedial measures must be identified in consultation with the City and USACE. Remedial measures could include grading, planting, seeding, exotic/invasive vegetation control, and/or an extension of the maintenance or monitoring period. Remedial measures must be implemented by the project sponsor.

142. Mitigation Measure BIO-2c: A contractor education program must be created and initiated by the project restoration specialist prior to the initiation of ground disturbing activities. The purpose of this program must be to inform the contractors about the mitigation measures being implemented onsite, the biology and life history of special-status species that may be present, the areas to be preserved and avoided during construction, and the measures being implemented to avoid the impacts to these species during construction. During construction, wetlands to be preserved must be clearly marked with flagging and/or construction fencing. During construction in the vicinity of jurisdictional wetlands and non-wetland waters of the United States, the project restoration specialist must conduct periodic site visits (once every week or once every two weeks, depending on the level of activity) to provide direction and ensure protection of sensitive resources and permit compliance.

143. Mitigation Measure BIO-2d: During project construction, no material must be allowed to enter or be stored in any wetlands that are to be preserved. Project related dirt and other material must be kept sufficiently far away from preserved wetlands and drainages to prevent material from entering these features. If earthmoving activities or material stockpiling occurs upslope from a preserved wetland or drainage, silt fencing must be installed around the preserved feature to prevent soil from entering the wetland or drainage. Silt fencing must be installed

at the least 5 feet from the edges of preserved wetlands and drainages. Silt fencing must also be installed around preserved features whenever earthmoving activities or material stockpiling occurs within 20 feet of a preserved feature. All equipment washing must occur downslope from preserved wetlands to prevent the runoff from entering the preserved wetlands. Berms or other barriers must be constructed outside of preserved wetlands or drainages to prevent wash water runoff from entering the preserved wetlands.

144. Mitigation Measure BIO-2e: A conservation easement (or similar restriction) must be established over the preserved and created wetlands to preserve these wetlands in perpetuity. A designated public agency, conservation group, or open space organization must hold the easement to ensure retention of the wetland mitigation site (including the mitigation wetlands and the associated uplands) in perpetuity as wetland habitat.
145. Mitigation Measure BIO-2f: The project sponsor must provide financial assurances of a type (i.e. bond, letter of credit) and amount to be determined by the Corps and the City to ensure successful implementation of the mitigation and monitoring plan. The project sponsor must also provide a long-term funding mechanism for the maintenance of the wetlands in the conservation easements in perpetuity.
146. Mitigation Measure BIO-3: Prior to construction of the project, a survey must be conducted for pappose tarplant, to locate and map any individuals of this species on the site and to estimate the population size. If pappose tarplant is found on the site, then the following standards and procedures must be implemented. If feasible, impacts to these plants must be avoided completely. If complete avoidance is not possible, the extent of impact will be minimized to the extent possible by the proposed development project. The project sponsor and City, in consultation with a qualified botanist, must determine the feasibility of implementing avoidance measures and must develop and implement those measures based on the botanist's recommendations and field assistance. Avoidance measures include redesigning the project footprint, avoiding changes in the hydrology of the plants' habitat, fencing the existing plants with ESA fencing prior to construction and establishing a buffer zone, and training construction personnel to identify this species. Long-term avoidance measures must also be developed to ensure the long-term stability of the population. If impacts to pappose tarplant are unavoidable, the project sponsor must develop and implement a salvage and recovery plan for individuals prior to initiation of construction activities on the site. The mitigation, which must be prepared by a qualified botanist experienced in the development and implementation of native plant restoration, mitigation, and management plans, must include the following:
- Salvage and/or recovery requirements, including clearly defined goals focusing on plant establishment (stability, succession, reproduction) and non-native species control measures.

- Locations and procedures for restoration/replanting of salvaged plant material including seeds. Onsite relocation in the undeveloped areas of the site must be considered if suitable habitat for this species is present.
- The project sponsor must document the progress/success of the revegetation effort, subject to approval by CDFG. If the revegetation is not successful, an additional period of correction and monitoring must be specified.
- Specification of a 5-year post-construction maintenance and monitoring program by a qualified restoration team to ensure that the project goals and performance standards are being met. The monitoring program must include provision for remedial actions to correct deficiencies, as needed. After 5 years, the species relocation must be considered successful if the number of plants that were removed on the site is successfully established at the mitigation site at a minimum of a 1:1 ratio. Annual reports and a final report prepared by the project sponsor and subject to approval by CDFG must document the progress/success of the revegetation effort. If the revegetation is not successful, an additional period of correction and monitoring must be specified.
- The project sponsor must provide and secure a source of funding for this salvage and monitoring operation.
- The mitigation must be considered a success if for the last 3 years of the 5-year monitoring program, the numbers of papoose tarplants has remained above the number of individuals that were adversely affected by the project (1:1 mitigation). The populations must show no sign of decline during this period. In addition, for at least the last 4 out of 5 monitoring years, the growth of grass, presence of thatch, and growth of weeds must not hinder tarplant plants. Grazing is a potential management tool to reduce competition from non-native grasses and weeds. If the mitigation is unsuccessful after 5 years because the number of tarplants is less than a 1:1 ratio during the last 3 monitoring years (Years 3, 4 and 5), then monitoring could be continued for a 6th year if it is feasible that a 1:1 ratio could be achieved for Years 4, 5, and 6. If the lack of success after 5 years suggests that a 6th year of monitoring is not warranted, off-site mitigation land that supports this species must be purchased. The purchase of these lands must be approved by the City or CDFG.

147. Mitigation Measure BIO-4a: Surveys to assess the presence of Pacific Pond Turtles must be conducted in the vicinity of the onsite stream channels. The surveys must be conducted to identify basking sites and potential nesting areas and must occur during the spring or summer when the turtles are active and observable. Surveys must be conducted in the spring or summer prior to the start of construction and the issuance of a building or grading permit. If pond turtles are present, measures must be implemented to avoid turtles during construction and relocate any turtles found in work areas. A pre-construction survey must be conducted no more than 48 hours prior to ground disturbing activities within areas inhabited by turtles. Areas inhabited by turtles must be fenced and avoided during construction activities. If pond turtles are observed within the construction area at

any time, a qualified biologist must move the turtles to a safe location at least 500 feet from the construction zone. Turtle relocations must be approved by CDFG and carried out by a qualified biologist.

148. Mitigation Measure BIO-4b: Protocol-level surveys for California Red-Legged Frogs must be conducted according to the August 2005 protocol in all areas of the site that provide suitable habitat for this species. The results of the surveys must be provided to the City at the same time that the survey results are provided to the USFWS and CDFG. Surveys for Pacific Pond Turtles may be conducted at the same time as the surveys for Red-Legged Frogs. If no Red-Legged Frogs are observed during the survey, no additional mitigation beyond the protection and avoidance measures stipulated below and those stipulated in permits issued by the USACE, USFWS, and CDFG must be required. If California Red-Legged Frogs are observed on the site during the surveys, the project sponsor must develop and implement a USFWS-approved mitigation plan to compensate for the loss of red-legged frog habitat on the site. The mitigation plan must provide mitigation at a ratio of 3:1 for all adversely affected habitat (either direct or indirect) and must provide a buffer of 300 feet around all preserved aquatic habitats onsite. Detailed protection measures must be included in the plan. The plan must also identify a secure funding source to provide for the maintenance of mitigation sites in perpetuity. All mitigation sites must be placed in a conservation easement to preserve the sites as wildlife and plant habitat in perpetuity. The easements must be held by CDFG, or the City of Benicia. The sponsor must provide evidence of compliance with the mitigation requirements of the USACE, USFWS, and CDFG prior to issuance of a grading permit.

149. Mitigation Measure BIO-4c: If no California Red-Legged Frogs are observed during the surveys, and the USFWS and CDFG concur with the findings of the surveys, then the sponsor must comply with protection measures required by the USACE, USFWS or CDFG. At a minimum, the following protection measures must be implemented.

- A qualified biologist must monitor all construction or ground disturbing activities within 300 feet of suitable red-legged frog aquatic habitat.
- Immediately prior to ground disturbance or construction activities in areas with aquatic habitats or within 300 feet of aquatic habitats, a qualified biologist must survey the work area for California Red-Legged Frogs.

If Red-Legged Frogs are found within the work area, all work must cease and the occurrence must be reported immediately to the City, USFWS and CDFG. Work onsite must resume only when authorized by the USFWS. If Red-Legged Frogs are found, a report must be prepared at the end of each construction season detailing the results of the monitoring effort. The report must be submitted to the City by November 30 of each year.

150. Mitigation Measure BIO-5a: A qualified biologist must conduct raptor and passerine nest surveys prior to tree pruning, tree removal, ground disturbing activities, or construction activities on the site to locate any active nests on or immediately adjacent to the site. Preconstruction surveys must be conducted no

more than 14 days prior to the start of pruning, construction, or ground disturbing activities if the activities occur during the nesting season (February 1 and August 31). Preconstruction surveys for nesting raptors must be conducted on a minimum of 3 separate days during the 14 days prior to disturbance. Preconstruction surveys must be repeated at 30-day intervals until construction has been initiated in the area. Locations of active nests must be described and protective measures implemented. Protective measures must include establishment of clearly delineated (i.e. orange construction fencing) avoidance areas around each nest site that are a minimum of 500 feet from the dripline of the nest tree or nest for raptors and 50 feet for passerines. The active nest sites within an exclusion zone must be monitored on a weekly basis throughout the nesting season to identify any signs of disturbance. These protection measures must remain in effect until the young have left the nest and are foraging independently or the nest is no longer active. A report must be submitted to the City at the end of the construction season documenting the observations made during monitoring.

151. Mitigation Measure BIO-5b: A preconstruction survey must be conducted no more than 30 days prior to demolition or removal of the abandoned barn. If no owls are observed, then demolition or removal may proceed. If Barn Owls (or other owls species) are observed during the preconstruction survey, a determination must be made on whether birds are roosting or nesting. If a single owl is roosting, demolition or removal of the structure can proceed after the owl has been persuaded to move from the roost area. Non-invasive techniques include light shining into the roost space for one or two nights and days. If Barn Owls (or other owls species) are found to be actively nesting in the barn, any work on or demolition of the structure must be postponed until one of the following conditions have been met: 1) a qualified biologist monitoring the nest determines that the owls have abandoned the nest without any outside interference or 2) a qualified biologist monitoring the nest has determined that the young have fledged and are capable of relocating and using another roost site. Under either scenario, the monitor must ensure that all owls have left the building prior to demolition activities. Once the young have fledged, non-invasive techniques may be used to encourage the owls to leave the barn. The Barn Owl nesting period is typically between February 15 and July 15. Buildings being used by nesting owls must be fenced and designated off-limits to prevent entry into the buildings.

152. Mitigation Measure BIO-6a: Preconstruction surveys must be conducted for Burrowing Owls prior to site preparation, grading and construction. These surveys must conform to the survey protocol established by the California Burrowing Owl Consortium. Preconstruction surveys must be conducted no more than 30 days prior to the initiation of construction activities and at 30-day intervals if construction activities have not been initiated in an area. The following measures must also apply:

- a) If Burrowing Owls are found onsite, they must be avoided to the extent practicable, as determined by the City in consultation with the California Department of Fish and Game. A clearly defined area (i.e. an area demarcated by orange construction fencing) must be established around

each Burrowing Owl burrow to be avoided. No disturbance must occur within 50 meters (approx. 160 feet) of occupied burrows during the non-breeding season of September 1 through January 31 or within 75 meters (approximately 250 feet) during the breeding season of February 1 through August 31.

- b) If Burrowing Owls occur at the project site and construction would begin before February or after the end of August, and the burrows cannot be avoided, then passive relocation techniques may be used to relocate owls from the site. These passive relocation techniques would include excavating all potential burrows after excluding owls from the burrow for the required length of time. Passive relocation must be undertaken according to the current protocol established by the CDFG. Artificial burrows must be provided on the mitigation site for each occupied burrow destroyed at the project site at a ratio of 2:1 (two artificial burrows created for each occupied burrow destroyed).
- c) If Western Burrowing Owl occurs at the project site and construction would begin during the breeding season (February through August), then a buffer of a radius of 75 meters (approximately 250 feet) must be established around any burrows containing owls.
- d) Removal of Burrowing Owls at the project site must conform to the requirements of CDFG's Staff Report on Burrowing Owl Mitigation. This must entail establishing 6.5 acres of suitable habitat for each pair of Burrowing Owls displaced from the project site. These 6.5 acres must be adjacent to an area already used by Burrowing Owls. The replacement mitigation site must be preserved in perpetuity for use as Burrowing Owl and wildlife habitat. An endowment for management and monitoring the site must also be established.

153. Mitigation Measure BIO-6b: As an alternative to purchasing land as mitigation for Burrowing Owls, the sponsor may purchase credits at a CDFG-approved mitigation bank authorized to sell credits for Burrowing Owl mitigation. The number of credits to be purchased must be equivalent to purchasing 6.5 acres per pair or single bird observed on the site. The final mitigation requirement must be determined following the completion of the protocol-level survey. The sponsor must provide the City with evidence of completion of the mitigation or purchase of mitigation credits prior to the issuance of a grading permit.

154. Mitigation Measure BIO-7: A qualified biologist must conduct surveys of the grassland habitat onsite to identify any badger burrows. These surveys must be conducted no sooner than 2 weeks prior to the start of construction. Impacts to active badger dens must be avoided by establishing exclusion zones around all active badger dens, within which construction related activities must be prohibited until denning is complete or the den is abandoned. A qualified biologist must monitor each den once per week in order to track the status and inform the project sponsor of when a den area has been cleared for construction. Surveys for badger dens may be conducted at the same time as Burrowing Owl surveys.

155. Mitigation Measure BIO-8a: Preconstruction surveys for bat roosts must be conducted in all buildings or trees that will be removed or modified. The survey must take place no more than 30 days prior to construction/demolition/removal activities. Preconstruction surveys must be repeated if demolition or construction activities are delayed more than 30 days.
156. Mitigation Measure BIO-8b: If a bat roost is found in a building or tree cavity, the species of bat using the roost must be identified and methods to encourage the bats to leave the roost or to prevent them from returning to the roost must be implemented prior to roost removal. A mitigation plan must be developed to specify the methods to be used and the timing of the activities, and this mitigation plan must be submitted to the City for review and approval.
157. Mitigation Measure BIO-8c: Materials from roost sites must be salvaged, when feasible, to be used in the construction of artificial roosts.
158. Mitigation Measure BIO-8d: If special-status bats (i.e. Pallid Bat, Pale Townsend's Big-Eared Bat) are found onsite, and the roost would be destroyed during development, an artificial roost must be provided for the bats. The roost must be constructed and placed onsite prior to removal of the original roost. A mitigation plan specifying the construction details and siting of the structure must be prepared and approved by the City and CDFG prior to removal of the existing roost. The sponsor must provide a secure source of funding for the monitoring of the artificial roost for a period of at least 5 years. A report documenting the implementation of the plan must be provided to the City within 1 month of completion of the artificial roost. The plan must be completed and implemented prior to the issuance of the grading permit.
159. Mitigation Measure BIO-8e: Removal of maternity roosts for special-status bats must be coordinated with CDFG prior to removal. Maternity roosts for any species of bat, either common or special-status, must not be demolished until the young are able to fly independently of their mothers.
160. Mitigation Measure TRANS-11: The project sponsor must install and pay for the following improvement without Transportation Impact Fee credits: Signalize the intersection of East 2nd Street, Park Road and the new access road: this intersection meets Signal Warrant 11, Peak Hour Volumes for both the AM and PM peak hours. Reconfigure NB approach to provide two exclusive left-turn lanes, and one through-right lane. Reconfigure SB approach to provide one two exclusive left-turn lanes and one through-right lane. Reconfigure EB approach to provide one shared through-right lane, and one exclusive left-turn lane. Reconfigure WB approach to provide one shared through-left lane, and one exclusive right-turn lane.
161. Mitigation Measure TRANS-12: The project sponsor must install and pay for the following improvement to East 2nd Street and Industrial Way without Transportation Impact Fee credits: ~~Reconfigure SB approach to provide one~~

~~exclusive left turn lane, one through lane, and two exclusive right turn lanes. Reconfigure EB approach to provide two exclusive left turn lanes, one through lane, and one exclusive right turn lane. Reconfigure WB approach to provide one exclusive left-turn lane, two through lanes, and one exclusive right-turn lane. Overlap the SB right-turn movement with the protected EB left-turn movement.~~

162. ~~DELETED Mitigation Measure TRANS-13:~~ The project sponsor must install and pay for the following improvement to East 2nd Street and Rose Drive without Transportation Impact Fee credits: ~~Reconfigure SB approach to provide two through lanes, and one exclusive right turn lane. Reconfigure NB approach to provide two exclusive left turn lanes, and two through lanes. Reconfigure EB approach to provide one exclusive left turn lane, one shared left right lane, and one exclusive right turn lane.~~

163. Mitigation Measure TRANS-14: The project sponsor must install and pay for the following improvement to East 2nd Street and the I-780 Westbound Ramps without Transportation Impact Fee credits: Reconfigure NB approach to provide one exclusive left-turn lane, one through lane, and one exclusive through-right lane. Reconfigure SB approach to provide one exclusive left turn lane, one shared through right lane, and one exclusive right turn lane.

