



*San Francisco Bay  
Conservation and Development Commission*

## **Benicia Waterfront Special Area Plan**

*Adopted May 19, 1977*

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### **Resolution No. 46**

Adopting San Francisco Bay Plan Amendment 2-77

Special Area Plan No. 3: Benicia Waterfront

and

Adopting San Francisco Bay Plan (Map) Amendment 2-77

WHEREAS, Government Code Section 66652 provides that

"The commission at any time may amend, or repeal and adopt a new form of, all or any part of the San Francisco Bay Plan but such changes shall be consistent with the findings and declarations of policy contained in this title."

"Such changes shall be made by resolution of the commission adopted after public hearing on the proposed change of which adequate descriptive notice shall be given. If the proposed change pertains to a policy or standard contained in the San Francisco Bay Plan, or defines a water oriented use referred to in Section 66602 or 66605, the resolution adopting the change shall not be voted upon less than 90 days following notice of hearing on the proposed change and shall require the affirmative vote of two-thirds of the commission members. If the proposed change pertains only to a map or diagram contained in the San Francisco Bay Plan, the resolution adopting the change shall not be voted on less than 30 days following notice of hearing on the proposed change, except that changes proposed under Section 66611 shall not be voted on less than 90 days following such notice, and shall, except as provided by Section 66611, require the affirmative vote of the majority of the commission members"; and

WHEREAS, the adoption of Special Area Plan No. 3: Benicia Waterfront would amend both a map and policies of the San Francisco Bay Plan (January, 1969, as amended to date) and would also redesignate a port-priority use area on a portion of the area covered by the Special Area Plan; and

WHEREAS, on October 21, 1976, adequate descriptive notice in the form of a brief descriptive summary of the proposed amendments to the San Francisco Bay Plan was approved by the Commission; and

WHEREAS, on October 22, 1976, notice of public hearing on the proposed amendments was given to the public, and mailed to all persons known to have a particular interest in the amendments and more than 90 days have passed since such notice; and

WHEREAS, on March 16, 1977, notice of the public hearing on the proposed amendments to the San Francisco Bay Plan was published in a newspaper of general circulation in the Bay Area; and

WHEREAS, a public hearing was held on the proposed amendments at the Commission meetings of April 21, 1977 and May 19, 1977, a time more than three weeks following the mailing of a written notice of time and place of the public hearing; and

WHEREAS, a Draft Environmental Impact Report on these changes was duly prepared and certified by the City of Benicia as lead agency on April 19, 1977, as conforming with the California Environmental Quality Act of 1970 (as amended), and the State Guidelines for Implementing the Environmental Quality Act, and the Commission has reviewed and considered the information contained in said Final Environmental Impact Report; and

WHEREAS, the proposed amendments to the San Francisco Bay Plan would be consistent with the findings and declarations of policy contained in the McAteer-Petris Act; and

WHEREAS, the policies and criteria for approving fill in Special Area Plan No. 3 would assure that only fill projects for

water-oriented uses consistent with the policies of the McAteer-Petris Act could be approved, and the plan is therefore consistent with the public trust; and

WHEREAS, the Special Area Plan together with other changes to the Bay Plan adopted by this resolution should be part of the Commission's Management Program for San Francisco Bay as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended;

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission hereby adopts Bay Plan Amendment 2-77, which (a) is an amendment to the San Francisco Bay Plan (January, 1969, as amended to date); (b) is a special area plan as defined in the Commission's Regulations (10820 through 10822); and (c) involves changes pertaining to policies or standards contained in the San Francisco Bay Plan (January, 1969, as amended to date). This amendment shall be as shown in Special Area Plan No. 3: Benicia Waterfront, May, 1977 (consisting of 40 pages and submitted for Commission consideration at its meetings of April 21, 1977 and May 19, 1977, and incorporated herein by reference) with whatever changes are made therein by the Commission in the course of that meeting.

2. The Commission hereby adopts Bay Plan (Map) Amendment 2-77, which is a change pertaining both to a policy or standard and to a map contained in the San Francisco Bay Plan (January, 1969, as amended to date). Said amendment is as follows:

"All policies, suggestions and other map designations referring to the area from the Benicia-Martinez Bridge west to the right-of-way of West Second Street on Plan Map 16 (as amended on November 18, 1971) are deleted, and in their place are substituted a reference to Special Area Plan No. 3: Benicia Waterfront and a map symbol indicating the area of the special area plan, all as is graphically shown in the 8-1/2 x 11 inch Xerox reproduction of Bay Plan Map 16 (as amended) submitted for Commission consideration at its meeting of May 19, 1977 (Exhibit 'A' to this resolution and incorporated herein by reference)."

3. The Commission hereby adopts the graphic representation of said Bay Plan (Map) Amendment as submitted to the Commission at its meeting of May 19, 1977.

4. The Commission hereby amends Item 22, Attachment "A," Resolution No. 16, adopted by the Commission on November 16, 1971, to fix priority area boundaries as follows:

Delete all of subparagraph "A" and replace it with:

"(A) West Boundary: Southerly extension of the west side of East Fifth Street to the line of highest tidal action."

