

From: Anne Cardwell
To: Council
Date: 5/16/2008 11:23:08 AM
Subject: Fwd: Seeno

>>> Luis Delgado <ldarchitect@sbcglobal.net> 5/16/2008 11:19 AM >>>

Anne,

Could you please forward this link about Seeno to all the of the Council and Planning Commission. I think it is worth reading.

http://www.insidebayarea.com/ci_9210458

Thanks,
Luis Delgado

CC: Charlie Knox; Heather McLaughlin; Jayne York



Pittsburg work begins without approval

By Paul Bugarino
East County Times

Article Created: 05/09/2008 05:28:12 PM PDT
PITTSBURG — Hillside work by a Contra Costa County developer with a history of environmental violations appears to have proceeded without approval from the city and the Department of Fish and Game.

Since January, the California Department of Fish and Game and Pittsburg have been investigating the reshaping of the hills on the western portion of the San Marco subdivision last year by Albert Seeno III's Discovery Builders, including the possible destruction of a seasonal stream.

An inspection by the Times of all Pittsburg grading permits pertaining to San Marco's buildout found no current documentation of approval by city engineers for work on the western part of the development. The search found grading permits from completed sections of the subdivision, the last one expiring in 2003.

The search also found a 1997 agreement between Albert Seeno Jr.'s West Coast Home Builders and the Department of Fish and Game that allowed some fill work on wetlands provided that a new, larger wetlands be created. However, that permit expired in December 2005.

Seeno officials contend they followed the law in their grading. Last month, a Seeno spokesman said the grading was in accordance with permits issued by Pittsburg and all appropriate regulatory agencies. Seeno attorney Bill Goodman echoed that sentiment

this week.

In a voice message, Goodman said the Seeno companies "believe that they have been in compliance with all applicable laws. We are not going to provide any comment beyond that." Calls to his office were not returned Friday.

Inquiries to obtain permit information from Discovery Builders went unanswered.

Pittsburg City Engineer Joe Sbranti said that no significant new details have emerged since staff started looking into the matter. There is "no record of any valid permit" under which Seeno was operating, Sbranti said.

Sbranti said city engineers, in conjunction with the Fish and Game investigation, are examining the original development agreement to see whether the language gives Seeno the right to grade the hillside, adding he doesn't believe it does.

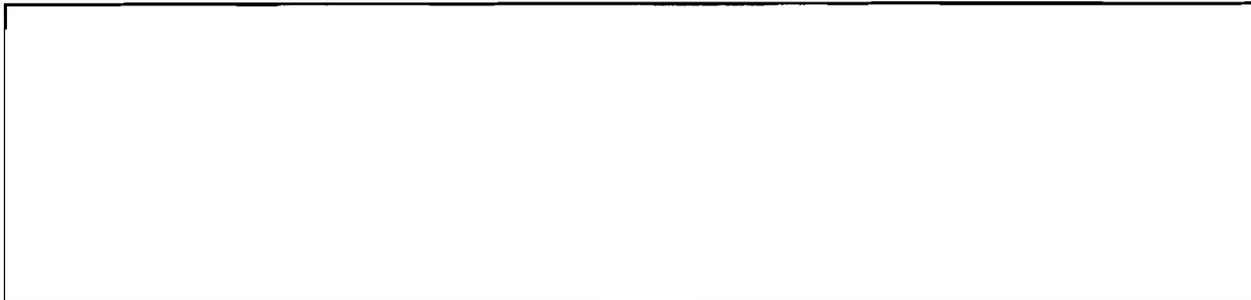
Language in the March 1990 development agreement between Pittsburg and Seeno's Secon Financial Construction Co. allows for some permitted grading but says the project would require grading in excess of what is permitted under applicable hillside regulations.

In the agreement, the city said additional grading would be handled through its "normal property development process."

A 2001 amendment to the agreement extended the contract's duration to Oct. 1, 2020, but no additional language in that or subsequent amendments pertaining to permits was specifically mentioned.

Nicole Kozicki, a warden with the Department of Fish and Game, said the investigation includes not

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only permit violations but whether Seeno improperly altered the streambed and caused erosion with the grading.

Point. Reach him at 925-779-7164 or pburgarino@bayareanewsgroup.com .

The 1997 agreement said work was to be confined between April 15 and Oct. 1. However, Kozicki said she discovered the fresh grading last winter while driving on Highway 4.

Other permits for grading the streambed are issued by the Army Corps of Engineers and state Department of Water Resources. Thus far, those agencies have found the permits to be expired as well, Kozicki said.

Kozicki said Fish and Game has discussed the case with both the state Attorney General's office and county District Attorney's office, and hopes to have the majority of the investigation completed by the end of this month.

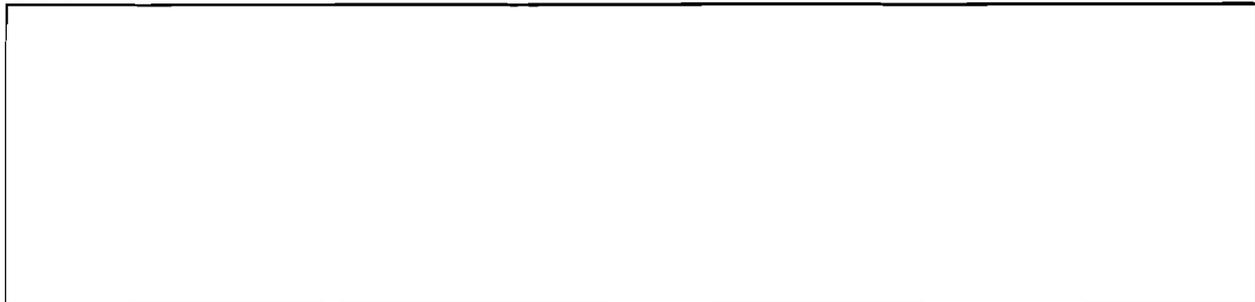
The penalty for depositing soil into waters of the state and/or altering a streambed without permits is \$25,000 per civil violation and \$1,000 and/or one year in jail per criminal misdemeanor, according to Kozicki.

The Seeno family of homebuilders has been investigated and fined multiple times over the past several years for environmental violations from its developments, including a \$3 million settlement earlier this year concerning grading work at an Antioch subdivision.

In 2002, Albert Seeno Jr.'s West Coast Home Builders agreed to pay \$1 million in fines and restitution for violating the federal Endangered Species Act for its 2001 killing of threatened red-legged frogs and deliberate destruction of frog habitat at San Marco.

Paul Burgarino covers Pittsburg and Bay

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Diane Henry - Fwd: Letter for City Council

From: Diane Henry
To: Diane Henry
Date: 5/15/2008 8:19 AM
Subject: Fwd: Letter for City Council

>>> Norma Fox <normafox@hotmail.com> 5/14/2008 12:42 AM >>>

Dear Anne,

I don't know what happened. I sent the attached letter off to you at 4:30, but now, when I looked in my Sent Messages folder, it's not there!! My computer ate it. I even remember seeing a confirmation message. Oh well.

So, if it's still possible to include it in the Council Packet this morning, please do. But if not, please forward it to all the Council members today, and print out extra copies for the side table.

I hope it will become part of the 'official record' even if it's not in the Packet.

Thanks very much,
Norma

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Dear City Council Members,

The EIR Addendum for the revised Benicia Business Park makes economic claims of positive net revenue flow that are unsubstantiated by quantitative up-to-date financial data. They are basing those claims on their 2006 Economic Study which was based on financial data from 2005 and which utilized economic outlook assumptions and projections that were considered valid in 2006. Furthermore, it is an analysis of a former version of the project, one that contained 50% more revenue-producing industrial components than the current version. Since the US economy is currently sliding into a severe and long lasting economic downturn, the out-dated financial data and economic assumptions and projections from 2006 are no longer reliable or valid.

Benicia's General Plan Policies on Sustainable Economy (Prog.2.5.c) requires future development uses to be evaluated on a cost/revenue basis for the long term. Obviously, this requirement intends that evaluation to be based on reliable up-to-date financial data. Thus the applicant's revised project is out of compliance with this General Plan requirement for a reliable up-to-date cost/revenue evaluation of the project.

For the same reason, they are out of compliance with the CEQA requirement for a reliable urban decay analysis (again, one based on up-to-date financial data). Their original, and still unchanged, urban decay analysis was based on the same data in the 2006 Economic Study.