164. Mitigation Measure TRANS-15: The project sponsor must install and pay for the following improvement to East 2nd Street and the I-780 Eastbound Ramps without Transportation Impact Fee credits: Reconfigure WB approach to provide one shared left-right turn lane, and one free right-turn lane.

165. Mitigation Measure TRANS-16: The project sponsor must install and pay for the following improvement to Lake Herman Road and the extension of Industrial Way without Transportation Impact Fee credits: Signalize intersection: this intersection meets Signal Warrant 11, Peak Hour Volumes for both the AM and PM peak hours.

166. Mitigation Measure TRANS-17: The project sponsor must install and pay for the following improvement to Lake Herman Road and East 2nd Street without Transportation Impact Fee credits (although signalization improvements may be eligible for a Transportation Impact Fee credit):

The following improvement was recommended for Cumulative Conditions: Signalize the intersection of Lake Herman Road and East 2nd Street as it meets Signal Warrant 11, Peak Hour Volumes for the AM and PM peak hours. In addition, the following improvement is recommended for Cumulative Plus Project Conditions:

- ~~Widen Lake Herman Road from the intersection of A Street/Lake Herman Road to the intersection of Lake Herman Road/I-680. Reconfigure the NB approach to provide one shared through-left lane, and two right-turn lanes. Reconfigure the EB approach to provide one exclusive left-turn lane, one~~

~~through lane, and one through-right lane. Reconfigure the WB approach to provide two exclusive left-turn lanes, one through lane, and one through-right lane. Protect the EB and WB left-turn movements. Overlap the two NB right-turn lanes with the WB left-turn movement.~~

- ~~Implementation of the identified improvements would result in this intersection operating at an acceptable LOS B and LOS D with delays of 19.3 and 36.4 seconds for the AM and PM peak hours, respectively. This improvement must be included in a comprehensive plan to improve the operation of the I-680/ Industrial Way/Lake Herman Road interchange complex, consistent with the goals and policies of the City's General Plan.~~

167. Mitigation Measure TRANS-18: The project sponsor must install and pay for the following improvement to Lake Herman Road and the I-680 Southbound Ramps without Transportation Impact Fee credits: Signalize intersection as it meets Signal Warrant 11, Peak Hour Volumes for the AM and PM peak hours. Widen Lake Herman Road from the intersection of A Street/Lake Herman Road to the intersection of Lake Herman Road/I-680. Reconfigure WB approach to provide one exclusive left-turn lane, and one through lane. Reconfigure SB approach to include one all-movement lane and one right-turn lane. This improvement must be included in a comprehensive plan to improve the operation of the I-680/Industrial Way/Lake Herman Road interchange complex, consistent with the goals and policies of the City's General Plan.

168. Mitigation Measure TRANS-19: The project sponsor must install and pay for the following improvement to Lake Herman Road, the I-680 Northbound Ramps and Goodyear Road without Transportation Impact Fee credits: Signalize intersection as it meets Signal Warrant 11, Peak Hour Volumes for the AM and PM peak hours. ~~Widen Lake Herman Road from the intersection of A Street/Lake Herman Road to the intersection of Lake Herman Road/I-680. Reconfigure NB approach to provide one exclusive left-turn lane, and one shared through-right lane. Reconfigure EB approach to provide one exclusive left-turn lane, one shared through-right lane, and one exclusive right-turn lane. Reconfigure WB approach to provide one exclusive left-turn lane, and one shared through-right lane.~~ This improvement must be included in a comprehensive plan to improve the operation of the I-680/Industrial Way/Lake Herman Road interchange complex, consistent with the goals and policies of the City's General Plan.

169. Mitigation Measure TRANS-20: The project sponsor must install and pay for their fair share of the costs (in the form of traffic impact fees) for the installation of traffic signalization at the intersection of the following improvement to Park Road and Industrial Way. ~~without Transportation Impact Fee credits: Signalize intersection as it meets Signal Warrant 11, Peak Hour Volumes for the AM and PM peak hours.~~

170. Mitigation Measure TRANS-21: The project sponsor must install and pay for the following improvement to Park Road and Bayshore Road without Transportation

Impact Fee credits: Signalize the intersection. Though the intersection would not meet signal warrants, the only other possible improvements would require extensive widening, including dual left-turns and dual right-turns. Typically, dual turn lanes are not recommended for at stop controlled intersections for driver confusion and safety reasons. Reconfigure SB approach to provide two exclusive left turn lanes, and one shared through right lane. Reconfigure WB approach to provide one shared through left lane, and two exclusive right turn lanes.

171. Mitigation Measure TRANS-23 (as modified by the City Council): The project sponsor must be responsible for the cost to extend Benicia Transit (Benicia Breeze) to and within the project site. Current routes which connect Benicia with Pleasant Hill BART Station, Baylink Ferry Terminal, and other destinations in Solano County do not currently serve the project site. These costs must include all capital costs (i.e. buses, transit shelters, and signage) associated with build-out of the Benicia Business Park.
172. Mitigation Measure TRANS-24 (as modified by the City Council): The project sponsor must incorporate the following design elements and services into the proposed development plans to minimize potential pedestrian and bicycle facility impacts. Bicycle facilities would be developed along East 2nd Street and Industrial Way as part of the project.
- Pedestrian sidewalks connecting all major buildings and parking areas within the project site;
 - Pedestrian routes between cul-de-sacs and adjacent parcels;
 - Crosswalks at all areas where there may be potential pedestrian/vehicular conflicts;
 - Bicycle racks at all building entrances, and shower facilities for bicyclists; and
 - Incentives for individual buildings to contain showers and lockers, and secure indoor bicycle lockers;
 - Sidewalks along East 2nd Street, A Street, and Industrial Way;
 - Sidewalks along Lake Herman Road (between A Street and East 2nd Street); and
 - Class I/II Bikeway along Lake Herman Road (between A Street and I-680);
 - Class II/III Bikeway along Lake Herman Road (between Industrial Way and A Street);
 - Class I Bikeway between East 2nd Street and Lake Herman Road in the project site;
 - Class I Bikeway between Channel Road and East 2nd Street; and
 - Parking and building leases at the Business Park must be “unbundled” (i.e. rents for building space and parking lots must be separate). Businesses at the Business Park that have 50 or more employees and provide employee parking on a free or subsidized basis must provide financial compensation to those employees who commute by means other than private automobile, in accordance with CA Health and Safety Code 43845.

173. Mitigation Measure TRANS-25: Prior to the issuance of each building permit, the project sponsor and construction contractor must meet with the Benicia Public Works Department and other appropriate City of Benicia agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of the project. The project sponsor must develop a construction management plan for review and approval by the City Public Works Department. The plan must include at least the following items and requirements:

- A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, provisions for truck queuing, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.
- Identification of any transit stop relocations.
- Provisions for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
- Identification of parking space removal and any relocation of parking for employees, and public parking during construction.
- Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
- Provisions for accommodation of pedestrian flow.
- No construction traffic must be allowed on East 2nd Street south of Industrial Way, and on Lake Herman Road and Reservoir Road.
- Location of construction staging areas for materials, equipment, and vehicles.
- Identification of haul routes for movement of construction vehicles that would minimize impacts on vehicular and pedestrian traffic, circulation and safety; and provisions for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the project sponsor.
- A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager.

174. Mitigation Measure TRANS-26: The project sponsor must prepare an overall construction traffic management plan to limit the effects of trucks and other construction traffic on surface conditions of area roads and intersections. This plan must be prepared in coordination with the City of Benicia, and must include the following provisions:

- Prior to implementation of the proposed project, the project sponsor must survey the condition of truck access route roadways and prepare an existing conditions report to document roadway baseline conditions.
- During the construction of the project, or periodically throughout the project's construction period, the project sponsor must make periodic improvements to area roadways to maintain minimum standards, including clean-up of construction debris (e.g. sand and gravel) and spot repaving of potholes or other pavement section damage.
- Upon completion of all or most of project construction activities, the project sponsor must identify any impacts to roadway conditions. The project sponsor

must install improvements and/or pay an impact fee to mitigate any damage to the existing street pavements on East 2nd Street, Industrial Way, and Lake Herman Road to/from the project site caused by heavy construction traffic accessing the project site, as determined by the City Engineer.

175. Mitigation Measure AIR-1: Consistent with guidance from the BAAQMD, the following actions must be required of construction contracts and specifications for the project. The following controls must be implemented at all construction sites:

- Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses must be kept damp at all times, or must be treated with non-toxic stabilizers to control dust;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers must vacuum up excess water to avoid runoff-related impacts to water quality;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
- Apply non-toxic soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas as quickly as possible;
- Install baserock at entryways for all exiting trucks, and wash off the tires or tracks of all trucks and equipment in designated areas before leaving the site; and
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.

176. Mitigation Measure AIR-2 (as modified by the City Council): The *BAAQMD CEQA Guidelines* identifies potential mitigation measures for various types of projects. The following are considered to be feasible and effective in further reducing vehicle trip generation and resulting emissions from the project. The project must provide as many of the following measures as practicable:

- Provide transit facilities (e.g. bus bulbs/turnouts, benches, shelters).
- Provide bicycle lanes and/or paths, connected to a community-wide network.
- Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.
- Provide secure and conveniently located bicycle storage.

- Implement feasible Trip Demand Management (TDM) measures, including a ride-matching program, coordination with regional ridesharing organizations and provision of transit information.
- A park-and-ride site as needed to serve the project.

The implementation of an aggressive trip reduction program with the appropriate incentives for non-auto travel can reduce project impacts by approximately 10 to 15 percent. A reduction of this magnitude would not reduce PM₁₀ or ozone precursor emissions to levels below the BAAQMD significance threshold. There is no mitigation available with currently feasible technology to reduce the project's regional air quality impact to a less-than-significant level.

177. Mitigation Measure NOI-1a: During all project site excavation and on-site grading, the project contractors must equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards.
178. Mitigation Measure NOI-1b: The project contractor must place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.
179. Mitigation Measure NOI-1c: The construction contractor must locate equipment staging in areas that will create the greatest possible distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
180. Mitigation Measure NOI-1d: The construction contractor must ensure that all general construction related activities are restricted to the hours of 7:00 a.m. and 10:00 p.m.; with the exception of all excavating, grading, and filling activity, which must be restricted to the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday.
181. Mitigation Measure NOI-2a: For all hotels built at the project site that include outdoor activity areas, **one** (or more) of the following measures must be implemented:
- All hotel outdoor activity areas must be located so that they are completely sheltered by the hotel building from direct exposure to both Lake Herman Road and East 2nd Street; or
 - All hotel outdoor activity areas must be located at a distance greater than 93 feet from the centerline of the outermost travel lane of Lake Herman Road and also at a distance greater than 122 feet from the centerline of the outermost travel lane of East 2nd Street; or
 - A sound barrier at least 8-feet-high must be constructed around all outdoor hotel activity areas that are located within 57 feet of the centerline of the outermost travel lane of the East 2nd Street roadway segment; a 6-foot-high sound barrier must be constructed around all outdoor activity areas located

between 57 feet and 122 feet from the centerline of the outermost travel lane of the East 2nd Street roadway segment.

182. Mitigation Measure NOI-2b: If a sound study confirms that the interior noise level without sound-attenuated ventilation systems would exceed the City's standards, sound-attenuated ventilation systems, such as air conditioning, must be installed in all buildings that require good speech intelligibility (as outlined in sub-note 5 of Table IV.I-4) for buildings located as follows:
- Within 199 feet from the centerline of the outermost travel lane of Lake Herman Road; and
 - Within 263 feet from the centerline of the outermost travel lane of East 2nd Street.
183. Mitigation Measure NOI-2c: For existing unprotected residential and school land uses along East 2nd Street from I-780 to Rose Drive, **one** (or more) of the following measures must be implemented:
- A sound barrier at least 8-feet high must be constructed along the property/right-of-way line of sensitive receptors along this roadway segment; or
 - Rubberized asphalt must be used to resurface the entire identified roadway segment.
184. Mitigation Measure VIS-1: The sponsor must develop a detailed landscape plan that includes landscape screening designed to protect views from public roadways, including Lake Herman Road and I-680. The landscape plan must also address the project's effect on views from the residential neighborhood to the southwest of the project site. Final landscaping plans must include provisions for street and site tree plantings that would be designed to at least partially screen views of the buildings from off-site viewpoints within 5 years of planting. The final landscaping plan must be reviewed and approved by City staff.
185. Mitigation Measure VIS-2a: Implement Mitigation Measure VIS-1.
186. Mitigation Measure VIS-2b: The final building designs must include wall articulation and varied rooflines. Prior to the approval of a building permit for an individual building at the project site, the City of Benicia Planning Department must ensure that building plans include variations in exterior wall depth, varied rooflines, appropriate buildings materials and colors and the use of landscaping to break up continuous walls through the City's Design Review process.
187. Mitigation Measure VIS-3a: Both water tanks must be set on graded pads set 30 feet into the hillsides so that the tops of the water tanks are not visible from Lake Herman Road.
188. Mitigation Measure VIS-3b: The proposed water tanks must be painted an earth tone color, such as clay or sienna, that blends into the adjacent landscape. The

color must be subject to approval by City staff prior to the issuance of building permits for the tanks.

189. Mitigation Measure VIS-3c: The water storage tanks must be screened by native vegetation. Trees must be planted to obscure at least 50 percent of the water tanks within 10 years of final project build out. A 20-foot buffer between the vegetation and tanks would be required to maintain access to the tanks. The trees must be properly planted and maintained by the project sponsor or its successor-in-interest.
190. Mitigation Measure VIS-4a: Prior to the approval of the first Development Plan for the site subsequent to the approval of the Master Plan, the project sponsor must submit for City staff review the proposed lighting fixtures that will be used for security lighting, street lighting, lighting in parking lots and along sidewalks or paths throughout the project site. The fixtures must be selected to minimize light and glare spillover into areas outside of the project site and must be to the satisfaction of City staff. The detailed manufacturer's specifications must be provided for the proposed fixtures. A variety of fixture types may be used, provided that each is approved by City staff. Additionally, the project sponsor must submit the proposed maximum height of any poles to be used for security, street or parking lot lighting. City staff may require photometric analysis if necessary to properly evaluate the proposed lighting.
191. Mitigation Measure VIS-4b: All exterior lighting fixtures mounted on buildings must be hooded and downward-directed to minimize spillover light and glare onto adjacent properties.
192. Mitigation Measure VIS-4c: No flood lighting of buildings, landscaping or signs must be permitted unless expressly approved as part of a Development Plan or Design Review approval in which City staff has made a determination that such lighting can occur without adverse light and glare impacts.
193. Mitigation Measure CULT-1a: Lot plans for the project site must be designed to avoid impacts to BBP-2. The design must employ impact avoidance strategies as described in 14 CCR §15126.4(b)(3)(B)(2-3) by either: (1) incorporating BBP-2 and a 25-foot buffer around its known boundary in project area open space, thus providing for its protection from future ground disturbance; or (2) capping BBP-2 and a 25-foot buffer around its known boundary with at least two feet of chemically neutral fill devoid of cultural debris and a layer of geofabric between the fill and the surface of the site and buffer zone area. Prior to placing BBP-2 in open space or capping the deposit, archaeological boundary definition excavation must be conducted to identify the limits of subsurface deposits and features and assist in establishing protective measures. If option #2 (capping) is selected, the location of BBP-2 and the 25-foot buffer must be recorded on the tentative map prior to final permit approval, and no ground-disturbing construction must occur below the depth at which the fill meets the original ground surface.