5. The Commission hereby adopts (a) Bay Plan Amendment 2-77 (Special Area Plan No. 3: Benicia Waterfront); (b) Bay Plan (Map) Amendment 2-77 (attached as Exhibit "A"), and (c) the amendment to Resolution No. 16 set forth in paragraph 4, above, as amendments to the BCDC Management Program for San Francisco Bay as approved by the Department of Commerce pursuant to the provisions of the Federal Coastal Zone Management Act of 1972 (P.L. 92-583), as amended (P.L. 94-370), to be used by the Commission in exercising its responsibilities under the Federal Act.

6. The Commission adopts this resolution on the express condition that the zoning regulations to be adopted by the City of Benicia as part of the implementation program for the Special Area Plan be adopted and remain in full force and effect.

7. Approval of this plan does not constitute agreement by the State in any manner with the ownership information contained in the plan. This approval is without prejudice to any right, title, or interest of the State of California or the public in and to such lands.

8. The minutes of the Commission meeting of May 5, 1977, duly certified by the Chairman and Executive Director in accordance with usual practice, shall be the original evidence as to the substance of any changes made in the course of adopting any proposed plan or map amendments at the meeting of May 5, 1977.

## I. Introduction

### A. Reason for Plan

The recently adopted Benicia Waterfront Plan (Comprehensive Plan amendment and amendment to the Open Space

Element) contains policies that are in conflict with the San Francisco Bay Plan, adopted in 1969 by the San Francisco Bay Conservation and Development Commission and recognized as state policy in the McAteer-Petris Act.

Based on earlier studies and local recommendations, the San Francisco Bay Plan designates the shoreline east of Point Benicia, along Carquinez Strait, exclusively for port use. More recently, Benicia Industries studied its ownership in this area, running east along the shoreline from Point Benicia to East Fifth Street, and concluded that it would be infeasible to develop this parcel for port or industrial uses. As a result, Benicia Industries, owners of the Port of Benicia, sold the property to the City of Benicia, which now proposes that this area be used for recreation, water-oriented commercial development, and a marina. City plans are based on recently completed economic and engineering feasibility studies.

Under City plans, the shoreline in this area is proposed to be enhanced and protected as tidal marsh and wildlife preserve. The 45-acre area immediately behind the marshland will be developed as a public marina with some 309 berths and related commercial uses. In addition, it is proposed that the marina provide space for a Coast Guard facility.

After analyzing the inconsistency of proposed uses between the Bay Plan and the Benicia Waterfront Plan, both City and BCDC staffs agreed that a Special Area Plan would be an appropriate vehicle for resolving conflicts. On June 29, 1976, the City, by Resolution No. 76-90, requested BCDC to assist in the special area planning process. BCDC approved this approach on July 15, 1976.

Consistent with the desires of BCDC and the City of Benicia, this Special Area Plan encompasses an area somewhat larger than the marina site itself, in order to adequately consider the relationship of the marina development to the surrounding area (see Figure 1).

## B. Nature and Use of the Plan

When adopted, the Special Area Plan will become part of the Comprehensive Plan of Development for Benicia and of the Bay Plan. As such, it will guide regulatory actions of both the City and BCDC. The City will also adopt supplemental zoning measures and land use controls that are recommended in the plan. BCDC will use the Special Area Plan, as well as the Bay Plan and the McAteer-Petris Act, to guide its permit functions in the area. The Special Area Plan includes common policies and recommendations for both the City of Benicia and BCDC, and should therefore provide potential developers with predictability about public regulatory policy for the area. The scope of this plan does not extend the BCDC permit jurisdiction.

## C. Format of the Plan

In addition to findings and policies, the Special Area Plan includes implementation measures for carrying out the plan. The plan also includes maps which identify the three geographical sectors of the plan area: the Historical Business District, the Marina District, and the Port District. Findings and policies for these three sectors are further organized by geographic sections: Bay, tidelands, and marshes; and the adjacent shoreline. Where policies apply to more than one geographic area and sector, these policies are referenced rather than repeated in full in each subsequent application.

## II. Historical Business District

The Historical Business District (HBD) is bordered on the south by City-owned land, on the east by one-half of the right-of-way of East Second Street, on the west by West Second Street, on the north by an alley running between "E" and "F" Streets, and by a waterfront pedestrian access system running north to meet West "F" Street at the Junction of West Second Street (see Figure 2).

First Street in this area is a commercial thoroughfare, made up primarily of antique stores, restaurants, and bars. Many of the commercial businesses are in mid-nineteenth century structures. The large parcel of land just west of the "marina land" on First Street is vacant. The land on either side of the First Street commercial strip is occupied by mid-nineteenth century residences, a boat yard, and a few commercial enterprises.

### A. Bay, Tidelands, and Marshes

#### 1. Permitted Uses

Open space, ecological reserve; public access and water oriented public recreation; limited water-oriented commercial recreation on privately-owned tidelands only, and only if consistent with all other policies and provisions of this plan and with the public trust.

## 2. Findings

a. All Bay filling can have one or more of a number of harmful effects, including the following:

(1) Destroy Fish and Wildlife Habitats. Filling can disrupt the ecological balance in the Bay, which has already been damaged by past fills, and can endanger the very existence of some species of birds and fish.

(2) Increase the Danger of Water Pollution. Filling reduces both the surface area of the Bay and the volume of water in the Bay, thus reducing the ability of the Bay to maintain adequate levels of oxygen in its waters.