The City Council itself, in your condition of approval of the FEIR, stipulated that when the applicant brought forward the revised project proposal, it should contain an urban decay analysis. I'm sure you intended it to be based on current economic conditions and data, not that they should provide you with the same out-dated urban decay analysis that they had already provided to you in 2006!

The recent severe economic downturn constitutes "new information of substantial importance which was not known at the time of the original EIR and which will cause significant effects that were previously examined" [i.e., economic and fiscal projections; urban decay] "to be substantially more severe than shown in the previous EIR."

Furthermore the booming and promising cleantech industry that has very recently emerged both nationally, and particularly in the Bay Area, constitutes additional *"new information of substantial importance which was not known at the time of the EIR."* Because of this new information, *"the project" [as currently proposed and designed] "will have a significant effect not discussed in the previous EIR."*

That significant effect is a huge lost economic opportunity to the City if we proceed with the current project's plan of Phase I freeway oriented commercial development, followed 5-8 years later by a gradual build out of mixed bag industrial uses (poorly matched to our employment demographics), instead of redesigning and refocusing the entire project concept to one focused on a cleantech R&D theme, and beginning with that immediately in Phase I.

CEQA law requires a Subsequent EIR if *"new information of substantial importance, causing significant effects"* was not covered in the previous EIR. For all of the above reasons, the applicant should have provided a Subsequent EIR with a new cost/revenue Economic Impact Analysis and Urban Decay Analysis and they were negligent in not doing so.

Thus the City Council has every legal right, because of CEQA and General Plan noncompliance, to deny the current project based on their provision of inadequate, unreliable and unquantified data to support their claims..

Your vote on a project of this magnitude (which could pull down the entire town's economy for years to come if we don't get it right) requires that your decision must be based on a careful economic review of quantifiable and reliable financial data that has been thoroughly vetted and approved by independent financial experts. No such review has ever been done by the Council, and there is now no reliable Economic Impact Analysis to base it on.

Please do not request or grant an extension of time to the applicant to come back with all the missing data and analyses that they should have provided. The gaming of this city must end. They set the statutory clock ticking with the approval of the EIR, and they were negligent in providing the documentation that you specifically required of them when you approved the EIR. You are required by law to approve or deny the project by June 3. Please simply deny it. Do not allow the applicant to drag this game out any longer.

With a denial of the project we can clear the decks of this complicated mess of conditions of approval and unmitigatable environmental effects. The applicant and the city can collaborate together, utilizing the coplous material produced by our EIR review process, to quickly pull together a brand new project based on a 21st Century business and environmental vision, and one that capitalizes and focuses on the tremendous cleantech economic goldmine that is within our reach.

The new project should be legally codified by a Development Agreement. It must also strictly conform to our many General Plan sustainability requirements, including our economic sustainability goals such as encouraging new development that provides substantial and sustainable fiscal and economic benefits; targeting firms that pay high wages and jobs that relate to the skills and education levels of Benicia residents; protecting and preserving our downtown business district as our central business core; and conducting thorough evaluation of future uses on a cost/revenue basis for the long term.

These General Plan economic goals were spelled out more specifically and concretely in our 10-year Economic Development Strategy, that was approved and adopted by the City Council in September of 2007, and which calls for a strategy of attracting "clean energy, high tech, research and development businesses to our industrial areas, and developing them in a campus-like setting." The stated reason for focusing on this type of business development was that it would provide jobs that more closely match our well educated and skilled Benicia employment pool.

You now have the opportunity to realize these goals for Benicia if you deny the project before you by June 3, and you have every legal right to do so. Please don't miss this opportunity. Benicia is counting on you to guide us forward into a prosperous and sustainable 21st Century, not backwards with a business model that fits the economic conditions of the 20th Century. Your vote on June 3 will set the direction and trajectory for our economic future. Which way will it go?

Norma Fox
May 13, 2008

Diane Henry - Fwd: Doc for City Council: Def of cleantech and list of industries

From: Anne Cardwell
To: Council
Date: 5/15/2008 4:24 AM
Subject: Fwd: Doc for City Council: Def of cleantech and list of industries
CC: Charlie Knox; Diane Henry; Heather McLaughlin; Jayne York

>>> Norma Fox <normafox@hotmail.com> 5/14/2008 11:31 AM >>>

Dear Anne,

I have attached a 1-page doc that give a short definition of what is meant by the Cleantech/Green Industry and also provides a summary list of the broad spectrum of California industry segments that are involved in developing cleantech products, services and processes.

I think this helps to dispel the myth that focusing on Cleantech for our Business Park would be putting all our eggs in one basket and not allowing for enough diversification.

I would appreciate it if you would email this attached document to the City Council members and put extra copies of the document on the side table.

Thanks,
Norma

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INVENTORY OF CALIFORNIA'S GREEN INDUSTRY FIRMS: How Large is the Industry?

Establishing a clear accounting of the growing number of businesses with primary activities in providing environmentally sustainable products and services is challenging. Exactly what types of businesses are meant when referring to this new and growing industry can vary widely.

What is a "Green" Business?

The scope of businesses examined for this study is based roughly on the definition of Cleantech established by the Cleantech Group, LLC™.

Cleantech is new technology that spans a broad range of products, services and processes that lower performance costs, reduce or eliminate negative ecological impact, and improve the productive and responsible use of natural resources.¹⁰

In addition to new technology firms, this analysis aims to capture other related business activities that either support the wide-spread application of new technologies such as solar system installations or apply new technologies as service providers for instance in emissions monitoring. In addition, specialized business services are developing with a focus on serving the particular needs of green businesses. Complicating the categorization, the activities of a business often blur across categories.

Typically, industry analyses examine a sample of business establishments defined by a select set of industry codes such as the North American Industry Classification System (NAICS). For indentifying green businesses; however, these codes do not provide sufficient detail.

<p>GREEN INDUSTRY SEGMENTS adapted from Cleantech™ *</p> <ul style="list-style-type: none"> Energy Generation Energy Efficiency Transportation Green Building Energy Storage Environmental Consulting Water & Wastewater Finance/Investment Environmental Remediation Air & Environment Business Services Research & Alliances Agriculture Recycling & Waste Materials Manufacturing/Industrial

Cleantech Industry Segments

Source: Cleantech Group, LLC™

<p>Energy Generation Wind Solar Hydro/Marine Biofuels Geothermal Other</p> <p>Energy Storage Fuel Cells Advanced Batteries Hybrid Systems</p> <p>Energy Infrastructure Management Transmission</p> <p>Energy Efficiency Lighting Buildings Glass Other</p> <p>Transportation Vehicles Logistics Structures Fuels</p>	<p>Water & Wastewater Water Treatment Water Conservation Wastewater Treatment</p> <p>Air & Environment Cleanup/Safety Emissions Control Monitoring/Compliance Trading & Offsets</p> <p>Materials Nano Bio Chemical Other</p> <p>Manufacturing/Industrial Advanced Packaging Monitoring & Control Smart Production</p> <p>Agriculture Natural Pesticides Land Management Aquaculture</p> <p>Recycling & Waste Recycling Waste Treatment</p>
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This data taken from Report: **Clean Technology & the Green Economy, March 2008**
http://www.labor.ca.gov/panel/pdf/DRAFT_Green_Economy_031708.pdf

Anne Cardwell - Fwd: Benicia Business Park GP Policy Consistency

From: Charlie Knox
To: Anne Cardwell
Date: 5/8/2008 11:14 AM
Subject: Fwd: Benicia Business Park GP Policy Consistency

>>> "Adam Weinstein" <Adam.Weinstein@lsa-assoc.com> 5/8/2008 10:25 AM >>>
Chartie,

We agree with Mr. Goetz that the revised project would be consistent with some of the General Plan goals, policies, and programs only if the non-binding components of the project (e.g., Master Plan Overlay Design Guidelines) were to be implemented. Indeed, throughout the Addendum (including in Table 4, Relationship of the Mitigated Project to Relevant City of Benicia General Plan Policies) we deliberately note that certain provisions of the revised project are non-binding. In doing so, we implicitly suggest that the revised project may not achieve all potential environmental gains that are listed in the revised application.

Our primary point of disagreement with Mr. Goetz is his expressed notion that the revised project must be consistent with every General Plan policy adopted for environmental protection in order to reach a finding that the revised project would not result in a significant impact associated with conflicts with General Plan policies adopted for environmental protection. We believe that this approach is unreasonably rigid and probably isn't supported by the CEQA Guidelines or case law, which urge that policy-related impacts be treated somewhat cautiously, with an emphasis on physical environmental impacts rather than the policy inconsistency itself. Policy impacts should also be examined in light of the General Plan's designation of the project site for business park uses.