194. Mitigation Measure CULT-1b: In accordance with the recommendations presented in the *Benicia Business Park Cultural Resources Assessment* (prepared by Ric Windmiller in November 2006), the following actions must be taken prior to project construction if avoidance or capping as described in Mitigation Measure CULT-1a is not feasible. The applicant must undertake archaeological excavation to document and analyze BBP-2. Must significant subsurface architectural features or archaeological deposits be encountered during the exploratory excavation, the applicant must document such finds as necessary to recover a representative sample of the data that justify the California Register eligibility of BBP-2. The level of documentation necessary must be determined in the field depending on the results of the initial exploratory excavation and based on the professional judgment of the archaeologist conducting the work. Documentation may include, but is not limited to: a detailed recording on California Department of Parks and Recreation Form 523 Records and/or data recovery excavation. If data recovery excavation is the selected approach, the work must satisfy the requirements and objectives of a research design prepared for the data recovery pursuant to 14 CCR §15126.4(b)(3)(C). Any mitigation documentation must be conducted by, or under the direction of, an archaeologist listed in the Register of Professional Archaeologists.

Note: Either Measure CULT-1a or Measure CULT-1b must be implemented.

195. Mitigation Measure CULT-2: If human remains are encountered by project activities, construction activities must be halted and the County Coroner notified immediately. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission (NAHC) within 24 hours of this identification, and a qualified archaeologist must be contacted to evaluate the situation. The NAHC will identify a Native American Most Likely Descendent (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. As part of the archaeological assessment, immediate consultation must be undertaken with the City. The archaeologist must recover scientifically-valuable information, as appropriate, and in accordance with the recommendations of the MLD. Upon completion of such analysis and/or recovery, the archaeologist must prepare a report documenting the methods and results of the investigation. This report must be submitted to the City, the project applicant, and the NWIC.

196. Mitigation Measure CULT-3: A qualified paleontologist must monitor initial project ground-disturbing construction below the soil layer (i.e., below the bottom of the soil layer approximately, which is approximately 2.5-3.5 feet below the original ground surface). The paleontologist must then determine the appropriate level of monitoring needed based on the sensitivity of the area in which construction is occurring. Appropriate levels of monitoring may include continuous monitoring, periodic spot checks, or no further monitoring. Monitoring must continue in accordance with the recommendations of the paleontologist. The paleontological monitor must be empowered to halt construction activities at the location of a discovery to protect the find while it is

being evaluated. If significant fossil resources are recovered, they must be curated at an appropriate facility (e.g., University of California Museum of Paleontology). Upon completion of paleontological monitoring, a report must be prepared documenting the methods and results of the monitoring. The report must be submitted to the project proponent and appropriate City agencies.

197. Mitigation Measure CULT-4a: If deposits of prehistoric or historical archaeological materials are encountered during project activities, all work within 25 feet of the discovery must be redirected and a qualified archaeologist contacted to assess the find, record the find on Department of Parks and Recreation (DPR) Form 523 (at the discretion of the archaeologist), and make recommendations for the find's treatment. If feasible, such deposits must be avoided by project activities. If avoidance is not feasible, the find must be evaluated for its California Register eligibility. If the deposits are not eligible, avoidance is not necessary and work may continue in the area of the find. If the find is eligible, impacts to the find must be mitigated. Mitigation may include, but is not limited to, data recovery excavation, artifact curation, report preparation, and information dissemination to the public. Upon completion of the assessment and/or evaluation, the archaeologist must prepare a report documenting the methods and results of the archaeological assessment/evaluation, and provide recommendations for the treatment of the find. The report must be submitted to the project sponsor, appropriate City agencies, and the Northwest Information Center (NWIC).

198. Mitigation Measure CULT-4b: If paleontological resources are discovered during project activities, all work within 25 feet of the discovery must be redirected until a paleontological monitor has assessed the situation and made recommendations for their treatment. If feasible, the find must be avoided by project activities. If avoidance is not feasible, the paleontological find must be evaluated for its significance. If the find is not significant, avoidance is not necessary and work may continue in the area of the find. If the find is significant, impacts to the find must be mitigated. Paleontological mitigation may include, but is not limited to, data recovery, fossil curation, and information dissemination to the public. Upon completion of evaluation, as well as mitigation (if necessary), a report must be prepared documenting the methods and results of the paleontological investigation. The report must be submitted to the project sponsor and appropriate City agencies. Funding for additional personnel and equipment must be provided by the City.

199. Mitigation Measure PUB-1a (as modified by the City Council): The project sponsor must set aside an appropriately-sized and located parcel and building space within the project site to accommodate new public services facilities required to serve the project. The parcel and building space must be large enough to include the facilities listed below:

- A new Fire Department station facility, totaling a minimum of 2.5 acres, must be located along the Industrial Way extension, near the East 2nd Street intersection. The new station must be constructed and made operational prior to the occupation of the first Pphase 1 and include a multi-purpose room for

community meetings and training grounds. A total of 12 full-time firefighters would be required to staff the new sub-station. One fire engine and one brush truck would be required to equip the facility. Due to the life-hazard nature of the commercial components at the first phase of the project, fire and emergency medical services must be provided at the sub-station prior to occupation of project facilities. Funding for this facility must be provided by fees imposed on the proposed project. Funding for 50% of fire additional personnel and equipment must be provided each by the project and the City.

- A new Police subStation of 200- 800 to 400- 1000 square feet. Funding for the five additional officers and administrative support and equipment required to serve the commercial area of the project shall be provided by fees imposed on the proposed project. The Police Department space must be constructed on the ground floor of a prominent building in the commercial area of the project and made operational prior to occupancy of Phase 1.
- The project must include a parcel of approximately 7 to 15 acres of land for the development of an auxiliary corporation yard. The corporation yard must include the types of facilities currently located in the existing corporation yard, as determined to be required by the Public Works Department, and must be funded via fees imposed on the proposed project. Funding for additional personnel and equipment must be provided by the City.

These facilities include five police officers, two patrol cars, 12 fire fighters, a fire engine, a brush truck, and administrative support.

200. Mitigation Measure PUB-1b: Development plans for the proposed project must be subject to the following review:

- During the development review process, the Fire Department must be responsible for ensuring that the proposed project and subsequent individual site proposals are in conformance with locally-defined performance standards, including the Uniform Fire Code as adopted by the Benicia Fire Department, and California Building Code standards.
- The Fire Department must review detailed site plans for site access, road widths and turning radii, road grades, surfacing, load bearing capability, sprinkler systems, stand pipes, smoke detectors, and fire alarms, and resistant landscaping in open areas adjacent to buildings within the project site.
- The City's Engineering Division and Fire Department must review the project during the development review process to ensure that adequate water supply is available to meet the minimum fire flow requirements for fire suppression.

201. Mitigation Measure UTIL-1: Construction of water supply infrastructure must be subject to the following measures:

- The main water storage and pumping facilities as required by the Benicia Public Works Department to provide domestic and fire service must be constructed and operational before the first phase of development begins. The main connections must be sized to serve the whole development and not upsized with each phase.

- All on-site water infrastructure improvements required to serve each phase of development must be constructed in the initial year of development of that phase.
- The sponsor must obtain City approval for each phase of development, including development of individual projects. Development plans for individual projects must only be approved when a dependable and adequate water supply is available to serve new development.
- The two new tanks shown on the project plans are located at different elevations, which would require two separate pressure zones. Pressure-reducing valve stations and zone valves must be required to allow the new zones to connect to the City's existing Zone 1 system in an emergency.

202. Mitigation Measure UTIL-2: Construction activities for the proposed project must be subject to the following measures:

- Final design of the proposed project must specify the appropriate depths at which grading and construction activities would be allowed in order to ensure the safety of the City's water supply and distribution system.
- Water lines must be rerouted or redundant lines installed by the sponsor if necessary to avoid impacts to the City's water supply distribution system.
- No work must be performed within 30 feet of the centerline of the City's water line until after improvement plans prepared by a registered engineer are submitted for review and approval by the City and a permit is issued by the City.
- Prior to issuance of a City permit, contingency plans must be submitted for review and approval by the City to address a potential accident during construction resulting in damage to the line.
- The sponsor must require that all construction activities are undertaken with the necessary precautions to avoid impacts to the City's water distribution system.

203. Mitigation Measure UTIL-3: Construction of sewer infrastructure improvements for the proposed project must be subject to the following measures:

- All on-site sewer infrastructure improvements required to serve each phase of development must be constructed in the initial year of development of that phase.
- Since the ultimate commercial and industrial users of the proposed project are unknown, the City must review each building permit application for information regarding flows and loads to ensure that wastewater flows do not exceed capacity, and to allow for the phasing of improvements.

204. Mitigation Measure UTIL-4: Prior to the issuance of building permits for Phase 1 of the proposed project, the project sponsor must fully fund and install all the required wastewater collection improvements to serve the project. Required improvements must consist of one of the stand-alone alternatives listed in the Benicia Business Park Sewer System Collection Analysis (October 16, 2006)

prepared by Brown and Caldwell that solely serves the proposed project. Required improvements include the following:

- Replace the existing 8-inch west fork of the Industrial Park gravity sewer system with a new 18-inch sewer line.
- Replace the existing 8-inch force main with a new 16-inch force main that is cross-connected to the existing force main.
- Replace the existing PILS to operate at a new higher pressure to maximize capacity in both pipelines. Upgrade the PILS to meet the design criteria of the two pipelines.
- Increase maintenance of eastern fork of gravity sewer to reduce root intrusion and the long-term settlement of debris.
- A force main surge analysis must be performed prior to approval of final project design. Proposed improvements to the force main must be reviewed and approved by the City prior to installation.

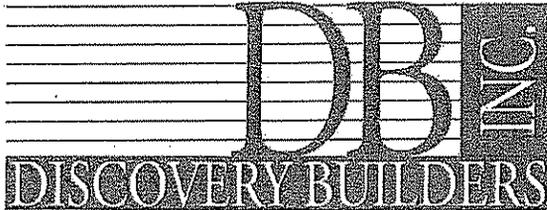
205. Mitigation Measure DECA-Y-1: The land uses proposed for the Benicia Business Park and analyzed in this EIR include a maximum of 100,000 square feet of retail uses. This limitation on commercial development would preclude the establishment of big box retail uses (larger than 20,000 square feet per BMC 17.70.360) on the project site without additional evaluation. As identified in the EIR, a substantial increase in the amount of retail uses could increase the potential for urban decay in Benicia or other local commercial centers. If the project sponsor proposes to increase the amount of retail uses beyond 100,000 square feet, the project sponsor must provide the City with an updated economic analysis. The adequacy of the economic analysis must be subject to review and approval by the City's Director of Community Development, who may require revisions and additional analysis if he or she deems it appropriate. If the Director finds, based upon the economic analysis, that the additional retail uses could contribute to urban decay, the City and project sponsor must develop a mitigation measure to reduce this impact to a less-than-significant level. If no effective and feasible mitigation measures are identified to reduce the potential urban decay impacts to a less-than-significant level, the City must conduct environmental review for the project changes that would allow for the adoption of a statement of overriding considerations and appropriate findings (e.g., a supplemental or subsequent EIR). A revised economic analysis must be similarly completed in conjunction with subsequent CEQA review of any changes to the project, if deemed necessary by the City.

206. Project Condition Oversight. The project applicant must pay the City for the cost to hire an independent third party to ensure compliance with all project conditions and all requirements of the project Mitigation Monitoring and Reporting Program.

207. Revenue Sharing Agreement. Prior to the first final map, a Revenue Sharing Agreement shall be established by the City and the project sponsor that includes only property, sales and transient occupancy taxes and business license fees. The

agreement shall provide means for property owners to recoup costs of: (1) construction, operation and maintenance of police facilities and services; (2) operation and maintenance of fire facilities and services; (3) transit capital and operation; (4) maintenance of public landscaping and lighting; and (5) maintenance of public access trails. The agreement shall provide for reimbursement only beyond the project's fair-share and for zero cost to the City for the services set forth herein. The project's obligation to pay operational costs specified herein shall cease only upon termination of a Community Facilities District for the project. The agreement must accommodate project conditions 21, 87, 90, 96, 171, and 199.

**PUBLIC COMMENT SINCE
OCTOBER 21, 2008 COUNCIL MEETING PACKET**



4061 Port Chicago Highway, Suite H
Concord, California 94520
(925) 682-6419
Fax (925) 689-7741

October 30, 2008

Mr. Jim Erickson
City Manager
City of Benicia
250 East L Street
Benicia, CA 94510

Re: Proposed Benicia Business Park

Dear Mr. Erickson:

At its October 21, 2008 meeting, the Benicia City Council unanimously agreed to continue the hearing on our project to November 18, 2008 to allow time for facilitated discussions with our company regarding the project. We supported that decision in the hopes that we could continue to work together towards addressing the Council's remaining concerns or questions with respect to the project.

As of this date, we are not aware that any facilitated discussions have been scheduled. Since the November 18th date is fast approaching, we are writing to encourage that the discussions be scheduled as soon as possible pursuant to the unanimous direction of the Council.

We are amenable to continuing the November 18th hearing date should it be necessary to meet any time constraints that occur in scheduling the discussions. Please contact me directly at 925-766-7006 if there is anything that I can do to help facilitate these discussions.

Sincerely,

A handwritten signature in cursive script that reads 'Salvatore N. Evola'.

Salvatore N. Evola

cc: Mayor Patterson and Members of the City Council
Charles Knox, Community Development Director
Heather McLaughlin, City Attorney
Louis Parsons

IX-B-81



4061 Port Chicago Highway, Suite H
Concord, California 94520
(925) 682-6419
Fax (925) 689-7741

October 30, 2008

Ms. Janice Adams
Superintendent
Benicia Unified School District
350 East K Street
Benicia, CA 94510

Re: Proposed Benicia Business Park: Offer of Health and Safety Enhancements for Robert Semple School

Dear Ms. Adams:

As the developer of the proposed Benicia Business Park, we acknowledge that there are Health and Safety Enhancements that are needed at the Robert Semple Elementary School. These Health and Safety Enhancements are described in the draft conditions of approval for the proposed Benicia Business Park project and are acceptable to us.

In addition to the Health and Safety Enhancements, should our project be approved by the Benicia City Council, we are willing to provide funding to the District for additional facility upgrades to address additional health and safety concerns for Robert Semple Elementary. A complete list of the Health and Safety Enhancements required as part of the Benicia Business Park and a list of additional facility upgrades that we are willing to provide funding for is set forth in Exhibit A to this letter.

Alternatively, should the District and City of Benicia wish to relocate Robert Semple Elementary School to the presently closed Mills Elementary School site, we are willing to provide the District with \$1 million dollars to assist in its relocation efforts. This financial assistance would be in lieu of the Health and Safety Enhancements and additional facility upgrades since those improvements would no longer be necessary.

Thank you for taking the time to review this offer. We look forward to hearing back from you as soon as possible and would like to meet with you on November 5th or November 6th at a time that is convenient for you. Please contact Christine Sardelich, Louis Parsons or myself at 925-682-6419 to schedule this meeting.