(3) Reduce the Air-Conditioning Effects of the Bay and Increases the Danger of Air Pollution. Reducing the open water surface over which cool air moves in from the ocean will reduce the amount of this air reaching the Santa Clara Valley and the Carquinez Strait in the summer. This will increase the frequency and intensity of temperature inversions which trap air pollutants and thus cause an increase in smog in the Bay Area.

b. The Bay Plan and McAteer-Petris Act limit fill to water-oriented uses, and only when there is no alternative upland location and the fill is the minimum necessary.

c. The City of Benicia presently owns 59 percent of the underwater land in the HBD. It is the desire of the City not to alter the shoreline by filling, except in those cases where minor fill is needed for improvement of shoreline appearance and/or to provide public access to the Bay.

## 3. Policies

a. No fill of open water areas, tidelands, or marshes shall be permitted except for the following:

(1) Minor fill to improve shoreline appearance and/or to provide needed public access to the Bay; or

(2) Limited fill on privately-owned tidelands only for water-related commercial recreation uses specifically designed to attract large numbers of people to the Bay and shoreline.

b. No fill shall be allowed for development of publicly-owned rights-of-way on areas subject to tidal action.

## B. BCDC Shoreline Jurisdiction

### 1. Permitted Uses

a. Open space; public recreation and access; waterfront commercial recreation uses; limited residential; and off-street parking related to these uses.

### 2. Findings

a. Due to its location with water views to the west and First Street to the east, the shoreline zone has a dramatic waterfront setting that offers a significant potential for water-oriented development.

b. There is a need to establish design guidelines in order to evaluate the consistency of proposed development within this area.

c. Development in this area should take the maximum advantage of the attractive waterfront setting. Development here should also permit maximum feasible public access, preserve major view corridors, and insure proper visual relationship between the shoreline and adjacent development.

d. The existing physical characteristics and potentials indicate the necessity for a unifying theme for new developments. A coordinated concept should include all neighborhood uses (residential, commercial, open space, etc.) carefully planned to take maximum advantage of the area's unique relationship to the water, while at the same time affording maximum public enjoyment and use of public areas near the water's edge.

e. BCDC requires the maximum feasible public access as a condition of permit approval for new development within the 100-foot shoreline band.

f. Some off-street parking may be needed to serve adjacent public and private activities.

g. Development in the inland area should take the maximum advantage of the attractive waterfront setting. Development

here should also permit maximum feasible public access.

### 3. Policies

a. Public Access. Maximum feasible public access shall be required in the form of a public pathway system from Point Benicia along the entire shoreline to the intersection of West Second and "G" Streets. The granting of development permits by the City of Benicia will require that public access be provided; This public access, through signing and design, shall encourage public use. Also, the design form of the public access shall meet the following standards:

- (1) Be wide enough to permit pedestrian trails;
- (2) Have variations in width to account for the space needs of different activities (strolling, sitting, assembly, etc.);
- (3) Have high quality improvements and facilities and be well maintained;
- (4) Be suited to the specific activities and users (residents and non-residents); and
- (5) Achieve a proper transition between the water's edge and uses landward of the esplanade.

b. Design. Buildings within the 100-foot BCDC shoreline permit zone should:

- (1) Be of human scale and provide variety and contrast in building height, setback, and physical appearance;
- (2) Be sited so as not to block major view corridors or inhibit public access to the Bay;
- (3) Be harmonious with the character of the surrounding public uses;
- (4) Be appropriately screened by vegetation or other appropriate means where necessary;
- (5) Be appropriately served by circulation and parking systems; and
- (6) Where appropriate, be sited to maximize views of the Bay from within the structure.

c. Theme. The general architectural theme will be the design form used in Benicia prior to the turn of the century. Five models of this type design can be found in the following:

- (1) The existing Victorian residences in Benicia;
- (2) The porch over walkway (western false front commercial buildings which existed on First Street in the later part of the nineteenth century);
- (3) The heavy timber weathered wood waterfront architecture found in Oakland's Jack London Village;
- (4) The Victorian architecture found in Oakland's Embarcadero Cove; and
- (5) The New England salt box-shed roof design, examples of which can still be found in Benicia today.

d. Materials Used. Bright or reflective materials, such as unpainted galvanized steel, zinc, aluminum, or porcelain enamel, shall not be permitted for the walls, roofs, or curtain walls of buildings. Most buildings stand alone, visible from all sides, and therefore should have no "front" or "back." All sides shall be finished with the same materials and shall be equally attractive from vantage points on the water and on land.

Buildings shall be designed by persons licensed to do so in the State of California.

e. Mechanical Equipment on Buildings. The profile of each building against the sky is of prime importance, and designs shall take into consideration the appearance of the silhouette. Exposed ductwork on roofs or walls shall not be permitted, and equipment--such as exhaust fans--must be screened or specifically incorporated into the building form. Similarly, when the undersides of buildings are exposed because of extension over the water, ductwork and piping shall be screened or specifically made a part of the building design.

f. Height of Buildings. No building more than 40 feet in height may be constructed in the HBD.

g. Off Street Parking.