What we found in preparing the Addendum was not that the project was consistent with every General Plan policy adopted for environmental protection, but that the project was substantially compliant with such policies -- that is, compliant enough for the revised project not to result in the significant unavoidable physical impact associated with massive grading and removal of creeks/wetlands. The finding that the earlier project would result in a significant policy-related impact was based on substantial inconsistency with four key policy themes: preservation of hillsides; preservation of creeks and wetlands; protection of visual resources; and promotion of alternative transportation.

The revised project, even analyzed on its own (and not in comparison to the earlier project), does fairly well in the first three categories. The prominent hillsides in the site would be preserved; all creeks and wetlands would be preserved within buffers; and the protection of these resources would retain much of the visual character of the site. As we point out throughout the document, including in Table 4, the revised project would not promote (or only marginally promote) alternative transportation. However, we stand by our point that the connected open space provides a framework for the development of pedestrian/bike trails in the project site -- and that this feature of the project represents a slight improvement in the context of alternative transportation compared to the earlier project. The earlier project would have largely precluded the development of such a trail system - and that fact that the revised project would allow for alternative transportation features in the future is important.

Although the revised project is inconsistent with the alternative transportation policies, we don't think this pushes it into the realm of a significant policy impact because the traffic (the significant physical impact) that would result from the revised project is more a function of the type (business/industrial park), size (large), and location (surrounded by industrial uses and open space, and near the freeway) of the project than the fact that the project doesn't comply with alternative transportation policies. Therefore, we based our "substantially consistent" finding on the consistency of the project with hillside preservation, wetland protection, and visual character preservation policies. The revised project isn't 100 percent compliant with every environmental policy, but it is consistent with the spirit of most of the policies, particularly as they pertain to a site that is designated in the General Plan for business park development.

Let me know if you want to discuss further.

Adam Weinstein
Associate

LSA Associates, Inc.
2215 Fifth Street
Berkeley, CA 94710

From: Marilyn Bardet <mjbardet@sbcglobal.net>
To: Charlie Knox <Charlie.Knox@ci.benicia.ca.us>
Date: 5/8/2008 11:08:44 AM
Subject: Rohnert Park offers model on sustainable development goals and strategy for city

Good morning, Charlie,

I've continued my research, looking for model examples of how to help our city attain criteria and standards for sustainable development, with regard to new development, especially Seeno business park and the approach of attaching conditions for approval.

Yesterday, I sent you a pdf that I wanted on record, the draft Land Use Subcommittee of Climate Action Team (LUSCAT)), which is the draft paper reviewing and recommending land use planning and transportation strategies for meeting AB32 greenhouse gas emissions reductions target. This particular paper is currently under review, and the public and all stakeholders are invited to the upcoming meeting in Sacramento, May 14th, to discuss further ideas, for final presentation to the Air Resources Board, (with comments due on the paper by May 21).

It so happens that one of the presenters at a previous Haagen Smit Symposium held in April, which supports the draft LUSCAT paper, was Jake Mackenzie, Mayor of the City of Rohnert Park. His powerpoint presentation, available on pdf (attached below) I would like entered into the official record on Seeno, and for Council's information on the use of development agreements to pin down strategies for assuring that greenhouse gas reductions called for by AB32 can be met by the Seeno project.

Rohnert Park has established a comprehensive set of goals and policies for achieving sustainability that I think offer the best model to follow, especially for new development: ("Applying sustainability to a major development", especially pages 18 - 45, on "Sonoma Mountain Village" project.) In this presentation is described how a development agreement can address sustainability goals for AB32.

Please take a moment to review this slide presentation, which reads easily. Rohnert Park's plan is a great road map to follow for Benicia, for Seeno project and for all other development. I think it would be of great interest to invite Mayor MacKenzie to Benicia, for a public presentation at Council to explain his city's sustainability plan.

—Marilyn

CC: Elizabeth Patterson <elopato@elizabethpatterson.com>, Alan Schwartzman <ams@advancedmtg.com>, Mike Ioakimedes <Shoreline127@aol.com>, Tom Campbell <Bullwinkle94510@aol.com>, Anne Cardwell <Anne.Cardwell@ci.benicia.ca.us>, Jim Erikson <Jim.Erikson@ci.benicia.ca.us>, Amalia Lorentz <Amalia.Lorentz@ci.benicia.ca.us>, <beniciafirst@googlegroups.com>, Mark Hughes <MxH3@pge.com>

From: Marilyn Bardet <mjbardet@sbcglobal.net>
To: Charlie Knox <Charlie.Knox@ci.benicia.ca.us>
Date: 5/7/2008 10:45:01 AM
Subject: For the Seeno official record, for council : Draft LUSCAT Report on transportation and landuse planning to meet AB32 requirements

Good morning Charlie,

This morning I've read several pdf files related to an upcoming special meeting to be held in Sacramento, May 14th, sponsored by the The Land Use Subgroup of the Climate Action Team (LUSCAT) to discuss ways in which land use planning and transportation strategies can address the problem of green house gas reductions required by AB32. This meeting will incorporate proceedings and findings of the Haagen Smit Symposium held in April, which dealt similarly with meeting AB32 requirements. Interestingly, one of the presenters at the symposium discussed the weaknesses in CEQA at getting at the problem of reducing greenhouse gas emissions.

I would like the full "Draft LUSCAT Report" entered into the record and distributed to Council members for discussion on May 20th. This report is available right now, (Acrobatg PDF, 83 pages, 857kb).

I also think it would be wise to send a staff member to this meeting, to bring back information to the city as to how AB32 can be best addressed with specific regard to the masterplan for the new version of the business park project.

Here's the link where you can find the LUSCAT Report:

CC: Tom Campbell <Tom.Campbell@ci.benicia.ca.us>, Alan Schwartzman <ams@advancedmtg.com>, Anne Cardwell <Anne.Cardwell@ci.benicia.ca.us>, Mark Hughes <MxH3@pge.com>, Mike loakimedes <Shoreline127@aol.com>, Dana Dean <dana@danadean.com>, <Beniciafirst@googlegroups.com>, Elizabeth Patterson <elopato@comcast.net>

<http://www.climatechange.ca.gov/luscat/meetings.html>

It's imperative that the masterplan reflect our General Plan's goal for sustainability in the context of AB32; and so, we must be able to establish through this review process those criteria that can best reduce the project's carbon footprint, especially with regard energy efficiencies and reduction in commute traffic overall. Obviously, we believe that it's imperative to recruit clean tech businesses that will take advantage of our educated community as an employment pool as one way to address the traffic problem.

—Marilyn

Diane Henry - Fwd: FW: Important reports on economic potential of cleantech industry in Bay Area

From: Anne Cardwell
To: Jayne York; Lisa Wolfe
Date: 5/7/2008 8:48 AM
Subject: Fwd: FW: Important reports on economic potential of cleantech industry in Bay Area
CC: Diane Henry

Another one for 5/20 - this is the one Norma mentioned last night as missing from the back table.

>>> Anne Cardwell 5/2/2008 5:20 PM >>>

Hi,

It looks like some of you already received this, but just in case...

thanks,
Anne

>>> Norma Fox <normafox@hotmail.com> 5/2/2008 4:46 PM >>>

Hi Anne,

Can you check and make sure that this email did get to the Council members.

Also, please forward it to any other interested persons, such as Jim Erickson, Amalia Lorentz, Charlie Knox, etc.

thanks very much,
Norma Fox

From: normafox@hotmail.com
To: epatterson@ci.benicia.ca.us; tcampbell@ci.benicia.ca.us;
mhughes@ci.benicia.ca.us; mioakimedes@ci.benicia.ca.us;
aschwartzman@ci.benicia.ca.us
Subject: Important reports on economic potential of cleantech industry in Bay Area
Date: Fri, 2 May 2008 16:41:01 -0700

Dear City Council members,

I've been doing some research on the economic potential of the emerging cleantech industry in the Bay Area and I've found some reports that I beg you to read.

(I'm just providing links to the reports rather than attached files. The link should open up the report (pdf) and you can either read it online or print it out. If the link doesn't work, let me know and I'll send the file itself or hand deliver it.)

After reading these reports I'm convinced that it's imperative, for the healthy economic future of Benicia, that the Seeno project must begin with the industrial zone as Phase I (with a specific cleantech R&D focus), and not with the commercial zone.