Sincerely,

Salvatore Evola
Vice President

Cc: Louis Parsons

IX-B-82

EXHIBIT A

ROBERT SEMPLE ELEMENTARY SCHOOL
HEALTH AND SAFETY ENHANCEMENTS

ADDITIONAL FACILITY UPGRADE FUNDING OFFERED TO ADDRESS HEALTH AND SAFETY CONCERNS FOR ROBERT SEMPLE ELEMENTARY SCHOOL:

- FUNDING FOR HVAC FILTRATION UPGRADE
- FUNDING FOR WINDOW REPLACEMENT
- FUNDING FOR LIGHTING IMPROVEMENTS AND MISC. IMPROVEMENTS TO PEDESTRIAN TUNNEL AT I-780
- FUNDING FOR NEEDED MISC. SIDEWALK IMPROVEMENTS, INCLUDING HILLCREST AVENUE BETWEEN EAST 2ND AND EAST 3RD STREET

HEALTH AND SAFETY IMPROVEMENTS AND REQUIREMENTS TO BE IMPLEMENTED AND FACILITATED ALONG EAST 2ND STREET TO MITIGATE IMPACTS OF PROPOSED PROJECT ON ROBERT SEMPLE ELEMENTARY SCHOOL AS PER THE CERTIFIED EIR AND ADDITIONAL TRAFFIC ASSESSMENT:

- INSTALLATION OF HIGH VISIBILITY CROSSWALKS AT EAST 2ND/RIVERDELL DR. AND EAST 2ND/HILLCREST AVE
- INSTALLATION OF RADAR SPEED SIGNS COUPLED WITH SCHOOL-ZONE SIGNAGE TO ALERT DRIVERS OF THEIR SPEED AS THEY APPROACH A SCHOOL ZONE
- INSTALLATION OF DUAL ALTERNATING-FLASH YELLOW "WIG-WAG" WARNING LIGHTS TO ALERT DRIVERS TO SLOW DOWN BEFORE ENTERING THE SCHOOL ZONE
- ENSURE CONTINUED PRESENCE OF CROSSING GUARDS AT EAST 2ND/RIVERDELL DR. AND EAST 2ND/HILLCREST AVENUE THROUGH FUNDING ARRANGEMENT WITH SCHOOL DISTRICT
- INSTALLATION OF RAISED LANDSCAPED/IRRIGATED MEDIAN ISLANDS ALONG THIS CORRIDOR AS A TRAFFIC CALMING MEASURE TO REDUCE VEHICLE SPEEDS AND INCREASE SAFETY
- CONSTRUCTION OF A SOUND BARRIER AT LEAST 8 FEET HIGH ALONG THE PROPERTY/RIGHT OF WAY LINE ALONG EAST SECOND ALONG THE SCHOOL FRONTAGE OR RESURFACING OF THIS FRONTAGE WITH RUBBERIZED ASPHALT

ALTERNATIVELY, AT THE DISTRICT'S OPTION, DEVELOPER WILL PROVIDE THE DISTRICT \$1 MILLION DOLLARS TO ASSIST THE DISTRICT IN ITS RELOCATION OF ROBERT SEMPLE ELEMENTARY SCHOOL TO THE

PRESENTLY CLOSED MILLS ELEMENTARY SITE. IF THIS OPTION IS AGREED UPON THE AFOREMENTIONED HEALTH AND SAFETY IMPROVEMENTS AND FACILITY UPGRADES WILL NOT BE REQUIRED.

**HEALTH RISK ASSESSMENT
FOR SEMPLE SCHOOL**

HEALTH RISK ASSESSMENT

Robert Semple Elementary School

Prepared for:
City of Benicia

Prepared by:
LSA Associates, Inc.
5084 N. Fruit Avenue, Suite 103
Fresno, California 93711
(559) 490-1210

LSA

November 2008

IX-B-86

HEALTH RISK ASSESSMENT ROBERT SEMPLE ELEMENTARY SCHOOL

This report has been prepared to summarize health related impacts on the Robert Semple Elementary School related to increased traffic from the Benicia Business Park Project. LSA Associates, Inc. has completed a health risk assessment for the Robert Semple School located at 2015 East 3rd Street in the City of Benicia. This risk assessment is based on guidance and models provided by the California Air Resources Board (ARB) and Office of Environmental Health Hazard Assessment (OEHHA) and represents a typical scientific approach to identifying potential health risks associated with a project. The analysis considered specific meteorological conditions on the school site and the proximity of the school site to East 2nd Street and Interstate 780 (I-780) to determine the potential risk to both students and teachers from traffic-related emissions resulting from the project.

The health risks identified in this assessment take into account only emissions from traffic on these roadways and do not account for other emission sources (e.g., construction, factory emissions) around Robert Semple School that contribute to the overall health risk in the Bay Area. The analysis considered current conditions, as well as the future (2030) traffic volumes both with and without the Benicia Business Park. The Bay Area Air Quality Management District (BAAQMD) establishes criteria to determine if air toxics would pose an unacceptable health risk to nearby populations. Results of the assessment concluded that the health risks associated with exposure of future students and teachers at the school to roadway vehicle exhaust emissions would not exceed the significance criteria for toxic air contaminants.

Project-Related Traffic Data

This assessment used a revised project description for the Benicia Business Park, which reduced the amount of total industrial space by 46 percent from 4,443,440 square feet to 2,339,760 square feet. Commercial space (857,000 square feet) remained the same. Data provided by DMJM Harris/AECOM were used to analyze the air quality impacts for the existing (2008) and cumulative (2030) conditions in the Semple School area.

Semple School is bordered on the east by East 2nd Street and is located between Hillcrest Avenue and East S Street. East 2nd Street is an arterial roadway that extends north and east from downtown Benicia to Lake Herman Road. East 2nd Street between Industrial Way and I-780 widens to a four-lane facility with median/turn lanes and bicycle lanes. As it approaches downtown Benicia to the south, East 2nd Street has a speed limit of 35 mph. The segment of East 2nd Street near the school is approximately 770 feet or 0.15 mile, and the current daily traffic volumes are approximately 13,000 vehicles per day. Cumulative 2030 traffic volumes with the project are projected to be 30,889 vehicles per day, 13,168 of which are related to the project. Specific speed data were not available at the time of the writing of this memo, so roadway speed limits were assumed in the analysis.

Portions of the school site are located within 500 feet of Interstate 780 (I-780), which is an east-west four-lane freeway facility connecting I-680 in Benicia to I-80 in Vallejo. Annual average daily traffic on I-780 was 57,000 vehicles during Caltrans most recent monitoring counts in 2007.¹ DMJM

¹ Caltrans, 2007 Traffic Volumes on the California State Highway System.
<http://www.dot.ca.gov/hq/traffops/saferesr/trafdata/>

Harris/AECOM estimated the traffic volumes for 2030; the future volume on I-780 adjacent to the school is approximately 88,000 vehicles per day. DMJM Harris/AECOM showed no measurable difference in volumes with or without the project on I-780 east of East 2nd Street, as it was assumed that almost all westbound trips would access I-780 at East 2nd Street. However, in order to conservatively estimate the effects of the project, the HRA used traffic data for I-780 immediately to the west of East 2nd Street; future volumes on this segment of the freeway are projected to be approximately 97,000 vehicles per day, 13,095 of which are related to the project.

Air Toxics – Mobile Sources

Most air toxics originate from human-made sources, including on-road mobile sources, non-road mobile sources (e.g., airplanes), area sources (e.g., dry cleaners), and stationary sources (e.g., factories or refineries). Motor vehicles emit several pollutants that the Environmental Protection Agency (EPA) classifies as known or probable human carcinogens and that can cause adverse health effects. These mobile source air toxics are compounds emitted from highway vehicles and non-road equipment and are a subset of the air toxics defined by the Clean Air Act.

EPA's vehicle and fuel regulations, coupled with fleet turnover, will cause regionwide mobile source air toxic emission levels to be substantially lower over time than they are today. On a national level, these regulations are projected to reduce mobile source air toxic emissions by 57 to 87 percent from 2000 to 2020 even with an increase in vehicle miles traveled (VMT).

General Health Risks of Toxics

Determining how hazardous a substance is depends on many factors, including the amount of the substance in the air, how it enters the body, how long the exposure lasts, and what organs in the body are affected. One major way these substances enter the body is through inhalation of either gases or particulates. While many gases may be harmful, very small particles that penetrate deep into the lungs are known to contribute to a range of health problems. Particle pollution (also called particulate matter or PM) is the term for a mixture of solid particles and liquid droplets found in the air.

Serious health effects, such as increased respiratory disease, lung damage, and premature death can result from inhalation of particles smaller than 10 micrometers (PM₁₀) in diameter. Exhaust from diesel engines is a major source of these airborne particles. Diesel exhaust contains over 40 cancer-causing substances, most of which are readily attached, or adsorbed, to the particles in the exhaust.² The OEHHA has determined that long-term exposure to diesel exhaust particulates poses the highest cancer risk of any toxic air contaminant, accounting for more than 70 percent of the cancer risk in the state of California. Some recent studies have reported that proximity to roads is related to adverse health outcomes, particularly respiratory problems.³ For these reasons, analyzing health impacts of diesel PM is a good indicator of the health risks associated with increased traffic volumes.

Exposure to diesel exhaust can also have short-term health effects. Diesel exhaust can irritate the eyes, nose, throat, and lungs, and it can cause coughs, headaches, lightheadedness, and nausea. In studies with human volunteers, diesel exhaust particles made people with allergies more susceptible to the materials to which they are allergic, such as dust and pollen. Exposure to diesel exhaust also

² California Air Resources Board, 2005. *Summary of Adverse Impacts of Diesel Particulate Matter*.

³ For example, South Coast Air Quality Management District, Multiple Air Toxic Exposure Study-II (2000); Highway Health Hazards, The Sierra Club (2004) summarizing 24 Studies on the relationship between health and air quality); NEPA's Uncertainty in the Federal Legal Scheme Controlling Air Pollution from Motor Vehicles, Environmental Law Institute, 35 ELR 10273 (2005) with health studies cited therein.

causes inflammation in the lungs, which may aggravate long-term chronic respiratory symptoms and increase the frequency or intensity of asthma attacks.

According to the OEHHA recommendations, children, for physiological as well as behavioral reasons, have higher air intake rates per unit of body weight and thus receive a higher dose of pollutants from contaminated air than adults. Therefore, the inhalation rate for the measured 9-year exposure duration (children) is higher than for the 30-year and 70-year (adult) exposure. For workers, including teachers, the measured exposure period for health-related impacts from toxic emissions is 40 years.

Common Air Pollutants

An Environmental Impact Report (EIR) was developed for the Benicia Business Park that described and analyzed the significant environmental effects of the proposed project. Many of the air pollutants that were analyzed for the Benicia Business Park EIR are not included in the health risk assessment, as they are regional in their impacts and/or specific hot-spot analyses were already conducted for the EIR. These pollutants include ozone, which is not emitted directly into the air, but is created by chemical reactions between oxides of nitrogen (NO_x) and volatile organic compounds (VOC) in the presence of sunlight. Urban areas can have high levels of "bad" ozone, but many rural areas are also subject to high ozone levels as winds carry emissions hundreds of miles away from their original sources. Ozone is considered a regional pollutant and analyzing the direct impact of ozone at a specific site is beyond the capability of this assessment. A detailed carbon monoxide hot-spot analysis demonstrated that the proposed project would not lead to significant CO impacts, nor would the proposed project, in combination with other cumulative development, lead to CO concentrations that exceed federal or State standards.

As mentioned above, particulate matter (PM) is a complex mixture of small particles that is made up of a number of components, including organic chemicals, metals, and soil or dust particles. A hot-spot analysis was neither required nor included in the Environmental Impact Report, but was conducted for this report. The hot-spot analysis considered the project-related increase in tailpipe, brake wear, tire wear, and road dust PM₁₀ emissions separate from the health risk assessment. Existing air quality monitors along East 2nd Street in Benicia show that the maximum PM₁₀ concentration in 2007 was 29 micrograms/cubic meter ($\mu\text{g}/\text{m}^3$)⁴, below the national 24-hour average air quality standard of 150 $\mu\text{g}/\text{m}^3$ and the State standard of 50 $\mu\text{g}/\text{m}^3$. Table 1 shows that the project will increase particulate matter emissions related to vehicle exhaust, tire wear, brake wear, and road dust along East 2nd Street and I-780 near the school.

Particulate matter emissions are largely a function of vehicle miles traveled (VMT); as VMT increases, particulate matter emissions, especially road dust, increase. EPA's SCREEN3 model was used to predict PM₁₀ concentrations in $\mu\text{g}/\text{m}^3$ using emissions in pounds/day and "worst-case" meteorological conditions by adding the emission concentrations from the project to background levels at the school. The maximum concentration at 500 feet from the freeway would be approximately 41 $\mu\text{g}/\text{m}^3$. Therefore, the project-related increase in PM₁₀ emissions near the Semple School is not anticipated to cause a violation of the current ambient air quality standards in 2030.

⁴ California Air Resources Board. 2008. Aerometric Data Analysis and Management (ADAM) system. Website: www.arb.ca.gov/adam/welcome.html. November.

Table 1: PM₁₀ Emissions (pounds/day)

	Cumulative	Cumulative Plus Project	Project-Related Increase
PM ₁₀ Exhaust	1.16	1.41	0.25
PM ₁₀ Tire Wear	0.54	0.66	0.12
PM ₁₀ Brake Wear	0.72	0.88	0.16
PM ₁₀ Road Dust	76.19	92.98	16.79
Total PM ₁₀	78.61	95.92	17.31

Source: LSA Associates, 2008

Summary of Approach

This health risk assessment examines the cancer risks from diesel exhaust particulate matter, as well as exhaust from gasoline-fueled vehicles. Gasoline exhaust includes toxic contaminants such as 1,3-butadiene, benzene, ethylbenzene, naphthalene, propylene, styrene, toluene, and m- and p-xylene. The health risk assessment also uses diesel and gasoline exhaust emission estimates to calculate the noncancer acute and chronic health risks at the school. These measures of risk are indicators of overall health risks from the East 2nd Street and I-780 vehicle-related emissions at Robert Semple School.

This health risk assessment was conducted as recommended in the OEHHA Guidelines and by the ARB.⁵ The assessment consists of several steps including: (1) determining the emission factors, emission rate, and concentration of pollutants at locations of interest; (2) translating the PM concentrations into health risk values; and (3) comparing the health risk values to thresholds to determine significance.

To estimate the potential cancer risk associated with vehicle engine exhaust, a dispersion model is used to translate an emission rate from vehicles traveling on East 2nd Street and I-780 to a pollutant concentration at the Robert Semple School. This assessment was conducted using the ARB health risk model, Hotspots Analysis and Reporting Program (HARP), which includes the EPA dispersion model ISCST3. This model provides a detailed estimate of pollutant concentrations and considers details of the analysis site, source strength, distance to receptor (i.e., school buildings), and site-specific meteorological data.

Vehicle emission factors were estimated using EMFAC2007, which includes assumptions of technological and regulatory changes that will reduce emission rates over time. Emission factors from the years 2010 and 2030 were used to represent the long-term evaluation period.

Thresholds of Significance

In order to evaluate whether a project has the potential to expose sensitive receptors (including schools) or the general public to substantial levels of toxic air contaminants, the BAAQMD establishes thresholds to determine if a project has a significant impact. The BAAQMD has established a threshold of significance as an increased probability of contracting cancer that is greater than 10 in 1 million. In other words, the toxic emissions from the project would need to cause an additional 10 cancers per 1 million people (above current levels) to be considered as having a significant impact.

⁵ California Air Resources Board, 2005. *HARP Model Documentation, Appendix K, Risk Assessment Procedures to Evaluate Particulate Emissions from Diesel-Fueled Engines.*

In addition to the cancer risk from a proposed project, BAAQMD establishes a hazard index of 1.0 for noncarcinogenic toxic air contaminants, which is the ratio of the modeled results to an exposure level at or below which no adverse health effects are anticipated. A hazard index value of 1.0 or less than 1.0 indicates that no adverse human health effects (noncancer) are expected to occur. The current science of health risk assessments does not distinguish between children and adult acute and chronic noncancer risks, and the risk levels reported are protective of both children and adults.

Carcinogenic and Chronic Impacts of Current and Future Conditions

The results for carcinogenic and chronic impacts for the existing conditions at the Semple School are shown in Table 2. Results of the analysis indicate that the cancer risk associated with an individual working at the school for 40 years would be an inhalation cancer risk of 0.0326 in 1 million (or 3.26 in 100 million) and the risk to a child spending 9 years at the school would be 0.0408 in 1 million (or 4.08 in 100 million), both of which are less than the threshold of 10 in 1 million. The maximum acute and chronic hazard indices would be 0.000003 and 0.000094, respectively, which are below the thresholds of 1.0.

Table 2: Health Risk Levels Based on Existing 2nd Street and I-780 Traffic Conditions

Inhalation Health Risk Levels at Robert Semple Elementary School			
Exposed Individual	Carcinogenic Inhalation Health Risk	Chronic Inhalation Health Index	Acute Inhalation Health Index
Student Risk Levels	0.0408 in 1 million	0.000094	0.000003
Teacher Risk Levels	0.0326 in 1 million	0.000094	0.000003
Thresholds	10 in 1 million	1	1

Source: LSA Associates, Inc., October 2008.