- (1) Parking should be placed away from the shoreline whenever possible and located in structures if feasible.
- (2) Parking in the 100-foot BCDC shoreline permit zone should be the minimum necessary to adequately serve the adjacent uses and shall be provided within said permit zone only when it is:
  - (A) Essential to the economic viability of an adjacent permitted use;
  - (B) Consistent with and necessary to attain a desirable overall project design;
  - (C) Designed and landscaped to provide a feeling of open space; and
  - (D) Designed so as not to infringe either physically or visually on public access uses within the 100 foot BCDC shoreline permit zone.

h. Lighting. All parking areas shall be lighted to provide for safety. Except for City street lighting and parking lot lighting, which may be 30 feet high, all other exterior lighting fixtures shall be a maximum of ten feet high and shall be shielded to provide 100 percent cutoff of the illumination source at an angle of ten degrees from the horizontal.

No exterior lights or spotlights shall be unshielded or mounted to shine toward public spaces or the water. Floodlighting of buildings or landscaping shall be at very low brightness levels. Large surfaces will not be permitted to be brightly lighted.

i. Landscaping. Dense tree planting or other appropriate buffering devices should be used to: diminish the adverse visual impact of major roadways, outdoor storage and parking areas; help define major entry points into the area, screen private (residential) areas from public areas; frame views; and provide wind protection. Landscaping and fencing between public areas and the shoreline should not obscure views of the shoreline, and open parking areas should be effectively designed to enhance views. Utilities should be placed underground. All surfaces not covered by building or paving shall be landscaped. Where possible, all plant materials should be selected on the basis of their ability to withstand adverse shoreline conditions, and their low maintenance and irrigation requirements.

The development of each site shall create a sense of continuity of the entire marina area, with each site tending to merge with the adjacent areas without a specific edge of definition at the limits of each lease area. A gradual change from the natural rustic quality of the shoreline to a higher degree of finish is desirable adjacent to the buildings and the developed public spaces, however, abrupt changes in forms, materials, or character to separate a site from its surroundings shall not be permitted.

The landscaping shall be designed by a landscape architect licensed in the State of California.

j. View Corridors.

(1) Principal Corridors. The City of Benicia will retain its rights-of-way west of First Street, and at the end of First Street itself.

As proposed in the Benicia Waterfront Plan and Comprehensive Plan of Development, the City will provide "street-end parks" at the end of all the streets, west of First Street, which run into the Bay, along with the major park at the end of First Street. In addition to providing major views of the Carquinez Strait and the hills beyond, these street-end parks will be used as anchors for the proposed pedestrian walkway system which will run south along the waterfront from West Second and West "F" Streets to the junction of First Street and the Carquinez Strait.

(2) Secondary Corridors. The esplanade and paths emanating from the esplanade should include view points for the enjoyment of strollers, fishermen, etc. View corridors may traverse private residential or commercial development and thus influence height, bulk, and placement of such development. Building forms close to the shoreline should be at a pedestrian scale though one or more larger building forms may be created to serve as landmarks.

k. Vehicular Circulation. Access to each developed area for parking, pedestrian unloading, and service shall intersect the main traffic roads at the locations indicated on the Master Plan and the number of access points for each site shall be kept to the absolute minimum. Driveways shall be designed with a primary concern for public safety and consideration for pedestrians, as well as parked and moving traffic. Special attention must be given to the distance for entering and leaving traffic, adequate turning radii, and proper allowance of space for traffic waiting to enter or leave.

In addition to the considerations of public safety, driveways shall be located with consideration for their affect on the

visual form of the area. Breaks in screening materials should open pleasant vistas of the waterfront or should minimize views to service areas or parking lots.

I. Utilities. All service piping shall be buried below grade, or, if on the underside of buildings, shall be screened from view from points of view both on land and water. The power service entrance from the public utility line and all service within each site, including outdoor lighting, shall be underground. Service meters and transformers, etc., shall be buried below grade or screened from view in enclosed service areas.

m. Noise. Compressors, fans, or other noisy equipment or noisy service activities shall be screened or located away from public spaces so as not to be audible above the general background noise level of the site.

n. Exterior Service Areas. Service areas for buildings and other facilities, including service parking areas, shall be completely screened from view. With the exception of boats, all other stores, waste materials and deliveries, whether crated or exposed, shall be stored within service areas. Service areas shall be designed to provide maneuvering space for garbage trucks and service vehicles, such as trucks which must be kept parked within the service areas. From any viewing position from the ground or water, the appearance of the exterior of service areas must be as finished as is required for buildings. Where possible, the service areas shall be an integral part of the form of the building, rather than a separate appendage. The screening of service areas must be with opaque materials, not planting alone, and preferably shall be of the same materials as the building. Service areas which can be viewed from sites with buildings of more than one story shall be designed to prevent their contents from being visible from the second floor.

o. Street Furniture. Vending machines and telephone booths shall not be permitted outside of buildings, nor under arcades or porches.

### III. Marina District

The Marina District is bounded on the north by the "alley line" between "E" and "F" Streets, the southerly boundary of "old 'B' Street," and a line some 100 feet north of "A" Street; on the south by the City of Benicia boundary line; on the east by the right-of-way of East Second Street, the easterly boundary of the First Street right-of-way, and the westerly boundary of West Second Street; and on the west by the right-of-way of East Fifth Street and Benicia's City limit line.

Except for several residential lots on East Second Street, all the land in the Marina District is owned by the City of Benicia. Most of the land is currently vacant.