After a 7-8 year build out of the commercial zone as Phase I, we will have missed out on our golden window of economic opportunity! It's all happening now, not 8 years from now (explosion of University R&D, spin off cleantech businesses, govt. initiatives and grants, venture capital, etc.). And we are perfectly situated, 40 min. from UC Davis and 40 min. from UCB, with acres of vacant land already zoned industrial, and a well matched employment pool, and relatively low cost housing, and good schools. (It might also give us a better shot at getting a ferry stop here.) This could be Benicia's golden egg. But only if we act now.

Remember that our 10-year Economic Development Strategy--adopted by Council last fall--does call for 'clean energy high-tech R&D uses in our industrial districts' in the next ten years (not commercial development there).

I really believe if we require Seeno to pay for a thorough and up to date economic analysis (such as this example of what Oakland did for their Gateway Development Area) comparing the projected economic viability of his current development scenario with the projected economic viability of a cleantech industrial/R&D campus (assuming Phase I begins with industrial/R&D), it would clearly show the later to be far more likely to be economically successful -given the context of today's current and future economic pressures, constraints and opportunities.

The General Plan Policies on Sustainable Economy (Prog.2.5.c) calls for evaluating future uses on a cost/revenue basis for the long term. Apparently Seeno produced some sort of rosy economic analysis in 2006, based on old data, (which no one has ever seen) but it was never reviewed and vetted for accuracy by any independent financial expert or economist.

Would it be possible for the Council to require an up to date and professional economic analysis, with independent audit and verification, comparing the above Cleantech scenario to Seeno's proposed plan, before any project can be approved?

Anyway, here are the links to the reports. Think about what this could mean for Benicia's future and jobs for Benicians. Thanks for your time!
--Norma Fox

1) Clean Technology And the Green Economy, March 2008
http://www.labor.ca.gov/panel/pdf/DRAFT_Green_Economy_031708.pdf

2) Clean Energy Trends 2008 , March 2008
<http://www.cleantech.com/reports/pdf/Trends2008.pdf>

3) Innovative Energy Solutions from the SF Bay Area: Fueling a Clean Energy Future, June 2007
<http://www.bayeconfor.org/media/files/pdf/FuelingACleanEnergyFuture.pdf>

4) The Economic Development Potential of the Green Sector, June 2006
<http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1086&context=lewis>

Windows Live SkyDrive lets you share files with faraway friends. Start sharing.

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Heather McLaughlin - Further comments on Benicia Business Park

From: "bob craft" <bob.craft@comcast.net>
To: <epatterson@ci.benicia.ca.us>, <eschwartzman@ci.benicia.ca.us>, <mioakimedes@ci.benicia.ca.us>, "Mark Hughes" <mhughes@ci.benicia.ca.us>, <tcampbell@ci.benicia.ca.us>
Date: 5/7/2008 8:41:43 AM
Subject: Further comments on Benicia Business Park
CC: "Charlie Knox" <cknox@ci.benicia.ca.us>, <jerickson@ci.benicia.ca.us>, <Heather.McLaughlin@ci.benicia.ca.us>, "Anne Cardwell" <Anne.Cardwell@ci.benicia.ca.us>

Mayor and Council Members,

As I will be unable to attend the next meetings on the Business Park, I would like to add a couple of comments to what I said last night at the Hearing.

1. Justified or not, there is a level of concern among many re the reliability of the developer. Therefore, I suggest the following:

a. As a condition of approval (and in a badly needed developer agreement if that can be struck), an independent level of oversight by a professional engineering firm should be funded by the developer through the city. (Funds passed to the city which hires the independent firm and pays them using the developer funds.) The firm should issue a written report on their letterhead to the city each month and this posted on city website. It is important that an outside firm be used for this; their professional reputation will be on the line and this will be obvious to the citizenry.

b. This will not/should not preclude direct city oversight as well and additional qualified employee(s) should be funded by the developer for this purpose. This city employee(s) should be on site daily for whatever amount of time is necessary.

c. Consider and implement some form of a community or citizen advisory panel to work with the city and developer during the course of the project. Terms of reference for the group will obviously be important and would have to be negotiated but, at a minimum, the group should meet monthly and report in writing to the council following each meeting. Reports should be posted on the city website.

d. the combination of a, b & c above will enable a "trust but verify" approach which should assuage many concerns of the public.

2. I hope you folks are able to get out in front of this and project an aura of proactive leadership re this project. From my perspective - fair or not, that is not yet the case. In one fell swoop, the planning commission did project leadership. There is absolutely no question in my mind that all of you are more than capable of doing this. But, if not now, when?

Respectfully submitted,

Bob Craft
745-3956

May 6, 2008

To the Members of The Benicia City Council

It's obvious that Seeno/ Discovery Builders is a successful company. I might not agree with their business model, but they know how to stay in business. I believe that they have been financially successful because they do plan ahead. They bought the 527.8 acres of undeveloped land at least twenty years ago.

What are their plans for the 32-35 acres of commercial development in the Benicia Business Park? In the Urban Decay Environmental Impacts of the Benicia Business Park EIR it states that: *A substantial change in tenant mix would be a change that increases the **POTENTIAL for urban decay in Downtown Benicia or other local commercial centers, and could include (but would not be limited to) the addition of a big box retail tenant.*** The original suggestions for tenant occupants included a 24-Hour Truck stop and restaurants. At the August 2007 City Council presentation it was suggested that Trader Joe's and Whole Foods might be possible tenants. The new Addendum suggests hotel, restaurant sites, a movie theater, and a Fitness Center.

These casual suggestions as to who will be the tenants in the Benicia Business Park Commercial development sound intriguing, but have no concrete foundation in reality – the devil is in the details.

The Benicia Police Dept. has requested a police building within the commercial development, with parked police cars, visible from I 680. Is it possible that the Benicia Police Department has their own vision of the commercial development of the Benicia Business Park?

The crucial questions are: Is Seeno/Discovery Builders working with any prospective commercial tenants and who will be the tenants? The City Council should have some tangible, concrete, reassurance from Seeno/Discovery Builders that there will be a tenant mix in the commercial development that will not contribute to the Urban Decay of the City of Benicia.

Sabina Yates
302 Bridgeview Ct.
Benicia CA 94510
(707) 746-6428 redfoxred@earthlink.net

AN EASY GUIDE TO RECENT SEENO HISTORY:

Seeno Fined 3 million for environmental damage, Antioch

http://www.greenbelt.org/resources/press/clippings/clip_2008jan15seeno.html

Intentional Killing of endangered species

Department of Justice Summary

[http://www.usdoj.gov/enrd/Electronic Reading Room/lit Accomplish 2002.html](http://www.usdoj.gov/enrd/Electronic_Reading_Room/lit_Accomplish_2002.html)

General story: Additional detail

<http://www.sfgate.com/c/a/2002/06/29/MN59445.DTL>

Rating of Seeno by homeowners satisfaction: JD Powers Survey

2007 Survey: Among 16 area builders, Seeno rated last.

http://findarticles.com/p/articles/mi_qn4176/is_20070810/ai_n19478745

Follow the story of Measure P in Pittsburgh—Allowing major Seeno growth.

http://www.greenbelt.org/resources/newswire/camp_pittsburg_brentwood.html

Another story on Measure P;

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2005/10/27/BAGHGFEET1.DTL>

Seeno, hazardous waste fine, (\$300,000) Antioch

<http://www.antiochpress.com/printFriendly.cfm?articleID=548>

Seeno investigation for environmental damages from Grading, permits etc. Pittsburgh

http://www.contracostatimes.com/ci_8885774

Seeno Construction Accused Of Destroying Pittsburgh Creek

<http://www.ktvu.com/news/15824039/detail.html>

Nevada gaming interests of Seeno

See Bottom, 2nd page and on.