As shown in Tables 3 and 4, overall diesel-related risk levels at Semple School would be reduced in 2030, both with and without the project, compared to existing conditions due to the implementation of EPA's vehicle and fuel emissions regulations. Comparing 2030 conditions (without the project) to 2030 conditions (with the project), the project would result in an increased cancer risk of 0.0048 in 1 million for students and 0.0038 in 1 million for teachers. The increased risk from the project is equivalent to 1 additional cancer per 208 million students and 263 million teachers at the school. Exposure to toxic air emissions at the school would result in a maximum risk level that is below the BAAQMD's criteria of significance (10 in 1 million) in 2030, both with and without the project. Therefore, the impacts at the school are considered less than significant by BAAQMD.

Table 3: Health Risk Levels in 2030 Without Project

Inhalation Health Risk Levels at Robert Semple Elementary School			
Exposed Individual	Carcinogenic Inhalation Health Risk	Chronic Inhalation Health Index	Acute Inhalation Health Index
Student Risk Levels	0.0176 in 1 million	0.0000427	0.0000025
Teacher Risk Levels	0.0141 in 1 million	0.0000427	0.0000025
Thresholds	10 in 1 million	1	1

Source: LSA Associates, Inc., October 2008.

Table 4: Health Risk Levels in 2030 With Project

Inhalation Health Risk Levels at Robert Semple Elementary School			
Exposed Individual	Carcinogenic Inhalation Health Risk	Chronic Inhalation Health Index	Acute Inhalation Health Index
Student Risk Levels	0.0224 in 1 million	0.000054	0.000003
Teacher Risk Levels	0.0179 in 1 million	0.000054	0.000003
Thresholds	10 in 1 million	1	1

Source: LSA Associates, Inc., October 2008.

The maximum acute and chronic hazard indices for future students and teachers at the school would both be 0.000003, which are below the threshold of 1.0, indicating that no adverse human health effects (noncancer) are expected to occur. These short-term acute and long-term chronic risk levels would be considered less than significant by BAAQMD.

Cancer risks presented in risk assessments are often compared to the overall risk of cancer in the general U.S. population or to the risk posed by all harmful chemicals in the air. As shown in Table 5, EPA estimates that most urban locations have an air toxics lifetime cancer risk greater than 25 in 1 million, and that the risk in transportation corridors is greater than 50 in 1 million. In contrast, one out of every three Americans (330,000 in 1 million) will contract cancer during a lifetime, when all causes (including exposure to air toxics) are taken into account.⁶

Based on 2003 air quality monitoring data, the calculated inhalation cancer risk in the Bay Area is 143 in 1 million. However, this estimate does not include the risk resulting from exposure to diesel particulate matter or other compounds not monitored by the BAAQMD and ARB. Recent studies indicate that exposure to diesel particulate matter from all emission sources may contribute significantly to a cancer risk (approximately 500-700 in 1 million) that is greater than all of the other measured toxic air contaminants, which is why diesel PM is the important pollutant to analyze in this health risk assessment.⁷

Table 5: Comparative Health Risk Levels

	Inhalation Risk from Air Toxics
Urban Location	25 in 1 million
Transportation Corridor	50 in 1 million
SF Bay Area (not including diesel PM)	143 in 1 million
SF Bay Area (only diesel PM)	500 to 700 in 1 million
BAAQMD Risk Threshold	10 in 1 million
2030 Traffic near Semple School	0.0224 in 1 million

Source: LSA Associates, Inc., October 2008.

This health risk assessment assumes that these background levels will be consistent for the foreseeable future and focuses on the specific risk associated with traffic impacts from the project in the Semple School area. This health risk assessment indicates the exposure to risk would not

⁶ Environmental Protection Agency. 2006. "National-Scale Air Toxics Assessment for 1999: Estimated Emissions, Concentrations, and Risk Technical Fact Sheet." Available at <http://www.epa.gov/ttn/atw/nata1999/natafinalfact.html>. Accessed October 29, 2008.

⁷ Bay Area Air Quality Management District (BAAQMD), 2007. *Toxic Air Contaminant Control Program, Annual Report 2003*.

approach the BAAQMD criterion for short-term acute health risks, long-term cancer, or chronic health risks. Therefore, it is unlikely that present or future students and teachers at the school site would be exposed to any health risks above that of the average California or Bay Area resident.

**AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : November 7, 2008
TO : Mayor Patterson
FROM : City Manager
SUBJECT : **MAYORS' COMMITTEE MEETING**

The following information is provided for your committee report at the November 18, 2008 City Council meeting.

The Mayors' Committee meetings are held on the third Wednesday of each month at 6:00 pm. The October 15, 2008 meeting was the quarterly Mayor's Conference, which was hosted by the City of Benicia.

The next committee meeting is scheduled for November 19, 2008. The agenda for this meeting has not been finalized yet.

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 4, 2008

TO : Mayor Patterson
Vice Mayor Campbell

FROM : City Attorney

SUBJECT : **ABAG COMMITTEE MEETING**

The following information is provided for your committee report at the November 18, 2008 council meeting:

- The ABAG Fall General Assembly was held on Friday, October 24, 2008 at the Oakland Marriott City Center.
- The focus was "Regional Water-Land Use Planning: The Delta Connection"
- State, regional, and local elected officials and other policy experts discussed Bay Area water-land use sustainability as connected to infrastructure, emerging development, water supply and quality, and Delta flood risk management.
- The next General Assembly is scheduled for Thursday, April 23, 2009, at the Palace Hotel in San Francisco.

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 4, 2008
TO : Vice Mayor Campbell
Council Member Schwartzman
FROM : Finance Director
SUBJECT : **AUDIT AND FINANCE COMMITTEE**

The following information is provided for your committee report at the November 18, 2008 Council meeting.

The committee will meet on November 7, 2008 at 8 a.m. in the Commission Room. The agenda is attached for your review. The next meeting will be held on Friday, December 5, 2008.

**AUDIT & FINANCE COMMITTEE
REGULAR MEETING AGENDA
COMMISSION ROOM
NOVEMBER 7, 2008 - 8:00 AM**

1. **Call to Order**
2. **Notice to the Public**
3. **Approval of Minutes from the Regular Meeting held on October 10, 2008.**
4. **Previous Month Warrant Register Review for October 2008.**

A monthly audit of payments to vendors that supply services to the City of Benicia. Members of the AFC committee review the warrant register and request that further information be provided by staff as necessary.
Recommendation: Approve Warrant Registers
5. **Review of Mission, Goals and Structure Policy**

Following the meeting with the City Manager on October 10, 2008, the revised Mission, Goals and Structure Policy will be reviewed by the committee.
Recommendation: Review Policy and direct staff as necessary.
6. **Review of Benicia Unified School District Expenditures**

A review of the types and amounts of expenditures to the BUSD.
Recommendation: Informational item, no action required.
7. **Review Long Range Calendar**

Monthly review of future AFC Agenda topics.
Recommendation: Provide suggestions and timing of future Agenda topics
8. **Public Comment**
9. **Adjournment**

Public Participation

The Benicia Audit and Finance Committee welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The Audit and Finance Committee allows speakers to speak on non-agendized matters under public comment, and on agendized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than 5 minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the Audit and Finance Committee.

Should you have material you wish to enter into the record, please submit it to the Finance Director.

Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact the Human Resources Department, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Meeting Procedures

All items listed on this agenda are for Committee discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the Audit and Finance Committee.

Pursuant to Government Code Section 65009, if you challenge a decision of the Audit and Finance Committee in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Audit and Finance Committee at, or prior to, the public hearing. You may also be limited by the ninety (90) day statute of limitations in which to challenge in court certain administrative decisions and orders (Code of Civil Procedure 1094.6) to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

The decision of the Audit and Finance Committee is final as of the date of its decision unless judicial review is initiated pursuant to California Code of Civil Procedures Section 1094.5. Any such petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6.

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 7, 2008

TO : Mayor Patterson
Council Member Schwartzman

FROM : City Manager

SUBJECT : **LEAGUE OF CALIFORNIA CITIES**

The following information is provided for your committee report at the November 18, 2008 City Council meeting.

Legislative Briefings will be held at the Hilton Garden Inn in Emeryville on November 19, 2008. For additional information, visit the League's website at www.cacities.org.

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 7, 2008

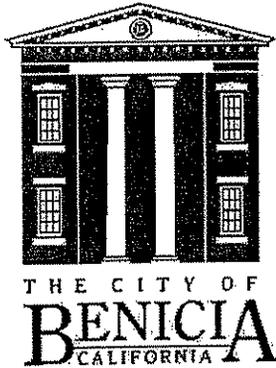
TO : Council Member Ioakimedes
Council Member Hughes

FROM : City Manager

SUBJECT : **CITY COUNCIL/SCHOOL BOARD LIAISON COMMITTEE**

The following information is provided for your committee report at the November 18, 2008 City Council meeting.

This committee meets quarterly in the Benicia Unified School District meeting room. The next meeting will be held on Thursday, November 13, 2008. The agenda for that meeting follows, along with minutes from the previous meeting.



• Since 1849 •

AGENDA

BENICIA CITY COUNCIL/SCHOOL BOARD LIAISON COMMITTEE

District Board Room

350 East K St

November 13, 2008 8:30-10:00am

- I. Call to Order and Pledge of Allegiance**
- II. Reference to the Fundamental Rights of the Public and Public Comment**
- III. Consent Calendar**
 - A. Approval of Minutes of the Regular Meeting August 28, 2008**
- IV. Business Items**
 - A. Update on the Benicia High School Traffic Signal and Circulation System Improvement Project**

Dan Schiada, Public Works Director, will update the committee on the Benicia High School Traffic Signal and Circulation System Improvement Project.
 - B. Review of the Traffic Conditions at Mary Farmer on Drolette Way**

Dan Schiada, Public Works Director, will review the traffic conditions at Mary Farmer on Drolette Way with the committee.
 - C. Discussion of the Field Usage at Community Park and Upgrades to Benicia High School Ball Fields**

Mike Alvarez, Parks and Community Services Director, and Janice Adams, Superintendent of Schools, will discuss the field usage at Community Park and possible upgrades to Benicia High School ball fields.
 - D. Report and Discussion on Benicia Breeze Routes**

The committee will discuss the change in the routes for the Benicia Breeze.
 - E. Report on the Youth Protection Ordinance**

Sandra Spagnoli, Chief of Police, will report on the Youth Protection Ordinance.
 - F. Discussion of the SRO Coverage at Benicia Schools**

The committee will hear an update from Police Chief, Sandra Spagnoli on the coverage of the SRO's at Benicia Schools.

X-A-5-2

AGENDA

Benicia City Council / School Board Liaison Committee
Benicia Unified School District Board Room
350 East K St

G. Report on 911 Training for Office Managers at Benicia School Sites

The committee will hear a report from Ms Adams, Superintendent of Schools, on upcoming 911 training for office managers at school sites.

H. Discussion on Disturbance Preparedness at Benicia Schools

Janice Adams, Superintendent of Schools and Sandra Spagnoli, Chief of Police, will discuss plans for disturbance preparedness at the Benicia schools.

I. Discussion of the Benicia Business Park Mitigations

Jim Ericson, City Manager and Janice Adams, Superintendent of Schools, will discuss the Benicia Business Park mitigations with the committee.

V. Future Agenda Items

VI. Adjournment

Public Participation

The City Council/School Board Liaison Committee welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council/School Board Liaison Committee allows speakers to speak on matters under public comment. Comments are limited to no more than 5 minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council/School Board Liaison Committee.

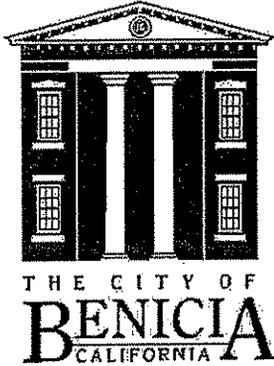
Should you have material you wish to enter into the record, please submit it to the Superintendent.

Disabled Access

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Meeting Procedures

All items listed on this agenda are for City Council/School Board Liaison Committee discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council/School Board Liaison Committee.



• Since 1849 •

Minutes

BENICIA CITY COUNCIL/SCHOOL BOARD LIAISON COMMITTEE

District Board Room

350 East K St

August 28, 2008 8:30-10:00am

Present:

Janice Adams, Superintendent of Schools
Rosie Switzer – School Board Member
Terry McAvoy – Director of Maintenance and Facilities, BUSD
Ron Wheat – BHS Vice -Principal
Jim Erickson – City Manager
Mike Alvarez – Parks and Community Services Director
Dan Schiada – Public Works Director
Mike Dodson – Parks and Community Services Assistant Director
Michael Throne – City Engineer
Mike Ioakimedes – City Council Member
Sandra Spagnoli – Chief of Police
Andrew Bidou – Deputy Chief, BPD

I. Call to Order and Pledge of Allegiance

Janice Adams, Superintendent of Schools, called the meeting to order at 8:35 a.m. on Thursday, August 28, 2008. She referenced the Fundamental Rights of the public.
Ms Adams led the pledge of allegiance.

II. Reference to the Fundamental Rights of the Public and Public Comment

III. Consent Calendar

It was moved and seconded to approve the Minutes of the Regular Meeting March 13, 2007. The motion passed unanimously.

IV. Business Items

A. Update on the Benicia High School Traffic Signal and Circulation System Improvement Project

Michael Throne, City Engineer, gave a power point presentation on the Benicia High School traffic signal and circulation system improvement project. The city felt the need to do something about the congestion around the high school after the increase of the number of students

X-A-5-4

AGENDA

Benicia City Council / School Board Liaison Committee
Benicia Unified School District Board Room
350 East K St

and neighborhood members. There has been input from the students and the community over the past 3 years. They simulated a "road diet" which allows for street parking. This made a significant change in the traffic flow. The city will then handle any internal flow issues that arise as a result of this. Next will be to get a cost estimate on the project proposal and find some additional funding. The hope is to break ground on the project next June.

Ms Adams asked if Mr. Throne could do this same presentation at a future High School Site Council meeting. Mr Throne said that they would.

B. Discussion of the Upgrades for the Benicia High School and Mary Farmer Softball Fields

Ms Adams opened discussion on upgrades for the high school and Farmer softball fields. In light of the Title IX investigation and the complaint about the girl's softball teams practicing off site, she wants to add a field up at Mary Farmer and make a field at the high school. Ms Adams asked for the cities help in doing this. Mike Alvarez reported that the city's involvement comes when the Benicia high field is moved and then the city will do the irrigation and sod. Ron Wheat asked if the city would help with the back stop on the new field. Mike Dodson said that the city would help with the back stop but would need to be sure that DSA signs off on it to remove all consequences. Jim Erickson expressed that the city is not in the position to take on any new projects. He reminded the committee that the city doesn't have a joint use agreement with regard to Mary Farmer.

The project may not even happen and the district is looking at using the middle school and other properties. All parties agreed that the city will fund the work on the high school changes but not the Farmer changes. Ron Wheat thanked the city staff for working so well with district staff.

C. Report and Discussion on Student Resource Officers

Sandra Spagnoli, Chief of Police, brought a recommendation to increase the SRO's coverage at the school sites to match the days that students are on campus. The SRO's take one day off a week each and leave the schools uncovered on those days. Currently the district pays approximately \$15,000 of overtime to the city for police overtime to work school events. These events are covered by officers other than the SRO's. The district would increase this cost by \$10,000 more and have the SRO's covering the schools for all school days and special events. Over 80% of cities looked at by the police chief has this cost sharing model. Trustee Switzer thought this was a good idea and recommended that it be presented to the board at the next meeting.

AGENDA

Benicia City Council / School Board Liaison Committee
Benicia Unified School District Board Room
350 East K St

D. Discussion on the Youth Protection Ordinance

Sandra Spagnoli, Chief of Police, introduced Deputy Chief Bidou to talk about truancy and a daytime curfew. Deputy Chief Bidou told the committee about the need to establish a day time curfew to help officers and school administrators keep students in school. Truancy is a priority for the city and the district. This curfew would only apply to students who are out of school without a valid excuse. There was discussion about the need for a system to find out if a student is legally out of school. The police department would work with the district on this issue. There would be plenty of time to educate the parents about this ordinance before it goes into effect. The police department has a good image right now and we want to see that continue.

This issue will be brought to the city for approval first.

E. Discussion on Water Usage at the Mills Facility

Janice Adams, Superintendent of BUSD, said that there had been some confusion about the water usage at the Mills fields. Mike Alvarez said that there are separate water meters and this should solve the problem.

F. Update on the Mills Site

Jim Erickson, City Manager, reported to the committee that the city does not have the resources to finish the project. They are looking at doing the project in phases, in order to get some of the project completed. Part of the concern is what the state budget will look like. The council will look at this at the next council meeting.