The Marina District represents some 106.1 acres, with 54 acres of land and 52.1 acres in water. It is here that the City of Benicia proposes to develop a 309 berth sheltered marina, on-shore marina commercial facilities, a public fishing pier, shoreline open space, a nature area, pedestrian walkways, picnic areas, and vista points (see Figure 3).

The Marina District contains 4,500 linear feet of shoreline, which will be left in its present configuration, except for a 150-foot-wide harbor entrance channel. Marina development plans provide for a large stretch of the shoreline to be enhanced and improved to provide a tidal marsh (approximately 17 acres).

The Marina District is divided into two sectors. The first is referred to as "Bay Area." This designation covers the marshes, tidelands, and water surface in the Marina District.

The second sector is called "100-foot Shoreline Area." This designation covers a strip of land 100 feet inland from the point of highest tidal action, and runs the length of the shoreline.

#### A. General Findings for the Marina District

The adopted Bay Plan reserves the shoreline of the Marina District for port use, while the back-up land is designated for water related industry (see Figure 1, page 3). For the following reasons, the presently designated priority uses are not inappropriate for this area:

– Unpublished studies have shown that this area has an extremely high rate of shoaling and, therefore, is not suitable or feasible for a port facility from an engineering standpoint.

Six million (6,000,000) cubic yards of fill would be required to provide for berthing of deep draft vessels at this site. An alternative to a massive fill project would be a long wharf facility. However, the present use of the long wharf facility is limited to liquid bulk users and none are known, expected, or anticipated in the foreseeable future in this area.

The area is not feasible for shallow draft vessels because of the rapid rate of shoaling. This fact has been borne out by the analysis of a number of potential users for fabrication of equipment and building for the north slope of Alaskan oil project. Upon investigation by these companies of this site, the area has been uniformly rejected.

– The reduction of this port area will not adversely effect the regional port system, and specifically will not inhibit Benicia's role in the regional port system. There is sufficient potential for port extension within the Port of Benicia east of the Marina District to handle cargo. Furthermore, there are other port sites within the Bay that with less fill and dredging could handle increased cargo (e.g., Port of Benicia past East Fifth Street).

– The marina area is now designated in the Bay Plan as a water-related industrial priority area but is underlain by approximately 100 feet of Bay mud and would require extensive foundations if any industry were to be placed there. Due to the above problems, using this area for water-related industry is not economically feasible.

– The Marina District is an ideal site for a marina and related commercial and public access uses. It is immediately adjacent to the downtown of Benicia, and will add substantially to an improvement program for this historic area. The new marina will open up formerly filled areas to tidal action, and will not damage to any significant degree existing environmental values. The site lends itself to public uses; residential on second and third floors (inland section only); off street parking related to these uses. A properly designed narrow entrance channel will provide access to the marina for small pleasure craft. This channel will also minimize shoaling of the proposed marina basin. Any required maintenance dredging of the new basin will be disposed of at acceptable sites (Carquinez Strait, Alcatraz, etc.). It has been estimated that maximum dredging would be approximately 20,000 cubic yards of material every four to eight years.

## B. Bay, Tidelands, and Marshes

### 1. Permitted Uses

a. Open space; ecological reserve; water-oriented public recreation and access.

### 2. Findings

a. The City of Benicia presently owns all of the underwater land in the Bay sector of Area "B." With the exception of constructing an entrance into the marina, and the maintenance of the marina, no change to the shoreline by dredging or filling is proposed in this area, except in those cases where minor fill is needed for improvement of shoreline appearance and/or to provide greater public access to the Bay.

b. City plans for the marina in this area will result in a 14.5-acre expansion in Bay surface area, and 3,100 feet of new Bay shoreline.

### 3. Policies

a. No fill shall be permitted, except for minor fill to improve shoreline appearance and provide needed public access; for public recreation and marina purposes, and in the marina basin only for water-oriented commercial recreation and public assembly uses provided:

(1) The fill is on pile-supported structures or is cantilevered over the water;

(2) The fill is the minimum necessary;

(3) The fill provides substantial walkable public access at least equal to the fill area used for water-oriented commercial recreation and public assembly;

(4) The structures for which fill is to be used are located substantially on land; and

(5) An area of solid Bay fill, pile-supported structures or piers equal to or greater than the area of new fill is removed within the area covered by the Special Area Plan. Credit shall be given for the area of old wharf recently removed at the foot of East Second Street.

b. Dredging shall be permitted for constructing the entrance channel to the proposed marina. That excavation of the basin shall be disposed at upland disposal sites. Maintenance dredging shall be permitted since some minor shoaling will occur in the basin. These spoils shall be disposed of at environmentally acceptable locations, as approved by appropriate regulatory agencies.

c. The strip of land shown on Figure 3, page 20, shall be preserved and enhanced for wildlife and environmental values in perpetuity.

d. The City of Benicia shall enhance and maintain marsh areas and shall construct a nature observation area for public use, consistent with ecological protection.

### C. BCDC Shoreline Jurisdiction

#### 1. Permitted Uses

a. Public recreation and access; waterfront commercial recreation uses; limited small-scale residential; small-scale office; open space; ecological preserve; boatel/motel; and off street parking areas serving these land uses.