<http://209.85.173.104/search?q=cache:DSE5Dd6sB50J:www.rob-profile.com/Articles%2520of%2520significance%2520and%2520anticipation%2520May%252006.doc+Seeno+and+Nevada+Licenses&hl=en&ct=clnk&cd=2&gl=us&client=firefox-a>

Seeno family, relationships, fines and interests in Nevada casinos.

http://www.reviewjournal.com/lvrj_home/2004/Oct-02-Sat-2004/business/24900505.html

Major Study of Social Change (UCBerkeley) by Tamsen Anderson focusing upon the evolution of one bay area industrial suburb (Pittsburgh)

Contains a very interesting section on the role of Seeno.

http://repositories.cdlib.org/issc/fwp/ISSC_WP_05/

Claycord.com Blog with assessment, from within the communities, of Seeno and its methods—includes pictures, data and reactions

<http://claycord.blogspot.com/2008/04/save-mount-diablo-wants-investigation.html>

347 Goldenslopes Court
Benicia, CA 94510

Members, City Council
City of Benicia
250 East L Street
Benicia, CA 94510

May 6, 2008

Honorable Council Members:

This letter addresses the public hearing item on the May 6th City Council agenda for the review of the Benicia Business Park project. When this item was last reviewed by the Council on February 19th a majority seemed prepared to deny this development application. This letter describes some of the information available on this project that continues to support denial of this development application.

The developer has not shown an interest in supporting the city's vision for developing the largest remaining parcel of land in the city. The developer has ignored the results of the community outreach effort that occurred when review of the development application was initiated. The developer ignored requests by Council members in May 2007 to submit a new project that would avoid adverse impacts identified in the Environmental Impact Report (EIR). The review process was further manipulated to force action on the EIR separate from review of the project. After certifying the EIR and as you approach the end of the review period for this application, the developer has now chosen to submit a "Mitigated Project". This revised project includes Master Plan guidelines that are non-binding and that would allow construction of a project that is no different from what the developer has built previously in other communities. The developer has also been publicly silent on whether they support any of the Conditions of Approval proposed by staff.

The remainder of this letter reviews information related to the Addendum to the EIR that was prepared for the Mitigated Project.

The Addendum fails to adequately demonstrate consistency of the Mitigated Project with the General Plan. On this point, the Addendum claims:

"The mitigated project would be substantially more consistent with the General Plan goals, policies, and programs adopted for the purposes of environmental protection than the 2007 project".

This finding is not a rousing endorsement considering how far off the mark the 2007 project landed. The EIR found *"policy inconsistencies would remain associated with substantial adverse changes to the physical landscape and use of land in Benicia and would represent a significant deviation from the overarching goals and policies of the General Plan..."*

The Addendum supports its finding based on an evaluation of the relationship of the Mitigated Project to relevant General Plan goals, policies and programs as shown in Table 4 of the Addendum. This table contains 72 goals, policies and programs. A review of this table can show the Mitigated Project to be consistent with 44 goals, policies and programs. What about the remaining 28? The table enclosed with this letter ("Table A") reviews the text in Table 4 for its description of the relationship of the Mitigated Project for consistency with the 28 goals, policies and programs in question. The enclosed table shows the Mitigated Project:

- inconsistent with 9;
- failed to provide sufficient information to evaluate 4;
- consistent with 4 by assuming outcomes that were possible but were not proposed as part of the project;
- consistent with 6 by assuming outcomes that were possible if the proponent honored guidelines that were non-binding; and
- consistent with 5 based on outcomes not as bad as those created by the 2007 project.

The City Council has wide discretion to evaluate the consistency of a project with its General Plan. An argument can be made that Table 4 is making unreasonable assumptions for outcomes with the Mitigated Project and that sufficient inconsistencies remain to support the same conclusion that was reached in the EIR for the 2007 project. The City Council should direct that the Addendum be revised to find the Mitigated Project to present policy inconsistencies associated with substantial adverse changes to the physical landscape and use of land in Benicia and would represent a significant deviation from the overarching goals and policies of the General Plan.

The Addendum contains unsubstantiated claims on the impact of project-related vehicle emissions on Semple Elementary School. Comments were submitted to the Planning Commission regarding the likelihood that future traffic volumes with the project will violate state standards that prohibit locating schools adjacent to heavily traveled roads. A copy of that correspondence is enclosed with this letter. Neither the EIR nor the Addendum provides facts to the contrary. Concern over the health impacts of vehicle emissions on school children has been emphasized recently with the introduction of SB 1507 in the State Legislature which proposes to prohibit the state from expanding a highway within one-quarter mile of a school boundary. Why would the City Council want to create a health hazard for our school children by approving the Mitigated Project?

The Addendum underestimates traffic congestion on I-780 by assuming freeway capacities that are not achievable. Comments were submitted to the Planning Commission meeting describing how the EIR does not account for the grade on I-780 between East 2nd Street and Southampton interchanges, or for truck traffic generated by the project. This omission leads to a significant underestimate of congestion in the future. The Addendum does not respond to these comments. If the City Council agrees

with the Addendum, the City Council is saying it does not care if future freeway congestion is underestimated with this project.

The proposed action leaves the city responsible for off-site upgrades to Lake Herman Road. Comments were submitted to the Planning Commission describing how the proposed Conditions of Approval leave a two-mile stretch of Lake Herman Road west of the city limit without shoulders or curve corrections. The Addendum does not address this comment. Failure to upgrade this rural road for commute traffic as part of the project approval will result in the City being responsible for funding upgrades to this stretch of Lake Herman Road to mitigate a physical impact created by this project.

The Addendum fails to ensure adequate funding for the mitigation measure to extend bus service to the project. Comments were submitted to the Planning Commission describing how the Conditions of Approval fail to require the developer to contribute to the annual cost of operating transit buses to and from the project, even though the EIR states that providing such service is necessary to mitigate the project's impacts. As a result, annual operating costs for providing transit service to the project will become a financial burden of the City.

The Addendum fails to consider the need to integrate the Intermodal Transit Center into the design of this major employment center. Comments were submitted to the Planning Commission describing the feasibility of using the Intermodal Transit Center to help reduce air pollution and traffic congestion generated by the project. It was pointed out that the EIR provides the opportunity for the city to require the developer to provide a graded site for the transit center within the project, to pay fees to fund construction of the facility, and to maintain any on-site landscaping in perpetuity. The Addendum concedes that the Mitigated Project will result in significant unavoidable emissions of ozone precursors. Such conditions require the city to consider all feasible mitigation measures to help reduce such impacts. However, no such mitigation is evaluated. The city will be ignoring an opportunity to provide a transit facility that can effectively serve this new employment center and instead will require taxpayers or commuters who pay bridge tolls to fund this facility if constructed in the future.

The Addendum fails to evaluate the consistency of Condition of Approval 186 with Mitigation Measure AIR-2 as described in the EIR. Comments to the Planning Commission described how the proposed Conditions of Approval fail to require the developer to implement all mitigation measures contained in the certified EIR to reduce the project's air pollution. No response has been provided to this comment. The Addendum does not acknowledge this inconsistency. As a result, air pollution from the project will needlessly increase or the city will assume responsibility for these mitigation measures.

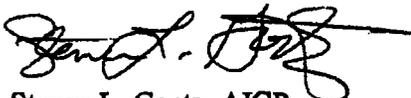
The Addendum fails to address the adverse impacts of noise mitigation required of the project. Comments to the Planning Commission described how the proposed noise

City Council
May 6, 2008
Page 4 of 4

mitigation options were either inconsistent with the General Plan or would create a long-term maintenance liability for the city. These comments continue to be ignored. Neither the EIR nor the Addendum provides any facts to the contrary. Why would the City Council want to approve a project that would reduce the livability of the neighborhoods along East 2nd Street or impose an ongoing burden for future taxpayers?

There is not sufficient time to provide further comments prior to the scheduled public hearing. I hope the concerns raised on the review process for this application and the Addendum are sufficient for the City Council to conclude its review and deny the project on May 6. The City Council should also consider taking an action similar to the Planning Commission, by requesting the developer to submit a new application for a project that will be a legacy for Benicia and not a liability.