G. Report and Discussion on Traffic Studies for the "Seeno" Project

Jim Erickson, City Manager, reported that the council has asked for some traffic analysis of the Seeno project. Dan Sciatta reported that the city's consultant is funded by the developer and they are counting cars this week. They will come up with revised mitigation for the EIR. October 7th the study will be presented. He will email this to us. There was discussion about the safety of the students at Robert Semple. Also, there is a need to look at the air and noise pollution. The district will be sure to let the city know when the school dismissal times are. The school district and the city will continue to share any information with regard to these studies.

V. Future Agenda Items

Mike Ioakimedes would like an overview of all youth services and how to coordinate them.

Ron Wheat would like the committee to discuss training on active shooter preparedness.

AGENDA

Benicia City Council / School Board Liaison Committee
Benicia Unified School District Board Room
350 East K St

VI. Adjournment

The meeting adjourned at 10:14 am.

Public Participation

The City Council/School Board Liaison Committee welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council/School Board Liaison Committee allows speakers to speak on matters under public comment. Comments are limited to no more than 5 minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council/School Board Liaison Committee.

Should you have material you wish to enter into the record, please submit it to the Superintendent.

Disabled Access

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Meeting Procedures

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AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 6, 2008

TO : Vice Mayor Campbell
Council Member Ioakimedes

FROM : City Manager

SUBJECT : **SKY VALLEY OPEN SPACE COMMITTEE**

The following information is provided for your committee report at the November 18, 2008 Council meeting.

Over the past month, staff has been working with the California Rangeland Trust as a possible conservation partner for sites in the Sky Valley area. On Thursday, October 23, 2008, staff met with representatives from the Trust and hosted a site visit. Staff will continue to work with the Trust over the next several months with the hope that the City / Sky Valley Open Space Committee and the California Rangeland Trust will ultimately establish a partnership with express goal of obtaining conservation easements in the Sky Valley area.

The next regular committee meeting of the Sky Valley Open Space Committee is scheduled for Wednesday, February 4, 2009 at 7:00 p.m. A draft meeting agenda for that meeting is unavailable at this time.

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 4, 2008

TO : Mayor Patterson
Council Member Ioakimedes

FROM : Jim Erickson, City Manager

SUBJECT : **SOLANO EDC BOARD OF DIRECTORS**

The following information is provided for your committee report at the November 18, 2008 Council meeting:

The agenda from the last Solano EDC Board meeting on September 25, 2008 is attached, along with the minutes. Additionally, on November 7, 2008, the Solano EDC Town Hall Retreat was held at Rush Ranch in Suisun City. The agenda from the retreat follows.

The next Board of Directors meeting is scheduled for Thursday, December 11, 2008 at 9:00 am at Jelly Belly Candy Company. The agenda for that meeting is not yet available.

**Solano EDC
Board of Directors Meeting**

**Thursday, September 25, 2008
Jelly Belly Candy Company (Corporate Offices)
2500 North Watney Way, Fairfield, CA**

AGENDA

- | | | |
|---------------------------|------------------------------------------------------|--------------------------------|
| 9:00 am | 1. Call to Order | Scott Reynolds, Chair |
| Action Item | 2. Approval of 7/24/08 Meeting Minutes | |
| Action Item | 3. Treasurer's Report – August 2008 | John Onsum/Sandy Person |
| Informational Item | 4. Executive Retreat | Scott Reynolds |
| Discussion Item | 5. <u>Committee Reports</u> | |
| | ➤ Membership Committee | Sandy Person |
| | ➤ Marketing Task Force | Kay Draisin |
| | ➤ Transportation | Daryl Halls |
| | ➤ TCC | Sean Quinn |
| | 6. President's Update & Prospect Activity | Mike Ammann |
| | 7. Items from Directors | |

Calendar of Events

- ◆ October 29, 2008 Membership Breakfast – Joint Chamber Meeting
Time: 7:30 – 9:00 am
Location: Hilton, Fairfield

- ◆ November 20, 2008 Membership Breakfast – Solano Economic Index
Time: 7:30– 9:30 am
Location: Hilton, Fairfield

- ◆ December 11, 2008 Board of Director's Meeting

- ◆ January 29, 2009 Annual Meeting luncheon

**SOLANO EDC BOARD OF DIRECTORS MEETING
SEPTEMBER 25, 2008, 9:00 AM**

CALL TO ORDER

Chairman Reynolds called the meeting to order at 9:05 am at the Jelly Belly Candy Company.

Attending were:

Mike Ammann	Robert Bloom	Kay Draisin	Bill Eisenhardt	Joanie Erickson
Daryl Halls	Steve Lessler	Amalia Lorentz	John Onsum	Sandy Person
John Ray	Mike Reagan	Tom Recknagel	Scott Reynolds	Ron Rhea
Robert Simpson	Patsy Van Ouwerkerk		Michael Wilson	

Absent were:

Dee Alarcon	Len Augustine	Rebecca Brandt	Barry Cavanna	Elaine Crombie
Kevin English	Kevin Finger	Gerry Fisher	David Garland	Bruce Gondry
Dick Hassel	Norm Hattich	Steve Huddleston	Bill James	Curt Johansen
Bill Kelly	Albert Lavezzo	Gregg McConnell	John Mraz	Elizabeth Patterson
Brooks Pedder	Debra Russo	Michael Segala	Mike Smith	Sue Vaccaro

APPROVAL OF MINUTES

Chairman Reynolds called for approval of minutes of the July 24, 2008 meeting.

Upon motion duly made (Van Ouwerkerk) and seconded (Ray) it was

RESOLVED, that the minutes of the July 2008 meeting of the Solano EDC Board of Directors be accepted as submitted.

TREASURERS REPORT

Treasurer Onsum presented the financial report for the month of August 2008.

Upon motion duly made (Draisin) and seconded (Lessler) it was

RESOLVED, that the Treasurer's Report be accepted.

SOLANO EDC RETREAT

Directors were invited to participate in a Solano EDC planning retreat on November 7th at Rush Ranch. The Executive Committee will perform a S.W.O.T. analysis prior to the retreat.

MEMBERSHIP COMMITTEE

Vice-President Person no new members have joined since the last meeting. Several companies have pledged to join. She feels confident in meeting the new member goal.

MARKETING TASK FORCE

Director Draisin noted Sandy is working on setting up a broker and economic developer tour of Solano. Earl Parker, Solano EDC's public relations representative is continuing to work on stories and the Solano EDC is enhancing the relationship between with the Bay Area World Trade Center and the Northern California World Trade Center.

TRANSPORTATION UPDATE

Director Halls provided an update on transportation activities and projects which include: transitional plan; rolling back ferry prices; Express Bus connections; Rio Vista bridge study; I-80 resurfacing project; Highway 12 safety project; North Connector; Jepson Parkway; train station; ferry parking; Vacaville transit center; Fairfield transportation center, Benicia park and ride and Safe Route to Schools program.

TRAVIS COMMUNITY CONSORTIUM

Director Reagan noted the Large Fire Crash Rescue Station project is moving forward. The Travis Community Consortium is scheduled to meet again October 1.

PRESIDENT'S UPDATE

President Ammann reviewed the color coded prospect report. Upcoming events were announced. They include a Joint Chamber breakfast on October 29th; NorthBay Broadband Roundtable on November 14th; Solano Economic Index breakfast on November 20th; Solano Youth Summit on October 22nd; Board of Directors meeting on December 11th; Annual Meeting on January 29, 2009 and the Biotech Cluster release in February 2009. President Ammann expressed concern over the announcement that Dey Labs in Napa will close its doors in the next two years and that the Napa EDC has folded.

Calendar items were discussed. The meeting was adjourned at 10:36 am.

Solano EDC Town Hall Retreat Nov. 7, 2008

Agenda

Rush Ranch – Suisun City

- 8 to 8:30** **Continental Breakfast**
- 8:30** **Welcome & Overview**
Scott Reynolds, EDC Board Chair
- 8:40** **Review of Solano EDC Core Values**
and Economic Forecast
Mike Ammann, Solano EDC President
- 9:00-11:30** **Participant Discussion**
“What’s Ahead and How Do We Get There?”
Earl Parker, Workshop Facilitator
- 10:00-10:20 Break**
- 11:30** **Workshop Closure – Scott and Mike**
- NOON** **Gourmet Lunch Catered by Chef Daniel**

Adjourn after lunch

Cost: \$20 to cover cost of facility and food

Directions to Rush Ranch

Take Highway 12 towards Rio Vista. Turn right on Grizzly Island Road (this road is called Sunset if you turn left). Go for about 2.5 miles. You'll be in the middle of nowhere and be thinking you must have gone the wrong way. Turn right into Rush Ranch at the sign. Park near the barn and walk to the new building.

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 7, 2008

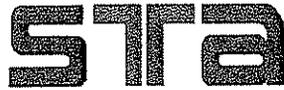
TO : Mayor Patterson
Council Member Schwartzman

FROM : Dan Schiada, Director of Public Works

SUBJECT : **SOLANO TRANSPORTATION AUTHORITY**

The following information is provided for your committee report at the November 18, 2008 City Council meeting.

The minutes of the October meeting are not yet available, but highlights of the meeting follow. The next STA Board meeting is the annual awards ceremony on November 12, 2008.



Solano Transportation Authority

**Solano Transportation Authority
Board Meeting Highlights
October 8, 2008
6:00 p.m.**

TO: City Councils and Board of Supervisors
(Attn: City Clerks and County Clerk of the Board)
FROM: Johanna Masiclat, STA Clerk of the Board
RE: Summary Actions of the October 8, 2008 STA Board Meeting

Following is a summary of the actions taken by the Solano Transportation Authority at the Board meeting of October 8, 2008. If you have any questions regarding specific items, please call me at (707) 424-6008.

BOARD MEMBERS PRESENT:

Eddie Woodruff (Chair)	City of Rio Vista
Jim Spering (Vice Chair)	County of Solano
Elizabeth Patterson	City of Benicia
Mary Ann Courville	City of Dixon
Harry Price	City of Fairfield
Pete Sanchez	City of Suisun City
Len Augustine	City of Vacaville
Osby Davis	City of Vallejo

ACTION – FINANCIAL ITEMS

A. Funding Agreement Between the Solano Transportation Authority and the County of Solano for the Next Phase of the Jepson Parkway Project

Recommendation:

Authorize the Executive Director to work with Solano County to develop a funding agreement for the early delivery of the next phase of Jepson Parkway.

On a motion by Board Member Vice-Chair Spering, and a second by Board Member Sanchez, the STA Board approved the recommendation.

B. McGary Road/Solano Bikeway Phase 2

Recommendation:

Approve the following:

1. Reprogram CMAQ and TE funding as outlined in Attachment C; and
2. Continue to assist the City of Fairfield in obtaining funding for the McGary Road/Solano Bikeway Phase 2 project.

On a motion by Board Member Patterson, and a second by Board Member Sanchez, the STA Board approved the recommendation.

ACTION – NON FINANCIAL ITEMS

A. Regional Transportation Impact Fee (RTIF) Feasibility Study

Recommendation:

Approve one of the following two options:

1(A). Authorize the formation of three multi-agency working groups for the purpose of developing the scope of work for three specified Regional Transportation Impact Fee (RTIF) nexus studies, including project selection and fee options, as listed in Attachment A.

Or

1(B). Authorize the formation of three multi-agency working groups for the purpose of developing the scope of works for a countywide RTIF nexus study, including project selection and fee options, as listed in Attachment B.

And

2. Authorize the formation of a South Solano Transit Working Group to conduct an assessment for funding transit operations and capital.

On a motion by Vice Chair Spring, and a second by Board Member Davis, the STA Board approved the recommendation to pursue a countywide fee approach and to convene the RTIF Working Group to develop recommendations regarding fee options, governance structure, scope of work for the Nexus Study, and projects and report back to the STA Board.

B. Selection of 2009 STA Chair and Vice Chair

Recommendation:

Approve the following:

1. Selection of the STA Chair for 2009 commencing with the STA Board Meeting of December 10, 2008;
2. Selection of the STA Vice-Chair for 2009 commencing with the STA Board Meeting of December 10, 2008;
3. Approve the Updated Schedule for Rotation of STA Chairs and Vice-Chairs as shown in Attachment B; and
4. Request the new Chair to designate the STA Executive Committee for 2009.

On a motion by Board Member Courville, and a second by Board Member Augustine, the STA Board approved the recommendation and selected Vice Chair Spring as 2009 STA Chair and Board Member Sanchez as STA Vice Chair.

CONSENT CALENDAR ITEMS

On a motion by Board Member Price, and a second by Board Member Augustine, the STA Board approved Consent Calendar Items A thru J.

A. STA Board Meeting Minutes of September 10, 2008

Recommendation:

Approve STA Board Meeting Minutes of September 10, 2008.

- B. Review TAC Draft Minutes for the Meeting of September 24, 2008**
Recommendation:
Receive and file.
- C. Amended Final Budget for Fiscal Year (FY) 2007-08**
Recommendation:
Approve adoption of the Amended Final Budget for FY 2007-08 as shown in Attachment A.
- D. Funding Agreement Between the Solano Transportation Authority, the County of Solano and the City of Suisun City for the Travis Air Force Base (AFB) South Gate Access Improvement Project**
Recommendation:
Authorize the Executive Director to execute a Funding Agreement between the Solano Transportation Authority, the County of Solano and the City of Suisun City for the Travis Air Force Base (AFB) South Gate Access Improvement Project.
- E. I-80 Eastbound Truck Scales Regional Measure 2 (RM 2) Resolution**
Recommendation:
Approve the following:
1. Allocation request to Metropolitan Transportation Commission (MTC) to transfer \$5.2 million in Bridge Toll funds to the I-80 Eastbound Cordelia Truck Scales Relocation Project for the environmental document preparation and detailed preliminary engineering. The \$5.2 million will be transferred from the previously allocated \$13.5 million to complete the environmental document and detailed preliminary engineering for the I-80/I-680/SR 12 Interchange Improvements; and
 2. Resolution No. 2008-08.
- F. Fiscal Year (FY) 2008-09 Transportation Development Act (TDA) Matrix – September 2008**
Recommendation:
Approve the September 2008 TDA matrix for Fiscal Year (FY) 2008-09 as specified in Attachment A.
- G. Funding Agreement for Vacaville and East Fairfield Community Based Transportation Plans**
Recommendation:
Approve the following:
1. Authorize the Executive Director to enter into a Funding Agreement with MTC for \$120,000 for the Vacaville and East Fairfield Community Based Transportation Plans;
 2. Authorize the Executive Director to issue a Request for Proposals for Community Based Transportation Plans for Vacaville and East Fairfield; and
 3. Authorize the Executive Director to enter into a consultant contract to conduct the Vacaville and East Fairfield Community Based Transportation Plans for an amount not to exceed \$120,000.

COMMENTS FROM METROPOLITAN TRANSPORTATION COMMISSION (MTC), CALTRANS, AND STAFF:

A. Caltrans Report:

Nick Endrawos, Project Manager, Caltrans District 4 reported on the construction progress of the I-80 Pavement Rehabilitation, I-80 HOV Lanes Project, Jameson Canyon SR 12 Truck Climbing Lane Project, and the North Texas Interchange Project.

B. MTC Report:

None presented.

C. STA Report :

1. Capitol Corridor Intercity Rail Service - Presented by Gene Skoropowski
2. Presentation of Proposed Rail Station:
 - A. Fairfield/Vacaville Rail Station – Presented by Wayne Lewis
 - B. Dixon Transportation Center – Presented Royce Cunningham
3. State Route (SR) 12 Safety Plan Update - Presented by Robert Macaulay
4. STA's 11th Annual Awards Nominations - Presented by Jayne Bauer

INFORMATIONAL ITEMS – NO DISCUSSION

- A. **Implementation Update of Regional Measure 2 (RM 2) Funded Transit Capital Projects in Solano County**
- B. **State Route (SR) 12 Jameson Canyon Road – Bay Area Ridge Trail Bicycle and Pedestrian Connections Plan Update**
- C. **Regional Transportation Plan (RTP) T2035 Update**
- D. **Capitol Corridor – Quarterly Report**
- E. **Legislative Update**
- F. **Unmet Transit Needs Public Hearing for Fiscal Year (FY) 2009-10**
- G. **Lifeline/State Transit Assistance Funds (STAF) and Proposition 1B Call for Projects**
- H. **State Route (SR) 12 Status Update**
- I. **Project Delivery Update**
- J. **Abandoned Vehicle Abatement (AVA) Annual Report Fiscal Year (FY) 2008-08**
- K. **Funding Opportunities Summary**
- L. **STA Board Meeting Schedule for 2008**

ADJOURNMENT

The STA Board meeting was adjourned at 8:45 p.m. Due to the STA's 11th Annual Awards Program, there will be no meeting in November. The next regular meeting of the STA Board is scheduled for **Wednesday, December 10, 2008, 6:00 p.m., Suisun City Hall Council Chambers.**

**AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : November 7, 2008
TO : Mayor Patterson
Vice Mayor Campbell
FROM : Dan Schiada, Director of Public Works
SUBJECT : **SOLANO WATER AUTHORITY**

The following information is provided for your committee report at the November 18, 2008 City Council meeting.