#### 2. Findings

a. Few commercial buildings, public facilities and parking areas should be placed in the 100-foot shoreline band. For those that are, design guidelines should be established in order to evaluate the consistency of proposed development within this area.

b. Development in this area should take the maximum advantage of the attractive waterfront setting it provides. Development here should also permit maximum feasible public access to enhance the pleasure of the user; preserve major view corridors, and insure proper visual relationship between the shoreline and adjacent development.

c. The existing physical characteristics and potentials of the area indicate the necessity for a unifying theme for new development. All neighborhood uses should be carefully planned to take maximum advantage of the area's unique relationship to the water, while at the same time affording maximum public enjoyment and use of public areas near the water.

d. BCDC requires maximum feasible public access as a condition of permit approval for new development within the 100-foot shoreline band.

e. A band of land over 100 feet in width and above the highest tide, runs from East First Street to East Fifth Street between the shoreline and the former Southern Pacific Railway right-of-way. This land is presently in disuse, is visually uninviting, and has limited environmental significance.

f. The inland area includes the site of the proposed marina, part of the entrance to the marina, Some of the wildlife preserve area, most of the proposed pedestrian walkway system along the railroad right-of-way and around the water's edge of the marina, and the proposed water-oriented commercial and related public uses.

#### 3. Policies

a. Public Access (see Figure 3, page 20)

(1) Maximum feasible public access shall be required in the form of a public pathway system from Point Benicia east, along the former Southern Pacific Railroad right-of-way, to the entrance to the marina, then north, east and south along the water's edge to the marina itself, then back again to the former Southern Pacific Railroad right-of-way, and east on said right-of-way to East Fifth Street.

(2) In order to protect the environmental values of the marsh wildlife area, public access to this area will be limited. However, both the pathway and nature observation area will provide visual access from the shoreline to the marsh.

(3) Public access in the area, through signing and design, shall encourage public use. The design of the public access shall meet the following standards:

(A) Be wide enough to permit pedestrian trails;

(B) Have variations in width to account for the space needs of different activities (strolling, sitting, assembly, etc.);

(C) Have high quality improvements and facilities and be well-maintained;

(D) Be suited to the specific activities and users (residents and non-residents); and

(E) Achieve a proper transition between the water's edge and uses landward of the esplanade.

b. Design Controls. (Refer to policies under 3b, pages 10 through 18.)

## IV. Port District

Area "C" is an elongated triangle, bounded on the west by the East Fifth Street right-of-way, on the north by the Southern Pacific Railroad right-of-way, and on the south by the city limits of Benicia.

With the exception of the property between East Sixth Street and the western boundary of the former U. S. Arsenal, which is owned by the International Fastener Research Company, the rest of the land is owned by Benicia Industries and the City of Benicia.

With the exception of the land between East Fifth and East Sixth Streets, the land is used for industrial purposes and by the Port of Benicia (see Figure 4).

### A. Findings for the Port District

- This area is primarily operated by a private industrial corporation as a port.
- The area is presently used for water-related industry and fabrication of large equipment.
- The area is presently zoned by the City of Benicia as "General Manufacturing," a heavy industrial use.
- Benicia Industries' Ten Year Expansion Plan calls for expansion of existing dock facilities.
- Any major expansion of facilities would require extensive capital outlay.
- Present port facility is approximately 70-75 percent of maximum capacity of usage.
- There is sufficient area within the Port District to satisfy future port expansion demands into the foreseeable future.
- Long-term port expansion is open to a number of possibilities which cannot be definitely determined at this time.

### B. Permitted Uses for the Port District

- Port; water-related industry; public access, as defined in the policy stated in Section D, below.

### C. Bay and Tidelands

– Policy. If the Port of Benicia is expanded in the future, any fill for this purpose should be consistent with the Bay Plan and the McAteer-Petris Act, and with any regional port plan adopted by BCDC.

### D. BCDC Shoreline Jurisdiction

Finding. These areas will continue to serve as a port and industrial facility. Due to the type of activities associated with an active port, such as the moving of goods and materials, public access areas in the vicinity may create safety problems.

Policy. Public access in this area should be provided except when it interferes with efficient port operations, or presents safety hazards to the public.

## V. Implementation

### A. Findings

1. The major policies of the Benicia Shoreline Special Area Plan for the Marina District and the Historical Business District (HBD) are as follows:
  - a. Define appropriate uses and intensity of uses for the shoreline and upland;
  - b. Recognize the value and importance of preserving marshlands and tidelands and thus discourage filling of the Bay, tidelands, and marshes;
  - c. Recommend that all publicly-owned tidelands, including underwater streets, be preserved in their natural state, and that only minor fill be allowed for water-related public recreation, public access, or for improving shoreline appearance;