Sincerely,



Steven L. Goetz, AICP

Cc: C. Knox, City of Benicia

Enclosures

Table A: Potential Inconsistencies between the Mitigated Project and the General Plan
Letter to the Planning Commission, April 9, 2008

TABLE A: Potential Inconsistencies Between the Mitigated Project and the General Plan – Page 1 of 3

Goal Policy or Program Language	Conclusions based on the Addendum
<p>Goal 2.3 Ensure orderly and sensitive site planning and design for large undeveloped areas of the city, consistent with land use designation and other policies of the General Plan.</p>	<p>The Addendum fails to evaluate this goal. The EIR found the 2007 project would be consistent with the land use designations for the site, but would be inconsistent with “numerous” other General Plan goals, policies or programs. This table is provided to show that the Addendum fails to adequately demonstrate the Mitigated Project to be consistent with 28 out of 72 goals, policies and programs included in the General Plan for the purpose of environmental protection (nearly 40% of the total).</p>
<p>Program 2.5.C Evaluate future uses on a cost/revenue basis, taking into account economic diversity for the long term and environmental and community costs and benefits.</p>	<p>The EIR failed to evaluate this program. The Addendum does not estimate the cost/revenue for the Mitigated Project, and does not evaluate economic diversity or environmental and community costs and benefits.</p>
<p>Goal 2.20 Provide a balanced street system to serve automobiles, pedestrians, bicycles and transit, balancing vehicle flow improvements with multi-modal considerations.</p>	<p>The Addendum fails to evaluate this goal. The EIR referred to Policy 2.14.1.</p>
<p>Policy 2.14.1 Give priority to pedestrian safety, access, and transit over automobile speed and volume.</p>	<p>Addendum justifies finding of inconsistency with this General Plan policy.</p>
<p>Goal 2.15 Provide a comprehensive system of pedestrian and bicycle routes which link the various components of the community: employment centers, residential areas, commercial areas, schools, parks, and open space.</p>	<p>Addendum justifies finding of inconsistency with this General Plan goal.</p>
<p>Goal 2.21 Encourage Benicia residents and employees to use alternatives to the single occupant automobile.</p>	<p>Addendum justifies finding of inconsistency with this General Plan goal.</p>
<p>Policy 2.15.2 Encourage the development of pedestrian paths in hill areas as a way to link neighborhoods to schools, parks, employment centers, and convenience commercial destinations.</p>	<p>Addendum assumes this outcome is possible but such features are not proposed as part of the project.</p>
<p>Policy 2.21.1 Provide and promote a range of travel alternatives to the use of the private automobile.</p>	<p>Addendum justifies finding of inconsistency with this General Plan policy.</p>

TABLE A: Potential Inconsistencies Between the Mitigated Project and the General Plan – Page 2 of 3

Goal Policy or Program Language	Conclusions based on the Addendum
Policy 2.23.2 Reduce the visibility of parking lots.	Addendum assumes adherence to non-binding design guidelines.
Program 2.23.D Update parking requirements based on actual local parking generation studies wherever appropriate, and consider parking proximity to transit corridors.	No data provided by Mitigated Project to evaluate its consistency.
Program 2.23.E Allow future parking to be divided into smaller lots with generous internal and perimeter landscaping.	Addendum assumes adherence to non-binding parking plans.
Program 2.23.F Recommend parking to be located behind or alongside (but not in front of) buildings, where possible.	No data provided by Mitigated Project to evaluate its consistency.
Program 2.24.A Investigate establishment of Industrial Park bus service.	Addendum justifies finding of inconsistency with this General Plan program.
Policy 2.38.1 Continue to require the use of feasible and practical Best Management Practices to protect receiving waters from adverse effects of construction and urban runoff.	Addendum assumes adherence to non-binding design guidelines.
Program 2.36.C Continue to implement City-adopted water conservation Best Management Practices (BMP).	Addendum assumes adherence to non-binding design guidelines.
Goal 3.9.1 Preserve vistas along I-780 and I-680.	Mitigated Project's inconsistency with this goal would be reduced compared to the 2007 project.
Policy 3.15.2 Preserve public views of open space and maintain existing vistas (including the Northern Area vistas) wherever possible.	Mitigated Project's inconsistency with this policy would be reduced compared to the 2007 project.
Policy 3.15.D Where applicable, require that new developments include view corridors that allow viewing open space from public roadways and public use areas.	Mitigated Project's inconsistency with this policy would be reduced compared to the 2007 project.
Policy 3.15.6 Restore and maintain natural landscapes in a natural manner.	Mitigated Project's inconsistency with this policy would be reduced compared to the 2007 project.
Goal 3.17 Link regional and local open spaces.	Addendum justifies finding of inconsistency with this General Plan goal.
Policy 3.17.1 Attempt to link existing regional and local open spaces using trails and open space corridors.	See Goal 3.17

TABLE A: Potential Inconsistencies Between the Mitigated Project and the General Plan – Page 3 of 3

Goal Policy or Program Language	Conclusions based on the Addendum
Program 3.17.B Construct trails in open space corridors that link existing regional and local open spaces, where feasible.	See Goal 3.17
Policy 3.19.1 Protect essential habitat of special-status plant and animal species.	Addendum assumes this outcome is possible but such features are not proposed as part of the project.
Policy 3.20.2 Restore native vegetation, such as birch grasses and oaks, wherever possible for open spaces of existing developed areas.	Addendum assumes this outcome is possible but such features are not proposed as part of the project.
Policy 3.20.4 Require protection of movement corridors.	No data provided by Mitigated Project to evaluate its consistency.
Policy 3.22.1 Avoid development that will degrade existing lakes and streams.	Addendum assumes adherence to non-binding design guidelines.
Program 3.22.A Require that all development in watersheds flowing into lakes and unchannelized streams include features to preserve run-off water quality.	Addendum assumes adherence to non-binding design guidelines.
Policy 4.10.2 Encourage designs and land use strategies that reduce automobile use and promote mixed use, jobs/housing balance, telecommuting, bicycle and pedestrian facilities, and transit.	Addendum assumes this outcome is possible but such features are not proposed as part of the project.

347 Goldenlopes Court
Benicia, CA 94510

Members, Planning Commission
City of Benicia
250 East L Street
Benicia, CA 94510

April 9, 2008

Dear Commissioners:

This letter addresses the public hearing item on the April 10th Planning Commission meeting for the review of the Benicia Business Park project. I have had an opportunity to review the information provided for this item. While I live several miles from the proposed project, its density is so great that it will overwhelm my neighborhood with traffic, noise and air pollution. The available information justifies rejecting the resolution proposed by staff and denying this project. The remainder of this letter will highlight some of this information for the Planning Commission.

1. The Addendum to the Environmental Impact Report (EIR) is inadequate and incomplete. The staff report concedes that the conclusory statements of the Addendum need to be supported by data and analysis. Without additional study, the Addendum cannot be used to determine whether the project will involve new significant environmental impacts or substantially increase the severity of previously identified impacts in the EIR. The staff report indicates the Addendum reflects the judgment of the developer. The determination of facts regarding the ecological impacts of the project is vested with the City, not the developer. The Planning Commission should recommend denial of the revised project because its approval is not adequately supported by the EIR.

2. Traffic congestion is worse than forecasted because the EIR assumes freeway capacities for I-780 that are not achievable. This issue was raised after reading EIR Response E 2-2 which addresses a question from Caltrans about the freeway capacities assumed in the EIR. A capacity of 2,200 vehicles per hour per lane is assumed for freeways with two lanes in each direction. This assumption overestimates capacity because it does not acknowledge conditions on I-780 that can reduce freeway capacity.

This freeway traverses a significant grade between East 2nd Street and Southampton Road, which carries the highest volumes on I-780 attributed to the project. This grade reduces the capacity of this freeway compared to other freeways on flat land. The project includes limited industrial uses that generate truck traffic. Trucks move slower than passenger vehicles, particularly when on grades. No response was provided in the EIR to these comments. The EIR should demonstrate that the condition prevailing on this section of I-780 (e.g. vertical grade and vehicle mix) is consistent with the freeway capacity assumed in the EIR. If the prevailing condition on I-780 is not consistent with the freeway capacity assumed in the EIR, then its findings on freeway congestion at this location would be underestimated.

3. The proposed resolution leaves the City solely responsible for ensuring that residents of Seaview and East Tennys can safely enter East 2nd Street under traffic conditions created by the project. The EIR forecasts that traffic on East 2nd Street north of I-780 will increase from 11,000 vehicles per day to 37,900 vehicles per day by the year 2030. Using the methodology of the developer's consultant, the revised project will reduce this forecast to about 34,000 vehicles per day. With such traffic volumes on East 2nd Street, it is reasonable to expect that traffic from the unsignalized intersections at Seaview and East Tennys may not be able to safely enter this street without signal controls or other mitigation. The EIR could easily determine if traffic signals would be warranted at these locations under Year 2030 conditions, yet it failed to provide such an analysis when requested to do so. Failure to address this issue in the Conditions of Approval will result in the City being solely responsible for funding corrective measures in the future for a traffic condition created by this project.

5. The proposed resolution provides inadequate mitigation for impacts to Lake Herman Road. Prior comments were made about the need to upgrade Lake Herman Road in order to safely accommodate the commute traffic generated by the project. Response E 7-7 in the EIR claims that the additional traffic generated by the project on Lake Herman Road will not alter the safety of a roadway such that a physical impact would result.