The agenda for the Solano Water Authority (SWA) Board of Directors meeting of November 13, 2008 follows. The October meeting minutes are also attached. The next SWA meeting is December 11, 2008.

The SWA also has a newly formed Delta Committee that meets each month directly before the regular SWA meeting.

SOLANO COUNTY WATER AGENCY



BOARD OF DIRECTORS MEETING

DATE: Thursday, November 13, 2008

TIME: 7:00 p.m. (Note: City County Coordinating Council meeting has been canceled)

PLACE: Solano Irrigation District
508 Elmira Road
Vacaville, CA 95687

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. APPROVAL OF AGENDA
4. PUBLIC COMMENT

Limited to 5 minutes for any one item not scheduled on the Agenda.

5. CONSENT ITEMS

- (A) Minutes: Approval of the Minutes of the Board of Directors meeting of October 9, 2008 is recommended.
- (B) Expenditure Approvals: Approval of the October checking account register and list of checks \$500 and over to be paid is recommended.
- (C) Appropriation Adjustment: Approval of the following appropriation adjustments to the Water Agency's Fiscal Year 2008-2009 Budget is recommended.
 1. Increase Solano Project – Putah South Canal Maintenance Expenditure by \$140,100 from \$505,900 to \$646,000.
 2. Increase Solano Project – Administration Expenditure by \$181,200 from \$174,900 to \$356,100.
 3. Increase Solano Project – PSC Pest Management Expenditure by \$57,000 from \$218,500 to \$275,500.
- (D) Amendment No. 4 to the Agreement with TRG & Associates: Authorization of General Manager to execute Amendment No. 4 to the agreement with TRG & Associates for the development of a Solano County water conservation website is recommended. Amendment increase of \$11,000 from \$29,000 to \$40,000.

P.O. Box 349 • 6040 Vaca Station Road, Building 84
Elmira, California 95625-0349
Phone (707) 451-6090 • FAX (707) 451-6099
www.scwa2.com



X-A-9-2

- (E) NBA Water Quality Research Facility Grant: Authorization to adopt Resolution No. 2008-4 which adopts a 3rd Party Labor Compliance Program for the Prop. 50 – North Bay Aqueduct (NBA) Water Quality Research Facility as required by the State of California is recommended.
- (F) Agreement with West Yost and Associates for the Construction of a Test Conjunctive Use Groundwater Well: Authorization of Chairman to execute an agreement with West Yost & Associates for the construction of a grant funded test conjunctive use groundwater well is recommended. Agreement cost is \$100,000.

6. **BOARD MEMBER REPORTS**

RECOMMENDATION: For information only.

7. **GENERAL MANAGER'S REPORT**

RECOMMENDATION: For information only.

8. **WATER CONSERVATION LEGISLATION**

RECOMMENDATION: Approve outline of urban water conservation legislation for possible introduction in the next legislative session.

9. **DELTA REPORT**

RECOMMENDATION: Hear report from staff on status of development of negotiating points for future discussions on Delta water facilities and habitat conversions. Provide direction to staff.

10. **SCWA FLOOD HAZARD WARNING PROGRAM**

RECOMMENDATION: Hear presentation from staff on Flood Hazard Warning Program including real time rainfall and creek elevation web posting and public awareness program.

11. **TIME AND PLACE OF NEXT MEETING**

Thursday, December 11, 2008 at 7:00 pm at the Solano Irrigation District offices.

The Full Board of Directors packet with background materials for each agenda item can be viewed on the Agency's website at www.scwa2.com.

Nov.2008.bod.agd.doc

Any materials related to items on this agenda distributed to the Board of Directors of Solano County Water Agency less than 72 hours before the public meeting are available for public inspection at the Agency's offices located at the following address: 6040 Vaca Station Road, Building #84, Elmira, CA 95625. These materials are also available on the Agency's website at www.scwa2.com/boardmeetings.html. Upon request, these materials may be made available in an alternative format to persons with disabilities.

**SOLANO COUNTY WATER AGENCY
BOARD OF DIRECTORS MEETING MINUTES**

MEETING DATE: October 9, 2008

The Solano County Water Agency Board of Directors met this evening at the Solano Irrigation District. Present were:

Mayor Elizabeth Patterson, City of Benicia
Mayor Len Augustine, City of Vacaville
Mayor Harry Price, City of Fairfield
Mayor Mary Ann Courville, City of Dixon
Mayor Eddie Woodruff, City of Rio Vista
Mayor Pete Sanchez, City of Suisun City
Supervisor Barbara Kondylis, Solano County District 1
Supervisor Jim Spering, Solano County District 3
Supervisor John Vasquez, Solano County District 4
Supervisor Mike Reagan, Solano County District 5
Director Everett Whiting, Reclamation District 2068
Manager Don Holdener, Maine Prairie Water District

CALL TO ORDER

The meeting was called to order at 7:03 pm by Chairman Eddie Woodruff.

APPROVAL OF AGENDA

On a motion by Mayor Sanchez and a second by Supervisor Reagan, the Board unanimously approved the agenda.

PUBLIC COMMENT

No public comment was received.

CONSENT ITEMS

Supervisor Kondylis requested that Agenda Item 5E be pulled from the agenda for further discussion. On a motion by Supervisor Vasquez and a second by Manager Holdener the Board unanimously approved the following consent items, including the addendum to agenda item (B), Additional Expenditure Approvals:

- (A) Minutes
- (B) Expenditure Approvals
- (C) Water Quality Research
- (D) California Asset Management Program

Upon discussion, the Board approved agenda item (E) SCWA Employee Cafeteria Plan, as recommended by staff on a motion by Supervisor Spering and a second by Supervisor Vasquez, with a 9 to 3 vote. Supervisor Kondylis, Mayor Patterson and Director Whiting were not in favor of the motion.

BOARD MEMBER REPORTS

Mayor Eddie Woodruff introduced Councilmember Jan Vick to the Board.

GENERAL MANAGERS REPORT

General Manager Okita updated the Board on Lake Berryessa Storage.

MARINE SCIENCE INSTITUTE PRESENTATION

Steve Wright, a teacher with the River Delta School District offered a presentation of the Discover Voyages, a Marine Science Institute program the Agency began supporting in 2007. During the Discovery Voyages the students experience hands-on learning activities and in-depth discussions of wetlands and estuaries, drinking water, conservation, household hazardous waste, and toxic compounds.

PUTAH CREEK PROPERTY PURCHASES

General Manager Okita updated the Board on ongoing negotiation with Solano Land Trust to purchase a conservation easement on a property adjacent to Lower Putah for future restoration activities. The Board previously authorized in August 2007 for staff to participate in developing a transaction for consideration by the Board. The transaction is still being negotiated by the Solano Land Trust, so currently there is no proposal to consider.

General Manager also informed the Board of another property along Lower Putah Creek of interest to the Water Agency. The property is an active riparian pumper in a key location and the property is for sale. Staff recommended negotiating a purchase of the property with following intentions:

On a motion by Supervisor Kondylis and a second by Supervisor Spering, the Board unanimously approved staff to negotiate a purchase proposal for that property for the Board consideration by the Board.

DELTA COMMITTEE

General Manager Okita updated the Board on the progress of the Bay-Delta Conservation Plan and the associated Delta Habitat Conservation and Conveyance Program. An agreement to participate in development of the Program will be brought to the Board soon for consideration.

TIME AND PLACE OF NEXT MEETING

Thursday, November 13, 2008 at 6:30 p.m. at the Solano Irrigation District offices.

ADJOURNMENT

This meeting of the Solano County Water Agency Board of Directors was adjourned at 8:06 p.m.

David B. Okita, General Manager
and Secretary to the Board of Directors of the
Solano County Water Agency

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 6, 2008

TO : Vice Mayor Campbell
Council Member Hughes

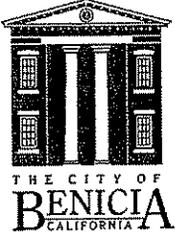
FROM : Dan Schiada, Public Works Director

SUBJECT : **TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS)**
COMMITTEE

The following information is provided for your committee report at the November 18, 2008 Council meeting.

The Traffic, Pedestrian and Bicycle Safety (TPBS) Committee meets quarterly at 7:00 p.m. in the Commission Room at City Hall. A special meeting was held on November 6, 2008. The agenda for that meeting is attached as well as the draft minutes from the July 17, 2008 meeting.

The next TPBS meeting is to be determined.



City of Benicia
**TRAFFIC PEDESTRIAN &
BICYCLE SAFETY (TPBS) COMMITTEE**

SPECIAL MEETING

City Hall – Commission Room
Thursday, November 6, 2008
7:00 pm

AGENDA

I. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Fundamental Rights Statement

II. APPROVAL OF MINUTES

- July 17, 2008 Regular Meeting

III. PUBLIC COMMENT

IV. PRESENTATION (20 minutes)

1. Benicia High School Signal and Entrance Circulation Improvement Project – Progress Report (Michael Throne)

V. ACTION ITEMS

1. Traffic Safety in the Vicinity of Mary Farmer Elementary School
Recommendation: Committee receive input from the public on traffic safety concerns, recommend short-term solutions and include \$50,000 in the FY 2009/11 bi-annual budget to construct future safety enhancement projects around schools.
2. Review of the Preliminary Draft Transportation Projects for the Capital Improvement Program.
Recommendation: Committee review and recommend any desired changes to the preliminary draft list of Transportation Projects for inclusion into the Capital Improvements Program (CIP) and FY 2009/11 bi-annual budget.

VI. COMMUNICATION FROM STAFF

VII. ADJOURNMENT

Public Participation

The Traffic Pedestrian and Bicycle Safety (TPBS) Committee welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The TPBS Committee allows speakers to speak on agendaized and non-agendaized matters

X-A-10-2

under public comment. Comments are limited to no more than 5 minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the TPBS Committee.

Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Valerie Ruxton the ADA Coordinator at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Meeting Procedures

All items listed on this agenda are for the TPBS Committee discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the TPBS Committee.

Public Records

The agenda packet for this meeting is available at the Public Works Department, City Clerk's Office and the Benicia Public Library during regular work hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." If you wish to submit written information on an agenda item, please submit to the Public Works Director as soon as possible so that it may be distributed to the Committee.

Draft
MINUTES
CITY OF BENICIA
TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS) COMMITTEE
Regular Meeting
Thursday, July 17, 2008
7:00 pm

I. CALL TO ORDER -- Meeting called to order at 7:01 pm

1. Roll Call -- Committee Members Present:
Council Member Tom Campbell (Acting Chair), Director of Public Works Dan Schiada, City Engineer Michael Throne, Deputy Police Chief Andrew Bidou
Excused absence: Committee Chair, Council Member Mark Hughes
Staff Present: Senior Civil Engineer Mike Roberts, Administrative Secretary Kathy Trinqué.
2. Pledge of Allegiance
3. Fundamental Rights Statement

II. APPROVAL OF MINUTES FOR APRIL 17, 2008, MEETING

Minutes for the April 17, 2008 meeting were approved by a 4-0 vote of the Committee.

III. PUBLIC COMMENT (none)

IV. VERBAL STAFF UPDATES

1. Traffic Calming Program -- Implementation of Phase 1 Action Plans (M. Roberts)
The Phase 1 Action plans for the neighborhoods on Hastings Drive and West Manor have been implemented. The improvements include new street striping, crosswalks and signage. Only a few minor items are left to complete. The residents have reported that the new traffic calming improvements have reduced speeds and improved safety. Cost came in under budget at \$18,000.
2. Benicia High School Signal and Entrance Circulation Improvement Project -- Progress Report (Michael Throne)
This project is budgeted in the Traffic Impact Fund with an appropriation of \$400,000. Staff submitted a grant application for additional funds, but we did not receive award. Staff will continue to pursue other funding sources to supplement this project.
A conceptual design has been completed and will be posted on the City's webpage, including traffic modeling animation.
\$32,0000 in improvements scheduled for installation before the school year begins include:
 - Red curbs painted at Plaza de Oro, W 11th Street and W 10th Street.
 - "No Left Turn during School Hours" signs at Plaza de Oro

- 8 new “Benicia Blue” benches for students waiting for afternoon school rides.
- New sidewalk installed along W 11th Street to close the current sidewalk gap.
- 2 radar speed signs.

Project construction for the new signal and entrance circulation improvements is on scheduled to begin late May 09 with completion scheduled for November 2009. (For further detail, see report included in the committee agenda packet.)

Tom Campbell requested that we get the conceptual design to the BUSD and City Council as soon as possible.

3. New Police Department Traffic Division (Deputy Chief, Andrew Bidou)

City Council recently approved a small Police Department re-organization. These changes included dedicating 1 officer and 1 sergeant over traffic enforcement. Recruitment to fill this position will close by mid-August. Additional equipment for the new division also needs to be purchased. In addition to traffic enforcement, this new division is also planning bike rodeos at school sites and training for the public about how to properly buckle their children into vehicles (by appointment).

V. ACTION ITEMS

1. Request to Remove In-Street Pedestrian Crossing Signs and Install an All-Way Stop on Hillcrest at La Cruz (Mike Roberts)

Mike summarized the written report. Since the in-street pedestrian signs were permanently installed in 2006, they have been purposely hit, often late at night, by motor vehicles, disturbing nearby residents and requiring City staff to repair them. The two existing high-visibility ladder crosswalks and crossing guard will sufficiently alert cars during school crossing times with an increased police presence to enforce any violations.

In April 2008, the City received a petition signed by 38 residents to remove the in-street pedestrian signs and install 2 stop signs in their place. The TPBS considered a similar request for all-way stop at this intersection in April 2006. At their July meeting, the TPBS decided to install the high-visibility ladder crosswalks and pedestrian crossing signs since this intersection did not meet the stop sign warrants required for new stop sign installation.

Public Comments:

Rebecca Lamet of 66 La Cruz stated that she lives nearby and wants the pedestrian signs removed immediately and an all-way stop installed.

DRAFT

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Doug Hirsch of 61 La Cruz stated that he wants the pedestrian signs removed. The street is too narrow and not enough room to park, but cars park there anyway. Wants a 4-way stop sign installed.

Nora Rogers of 5 El Bonito stated that she's seen cars drive through her yard. Two years ago she wanted stop signs installed. If we can't install stop signs, wants the pedestrian signs to stay. Wants a decision made tonight.

Gary Dias, principal of Robert Semple Elementary School stated that he does duty out front of school and cars come down the hill, signs do slow them down. Kids cross without crossing guards. There are lots of blind spots at the corner. For stop signs, visibility and where they are placed is important. Maybe a flashing light is needed and trees need to be trimmed.

Doug Hirsch stated that this is a busy street with lots of kids on La Cruz, all hours of the day.

Rosemary, the crossing guard on Hillcrest Avenue, stated that she wants the all-way stop sign. The pedestrian signs do work better than nothing.

Janice Adams, BUSD Supt, stated that she used to be the principal at Robert Semple Elementary School and always wanted a stop sign installed here. She supports a 4-way stop intersection, and make sure there is always some signage here.

Julie Kioto of El Bonito stated that this is a safety issue and she wants something done here. Suggests a lighted crosswalk at this location.

Elaine Armistead of Hillcrest stated that this street has lots of kid traffic. She is in favor of a stop sign or lighted crosswalk.

Rick Rodgers of El Bonito stated that speed bumps might help. Something needs to be done here about speed. Cars go very fast on this street.

Nora Rodgers of El Bonito stated that she is concerned that if cars don't stop for pedestrian signs, why would they stop for stop signs?