- d. Recommend that a marina be constructed and commercial, residential, and public facilities be constructed adjacent to the marina;
  - e. Recommend that proposed development be sited to preserve natural resources, protect public safety, protect and enhance views of the Bay, and provide public access to and along the Bay;
  - f. Recommend that proposed development be designed in accord with a common architectural theme, with concern given to building materials used and human scale; and
  - g. Recommend that development be properly landscaped, view corridors given special attention, and that all off street parking be properly laid out and landscaped.
2. The Benicia Shoreline Special Area Plan will be effective only if it is adopted by the City of Benicia and the San Francisco Bay Conservation and Development Commission, and if proposed development and uses are required to be consistent with the plan.
  3. Currently, underwater tidelands in the plan area are not zoned, except in the Port District. Dry land areas are generally included in the Waterfront Commercial Zoning District.
  4. The use of the police power is one appropriate means for carrying out various policies of the Benicia Shoreline Special Area Plan. The police power includes the power to regulate land uses in the interest of public health, safety, morals, or the general welfare. It may be used to control the types and intensity of uses, and provide assurance that proposed development and uses do not detrimentally affect public resources and are sited to minimize harmful environmental effects and provide reasonable public access to the Bay. The City of Benicia has recently adopted a "Waterfront Commercial Zone" for special application to the plan area.
  5. Zoning, the most commonly used police power for land use control, can:
    - a. Effectively restrict areas to certain desirable uses and intensity of uses; and
    - b. Assure that proposed development will be suitably designed and sited.
  6. Discretionary review by the City of all projects within the area covered by the Special Area Plan is essential to carrying out the plan.
  7. The proposed Shoreline Physical Constraint Area Ordinance (Appendix I), which provides for discretionary review of all projects within the 100-foot shoreline band will help implement the policies of the Special Area Plan.
  8. All structures in the current Waterfront Commercial Zone must receive architectural elevation, site plan, and landscaping plan approval from the Benicia Planning Commission.
  9. Bay filling (including placement of piers, pilings, and floating structures moored in the Bay for extended periods), Bay dredging, and uses of the Bay and shoreline should be controlled through a permit system. This system should be based on existing and proposed City permit procedures and policies, and on existing Bay Commission permit procedures and policies. No other permits should be required. Permits should be issued by the City only on the basis of specific findings that the work and uses are consistent with the zoning and the City's General Plan, as amended by the Special Area Plan. Permits should be issued by the Bay Commission only on the basis of specific findings that the work and uses are consistent with the Bay Plan (as amended by the Special Area Plan), the McAteer-Petris Act, and the public trust.
  10. A proposed marina and associated commercial and residential development within the area of the Special Area Plan do not conform to the existing port priority designation in the San Francisco Bay Plan. The policies of the Benicia Shoreline Special Area Plan recommend deletion of the port priority designation from this area primarily because sufficient future port areas exist in other areas of Benicia and within the region.

## B. Policies for the Shoreline Zone

1. The City of Benicia shall undertake only those public projects within the area covered by the Special Area Plan that are consistent with the policies of that plan, as well as with all other relevant policies and ordinances of the City.
2. The City of Benicia shall permit only those private projects within the area covered by the Special Area Plan that are consistent with the policies of that plan, as well as with all other relevant policies and ordinances of the City.

3. The City shall adopt an ordinance substantially similar to the Shoreline Physical Constraint Ordinance, as shown in Appendix I. Said ordinance shall cover, at the minimum, the BCDC 100-foot shoreline permit zone within the area covered by the Special Area Plan, with the exception of the "Port District."

4. The City shall enact an ordinance establishing policies for zoning any unzoned tidal areas within the HBD and Marina District requiring zoning and a conditional use permit prior to any construction or use of any unzoned area. The policies to be used in evaluating a request for zoning should include, but not be limited to, the following criteria:

a. Only water-oriented uses consistent with the public trust and providing substantial public benefits would be allowed. Residential, office, and roadway uses would not be considered water-oriented.

b. Any fill would consist of either earth, piling, cantilevered or floating fill for a port use within or adjacent to an area designated by BCDC for port priority use or pile-supported, cantilevered or floating fill for a 1,500 square feet of area coverage to be used solely for improving shoreline appearance or providing new or improved public access to the Bay and shoreline.

c. Any fill would be limited to the minimum amount necessary to achieve the purpose of the project, would be allowed only when there was no alternative upland location suitable for the proposed use and would be placed in accord with a soils report and with designs certified by a professional engineer to the effect that the project can be constructed to a level of safety consistent with and appropriate to the nature of its intended use.

d. Any new dredging of the Bay bottom (including mudflats, tidelands, marshes, and all other water areas subject to tidal action), would be allowed only if the dredging would be for:

(1) Creating a new area that is the minimum necessary size to safely provide water access approved landward use;

(2) Removing Bay fill to create new water surface or marsh;

(3) Maintaining an existing navigation channel, basin, or area;

(4) Providing drainage for an outfall pipe or similar structure;

(5) The location and depth of dredging would minimize shoaling and the need for maintenance dredging; and

(6) The applicant would be required to submit a plan for disposal of dredge spoils from initial dredging and all subsequent maintenance dredging for the life of the project which has been approved by or on behalf of the Regional Water Quality Control Board or its designated representative.

5. Prior to approving a specific project within BCDC's permit jurisdiction, BCDC shall specifically find that the proposed project complies with the policies of the Special Area Plan, the Bay Plan, and the McAteer-Petris Act.

6. In addition to all other applicable ordinances and policies, both the City of Benicia and BCDC should make findings and include, as a condition of approval, the following:

a. Safety. A proposed project should be approved if the project is in accordance with the Bay Plan policies for Safety of Fills in accord with the recommendations of the Engineering Criteria Review Board and, in the case of projects not involving fill, is in accordance with the safety standards of the City of Benicia.

b. Title. A proposed project should be approved only when the developer has sufficient title to do the work and maintain the uses involved in the project.

c. Public Trust. Any proposed project involving filling should be approved only if the applicant can show either that the public trust does not apply to his lands or that the filling would be consistent with the public trust. Consistency should be determined on the basis of the policies of the Bay Plan and the McAteer-Petris Act.

d. Mitigation. A proposed project that involves fill or dredging that would have significant adverse effects on the environment should only be approved when mitigation in the form of new tidal areas or marsh or other improvements providing substantial public benefits is provided.