The EIR should acknowledge that it is required by state law to examine and analyze the effects of the physical change in the environment after the project is commenced and completed. The existing setting for Lake Herman Road as described in the EIR shows that it carries about 300 vehicles in the AM peak hour and 400 vehicles in the PM peak hour. The EIR shows the project will expand the use of Lake Herman Road by adding 1,200 more cars in each peak hour. Using the methodology of the developer's consultant, the revised project would contribute between 800 and 900 more cars in each peak hour. This is a physical impact on the environment that would result from the project. This project impact generates a commute load on Lake Herman Road that is incompatible with its current design as described in prior comments on the EIR. The consequence of this physical impact will be a greater number of collisions and increased pressure by the driving public to upgrade Lake Herman Road to serve the commute load generated by the project. Examples of upgrades typically sought for rural roads experiencing commuter traffic include shoulder widening, curve realignment, and median barrier construction.

Condition 89 requires the applicant to provide Class II bike lanes (e.g. widen shoulders) along Lake Herman Road between Industrial Way (presumably its extension) and A Boulevard. Condition 98fii requires the applicant to widen Lake Herman Road from A Boulevard to I-680. Condition 99iv requires the applicant to provide shoulders and Class II bike lanes on Lake Herman Road from Reservoir Rd (which presumably will be removed by the project) to the westerly city limit. These conditions leave a three-mile stretch of Lake Herman Road west of the city limit without any upgrades to accommodate this project's commute traffic. Failure to address this impact in the project

approval will shift to future taxpayers the burden of mitigating a significant physical impact on Lake Herman Road created by this project.

6. Approval of this project will blight the major entrance to downtown Benicia. Conditions 164 and 174 propose to add an additional lane to East 2nd Street under the freeway and modify the eastbound (EB) offramp to allow right turning vehicles to exit the freeway without stopping. Prior comments were made about the feasibility and effectiveness of this mitigation measure. Response E 7-10 relies on the 48-foot width of East 2nd Street under the freeway to demonstrate the feasibility of the proposed lane configuration. This response is inadequate for the following reasons:

- Four twelve-foot lanes will use all available roadway width, including the shoulder areas currently available to bicyclists as a bike route. Bicyclists will no longer have space available on East 2nd Street as they pass under the freeway. This mitigation measure works against Mitigation Measures TRANS-24 and AIR-2 which attempt to encourage more bicycle use.
- Northbound bicyclist traveling through the interchange area will become trapped between two lanes of traffic as vehicles enter East 2nd Street using the new northbound lane that will serve vehicles turning right from the EB offramp. Such a condition also seems counterproductive to Mitigation Measures TRANS-24 and AIR-2.
- This section of East 2nd Street is constrained by two intersections that are less than 500-foot apart. The left turn lanes cannot be extended so vehicles waiting to turn left onto the freeway could easily back up into the adjacent through lane.
- Installing signal controls on the EB offramp's "free right-turn lane" to accommodate pedestrians will reduce the ability of the free right turn lane to serve Cumulative Plus Project traffic volumes without causing backups onto the freeway.
- Caltrans controls the signals at the freeway ramps and will require that Conditions 164 and 174 meet Caltrans standards. Before the Planning Commission suggests Conditions 164 and 174, the City should identify the Caltrans standards that apply to this improvement and show that these standards can be met.

Given the above circumstances, the EIR does not provide a reasonable basis for finding that the proposed lane configurations and signal controls will reduce impacts to a less than significant level at the I-780/East 2nd Street interchange area. A feasible and effective mitigation measure needs to show that:

- a shoulder area for the bike route can be provided in each direction pursuant to the General Plan;
- the length of the northbound and southbound left-turn lanes between the ramp terminals will be sufficient to accommodate Cumulative Plus Project traffic volumes;
- the proposed signal control for the EB offramp's "free right-turn lane" will not cause vehicle queues to extend onto the freeway under Cumulative Plus Project conditions; and
- Caltrans design standards for this location can be met.

7. Conditions 164 and 174 do not assure impacts at the I-780/East 2nd St. interchange will be fully mitigated. These proposed Conditions of Approval fail to include installation of signal controls for the "free right turn lane" as referenced in Response E 7-10. Without this new signal, pedestrians on the east side of East 2nd Street would be unable to cross the "free-right turn lane" and proceed from one side of the freeway to the other side. No information has been provided to substantiate the claim that Condition 164 and 174 will result in acceptable levels of service by Year 2030, assuming signal controls for the "free right turn lane" and assuming the conditions Caltrans would impose.

8. The Commission's resolution leaves the City responsible for funding the operating costs for extending bus service to the project. Under Condition 1031, the project is only responsible for the capital costs for extending bus service to the project and for operating costs for one-year. Response E 7-13 claims that requiring the project to provide additional funds to Benicia Transit "*would likely exceed constitutional nexus requirements*" and would be inconsistent with past approaches in Benicia to transit. The EIR provides no explanation of these constitutional nexus requirements to support this conclusion. Furthermore, these claims are puzzling given the EIR's description of the transit impact on page 247 which states:

"The project includes no provision for transit and would conflict with City and regional policies supporting alternative transportation. Transit routes connecting the project site and Benicia with regional transportation centers are required to ensure adequate transit service for commuters to and from the proposed project."

Providing bus stops and buses will not ensure adequate transit service if additional drivers are not available to drive the additional buses. The EIR's unsubstantiated claim that tax revenue will be sufficient to operate these additional buses could also be used to claim that tax revenue will be sufficient to purchase the additional buses.

Response E-13 should have explained the constitutional nexus requirements for mitigation measures. Under these requirements the City must show that (1) the mitigation is directly related to the impacts of the development giving rise to the mitigation, and (2) the nature of the mitigation is roughly proportional to the impacts of the project. Operating funds are needed in addition to capital funds to provide adequate transit service, thus the mitigation is related to the project's impact. The project's contribution to operating funds would be limited to the amount necessary to provide the expanded service, thus the mitigation is roughly proportional to the impact of the project.

Finally, the need for this mitigation measure (TRANS-23) to be consistent with past approaches in Benicia to transit mitigation is irrelevant to determining the adequacy of a mitigation measure. Even if the City's prior approach to mitigating transit impacts was limited to capital funding, this does not mean that such an approach was adequate then, or that it is adequate now given the facts as presented in the EIR for this project.

9. The City fails to meet its obligation to consider including the Intermodal Transit Facility as a condition of approval to help offset significant and unavoidable air quality impacts. The EIR has identified regional air pollution as a significant unavoidable impact of the project. The developer's addendum provides no evaluation of whether the revised project reduces the significant air quality impact to a less than significant level.

The purpose of Condition 186, as described in Mitigation Measure AIR-2, is to implement feasible and effective measures in further reducing vehicle trip generation and resulting emissions from the project. Response E 7-14 concedes that an intermodal transit facility within the project could increase transit use, much in the same way as providing bus turnouts, benches and shelters, which are already part of Mitigation Measure AIR-2. The EIR's conclusion that this additional mitigation measure would not reduce air quality impacts to a less than significant level does not deny the City's obligation to include in Condition 186 all feasible and effective mitigation measures that will help offset significant unavoidable impacts.

Alternatively, the City could have included the Intermodal Transit Facility as a project requirement similar to Condition 1031, which requires the applicant to provide a graded 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. The EIR analysis supports a Condition of Approval that would require the applicant to provide a graded site for a future City Intermodal Transit Facility integrated into the development of Phase 1 of the project, to pay fees to fund construction of the facility, and to maintain any on-site landscaping in perpetuity. Unfortunately, no such condition is proposed by staff.

10. The City fails to mandate implementation of all measures from Mitigation Measure AIR-2 in Condition 186 to help offset significant and unavoidable air quality impacts. In reference to Mitigation Measure AIR-2, Condition 186 proposes that *"the project shall provide as many of the following measures as practicable"*. There is no evidence in the record of this project to suggest that any of these measures are not practicable in this circumstance. On the contrary, the EIR states that these measures *"are considered to be feasible and effective in further reducing vehicle trip generation and resulting emissions from the project. The project sponsor shall incorporate all of the following measures into the project."* Failure of the City to mandate implementation of Mitigation Measure AIR-2 as described in the Final EIR violates state law which requires the city to adopt all feasible and effective mitigation measures that will help offset significant unavoidable impacts.