Committee Discussion:

Dan Schiada: I am concerned about this intersection because if we have vehicles intentionally hitting pedestrian signs, how will a stop sign keep them from breaking that law? A child may cross the street thinking that cars will stop for them, and then they don't. Do we need enforcement first? Before we install a stop sign (which should be the last resort) we need to consider the issue, which is the children's safety. The crossing guard must be commended for her work, this is a difficult job. City staff must evaluate the intersection before installing stop signs – considering, for example, if the traffic is balanced here?

The City has already installed ladder crosswalks and sidewalks and pedestrian crossing signs in the middle of the street. These signs are also in place in the 100 block of East K Street and work very well to slow traffic for pedestrian safety.

I suggest that staff look at this intersection and the data again before school starts to see what needs to be done. Maybe we do need stop signs. Unfortunately, flashing crosswalks cost \$40,000+ to install.

Andrew B: Is there a sight distance problem here that would reduce a stop sign's effectiveness?

Mike R: Traffic backs up on Hillcrest from East 2nd Street. Cars may be surprised by a new stop sign.

Dan. We may need to trim the trees on this street. Also we need to install advanced warning signs from East 2nd Street if we install stop signs. We need to be careful where we place the signs.

Tom C: Are the trees privately owned or belong to the City?

Dan: They are maintained by the adjacent property owner.

Andrew B: I support new stop signs if we can install them within engineering standards.

Michael T: We can engineer everything, but we cannot engineer people's behavior. It is the motor vehicle's driver's responsibility to follow the rules. The problem rests with the residents who live in the neighborhood. Installing stop signs are the maximum engineering we can do besides closing the street. It is important that we look at the stop sign warrants again.

Tom C: It sounds like everyone wants a stop sign. Is there anything else we can do? What about speed platforms?

Michael T: Building a platform in the intersection does work to slow vehicles, but it costs money to install it and it costs money to remove it if it doesn't work.

Tom C: How expensive is it?

Dan S: About \$40,000+/- . This intersection configuration creates a challenge for new stop sign installation. To be effective, we need to include advance warning signs and supplement with strong enforcement from the PD. We need to look at where we want to install the stop sign – at Linda Vista and La Cruz or El Bonito and La Cruz?

Doug Hirsh: I want to see the stop sign put behind El Bonito.

DRAFT

X-A-10-7

Elaine Armisted: What happens if cars fail to stop at the stop sign?
Andrew B: We can write them a ticket for failure to stop.

Tom C: I think the consensus is that we're going to put in a stop sign here.

Dan: We will figure out any sign visibility issues and where to place the advance warning signs. If we place the stop sign at El Bonito, vehicles on El Bonito will have to stop at 2 stop signs. Let's have staff look at this intersection to find the best solution. We can look at the stop sign warrants again to make sure the City's liability is covered.

Motion made by Dan: Approve installation of all-way stop signs and installation of advance warning signs supplemented with focused enforcement by the PD subject to revised stop sign warrants being met. If they are not met, this item will be scheduled for City Council approval.

Nora Rodgers: I'm concerned that school will start without any signs there.

Dan: Legally, City staff cannot override a lack of warrants. In that case, the City Council will have to approve the new stop signs.

Mike R: The issue here is that some people are deliberately breaking the law. We need a police presence to address this behavior. A minority of the residents have affected this neighborhood. We also need a commitment that the enforcement will be there.

Andrew B: The stop signs allow us to enforce this intersection. We have a graveyard duty officer that can focus some time here.

Tom C: Dan will expedite this decision and if needed bring it to the City Council in August.

Michael T: We can also put out giant signs alerting residents of a new stop sign.

Motion seconded by Michael Throne. Approved by a 4-0 vote.

2. Traffic Calming Request for East 6th Street between East J and East I Streets
(Mike Roberts).

Mike summarized his written report. The City received a request and petition for Traffic Calming for this neighborhood. The concern was that northbound vehicles are speeding down the hill on East 6th Street and through the intersection with East K Street. When a traffic analysis was performed here in 2007 no major traffic safety concerns were identified at that time. The committee is being asked to receive input from citizens in the neighborhood, identify issue of concern and recommend a response including enrolling the East 6th Street corridor into the neighborhood traffic calming program.

Michael T: Asked which neighborhoods are already in the queue?

Mike R: There are 3 other neighborhoods in the queue. We are working to fill a new associate engineer position to help move the queue along.

Public Comments:

Bud Willis: The vehicles start accelerating at East I Street with lots of speeding from I to L Street.

Mike R: We can add to this request all the way to I Street.

John Warring of 1101 E 6th Street: The problem is at East 6th and East K Street intersection. Cars race by and there's been 2 major accidents in the last 6 months. I want a 4-way stop put in here.

Kristin Cote of 510 E J Street. I called the police between 7 and 8:15 am and during the evening because they said they have to see the violators. I feel abandoned and scared. There are lots of kids in this neighborhood. Maybe rumble-strips are needed.

Resident of 1138 E K Street. Four cats have been hit here and a truck hit. I want a stop sign installed.

Resident at end of E K Street. There's a blind spot on the hill where you can't see pedestrians. Wants a stop sign installed.

Dana Thurin Cornelious of 1116 E K Street. I walk my children to school at St. Dominic's. It's easy for cars to go fast on the hills. I want 4 stop signs. I realize that it can create a false sense of security. I've been hit by a car in a crosswalk.

Letter from Bernice Cure of 600 E K Street. She has witnessed accidents and near misses. Did not receive a notice of the meeting.

Dylon Kenyon of 1107 E 6th Street. This is the poor side of town. Drunk drivers tend to take the side streets home.

Kristin Cote: I want 2 stops installed.

Committee Discussion:

Mike R. The problem area is only 2 blocks long.

Dan S: This is a focused location. Can we follow the traffic calming process here?

Mike R: It will take about 6 months to work it into the existing queue. It may be appropriate to phase in a less drastic approach.

DRAFT

X-A-10-9

Tom C. It is not OK to wait 2 years, we should try to do something first. Let's move quicker with more staff monitoring of this area.

Mike R: Resident concerns include drunk drivers. Engineering may help, but education engineering and enforcement are necessary because traffic calming is a 3-legged stool that includes all three components.

Tom C. We need to come up with a specific plan, establish criteria to monitor its effectiveness. Then move to the next level, if appropriate.

Mike R: We could put in a lane diet on East K St, high visibility crosswalks and advance warning signs. We will meet with the citizens at a neighborhood meeting to hear and see their concerns.

Andrew B: Explained the limitation of police staff. Unfortunately, drunk drivers don't follow any rules, including stop signs.

Dan S: The first step in traffic calming is education. Let's meet with the neighbors to explain the traffic calming program. Typically in the order part of town there are alternating stop signs. I noticed that there are not stops on E 6th Street from H to L Street.

Motion made by Michael Throne: Include Dan and Tom's previously stated ideas and enroll this neighborhood into the traffic calming program, schedule a neighborhood meeting and walkabout, brainstorming solutions with residents. Bring these ideas and a plan to a future TPBS Committee meeting. Begin with the street smarts program and add enforcement.

Dan S: Amended the motion to include St. Dominic's School in the problem solving.

Tom C: Send a letter to the school asking for parent's involvement.

Mike R: How do we work this in with the other neighborhoods already in the queue?

Tom C: Keep the neighborhoods in the order of the queue.

Motion seconded by Dan. Motion approved by a 4-0 vote.

3. Proposed Pedestrian Flag Program (continuing item (Intro: Mike Roberts/Presentation: Rick Ernst)).

Rick Ernst: (see written agenda item for details.) As a follow-up to the last meeting, I checked with the City Attorney concerning the City's liability and she stated that this program fell within an acceptable measure of risk. I checked with the City of Berkeley and received no response. This program failed in Berkeley after a 3-year process. I want to develop a more complete plan, including a citizen committee, for Benicia, at zero cost to the City.

Tom C: You'll need to present a citywide plan to the City Council for approval not the TPBS Committee. This program does include increased risk/liability issues for the City that should be decided by the City Council.

Dan S: Establishing a new citizen committee is not under the purview of the TPBS and requires review and approval by the City Council. Benicia is a small city with a small already overloaded staff. Trial/pilot programs work for larger cities with more resources than Benicia has. I suggest that you pick one location and ask a service organization to volunteer to monitor it. The size and scope of the program you proposed would require a large staff effort and a challenge for Benicia. Your proposal would require a significant amount of staff time.

Michael T: I have some reservations about this idea. We do have increased liability here. If it didn't work in Berkeley, why would it work here? I may support a narrower scoped trial program. Also this program must be able to be terminated at any time by the City Traffic Engineer, subject to override by the City Council. I do appreciate the thoroughness of your proposal.

Andrew B: How would this work in the rainy season with citizens carrying umbrellas and flags?

Rick E: Seems to work OK in Kirkland, WA, where it rains often.

Tom: This committee has looked at your plan and has gone as far as it can here. We can recommend that the City Council decide whether or not the City wants to proceed.

Motion made by Dan S: As mentioned previously, pick a trial location with a service organization or merchant to monitor it. The TPBS Committee will then forward this request to the City Council for their consideration.

Seconded by Michael Throne. Adopted by a 4-0 vote.

4. Proposed Angled Parking on East L Street in front of City Hall (Mike Roberts)
Mike Roberts introduced this item to the Committee. Staff is recommending that we install angled parking on the south side of East L Street in front of City Hall as part of the recently awarded Civic Center Water Line Project. Angled spaces will increase the number of parking spaces from 12 to 27 and calm traffic by reducing the traffic lane width from 15 feet to 12 feet, creating a 6-foot lateral shift in the centerline strip of the road. There is sufficient funding in the current budget for the \$5,000 approximate cost.

Dan: This provides additional spaces for the public and traffic calming to this street. There's more room for these spaces than those on the side streets off of First Street.

Barbara Woods of 400 Reed Ct. I am a bicyclist and I would have to go another route to the Post Office. Angled parking is dangerous for bicyclists. I'd like you to change F Street back to regular parking.

Committee discussion:

Michael T: I support angled parking in this location. It is a fairly focused community area. We can install advance warning signs of the angled parking and high visibility crosswalks at L and East 2nd Streets.

Rick Ernst: There will be no changes to parking in front of the Police Dept? Are the restrictions the same? This is a great idea for First Street.

Mike R: That's correct.

Michael T: From where is the money funded?

Mike R: Traffic impact fee program.

Motion made by Michael T.: Approval of installation of angled parking in front of City Hall on the south side (Option 1), not to exceed \$5,000 with minor modifications, such as paint.

Dan amended the motion to include ...using thermoplastic for the high visibility crosswalk, paint for the angled parking spaces and buttons for the centerline.

Adopted by a 4-0 vote.

VI COMMUNICATION FROM STAFF (none)

VII. ADJOURNMENT at 9:55 pm

Respectfully submitted,

Kathy Trinqué
Public Works Department
Administrative Secretary

DRAFT

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 6, 2008

TO : Vice Mayor Campbell
Council Member Hughes

FROM : City Manager

SUBJECT : **TRI-CITY AND COUNTY COOPERATIVE PLANNING GROUP**

The following information is provided for your committee report at the November 18, 2008 Council meeting.

The November 19, 2008 meeting of the Tri-City and County Citizens Advisory Committee (CAC) has been cancelled. The next meeting of the CAC is tentatively scheduled for Wednesday, February 18, 2009. A final meeting agenda packet for that meeting is unavailable at this time.

The next meeting of the Governing Board is scheduled for Monday December 8, 2008. Meeting information has yet to be published for this meeting. Once staff receives official meeting notices and other pertinent information for the next Governing Board meeting, this information will be forwarded to Council Members for review.



TRI-CITY AND COUNTY COOPERATIVE PLANNING GROUP

Cities of Benicia, Fairfield, and Vallejo ♦ County of Solano

675 Texas St., Suite 5500 ♦ Fairfield, CA 94533

707.784.6765 (o) ♦ 707.784.4805 (f)

CITIZENS ADVISORY COMMITTEE MEETING

Wednesday, November 19, 2008

7:00 p.m.

**Multi-Purpose Room
County Administrative Center
675 Texas Street, Groundfloor
Fairfield, CA**

AGENDA

**THE TRI-CITY AND COUNTY CITIZENS
ADVISORY COMMITTEE MEETING
SCHEDULED FOR
NOVEMBER 19, 2008
HAS BEEN CANCELLED**

The next scheduled Governing Board meeting is Monday, December 8, 2008

The next scheduled CAC meeting is Wednesday, February 18, 2009

R:\PLANNING\Long Range Projects\Tri-City & County Open Space Co-op Planning Group\Agencies\0000111-9-08 CAC Agenda-Cancelled.doc

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 7, 2008
TO : Council Member Hughes
FROM : Gene Gantt, Fire Chief
SUBJECT : **VALERO COMMUNITY ADVISORY PANEL (CAP)**

The following information is provided for your committee report at the November 18, 2008 Council meeting.

The CAP meets quarterly at 6:30 p.m. at the refinery at 610 Industrial Way. The last CAP meeting was on Thursday, Sept. 25, 2008. The next meeting date is tentatively set for the first week in December. Once the date is finalized, it will be communicated in a future committee report.

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 6, 2008

TO : Council Member Mike Ioakimedes
Council Member Schwartzman

FROM : Youth Action Coalition

SUBJECT : **YOUTH ACTION COALITION**

The following information is provided for your committee report at the November 18, 2008 City Council meeting.

There will be no November meeting due to the holiday.

The next meeting of the Youth Action Coalition is Wednesday, December 3, 2008 at 3:30 p.m. in the Commission Room at City Hall. The agenda is not yet available.

There were no minutes from the October 22, 2008 meeting, it was a training session conducted by the Solano County ATOD consultants on Strategic Framework Planning.

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 7, 2008
TO : City Council
FROM : Mayor Patterson
SUBJECT : **ABAG/CAL FED TASK FORCE/BAY AREA WATER FORUM**

The following information is provided for your committee report at the November 18, 2008 City Council meeting.

The October 27th meeting of the Water Forum was cancelled. The next meeting is scheduled for November 24, 2008. The agenda for that meeting has not yet been distributed.

REQUEST FOR ITEM ON COUNCIL AGENDA

Requested by:

Mayor Patterson

Requested Council Meeting Date:

November 18, 2008

Agenda Item Name:

Request to agendize the discussion of the need for an ordinance regarding amending development agreement ordinance.

Existing city ordinance permissively allows development agreements. This request is to require vested tentative maps, master plan and/or rezoning for greater than 40 acres (per BMC 17.68.020) to execute development agreements prior to entitlements.

BMC Section XXXX Application.

Application for a development agreement shall be made by a person, or the authorized agent of a person, having a legal or equitable interest in the affected property. Application shall be made on a form prescribed by the planning and community development director and shall be filed with such department. The application shall be accompanied by a fee prescribed by the city council, and a project description, which shall include the following:

A. A legal description of the affected property, a listing of property owners, and the proposed parties to the agreement;

B. A description of the development project, indicating the permitted uses of the property, floor-area ratio or density, building height and size, phasing of development, provisions for the reservation and dedication of land for public purposes and such additional information as may be required to allow the applicable criterion and factors to be applied to the proposal. Such information may include, but is not limited to, site and building plans, elevations, relationships to adjacent properties, and operational data. Where appropriate, the description may distinguish between elements of the project that are proposed to be fixed under the agreement and those that may vary;

C. An identification of any planned unit development permit or other special zoning approval that has already been obtained for the development project;

- D. The special conditions, if any, to be imposed;**
- E. The timing of the development project;**
- F. Public facilities financing plan;**
- G. A statement of the relationship to the specific plan and to the general plan; and**
- H. Other items specific to the project proposal, as determined by the city attorney or planning and community development director.**

BMC Section XXXX Application--Request for development agreement.

A specific plan application may include a request that the city enter into a development agreement with the property owner(s) or applicant for development within the specific plan area. To the extent practicable, the development agreement application shall be processed concurrently with the specific plan application. Provisions of this chapter may be varied if expressly authorized through approval of a development agreement.

REQUEST FOR ITEM ON COUNCIL AGENDA

Requested by:

Mayor Patterson

Requested Council Meeting Date:

November 18, 2008

Agenda Item Name:

Vesting Tentative Map application

This item is to amend existing subject procedures to add the requirement for Council approval of vesting tentative map application to deem application complete.

It is intended to link vesting tentative maps to development agreements.