7. The Bay Commission shall delete the port priority use designation from west of East Fifth Street

8. Both the City of Benicia and BCDC should adopt the Benicia Shoreline Special Area Plan. In addition, the City of

Benicia should adopt appropriate land use regulations over private development including ordinances substantially similar to the draft ordinances included in Appendices I and II. The Shoreline Physical Constraint Area Ordinance should apply to all areas of the Special Area Plan that are within the 100-foot shoreline band of BCDC jurisdiction.

## FIGURES

[Figure 1 - Special Area Plan Map](#)

[Figure 2 - Historical Business District Map](#)

[Figure 3 - Marina District Map](#)

[Figure 4 - Port District Map](#)

## Appendices

### APPENDIX I

#### SHORELINE PHYSICAL CONSTRAINT AREA ORDINANCE

These regulations shall apply to those physical constraint areas designated as a shoreline area. Their purpose is to provide for orderly and harmonious development of the shoreline areas in order to protect water quality, wildlife habitats, and natural vegetation; to provide maximum public access to and along the shoreline; to achieve a visually pleasing and healthful relationship between the man-made and the natural environment; and to otherwise aid in implementing the policies of the Benicia General Plan.

1. Notwithstanding the provisions of any other applicable zoning district regulations, all new uses and development within the Shoreline Physical Constraint Area shall require a conditional use permit.
2. All new uses and development shall be consistent with the Benicia General Plan, which includes the Benicia Special Area Plan, and no use, development, or alteration shall:
  - a. Create uniform and/or terraced building sites which are contrary to the existing land forms, including the shape of the shoreline;
  - b. Substantially change the existing characteristics of existing water-courses, established and mature trees, or other woody vegetation, marshes or primary wildlife habitats.
3. All development shall be sited so that it:
  - a. Is harmonious with the character of the site and its surrounding environmental setting to the maximum extent feasible;
  - b. Contains underground utility lines unless such underground installation would have a substantial adverse impact on the environment;
  - c. Provides landscaping of a type and a design that is harmonious with the site, the surrounding area, and the shoreline;
  - d. Has an aggregate yard area, as required by the Planning Commission, at least equal to the aggregate yard area required by all other applicable zoning district regulations;
  - e. Minimizes the impact of development on native vegetation and wildlife habitats;
  - f. Does not require the removal of live trees with a trunk circumference of fifteen or more inches as measured four and one-half feet above ground level unless specifically approved by the Planning Commission;
  - g. Minimizes the need for multiple vehicular access to the development except where truck access to loading areas can be separated from automobile parking areas;
  - h. Minimizes or eliminates the need for filling the Bay or any marshes or mudflats;
  - i. With the exception of parking associated with a small boat harbor, minimizes or eliminates the need for open parking lots;
  - j. Provides maximum feasible public access to and along the shoreline and the Bay; and

k. Is located as far upland from the shoreline as practicable, except for those uses specifically designed to attract the public to the shoreline and Bay.

## APPENDIX II

### ORDINANCE COVERING UNDERWATER LOTS

#### Section 330 -- Unclassified District (U)

(a) The unclassified District includes all the underwater territory in the City from the shoreline to the City boundary in Carquinez Strait, with the exception of the territory east of East Fifth Street.

(b) Uses allowed provided the following criteria are met:

(1) Only water-oriented uses consistent with the public trust and providing substantial public benefits may be allowed. Residential,\* office, and roadway uses would not be considered water-oriented. Private boat docks would be a water-oriented use.

(2) Any fill will consist of either earth, piling, cantilevered or floating fill for a port use within or adjacent to an area designated by BCDC for port priority use or pile-supported, cantilevered or floating fill for a 1,500 square feet of area coverage to be used solely for improving shoreline appearance or providing new or improved public access to the Bay and shoreline.

(3) Any fill will be limited to the minimum amount necessary to achieve the purpose of the project, should be allowed only when there was no alternative upland location suitable for the proposed use and should be placed in accord with a soils report and designs certified by a professional engineer to the effect that risk to life and property, in case of seismic event, would be similar or better than the risk to be expected at unfilled, upland locations.

(4) Any new dredging of the Bay bottom (including mudflats, tidelands, marshes, and all other water areas subject to tidal action), would be allowed only if the dredging would be for:

(A) Creating a new area that is the minimum necessary size to safely provide water access to an approved landward use;

(B) Removing Bay fill to create new water surface or marsh;

(C) Maintaining an existing navigation channel, basin or area;

(D) Providing drainage for an outfall pipe or similar structure;

(E) The location and depth of dredging would minimize shoaling and the need for maintenance dredging; and

(F) The applicant would be required to submit a plan for disposal of dredge spoils from initial dredging and all subsequent maintenance dredging for the life of the project which has been approved by or on behalf of the Regional Water Quality Control Board or its designated representative.

\*Residential Uses: The minimum area residential lot in Benicia is 6,000 square feet. Some waterfront lots will have part of the required area on dry land and part in the tidelands. In order to allow such a lot to be developed, the tideland portion of said lot will be recognized as possessing a residential use. In such cases, no fill will be allowed.

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