11. Approval of this project could expose school children at Semple Elementary School to unhealthy air quality by causing a violation of state standards of protection. The EIR states that future traffic will comply with the state law that prohibits elementary schools to be located within 500 feet of roads carrying up to 100,000 vehicles per day. Response A 7-1 states that *"the modeled future plus project*

Average Daily Trips (ADT) would be 37,900 along East 2nd Street and 55,000 ADT on I-780".

During review of the EIR it was pointed out that the future freeway volume referenced in Response A 7-1 represents existing traffic, not future traffic. It was argued that future ADT on the roads within 500 feet of Semple Elementary School could be as high as 130,900. Using the methodology of the developer's consultant, the ADT on these roads under the revised project would be reduced to perhaps 127,200.

At the February 19th City Council meeting, the EIR consultant claimed the application of the state standard on school siting requires the 100,000 vehicle threshold to be measured on one road only. This claim was without substantiation and is comparable to assuming one cup of poison won't be harmful if taken in two ½ cup containers.

This future volume significantly exceeds the state standard of 100,000 ADT. Why would the City want to create such a condition for our school children by approving this project?

12. The proposed conditions for noise impacts would create a visual blight or a long term maintenance liability for the City. In response to the concern about noise impacts on East 2nd Street from I-780 to East Tennys, the Final EIR proposed construction of soundwalls (at least eight feet high) along this prominent roadway or "*rubberized asphalt*" as a mitigation measure. This measure is incorporated into Condition 193.

Response E 7-19 concedes that soundwalls would not be desirable but it does not address the concern that rubberized asphalt would wear out and eventually become ineffective. If rubberized asphalt is pursued, should the project be required to maintain this measure in perpetuity in order to ensure its effectiveness over the long term? Unfortunately, Condition 193 leaves future taxpayers with the responsibility of repaving this road as the rubberized asphalt wears out.

In closing, I would like to convey my frustration in monitoring the City's review of this important project. Despite significant concerns about the project's potential impacts on adjacent neighborhoods, a majority of the City Council voted on February 19th to advance this application for a decision. The developer now comes forward with a revised project with very little substantive information and analysis to address the impacts raised during review of the initial project.

Furthermore, the developer is using the Subdivision Map Act to force the Planning Commission to make a report on the Vesting Tentative Map and a recommendation on the rezoning proposal within 50 days of the City Council action on February 19th. The applicant could request the City to waive the 50-day review period to provide time for a more thorough review and analysis of the revised project. Apparently the applicant has chosen not to give the Planning Commission that opportunity.

Members, Planning Commission

April 9, 2008

Page 7 of 7

The revised project still represents one of the largest development proposals in the city's history. It will establish the land use policy for a parcel of land that is of a size, location and development potential that is unmatched anywhere else in Solano County. If you are considering approving the proposed resolution, I would hope that you would ask questions of City staff about the issues described in this letter.

The applicant may have a right to expect the Planning Commission to act within 50 days of the City Council's action, but the applicant does not have a right to expect the Planning Commission to approve the proposed resolution. As the staff report says: "*The Planning Commission may also make a more definitive recommendation regarding approval or denial of the proposed project.*" I hope you believe the information developed so far on this revised project (or lack thereof) supports denial of it.

Sincerely,



Steven Goetz, AICP

Cc: C. Knox, City of Benicia

Anne Cardwell - Signature Properties comment

From: Charlie Knox
To: Marilyn Bardet
Date: 5/6/2008 2:05 PM
Subject: Signature Properties comment
CC: Alan Schwartzman; Anne Cardwell; beniciafirst@googlegroups.com; Dan Healy; Elizabeth Patterson; Fred Railsback; Jim Erickson; Mark Hughes; Mike Ioakimedes; Tom Campbell

The item is scheduled for Sky Valley tomorrow night, and the committee's comments will be forwarded to the County.

If we did not have Sky Valley, staff would comment on environmental review for proposals in neighboring jurisdictions that comply with zoning.

The public is encouraged to participate at the Wednesday Sky Valley meeting; comments can also be made to the Planning Commission on Thursday at the start of the meeting.

Environmental analysis of the Business Park did not identify County ranchette development as a growth-inducing impact due to the zoning already allowing 1 unit/20 acres.

Had Signature required an EIR, Business Park buildout would have to be figured into the cumulative conditions analyses.

>>> Marilyn Bardet <mjbardet@sbcglobal.net> 5/5/2008 3:42 PM >>>
Dear Charlie,

Having just rec'd copies from Bob Berman and Sue Wickham of the recently issued initial study on the Signature Properties proposal for 8 ranchette estates on 170 acres north of Lake Herman: the project description does not discuss the fact that a new business park is planned by Seeno for land within a mile or so of the proposed rural residential site. Since we're in the midst of final council discussions on whether to accept or deny the current version of the Seeno project, and because we are just learning of the Signature Properties proposal-and public comment is due on the initial study by May 22-I can't imagine how this issue is not agendaized as a subject affecting council's understanding of ALL the ramifications of the Seeno project.

The fact is, residents of "ranchettes", isolated out in the hills, would have to access Benicia for amenities, including the basics (groceries, services, etc.) So, the extension of Industrial Way that would intersect with Lake Herman Rd. would be the nearest way into our city... thus, the nexus with the Seeno project development, among other connections.

It's appalling to me that once again, LSA has been hired to do another environmental review whose analyses and recommendations shape our staff's thinking and what council hears, YET: there is no mention in the initial study for the Signatures Property of the plan for Seeno property, AND, there is no mention in the Seeno EIR of any planning for

residential on AG land north of Lake Herman Rd, within a mile of the Seeno project site. How can this be??

I can think of numbers of ways that this lack of basic cross referencing and cross-accounting for impacts would skew cumulative impact analyses by isolating discussion of each project. One example: the increased pressure on "uses" of Lake Herman recreation area and more loss of wildlife and habitat cumulatively. And since public concerns about the potential "growth-inducing" impacts of the Seeno project were virtually dismissed in the EIR, it is more than a little disturbing to discover that LSA itself would have known about the Signature Properties development, since they were hired to do the initial study.

Please enter these comments into the continuing record on file on Seeno project.

I would like to understand, from staff point of view, what's going on here with LSA, with the lack of comment on Sig Properties development, and the issue of cumulative impacts.

Thanks, as always,

Marilyn

Jayne York - Fwd: Signature Properties Initial Study, no mention of Seeno project and visa versa

**From: Anne Cardwell
To: Jayne York
Date: 5/5/2008 4:05 PM
Subject: Fwd: Signature Properties Initial Study, no mention of Seeno project and visa versa**

Please copy for meeting.

>>> Marilyn Bardet <mjbardet@sbcglobal.net> 5/5/2008 3:42 PM >>>
Dear Charlie,

Having just rec'd copies from Bob Berman and Sue Wickham of the recently issued initial study on the Signature Properties proposal for 8 ranchette estates on 170 acres north of Lake Herman: the project description does not discuss the fact that a new business park is planned by Seeno for land within a mile or so of the proposed rural residential site. Since we're in the midst of final council discussions on whether to accept or deny the current version of the Seeno project, and because we are just learning of the Signature Properties proposal-and public comment is due on the initial study by May 22-I can't imagine how this issue is not agendaized as a subject affecting council's understanding of ALL the ramifications of the Seeno project.

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Thanks, as always,

Marilyn

Anne Cardwell - Fwd: Planning Commission Agenda 5/8/08

From: Charlie Knox
To: Anne Cardwell
Date: 5/5/2008 3:53 PM
Subject: Fwd: Planning Commission Agenda 5/8/08

>>> Marilyn Bardet <mjbardet@sbcglobal.net> 5/5/2008 1:48 PM >>>

Hello Charlie,

Could you please tell me why the "Signatures Property" proposal for 8 estate homes to be developed north of Lake Herman Rd.--on 170 acres across from Lake Herman, is not being agendaized for Planning Commission discussion on May 8, considering that a county-generated "neg dec" has been circulated (almost clandestinely?), and that few of us had heard about it until now, and the public comments are due May 22nd?

Also, I can't imagine that this housing proposal shouldn't have been evaluated as part of concurrent development project with Seeno project, in evaluating all sources of potential cumulative impacts (subject areas: water supply, growth-inducing development, urban sprawl, habitat loss, etc etc.)

I'm very alarmed. Could you please submit these comments into the record on the Seeno project for me?

Thank you,

--Marilyn

Begin forwarded message: